

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0238.01 Esther van Mourik x4215

HOUSE BILL 13-1142

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

Heath,

House Committees

Finance
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 **CONCERNING REFORMS TO THE "URBAN AND RURAL ENTERPRISE**
102 **ZONE ACT", AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill:

! Commencing January 1, 2014, requires the director of the Colorado office of economic development and the Colorado economic development commission

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 30, 2013

SENATE
Amended 2nd Reading
April 26, 2013

HOUSE
3rd Reading Unamended
April 10, 2013

HOUSE
Amended 2nd Reading
April 8, 2013

(commission) to review the enterprise zone designations at least once every 10 years to ensure that the existing zones continue to meet the statutory criteria to qualify as an enterprise zone.

- ! For credits certified on or after January 1, 2014, limits the amount of an income tax credit that may be claimed in an income tax year for qualified investments in an enterprise zone to the sum of the taxpayer's actual tax liability for the income tax year up to \$5,000, plus 50% of any portion of the tax liability for the income tax year that exceeds \$5,000 up to a maximum of \$1 million.
- ! Allows a taxpayer to appeal to the commission for a credit in excess of the \$1 million limit.
- ! Requires the commission to annually post information regarding certified investment tax credits on its web site or the Colorado office of economic development's web site.
- ! Increases the income tax credit for investments made in a qualified job training program in an enterprise zone for income tax years commencing on and after January 1, 2014, from 10% of the total investment to 12%.
- ! Increases the income tax credit for establishing a new business facility in an enterprise zone for income tax years commencing on and after January 1, 2014, from \$500 for each new business facility employee to \$1,100.
- ! Increases the income tax credit for each new business facility employee in an enterprise zone who is insured under a health insurance plan or program provided through his or her employer for income tax years commencing on and after January 1, 2014, from \$200 per such employee to \$1,000.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) It is the duty of the general assembly to ensure that every
5 taxpayer dollar is spent in the most effective and efficient way possible
6 in order to obtain the best possible return on investment;

7 (b) Reviewing and improving existing state economic
8 development programs, such as the "Urban and Rural Enterprise Zone

1 Act", article 30 of title 39, Colorado Revised Statutes, in order to ensure
2 that the programs remain relevant, efficient, and effective in expanding
3 Colorado's economy is a priority for the general assembly and allows the
4 general assembly to use any savings to promote other economic
5 development programs that are highly targeted to those businesses that
6 need the most assistance;

7 (c) Promoting sustainable economic growth remains a critical
8 priority while Colorado's economy is recovering, and it is important to
9 update and modernize existing economic development programs to meet
10 the changing needs of Colorado's economy; and

11 (d) The money saved as a result of improvements will be used to
12 fund effective economic development programs within state agencies and
13 will provide a source to enhance economic development in the state.

14 **SECTION 2.** In Colorado Revised Statutes, 39-30-103, **repeal** (2)
15 (b).

16 **SECTION 3.** In Colorado Revised Statutes, 39-30-103, **amend**
17 **(2) (a) and (2) (c) (I); and add (8) as follows:**

18 **39-30-103. Zones established - review - termination - repeal.**
19 (2) (a) Except as provided in ~~paragraphs (b) and (c)~~ PARAGRAPH (c) of
20 this subsection (2), the director of the Colorado office of economic
21 development shall determine whether an area meets the criteria specified
22 in subsection (1) of this section based on the most recent statistics
23 available. Except as provided in ~~paragraphs (b) and (c)~~ PARAGRAPH (c) of
24 this subsection (2), all decisions concerning the designation or
25 termination of an enterprise zone or any portion of an enterprise zone
26 shall be made by the Colorado economic development commission
27 created in section 24-46-102, C.R.S., upon the recommendations of the

1 director of the Colorado office of economic development.

