

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

**INTRODUCED**

LLS NO. 05-0184.01 Nicole Hoffman

**HOUSE BILL 05-1022**

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**HOUSE SPONSORSHIP**

**Borodkin,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Business Affairs and Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING REQUIREMENTS FOR RECIPIENTS OF ECONOMIC**  
102             **DEVELOPMENT INCENTIVES ALLOWED ON THE BASIS OF NEW JOB**  
103             **CREATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires any person or entity that receives a grant or loan from the Colorado economic development commission (commission) on the basis of a proposal to create new jobs that meet wage and benefit requirements to file an annual progress report with the commission. Specifies the information that the person or entity shall include in the report. Requires the commission to provide the information collected each year in the reports to the general assembly.

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.*

Specifies that the reports submitted to the commission and the department of revenue (department) shall be open records, but prohibits the disclosure to the public of information that reveals any income tax return or the salary of any employee.

Requires a person or entity that receives a grant or loan from the commission to fulfill the person's or entity's job creation, wage, and benefit requirements within 2 years of receiving the grant or loan and to maintain such requirements for 5 years. Requires the commission to recapture the funds expended on a grant or loan from the recipient if the recipient fails to fulfill or maintain the job, wage, and benefit requirements. Specifies the manner in which a grant or loan shall be recaptured.

Requires every taxpayer that claims an income tax credit for creating new business facility employees within an enterprise zone to file an annual progress report with the commission and the department for each year that the credit is claimed. Specifies the information that the taxpayer shall include in the report to the commission and the department. Requires the commission to provide the information collected each year in its annual reports to the general assembly. Allows the department to review the reports and conduct an audit of any taxpayer on the basis of information submitted in the reports.

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

2 **SECTION 1.** 24-46-104 (2), Colorado Revised Statutes, is  
3 amended to read:

4 **24-46-104. Powers and duties of commission.** (2) The  
5 commission shall report to the general assembly no later than February  
6 1 of each year regarding the work of the commission. THE REPORT SHALL  
7 INCLUDE, BUT SHALL NOT BE LIMITED TO, THE INFORMATION REQUIRED TO  
8 BE COLLECTED BY THE COMMISSION PURSUANT TO SECTIONS 24-46-107  
9 AND 39-30-110, C.R.S.

10 **SECTION 2.** Part 1 of article 46 of title 24, Colorado Revised  
11 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
12 SECTIONS to read:

13 **24-46-107. Reporting requirement - new jobs created.**

1 (1) EVERY PERSON OR ENTITY THAT RECEIVES A GRANT OR LOAN FROM  
2 THE COMMISSION PURSUANT TO THIS ARTICLE, AWARDED IN PART OR IN  
3 WHOLE ON THE BASIS OF THE PERSON'S OR ENTITY'S PROPOSAL TO CREATE  
4 NEW JOBS WITH WAGE AND BENEFIT REQUIREMENTS, SHALL FILE AN  
5 ANNUAL PROGRESS REPORT WITH THE COMMISSION. THE ANNUAL  
6 PROGRESS REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE  
7 FOLLOWING:

8 (a) THE NAME OF THE PERSON OR ENTITY THAT RECEIVED THE  
9 GRANT OR LOAN, AND IF THE RECIPIENT IS AN ENTITY, THE NAME OF THE  
10 CHIEF OFFICER OF THE ENTITY;

11 (b) THE BUSINESS ADDRESS AND BUSINESS PHONE NUMBER OF THE  
12 PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN;

13 (c) THE AMOUNT OF THE GRANT OR LOAN AWARDED TO THE  
14 PERSON OR ENTITY BY THE COMMISSION;

15 (d) A STATEMENT OF THE NUMBER OF NEW JOBS THAT THE PERSON  
16 OR ENTITY PROPOSED TO CREATE BEFORE RECEIVING THE GRANT OR LOAN,  
17 CATEGORIZED BY FULL-TIME PERMANENT, PART-TIME PERMANENT,  
18 TEMPORARY, AND CONTRACT JOBS;

