

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

INTRODUCED

LLS NO. 13-0917.01 Esther van Mourik x4215

HOUSE BILL 13-1265

HOUSE SPONSORSHIP

Hullinghorst,

SENATE SPONSORSHIP

Heath,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE INCOME TAX CREDIT FOR BUSINESS FACILITY**
102 **EMPLOYEES UNDER THE "URBAN AND RURAL ENTERPRISE ZONE**
103 **ACT".**

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>.)

When the income tax credits for new business facility employees were originally created under the "Urban and Rural Enterprise Zone Act", the intent was to prevent existing businesses that would become part of an enterprise zone from benefiting from this program. To accomplish this,

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.

the "new business facility" language was added. The "new business facility" language requires that businesses that existed in a distressed area prior to the enterprise program would qualify as a "new business facility" by expanding at their existing location in the enterprise zone or by expanding at a replacement facility in the enterprise zone and meeting one of 6 criteria.

Currently, most businesses that existed and are still operating in their location prior to the enterprise zone program taking effect have met at least one of the 6 criteria to qualify as a new business facility.

The bill ends the new business facility employees income tax credit and creates a new income tax credit for business facility employees. The credit remains the same but does not include the requirements to meet the definition of a "new business facility".

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-30-105, **amend**
3 (1) (a) (I), (1) (a) (III), (1) (b), (3), (5) (a), (5) (b), and (7) (c) (III) (A);
4 and **add** (8) as follows:

5 **39-30-105. Credit for new business facility employees -**
6 **definitions - repeal.** (1) (a) (I) For any income tax year commencing on
7 or after January 1, 1993, BUT PRIOR TO JANUARY 1, 2014, any taxpayer
8 who establishes a new business facility in an enterprise zone shall be
9 allowed a credit against the income tax imposed by article 22 of this title
10 in an amount equal to five hundred dollars per income tax year for each
11 new business facility employee, pursuant to subsection (6) of this section,
12 who is working within the zone, prorated according to the number of
13 months the employee was employed by the taxpayer during the income
14 tax year. An employee whose primary duties consist of operating a
15 commercial motor vehicle with a commercial driver's license shall be
16 deemed to be working one hundred percent within the zone if the
17 employee spends no more than five percent of his or her total time at any
18 facility of the employer other than the facility within the zone.

1 (III) For any income tax year commencing on or after January 1,
2 2003, BUT PRIOR TO JANUARY 1, 2014, any taxpayer who establishes a
3 new business facility in an enhanced rural enterprise zone shall be
4 allowed an additional credit against the income tax imposed by article 22
5 of this title in an amount equal to two thousand dollars per income tax
6 year for each new business facility employee who is working within the
7 enhanced rural enterprise zone, prorated according to the number of
8 months such employee was employed by the taxpayer during the income
9 tax year.

10 (b) FOR ANY INCOME TAX YEAR COMMENCING PRIOR TO JANUARY
11 1, 2014, in addition to the credit available under paragraph (a) of this
12 subsection (1), a taxpayer qualified under said paragraph (a) shall be
13 allowed for the first two full income tax years while located in an
14 enterprise zone a credit in an amount equal to two hundred dollars for
15 each new business facility employee who is insured under a health
16 insurance plan or program provided through his or her employer. To be
17 eligible for such credit, the employer must contribute fifty percent or
18 more of the total cost of a health insurance plan or program, and such
19 plan or program must be in accordance with the provisions of article 8 of
20 title 10 or part 1, 2, 3, or 4 of article 16 of title 10, C.R.S., or be a
21 self-insurance program and include partial or complete coverage for
22 hospital and physician services.

23 (3) (a) FOR ANY INCOME TAX YEAR COMMENCING PRIOR TO
24 JANUARY 1, 2014, any taxpayer who operates a business within an
25 enterprise zone that adds value through manufacturing or processing to
26 agricultural commodities shall be allowed in addition to the credit
27 allowed under subsection (1) of this section, while located in the

1 enterprise zone, a credit against the income tax imposed by article 22 of
2 this title in an amount equal to five hundred dollars for each additional
3 new business facility employee in excess of the maximum number
4 employed in any prior tax year.