2 (c) (I) Commencing ~~January 1, 2016~~ JANUARY 1, 2014, the
3 director of the Colorado office of economic development and the
4 Colorado economic development commission shall review the enterprise
5 zone designations no less frequently than once every ~~five~~ TEN years to
6 ensure that the existing zones continue to meet the criteria specified in
7 subsection (1) of this section. The director and the commission may
8 modify existing enterprise zone designations based on the review
9 specified in this paragraph (c). If it is determined that existing enterprise
10 zone designations need to be modified, such modification shall not be
11 undertaken in a high unemployment period, ~~BUT THE DIRECTOR AND THE~~
12 ~~COMMISSION SHALL REVIEW THE NEED FOR SUCH MODIFICATIONS AGAIN~~
13 ~~AS SOON AS THE STATE IS NO LONGER IN A HIGH UNEMPLOYMENT PERIOD.~~
14 Any modification shall be reported to the legislative audit committee in
15 conjunction with the annual presentation described in paragraph (b.7) of
16 subsection (4) of this section and shall also be reported to the finance
17 committees of the house of representatives and the senate, or any
18 successor committees.

19 (8) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY,
20 FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, ONLY A
21 TAXPAYER THAT IS ENGAGED IN A BUSINESS THAT IS LEGAL UNDER BOTH
22 STATE AND FEDERAL LAW IS ELIGIBLE TO CLAIM A CREDIT PURSUANT TO
23 THE PROVISIONS OF THIS ARTICLE.

24 **SECTION 4.** In Colorado Revised Statutes, 39-30-104, **amend**
25 (2), (2.5) (a), and (4) (a); and **add** (2.7) as follows:

26 **39-30-104. Credit against tax - investment in certain property**
27 **- repeal.** (2) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO

1 JANUARY 1, 2014, the amount of the credit set forth in subsection (1) of
2 this section shall be subject to the limitations of section 39-22-507.5;
3 except that, in computing the limitations on credit pursuant to section
4 39-22-507.5 (3), a taxpayer's actual tax liability for the income tax year
5 shall not be reduced by the amount of credits allowed by section
6 39-30-105 and the limit on that portion of a taxpayer's tax liability that
7 exceeds five thousand dollars shall be fifty percent.

8 (b) In addition to the limitations set forth in paragraph (a) of this
9 subsection (2), for income tax years commencing on or after January 1,
10 2011, but prior to January 1, 2014, any taxpayer that is eligible to claim
11 a credit pursuant to subsection (1) of this section in excess of five
12 hundred thousand dollars shall defer claiming any amount of the credit
13 allowed pursuant to this section that exceeds five hundred thousand
14 dollars until an income tax year commencing on or after January 1, 2014.
15 The five hundred thousand dollar limitation specified in this paragraph
16 (b) shall apply to any credit allowed in the ~~current year~~ INCOME TAX
17 YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO
18 JANUARY 1, 2014, including any amount carried forward from a prior
19 year.

20 [REDACTED]

21 (c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
22 JANUARY 1, 2014, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
23 PARAGRAPH (c), THE AMOUNT THAT MAY BE CLAIMED BY A TAXPAYER FOR
24 THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS
25 MADE IS LIMITED TO THE LESSER OF:

26 (A) THE SUM OF UP TO FIVE THOUSAND DOLLARS OF THE
27 TAXPAYER'S ACTUAL TAX LIABILITY FOR THE INCOME TAX YEAR PLUS

1 FIFTY PERCENT OF ANY PORTION OF THE TAX LIABILITY FOR THE INCOME
2 TAX YEAR THAT EXCEEDS FIVE THOUSAND DOLLARS; OR

3 (B) SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS PLUS ANY
4 INVESTMENT TAX CREDIT CARRYOVERS ALLOWED IN SUBPARAGRAPH (III)
5 OF THIS PARAGRAPH (c) OR PREVIOUSLY ALLOWED IN SUBSECTION (2.5) OF
6 THIS SECTION.