19 (e) A STATEMENT OF THE NUMBER OF NEW JOBS THAT THE PERSON  
20 OR ENTITY THAT RECEIVED THE GRANT OR LOAN HAS CREATED TO DATE,  
21 CATEGORIZED BY FULL-TIME PERMANENT, PART-TIME PERMANENT,  
22 TEMPORARY, AND CONTRACT JOBS;

23 (f) PAYROLL OR OTHER DATA TO VERIFY THE NUMBER OF JOBS  
24 CREATED BY THE PERSON OR ENTITY;

25 (g) THE AVERAGE ANNUAL COMPENSATION LEVEL OF EMPLOYEES,  
26 INCLUDING BENEFITS, OF THE NEW JOBS CREATED AND RETAINED, IF  
27 APPLICABLE, CATEGORIZED BY FULL-TIME PERMANENT, PART-TIME

1 PERMANENT, TEMPORARY, AND CONTRACT JOBS;

2 (h) A STATEMENT AS TO WHETHER THE PERSON OR ENTITY THAT  
3 RECEIVED THE GRANT OR LOAN REDUCED EMPLOYMENT AT ANY OTHER  
4 SITE CONTROLLED BY THE PERSON OR ENTITY IN THE STATE AS A RESULT  
5 OF AUTOMATION, MERGER, ACQUISITION, CORPORATE RESTRUCTURING, OR  
6 OTHER BUSINESS ACTIVITY; AND

7 (i) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE  
8 COMMISSION TO EVALUATE THE PROGRESS OF THE PERSON OR ENTITY THAT  
9 RECEIVED THE GRANT OR LOAN AND THE EFFECTIVENESS OF AWARDING  
10 THE GRANT OR LOAN.

11 (2) AN ANNUAL PROGRESS REPORT SUBMITTED TO THE  
12 COMMISSION SHALL INCLUDE A SIGNED CERTIFICATION BY THE PERSON  
13 WHO RECEIVED THE GRANT OR LOAN OR, IF THE RECIPIENT IS AN ENTITY,  
14 THE CHIEF OFFICER OF THE ENTITY THAT RECEIVED THE GRANT OR LOAN AS  
15 TO THE ACCURACY OF THE ANNUAL PROGRESS REPORT.

16 (3) ANY PERSON OR ENTITY THAT RECEIVES A GRANT OR LOAN  
17 PURSUANT TO THIS ARTICLE SHALL FILE THE FIRST ANNUAL PROGRESS  
18 REPORT REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION NO  
19 LATER THAN ONE YEAR AND THIRTY DAYS AFTER THE RECEIPT OF THE  
20 GRANT OR LOAN, AND THEN EVERY YEAR THEREAFTER FOR FIVE YEARS IN  
21 THE CASE OF A GRANT OR, IN THE CASE OF A LOAN, EVERY YEAR  
22 THEREAFTER UNTIL THE LOAN IS REPAYED IN FULL.

23 (4) THE COMMISSION SHALL INCLUDE THE INFORMATION  
24 COLLECTED EACH YEAR PURSUANT TO SUBSECTION (1) OF THIS SECTION IN  
25 THE COMMISSION'S REPORT TO THE GENERAL ASSEMBLY PURSUANT TO  
26 SECTION 24-46-104 (2). THE COMMISSION'S REPORT SHALL ALSO INCLUDE  
27 A STATEMENT AS TO WHETHER THE PERSON OR ENTITY THAT RECEIVED THE

1 GRANT OR LOAN HAS ACHIEVED THE PERSON'S OR ENTITY'S JOB CREATION,  
2 WAGE, AND BENEFIT REQUIREMENTS.

3 (5) THE COMMISSION SHALL INFORM A PERSON OR ENTITY THAT  
4 RECEIVES A GRANT OR LOAN THAT THE PERSON OR ENTITY IS REQUIRED TO  
5 COMPLY WITH THE REQUIREMENTS OF THIS SECTION AT THE TIME THE  
6 COMMISSION AWARDS THE GRANT OR LOAN.

