

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0489.01 Nicole Hoffman

HOUSE BILL 06-1017

HOUSE SPONSORSHIP

Hall,

SENATE SPONSORSHIP

Spence,

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PERFORMANCE-BASED INCENTIVE**
102 **FOR EMPLOYERS THAT CREATE HIGH QUALITY NEW JOBS IN THE**
103 **STATE, AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

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

Allows a performance-based incentive (incentive) to any employer that creates a certain number of new full-time jobs in the state as a result of opening a new business or relocating or expanding an existing business. States that an employer in a rural area that creates at least 5 new jobs within one month shall qualify for an incentive for every new job created, and that an employer in an urban area that creates at least 10

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.

new jobs within one month shall qualify for an incentive for every new job created. Specifies that the amount of the incentive is as follows:

If the employer claiming the incentive earns at least 50% of its gross receipts from products that are produced in Colorado and sold to buyers outside of Colorado or, if the gross receipts of the employer are derived from the performance of services, performs services in Colorado and earns at least 50% of its gross receipts from services sold or provided to persons outside of Colorado, the employer shall be allowed an incentive in the amount of \$1,000 for every new job created.

If the average wage for all new jobs created by the employer for which the incentive is claimed is 110% or more but less than 115% of the average wage in the county in which the new jobs are created, the employer shall be allowed an incentive in the amount of \$1,000 for every new job created.

If the average wage for all new jobs created by the employer for which the incentive is claimed is 115% or more but less than 120% of the average wage in the county in which the new jobs are created, the employer shall be allowed an incentive in the amount of \$1,250 for every new job created.

If the average wage for all new jobs created by the employer for which the incentive is claimed is 120% or more of the average wage in the county in which the new jobs are created, the employer shall be allowed an incentive in the amount of \$1,500 for every new job created.

Specifies that a full-time job created by an employer shall be in addition to the average number of full-time jobs that the employer provided in the state during the 3 years preceding the creation of such new job in order for the employer to be allowed to claim the incentive for creating the new job.

Requires the employer to maintain all of the new jobs for at least one year in order to be eligible to claim the incentive. Specifies that an employer shall be allowed to include a new job in the total count of new jobs created one time.

Specifies that in order for an employer to claim an incentive for new jobs created, the employer shall submit an incentive application to the economic development commission (commission). Directs the commission to create the application form, and specifies the information that shall be included in the application.

Requires the commission to review each application submitted and to determine the amount of the incentive due to each employer that submitted an application. Directs the commission to issue an incentive

payment to every employer who is eligible to receive an incentive.

Directs the commission to develop procedures for the administration of the incentive program, including establishing deadlines for employers to claim incentives and for the commission to issue the incentive payment. In addition, directs the commission to develop procedures for any employer that claims an incentive to determine the number of new jobs created and to verify that the average wage for the new jobs is the applicable percentage above the average wage in the county in which the new jobs are created. Requires the commission to include certain data regarding the number of employers that claim incentives in its annual report to the general assembly.

Defines terms.

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

2 **SECTION 1.** Part 1 of article 46 of title 24, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **24-46-105.7. Performance-based incentive for new job**
6 **creation - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (a) "EMPLOYEE" MEANS A FULL-TIME EMPLOYEE HIRED TO FILL A
9 NEW JOB.

10 (b) "NEW JOB" MEANS A FULL-TIME JOB CREATED IN THE STATE BY
11 AN EMPLOYER FOR WHICH AN EMPLOYEE IS HIRED AND THAT IS IN
12 ADDITION TO THE AVERAGE NUMBER OF FULL-TIME JOBS THAT THE
13 EMPLOYER PROVIDED IN THE STATE DURING THE THREE YEARS PRECEDING
14 THE DATE THAT SUCH EMPLOYEE WAS HIRED.

15 (c) "RURAL AREA" MEANS:

16 (I) A COUNTY WITH A POPULATION OF LESS THAN FIFTY THOUSAND
17 PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION
18 STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS;

19 (II) A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY

1 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
2 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS,
3 THAT IS LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A
4 POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE
5 MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED
6 STATES BUREAU OF THE CENSUS; OR

7 (III) THE UNINCORPORATED PART OF A COUNTY LOCATED TEN
8 MILES OR MORE FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN
9 FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
10 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

11 (d) "URBAN AREA" MEANS:

12 (I) A COUNTY WITH A POPULATION OF MORE THAN FIFTY
13 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
14 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS;

15 (II) A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY
16 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
17 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS,
18 OR A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY THOUSAND
19 PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION
20 STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, THAT IS
21 LOCATED LESS THAN TEN MILES FROM A MUNICIPALITY WITH A
22 POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE
23 MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED
24 STATES BUREAU OF THE CENSUS; OR