7 (II) (A) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION
8 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) BY COMPLETING
9 A WRITTEN APPLICATION TO THE COLORADO ECONOMIC DEVELOPMENT
10 COMMISSION FOR PERMISSION TO CLAIM A CREDIT IN EXCESS OF SUCH
11 LIMIT FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED
12 INVESTMENT IS MADE. THE APPLICATION MUST INCLUDE AN
13 IDENTIFICATION OF THE SUBSTANTIAL POSITIVE IMPACT THE WAIVER OF
14 THE LIMITATION WOULD HAVE ON INVESTMENTS AND ON WELL-PAYING
15 JOBS IN THE ENTERPRISE ZONE, DOCUMENTATION THAT DEMONSTRATES
16 THAT WITHOUT THE WAIVER OF THE LIMITATION THE SUBSTANTIAL
17 POSITIVE IMPACT ON INVESTMENTS AND ON WELL-PAYING JOBS IN THE
18 ENTERPRISE ZONE IS NOT LIKELY TO OCCUR, AND INFORMATION THAT THE
19 WAIVER OF THE LIMITATION IS A SUBSTANTIAL FACTOR TO THE START-UP,
20 EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS, THAT RECEIPT
21 OF THE WAIVER OF THE LIMITATION IS A MAJOR FACTOR IN THE
22 TAXPAYER'S DECISION, AND THAT WITHOUT THE WAIVER OF THE
23 LIMITATION THE TAXPAYER IS NOT LIKELY TO MAKE THE QUALIFIED
24 INVESTMENT. IN DECIDING WHETHER TO GRANT THE WAIVER OF THE
25 LIMITATION, THE COMMISSION MUST CONSIDER THE OVERALL ECONOMIC
26 HEALTH OF THIS STATE AND THE ECONOMIC VIABILITY OF THE ARGUMENTS
27 MADE BY THE TAXPAYER IN SUPPORT OF THE TAXPAYER'S APPLICATION.

1 THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY REQUIRE THE
2 TAXPAYER TO PROVIDE AN INDEPENDENT ANALYSIS, AT THE TAXPAYER'S
3 EXPENSE, SUBSTANTIATING THE TAXPAYER'S ARGUMENTS IN SUPPORT OF
4 THE APPLICATION. THE TAXPAYER'S APPLICATION MUST BE CONSIDERED
5 AT A REGULARLY SCHEDULED MEETING OF THE COLORADO ECONOMIC
6 DEVELOPMENT COMMISSION WHERE THE PUBLIC IS ALLOWED TO
7 COMMENT.

8 (B) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY
9 ALLOW ALL, PART, OR NONE OF A TAXPAYER'S APPLICATION TO WAIVE THE
10 LIMITATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c). THE
11 COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL ISSUE A CREDIT
12 CERTIFICATE THAT SETS FORTH THE AMOUNT OF THE CREDIT THAT THE
13 TAXPAYER MAY CLAIM FOR THE INCOME TAX YEAR IN WHICH THE TOTAL
14 QUALIFIED INVESTMENT IS MADE. THE CREDIT CERTIFICATE SHALL BE
15 SUBMITTED BY THE TAXPAYER TO THE DEPARTMENT OF REVENUE WITH
16 THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE
17 CREDIT CERTIFICATE IS ISSUED.

18 (C) IN THE EVENT THE COLORADO ECONOMIC DEVELOPMENT
19 COMMISSION APPROVES A TAXPAYER'S APPLICATION TO WAIVE THE
20 LIMITATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE
21 COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL INCLUDE ITS
22 DECISION IN THE ENTERPRISE ZONE ANNUAL REPORT TO THE GENERAL
23 ASSEMBLY SPECIFIED IN SECTION 39-30-103 (4) (b.7), INCLUDING THE
24 TAXPAYER'S NAME, THE AMOUNT OF THE CREDIT THAT THE COMMISSION
25 ALLOWED THE TAXPAYER TO CLAIM, AND THE COLORADO ECONOMIC
26 DEVELOPMENT COMMISSION'S JUSTIFICATION FOR APPROVING THE
27 APPLICATION.

1 (III) ANY EXCESS CREDIT ALLOWED PURSUANT TO THIS
2 PARAGRAPH (c) SHALL BE AN INVESTMENT TAX CREDIT CARRYOVER TO
3 EACH OF THE FOURTEEN INCOME TAX YEARS FOLLOWING THE UNUSED
4 CREDIT YEAR.

5 (IV) THE LIMITATION CONTAINED IN THIS PARAGRAPH (c) ON THE
6 AMOUNT A TAXPAYER MAY CLAIM FOR THE INCOME TAX YEAR IN WHICH
7 THE TOTAL QUALIFIED INVESTMENT IS MADE DOES NOT LIMIT THE TOTAL
8 AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (1) OF THIS
9 SECTION, NOR DOES IT LIMIT THE ABILITY OF A TAXPAYER TO CARRYOVER
10 A CREDIT TO SUBSEQUENT TAX YEARS AS ALLOWED IN SUBPARAGRAPH
11 (III) OF THIS PARAGRAPH (c) OR PREVIOUSLY ALLOWED IN SUBSECTION
12 (2.5) OF THIS SECTION.