7 (6) THE INFORMATION SUBMITTED IN THE ANNUAL PROGRESS  
8 REPORT TO THE COMMISSION SHALL BE CONSIDERED PUBLIC RECORDS AS  
9 DEFINED IN SECTION 24-72-202 (6) AND SHALL BE PRESERVED FOR AT  
10 LEAST FIVE YEARS BY THE COMMISSION. THE COMMISSION SHALL BE THE  
11 CUSTODIAN OF THE REPORTS AND SHALL MAKE THE REPORTS AVAILABLE  
12 FOR INSPECTION BY ANY PERSON AT REASONABLE TIMES. NOTHING IN THIS  
13 SUBSECTION (6) SHALL BE CONSTRUED TO PERMIT THE DISCLOSURE TO THE  
14 PUBLIC OF ANY COLORADO INCOME TAX RETURN OR OF ANY INFORMATION  
15 THAT REVEALS THE AMOUNT OF COMPENSATION PAID TO ANY INDIVIDUAL  
16 EMPLOYEE.

17 **24-46-108. Recapture.** (1) ANY PERSON OR ENTITY THAT  
18 RECEIVES A GRANT OR LOAN PURSUANT TO THIS ARTICLE BASED IN WHOLE  
19 OR IN PART ON FULFILLING JOB CREATION, WAGE, AND BENEFIT  
20 REQUIREMENTS SHALL FULFILL THE REQUIREMENTS WITHIN TWO YEARS OF  
21 RECEIVING THE GRANT OR LOAN. THE RECIPIENT SHALL MAINTAIN THE  
22 JOB, WAGE, AND BENEFIT REQUIREMENTS FOR FIVE YEARS.

23 (2) IF THE REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS  
24 SECTION ARE NOT FULFILLED, THE COMMISSION SHALL RECAPTURE THE  
25 FUNDS EXPENDED ON THE GRANT OR LOAN FROM THE PERSON OR ENTITY  
26 THAT RECEIVED THE GRANT OR LOAN. UPON A FAILURE BY THE PERSON OR  
27 ENTITY TO CREATE THE REQUIRED NUMBER OF JOBS OR TO PAY THE

1       REQUIRED WAGES OR BENEFITS, THE AMOUNT RECAPTURED SHALL BE  
2       BASED ON THE PRO RATA AMOUNT THAT THE UNFULFILLED JOBS, WAGES,  
3       OR BENEFITS BEAR TO THE TOTAL AMOUNT OF THE GRANT OR LOAN.

4               (3) THE COMMISSION SHALL PROVIDE NOTICE AND EXPLANATION  
5       TO THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN OF ITS  
6       INTENT TO RECAPTURE THE GRANT OR LOAN AND STATE THE AMOUNT TO  
7       BE RECAPTURED. THE RECIPIENT PERSON OR ENTITY SHALL REMIT THE  
8       AMOUNT TO THE COMMISSION WITHIN SIXTY CALENDAR DAYS OF THE DATE  
9       OF THE NOTICE. ANY MONEYS THAT ARE REMITTED TO THE COMMISSION  
10       PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE FUND CREATED IN  
11       SECTION 24-46-105 (1) AND SHALL BE USED FOR THE PURPOSES OF THE  
12       FUND.

13               **SECTION 3.** 39-30-105, Colorado Revised Statutes, is amended  
14       BY THE ADDITION OF A NEW SUBSECTION to read:

15               **39-30-105. Credit for new business facility employees.**

16       (6) ANY TAXPAYER THAT CLAIMS A CREDIT AGAINST INCOME TAX  
17       PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE REPORTING  
18       REQUIREMENTS SPECIFIED IN SECTION 39-30-110.