25 (III) THE UNINCORPORATED PART OF A COUNTY LOCATED LESS
26 THAN TEN MILES FROM A MUNICIPALITY WITH A POPULATION OF MORE
27 THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY

1 AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF
2 THE CENSUS.

3 (2) SUBJECT TO THE PROVISIONS OF THIS SECTION, ON OR AFTER
4 JANUARY 1, 2006, BUT PRIOR TO JANUARY 1, 2011, ANY EMPLOYER IN A
5 RURAL AREA THAT CREATES AT LEAST FIVE NEW JOBS WITHIN ONE MONTH
6 AND ANY EMPLOYER IN AN URBAN AREA THAT CREATES AT LEAST TEN NEW
7 JOBS WITHIN ONE MONTH BY OPENING A NEW BUSINESS OR EXPANDING OR
8 RELOCATING AN EXISTING BUSINESS SHALL BE ALLOWED TO CLAIM A
9 PERFORMANCE-BASED INCENTIVE FOR EVERY NEW JOB CREATED SO LONG
10 AS THE EMPLOYER MAINTAINS ALL OF THE NEW JOBS FOR AT LEAST ONE
11 YEAR. AN EMPLOYER SHALL BE ALLOWED TO INCLUDE A NEW JOB IN THE
12 CALCULATION OF THE NUMBER OF NEW JOBS CREATED ONE TIME. THE
13 AMOUNT OF THE INCENTIVE SHALL BE AS FOLLOWS:

14 [REDACTED]

15 (a) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE
16 EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED
17 IS ONE HUNDRED TEN PERCENT OR MORE BUT LESS THAN ONE HUNDRED
18 FIFTEEN PERCENT OF THE AVERAGE WAGE IN THE COUNTY IN WHICH THE
19 NEW JOBS ARE CREATED, THE EMPLOYER SHALL BE ALLOWED AN
20 INCENTIVE IN THE AMOUNT OF ONE THOUSAND DOLLARS FOR EVERY NEW
21 JOB CREATED.

22 (b) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE
23 EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED
24 IS ONE HUNDRED FIFTEEN PERCENT OR MORE BUT LESS THAN ONE
25 HUNDRED TWENTY PERCENT OF THE AVERAGE WAGE IN THE COUNTY IN
26 WHICH THE NEW JOBS ARE CREATED, THE EMPLOYER SHALL BE ALLOWED
27 AN INCENTIVE IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED FIFTY

1 DOLLARS FOR EVERY NEW JOB CREATED.

2 (c) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE
3 EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED
4 IS ONE HUNDRED TWENTY PERCENT OR MORE OF THE AVERAGE WAGE IN
5 THE COUNTY IN WHICH THE NEW JOBS ARE CREATED, THE EMPLOYER
6 SHALL BE ALLOWED AN INCENTIVE IN THE AMOUNT OF ONE THOUSAND
7 FIVE HUNDRED DOLLARS FOR EVERY NEW JOB CREATED.

8 (3) AN EMPLOYER THAT QUALIFIES TO CLAIM A
9 PERFORMANCE-BASED INCENTIVE FOR NEW JOBS CREATED PURSUANT TO
10 THIS SECTION AND THAT QUALIFIES FOR AN INCOME TAX CREDIT PURSUANT
11 TO SECTION 39-30-105, C.R.S., SHALL BE ALLOWED TO CLAIM BOTH THE
12 INCENTIVE ALLOWED PURSUANT TO THIS SECTION AND THE CREDIT
13 ALLOWED PURSUANT TO SECTION 39-30-105, C.R.S.

14 (4) (a) IN ORDER FOR AN EMPLOYER TO CLAIM A
15 PERFORMANCE-BASED INCENTIVE FOR NEW JOBS CREATED PURSUANT TO
16 THIS SECTION, THE EMPLOYER SHALL SUBMIT AN INCENTIVE APPLICATION
17 TO THE COMMISSION. THE APPLICATION SHALL BE SUBMITTED ON A FORM
18 CREATED BY THE COMMISSION AND SHALL INCLUDE THE NAME OF THE
19 EMPLOYER CLAIMING THE INCENTIVE, VERIFICATION OF THE NUMBER OF
20 NEW JOBS THAT THE EMPLOYER CREATED, THE AVERAGE WAGE OF ALL
21 NEW JOBS THAT THE EMPLOYER CREATED, THE NUMBER OF INCENTIVES
22 CLAIMED BY THE EMPLOYER, THE TOTAL AMOUNT OF THE INCENTIVES
23 CLAIMED BY THE EMPLOYER, AND ANY OTHER INFORMATION DEEMED
24 NECESSARY BY THE COMMISSION.