13 (V) IN COMPUTING THE AMOUNT THAT MAY BE CLAIMED BY A
14 TAXPAYER PURSUANT TO THIS PARAGRAPH (c), A TAXPAYER'S ACTUAL TAX
15 LIABILITY FOR THE INCOME TAX YEAR SHALL BE DERIVED FROM THE
16 CALCULATED TAX BEFORE ANY REDUCTION OF CREDITS.

17 (2.5) (a) Notwithstanding the provisions of section 39-22-507.5
18 (7) (b), and except as otherwise provided in paragraph (b) of this
19 subsection (2.5), any excess credit ~~claimed~~ ALLOWED pursuant to this
20 section shall be an investment tax credit carryover to each of the twelve
21 income tax years following the unused credit year.

22 (2.7) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
23 SHALL ANNUALLY POST ON ITS WEB SITE OR ON THE COLORADO OFFICE OF
24 ECONOMIC DEVELOPMENT'S WEB SITE THE FOLLOWING INFORMATION
25 REGARDING ANY ENTERPRISE ZONE INVESTMENT TAX CREDIT CERTIFIED
26 UNDER THIS SECTION:

27 (a) THE ENTERPRISE ZONE FOR THE CERTIFIED CREDIT;

- 1 (b) THE NAME OF THE TAXPAYER OR BUSINESS;
- 2 (c) THE TYPE OF BUSINESS;
- 3 (d) THE TAX YEAR FOR WHICH THE CREDIT IS CERTIFIED;
- 4 (e) THE TOTAL QUALIFIED INVESTMENT REPORTED;
- 5 (f) THE AMOUNT OF THE QUALIFIED INVESTMENT THAT QUALIFIES
- 6 FOR THE CREDIT;
- 7 (g) THE CALCULATED CREDIT; AND
- 8 (h) THE COUNTY WHERE THE QUALIFIED INVESTMENT IS MADE.

9 (4) (a) (I) In addition to any other credit allowed under this
10 section, for income tax years commencing on or after January 1, 1997,
11 BUT PRIOR TO JANUARY 1, 2014, there shall be allowed to any person as
12 a credit against the tax imposed by article 22 of this title an amount equal
13 to ten percent of the total investment made during the taxable year in a
14 qualified job training program.

15 (II) IN ADDITION TO ANY OTHER CREDIT ALLOWED UNDER THIS
16 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
17 1, 2014, THERE SHALL BE ALLOWED TO ANY PERSON AS A CREDIT AGAINST
18 THE TAX IMPOSED BY ARTICLE 22 OF THIS TITLE AN AMOUNT EQUAL TO
19 TWELVE PERCENT OF THE TOTAL INVESTMENT MADE DURING THE TAXABLE
20 YEAR IN A QUALIFIED JOB TRAINING PROGRAM.

21 **SECTION 5.** In Colorado Revised Statutes, 39-30-105, **amend**
22 (1) (a) (I) and (1) (b) as follows:

23 **39-30-105. Credit for new business facility employees -**
24 **definitions.** (1) (a) (I) (A) For any income tax year commencing on or
25 after January 1, 1993, BUT PRIOR TO JANUARY 1, 2014, any taxpayer who
26 establishes a new business facility in an enterprise zone shall be allowed
27 a credit against the income tax imposed by article 22 of this title in an

1 amount equal to five hundred dollars per income tax year for each new
2 business facility employee, pursuant to subsection (6) of this section, who
3 is working within the zone, prorated according to the number of months
4 the employee was employed by the taxpayer during the income tax year.
5 An employee whose primary duties consist of operating a commercial
6 motor vehicle with a commercial driver's license shall be deemed to be
7 working one hundred percent within the zone if the employee spends no
8 more than five percent of his or her total time at any facility of the
9 employer other than the facility within the zone.