19               **SECTION 4.** Article 30 of title 39, Colorado Revised Statutes,  
20       is amended BY THE ADDITION OF A NEW SECTION to read:

21               **39-30-110. Reporting requirements - taxpayers claiming credit**  
22       **against tax for new business facility employees.** (1) ANY TAXPAYER

23       THAT CLAIMS A CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22  
24       OF THIS TITLE FOR HIRING A NEW BUSINESS FACILITY EMPLOYEE PURSUANT  
25       TO SECTION 39-30-105 SHALL FILE AN ANNUAL PROGRESS REPORT WITH  
26       THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN  
27       SECTION 24-46-102, C.R.S., AND THE DEPARTMENT OF REVENUE WITHIN

1 NINETY DAYS OF CLAIMING THE CREDIT. THE ANNUAL PROGRESS REPORT  
2 SHALL BE SUBMITTED IN ADDITION TO ANY INFORMATION THAT THE  
3 TAXPAYER IS REQUIRED TO SUBMIT TO THE ENTERPRISE ZONE  
4 ADMINISTRATOR OF THE ENTERPRISE ZONE IN WHICH THE TAXPAYER'S  
5 BUSINESS IS LOCATED, PURSUANT TO SECTION 39-30-103.

6 (2) THE ANNUAL PROGRESS REPORT SHALL INCLUDE, BUT SHALL  
7 NOT BE LIMITED TO, THE FOLLOWING:

8 (a) (I) IF THE TAXPAYER IS A CORPORATION, THE CORPORATE NAME  
9 OF THE TAXPAYER AND THE NAME OF THE CHIEF OFFICER OF THE  
10 TAXPAYER; OR

11 (II) IF THE TAXPAYER IS ONE OR MORE INDIVIDUALS DOING  
12 BUSINESS AS A PARTNERSHIP OR OTHER PASS-THROUGH ENTITY UNDER A  
13 DISTINCT BUSINESS NAME, THE BUSINESS NAME USED BY THE PARTNERSHIP  
14 OR OTHER PASS-THROUGH ENTITY.

15 (b) THE BUSINESS ADDRESS AND BUSINESS PHONE NUMBER OF THE  
16 TAXPAYER;

17 (c) A STATEMENT OF THE NUMBER OF NEW BUSINESS FACILITY  
18 EMPLOYEES FOR WHICH THE TAXPAYER CLAIMED A CREDIT AND THE TOTAL  
19 AMOUNT OF THE CREDIT CLAIMED FOR THE INCOME TAX YEAR FOR WHICH  
20 THE CREDIT WAS CLAIMED;

21 (d) PAYROLL OR OTHER DATA TO VERIFY THE NUMBER OF JOBS  
22 CREATED BY THE TAXPAYER DURING THE INCOME TAX YEAR FOR WHICH  
23 THE CREDIT WAS CLAIMED;

24 (e) A STATEMENT OF THE TOTAL NUMBER OF NEW JOBS RETAINED  
25 DURING THE INCOME TAX YEAR FOR WHICH THE CREDIT WAS CLAIMED IF  
26 THE TAXPAYER CLAIMED A CREDIT PURSUANT TO SECTION 39-30-105 FOR  
27 THE PRIOR INCOME TAX YEAR;

1 (f) THE AVERAGE ANNUAL COMPENSATION LEVEL, INCLUDING  
2 BENEFITS, OF THE NEW JOBS CREATED AND RETAINED, IF APPLICABLE,  
3 CATEGORIZED BY FULL-TIME PERMANENT, PART-TIME PERMANENT,  
4 TEMPORARY, AND CONTRACT JOBS;

5 (g) A STATEMENT AS TO WHETHER THE TAXPAYER REDUCED  
6 EMPLOYMENT AT ANY OTHER SITE IN THE STATE THAT IS CONTROLLED BY  
7 THE TAXPAYER AS A RESULT OF AUTOMATION, MERGER, ACQUISITION,  
8 CORPORATE RESTRUCTURING, OR OTHER BUSINESS ACTIVITY; AND

9 (h) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE  
10 COLORADO ECONOMIC DEVELOPMENT COMMISSION OR THE DEPARTMENT  
11 OF REVENUE TO EVALUATE THE PROGRESS AND EFFECTIVENESS OF THE  
12 CREDIT FOR NEW BUSINESS FACILITY EMPLOYEES ALLOWED PURSUANT TO  
13 SECTION 39-30-105.