25 (b) THE COMMISSION SHALL REVIEW EACH APPLICATION
26 SUBMITTED, DETERMINE WHETHER THE EMPLOYER IS ELIGIBLE TO RECEIVE
27 A PERFORMANCE-BASED INCENTIVE, DETERMINE THE AMOUNT OF THE

1 INCENTIVE DUE TO EACH EMPLOYER ELIGIBLE TO RECEIVE AN INCENTIVE,
2 AND ISSUE THE INCENTIVE PAYMENT TO EACH EMPLOYER THAT IS ELIGIBLE
3 TO RECEIVE THE INCENTIVE, SUBJECT TO THE LIMITATIONS SPECIFIED IN
4 SUBSECTION (6) OF THIS SECTION.

5 (c) THE COMMISSION SHALL DEVELOP PROCEDURES FOR THE
6 ADMINISTRATION OF THIS SECTION, INCLUDING ESTABLISHING DEADLINES
7 FOR EMPLOYERS TO CLAIM PERFORMANCE-BASED INCENTIVES AND FOR
8 THE COMMISSION TO ISSUE PAYMENT OF THE INCENTIVES PURSUANT TO
9 THIS SECTION. IN ADDITION, THE COMMISSION SHALL DEVELOP
10 PROCEDURES FOR ANY EMPLOYER THAT CLAIMS AN INCENTIVE FOR NEW
11 JOBS CREATED PURSUANT TO THIS SECTION TO DETERMINE THE NUMBER OF
12 NEW JOBS CREATED AND TO VERIFY THAT THE AVERAGE WAGE FOR THE
13 NEW JOBS FOR WHICH THE INCENTIVE IS CLAIMED IS THE APPLICABLE
14 PERCENTAGE ABOVE THE AVERAGE WAGE IN THE COUNTY IN WHICH THE
15 NEW JOBS ARE CREATED, BASED ON THE MOST RECENT STATISTICS
16 AVAILABLE FROM THE DEPARTMENT OF LABOR AND EMPLOYMENT.

17 (5) ON OR BEFORE MARCH 1, 2007 AND ON OR BEFORE MARCH 1
18 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL REPORT TO THE
19 BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES AND THE BUSINESS AFFAIRS, LABOR, AND TECHNOLOGY
21 COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING
22 THE PERFORMANCE-BASED INCENTIVES AWARDED PURSUANT TO THIS
23 SECTION. THE REPORT SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE
24 NUMBER OF EMPLOYERS THAT CLAIMED THE PERFORMANCE-BASED
25 INCENTIVE PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF ALL
26 INCENTIVES CLAIMED DURING THE MOST RECENT FISCAL YEAR FOR WHICH
27 SUCH INFORMATION IS AVAILABLE.

1 (6) THE TOTAL AMOUNT OF PERFORMANCE-BASED INCENTIVES
2 THAT THE COMMISSION ISSUES PURSUANT TO THIS SECTION IN ANY FISCAL
3 YEAR SHALL NOT EXCEED THE AMOUNT APPROPRIATED TO THE
4 COMMISSION TO BE USED FOR THE PURPOSES OF THIS SECTION IN THE
5 APPLICABLE FISCAL YEAR. IF THE COMMISSION RECEIVES APPLICATIONS
6 FOR INCENTIVES THAT EXCEED THE AMOUNT APPROPRIATED BY THE
7 GENERAL ASSEMBLY FOR THE FISCAL YEAR, THE COMMISSION SHALL ISSUE
8 INCENTIVES TO APPLICANTS IN THE ORDER IN WHICH THE COMMISSION
9 RECEIVED THE APPLICATIONS UNTIL THE AMOUNT APPROPRIATED HAS
10 BEEN EXPENDED.

11 (7) (a) THE COMMISSION SHALL NOT ALLOW ANY EMPLOYER THAT
12 HAS BEEN APPROVED TO RECEIVE A PERFORMANCE-BASED INCENTIVE FOR
13 THE CREATION OF NEW JOBS PRIOR TO THE EFFECTIVE DATE OF THIS
14 SECTION TO CLAIM AN INCENTIVE PURSUANT TO THIS SECTION FOR THE
15 SAME JOBS FOR WHICH THE PREVIOUS INCENTIVE WAS APPROVED.

16 (b) IN APPROVING AN EMPLOYER TO RECEIVE A
17 PERFORMANCE-BASED INCENTIVE FOR THE CREATION OF NEW JOBS ON OR
18 AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION MAY, IN
19 ITS DISCRETION, ALLOW ANY EMPLOYER TO CLAIM AN INCENTIVE
20 PURSUANT TO THIS SECTION IN ADDITION TO ANY OTHER INCENTIVE
21 OFFERED BY THE COMMISSION.