10 (B) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
11 JANUARY 1, 2014, ANY TAXPAYER WHO ESTABLISHES A NEW BUSINESS
12 FACILITY IN AN ENTERPRISE ZONE SHALL BE ALLOWED A CREDIT AGAINST
13 THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT
14 EQUAL TO ONE THOUSAND ONE HUNDRED DOLLARS PER INCOME TAX YEAR
15 FOR EACH NEW BUSINESS FACILITY EMPLOYEE, PURSUANT TO SUBSECTION
16 (6) OF THIS SECTION, WHO IS WORKING WITHIN THE ZONE, PRORATED
17 ACCORDING TO THE NUMBER OF MONTHS THE EMPLOYEE WAS EMPLOYED
18 BY THE TAXPAYER DURING THE INCOME TAX YEAR. AN EMPLOYEE WHOSE
19 PRIMARY DUTIES CONSIST OF OPERATING A COMMERCIAL MOTOR VEHICLE
20 WITH A COMMERCIAL DRIVER'S LICENSE SHALL BE DEEMED TO BE WORKING
21 ONE HUNDRED PERCENT WITHIN THE ZONE IF THE EMPLOYEE SPENDS NO
22 MORE THAN FIVE PERCENT OF HIS OR HER TOTAL TIME AT ANY FACILITY OF
23 THE EMPLOYER OTHER THAN THE FACILITY WITHIN THE ZONE.

24 (b) (I) In addition to the credit available under
25 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF paragraph (a) of this
26 subsection (1) AND SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS
27 SUBSECTION (1), a taxpayer qualified ~~under said paragraph (a)~~ FOR SUCH

1 CREDITS shall be allowed for the first two full income tax years while
2 located in an enterprise zone a credit in an amount equal to two hundred
3 dollars for each new business facility employee who is insured under a
4 health insurance plan or program provided through his or her employer.
5 To be eligible for such credit, the employer must contribute fifty percent
6 or more of the total cost of a health insurance plan or program, and such
7 plan or program must be in accordance with the provisions of article 8 of
8 title 10 or part 1, 2, 3, or 4 of article 16 of title 10, C.R.S., or be a
9 self-insurance program and include partial or complete coverage for
10 hospital and physician services.

11 (II) IN ADDITION TO THE CREDIT AVAILABLE UNDER
12 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS
13 SUBSECTION (1) AND SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS
14 SUBSECTION (1), A TAXPAYER QUALIFIED FOR SUCH CREDITS SHALL BE
15 ALLOWED FOR THE FIRST TWO FULL INCOME TAX YEARS WHILE LOCATED
16 IN AN ENTERPRISE ZONE A CREDIT IN AN AMOUNT EQUAL TO ONE
17 THOUSAND DOLLARS FOR EACH NEW BUSINESS FACILITY EMPLOYEE WHO
18 IS INSURED UNDER A HEALTH INSURANCE PLAN OR PROGRAM PROVIDED
19 THROUGH HIS OR HER EMPLOYER. TO BE ELIGIBLE FOR SUCH CREDIT, THE
20 EMPLOYER MUST CONTRIBUTE FIFTY PERCENT OR MORE OF THE TOTAL
21 COST OF A HEALTH INSURANCE PLAN OR PROGRAM, AND SUCH PLAN OR
22 PROGRAM MUST BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 8
23 OF TITLE 10 OR PART 1, 2, 3, OR 4 OF ARTICLE 16 OF TITLE 10, C.R.S., OR
24 BE A SELF-INSURANCE PROGRAM AND INCLUDE PARTIAL OR COMPLETE
25 COVERAGE FOR HOSPITAL AND PHYSICIAN SERVICES.

26 **SECTION 6.** In Colorado Revised Statutes, 2-3-1203, **repeal** (3)
27 (aa) (VI) as follows:

1 **2-3-1203. Sunset review of advisory committees.** (3) The
2 following dates are the dates for which the statutory authorization for the
3 designated advisory committees is scheduled for repeal:

4 (aa) July 1, 2014:

5 (VI) ~~The enterprise zone review task force, created in section~~
6 ~~39-30-103, C.R.S.;~~

7 **SECTION 7. Appropriation.** In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 general fund not otherwise appropriated, to the department of revenue, for
10 the fiscal year beginning July 1, 2013, the sum of \$1,600, or so much
11 thereof as may be necessary, for allocation to the taxation business group
12 for programming services related to the implementation of this act.

13 **SECTION 8. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.