14 (3) AN ANNUAL PROGRESS REPORT SUBMITTED TO THE COLORADO  
15 ECONOMIC DEVELOPMENT COMMISSION AND THE DEPARTMENT OF  
16 REVENUE SHALL INCLUDE A SIGNED CERTIFICATION AS TO THE ACCURACY  
17 OF THE PROGRESS REPORT BY THE CHIEF OFFICER OF A CORPORATE  
18 TAXPAYER OR BY AN INDIVIDUAL TAXPAYER, OR AN AUTHORIZED AGENT  
19 THEREOF, CLAIMING A CREDIT DUE TO AN OWNERSHIP INTEREST IN A  
20 PARTNERSHIP OR OTHER PASS-THROUGH ENTITY.

21 (4) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL  
22 INCLUDE THE ANNUAL PROGRESS REPORTS SUBMITTED TO THE COMMISSION  
23 PURSUANT TO THIS SECTION IN THE COMMISSION'S REPORT TO THE  
24 GENERAL ASSEMBLY PURSUANT TO SECTION 24-46-104 (2), C.R.S.

25 (5) THE DEPARTMENT OF REVENUE MAY REVIEW THE ANNUAL  
26 PROGRESS REPORTS SUBMITTED PURSUANT TO THIS SECTION AND, ON THE  
27 BASIS OF ANY INFORMATION CONTAINED IN SUCH REPORTS, CONDUCT AN



1       AUDIT OF THE TAXPAYER PURSUANT TO SECTION 24-35-108 (1)(c), C.R.S.

2               (6) THE INFORMATION SUBMITTED IN THE ANNUAL PROGRESS  
3 REPORT TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION AND  
4 THE DEPARTMENT OF REVENUE SHALL BE CONSIDERED PUBLIC RECORDS AS  
5 DEFINED IN SECTION 24-72-202 (6), C.R.S., AND SHALL BE PRESERVED FOR  
6 AT LEAST FIVE YEARS BY THE COMMISSION. THE COMMISSION SHALL BE  
7 THE CUSTODIAN OF THE REPORTS AND SHALL MAKE THE REPORTS  
8 AVAILABLE FOR INSPECTION BY ANY PERSON AT REASONABLE TIMES.  
9 NOTHING IN THIS SUBSECTION (6) SHALL BE CONSTRUED TO PERMIT THE  
10 DISCLOSURE TO THE PUBLIC OF ANY COLORADO INCOME TAX RETURN OR  
11 OF ANY INFORMATION THAT REVEALS THE AMOUNT OF COMPENSATION  
12 PAID TO ANY INDIVIDUAL EMPLOYEE.

13               **SECTION 5. Effective date - applicability.** (1) This act shall  
14 take effect at 12:01 a.m. on the day following the expiration of the  
15 ninety-day period after final adjournment of the general assembly that is  
16 allowed for submitting a referendum petition pursuant to article V,  
17 section 1 (3) of the state constitution (August 10, 2005, if adjournment  
18 sine die is on May 11, 2005); except that, if a referendum petition is filed  
19 against this act or an item, section, or part of this act within such period,  
20 then the act, item, section, or part, if approved by the people, shall take  
21 effect on the date of the official declaration of the vote thereon by  
22 proclamation of the governor.

23               (2) The provisions of this act shall apply to income tax credits  
24 claimed in income tax years commencing on or after the applicable  
25 effective date of this act and to grants or loans that are received on or  
26 after the effective date of this act.