22 **SECTION 2.** 24-46-106, Colorado Revised Statutes, is amended
23 to read:

24 **24-46-106. Repeal of part.** This part 1 is repealed, effective July
25 ~~1, 2006~~ JULY 1, 2017.

26 **SECTION 3.** 12-47.1-701 (4) (a), Colorado Revised Statutes, is
27 amended to read:

1 **12-47.1-701. Limited gaming fund.** (4) (a) At the end of each
2 fiscal year, the state treasurer shall distribute the balance remaining in the
3 limited gaming fund in accordance with the provisions of section 9 (5) (b)
4 (II) of article XVIII of the state constitution; except that:

5 (I) For fiscal years commencing prior to July 1, 2003, and for
6 fiscal years commencing on or after July 1, 2004, forty-nine and
7 eight-tenths percent shall be transferred to the general fund of this state
8 and two-tenths of one percent shall be transferred to the Colorado travel
9 and tourism promotion fund created in section 24-49.7-106, C.R.S.;

10 (II) For the 2003-04 ~~state~~ fiscal year, fifty percent shall be
11 transferred to the general fund of the state; AND

12 (III) (A) EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH
13 (B) OF THIS SUBPARAGRAPH (III), FOR THE 2005-06 FISCAL YEAR, OF THE
14 PORTION OF LIMITED GAMING FUND MONEYS THAT WOULD OTHERWISE BE
15 TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 9 (5) (b) (II)
16 OF ARTICLE XVIII OF THE STATE CONSTITUTION, AFTER THE TRANSFER TO
17 THE LOCAL GOVERNMENT LIMITED GAMING IMPACT FUND REQUIRED BY
18 SECTION 12-47.1-1601, AND AFTER ANY OTHER TRANSFER OR
19 DISTRIBUTION OF THE GENERAL FUND PORTION OF LIMITED GAMING FUND
20 MONEYS REQUIRED BY THIS PARAGRAPH (a), FIVE MILLION DOLLARS SHALL
21 BE TRANSFERRED TO THE COLORADO ECONOMIC DEVELOPMENT
22 COMMISSION CREATED IN SECTION 24-46-102, C.R.S., TO FUND
23 PERFORMANCE-BASED INCENTIVES FOR NEW JOB CREATION PURSUANT TO
24 SECTION 24-46-105.7, C.R.S., BEGINNING IN THE 2006-07 FISCAL YEAR.

25 (B) IF, BASED ON THE JUNE REVENUE FORECAST PREPARED BY THE
26 LEGISLATIVE COUNCIL, THE STATE TREASURER DETERMINES THAT THE
27 AMOUNT OF GENERAL FUND REVENUES FOR THE FISCAL YEAR WILL BE

1 INSUFFICIENT TO ALLOW THE MAXIMUM AMOUNT OF GENERAL FUND
2 APPROPRIATIONS PERMITTED BY SECTION 24-75-201.1 (1) (A) (II), C.R.S.,
3 TO BE MADE FOR THAT FISCAL YEAR, THE STATE TREASURER SHALL
4 TRANSFER TO THE GENERAL FUND FROM THE MONEYS THAT WOULD
5 OTHERWISE BE TRANSFERRED TO THE COLORADO ECONOMIC
6 DEVELOPMENT COMMISSION PURSUANT TO SUB-SUBPARAGRAPH (A) OF
7 THIS SUBPARAGRAPH (III) AT THE END OF THE FISCAL YEAR AN AMOUNT
8 EQUAL TO THE LESSER OF THE FULL AMOUNT THAT WOULD OTHERWISE BE
9 TRANSFERRED TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
10 OR THE AMOUNT NECESSARY TO ALLOW THE MAXIMUM AMOUNT OF
11 GENERAL FUND APPROPRIATIONS TO BE MADE FOR THE FISCAL YEAR.

12 **SECTION 4. Appropriation.** In addition to any other
13 appropriation, there is hereby appropriated, out of any moneys in the
14 limited gaming fund created in section 12-47.1-701 (1), Colorado Revised
15 Statutes, not otherwise appropriated, to the office of the governor, for
16 allocation to the Colorado economic development commission, for the
17 fiscal year beginning July 1, 2006, the sum of five million dollars
18 (\$5,000,000), or so much thereof as may be necessary, for the
19 implementation of this act.

20 **SECTION 5. Effective date.** This act shall only take effect if the
21 general assembly appropriates, in the 2006-07 fiscal year, an amount of
22 up to five million dollars to the Colorado economic development
23 commission to be used for the purposes of this act.

24 **SECTION 6. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.