5 (b) For any income tax year commencing on or after January 1,
6 2003, BUT PRIOR TO JANUARY 1, 2014, any taxpayer who operates a
7 business within an enhanced rural enterprise zone that adds value through
8 manufacturing or processing to agricultural commodities shall be allowed
9 in addition to the credit allowed under paragraph (a) of this subsection (3)
10 a credit against the income tax imposed by article 22 of this title in an
11 amount equal to five hundred dollars for each additional new business
12 facility employee in excess of the maximum number employed in any
13 prior tax year.

14 (5) (a) (I) For taxable years beginning on or after January 1, 1993,
15 BUT PRIOR TO JANUARY 1, 2014, if the total amount of the credits claimed
16 by a taxpayer pursuant to the provisions of subparagraph (I) of paragraph
17 (a) of subsection (1), paragraph (b) of subsection (1), and paragraph (a)
18 of subsection (3) of this section exceeds the amount of income taxes due
19 on the income of the taxpayer in the income tax year for which the credits
20 are being claimed, the amount of the credits not used as an offset against
21 income taxes in said income tax year shall not be allowed as a refund but
22 may be carried forward as a credit against subsequent years' tax liability
23 for a period not exceeding five years and shall be applied first to the
24 earliest income tax years possible. Any amount of the credit that is not
25 used during said period shall not be refundable to the taxpayer.

26 (II) For taxable years beginning on or after January 1, 2003, BUT
27 PRIOR TO JANUARY 1, 2014, if the total amount of credits claimed by a

1 taxpayer pursuant to subparagraph (III) of paragraph (a) of subsection (1)
2 of this section and paragraph (b) of subsection (3) of this section exceeds
3 the amount of income taxes due on the income of the taxpayer in the
4 income tax year for which the credits are being claimed, the amount of
5 credits not used as an offset against income taxes in said income tax year
6 shall not be allowed as a refund but may be carried forward as a credit
7 against subsequent years' tax liability for a period not exceeding seven
8 years and shall be applied first to the earliest income tax years possible.
9 Any amount of the credit which is not used during said period shall not
10 be refundable to the taxpayer.

11 (b) (I) Subparagraph (I) of paragraph (a) of this subsection (5) is
12 effective for income tax years commencing on or after January 1, 1993,
13 BUT PRIOR TO JANUARY 1, 2014; except that application of subparagraph
14 (I) of paragraph (a) of this subsection (5) to the credit described in
15 paragraph (b) of subsection (1) of this section shall be effective for
16 income tax years commencing on or after January 1, 1996, BUT PRIOR TO
17 JANUARY 1, 2014.

18 (II) Subparagraph (II) of paragraph (a) of this subsection (5) is
19 effective for income tax years commencing on or after January 1, 2003,
20 BUT PRIOR TO JANUARY 1, 2014.

21 (7) As used in this section, unless the context otherwise requires:

22 (c) (III) If a facility that does not constitute a new business facility
23 is expanded by the taxpayer, the expansion shall be considered a separate
24 facility for purposes of the credit allowed by this section if:

25 (A) The expansion results in the employment of ten or more new
26 business facility employees or, for income tax years commencing on or
27 after January 1, 1996, BUT PRIOR TO JANUARY 1, 2014, a ten percent

1 increase in the number of new business facility employees resulting in the
2 employment of at least one full-time new business facility employee,
3 whichever is less, during the taxable year over and above the average
4 number of employees employed in the enterprise zone by the taxpayer
5 during the twelve months immediately prior to the expansion, determined
6 pursuant to subsection (6) of this section; and

7 (8) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2019.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 39-30-105.1 as
9 follows:

10 **39-30-105.1. Credit for new enterprise zone business**
11 **employees - definitions.** (1) (a) (I) FOR ANY INCOME TAX YEAR
12 COMMENCING ON OR AFTER JANUARY 1, 2014, ANY TAXPAYER WHO
13 OPERATES A BUSINESS FACILITY IN AN ENTERPRISE ZONE IS ALLOWED A
14 CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE
15 IN AN AMOUNT EQUAL TO ONE THOUSAND ONE HUNDRED DOLLARS PER
16 INCOME TAX YEAR FOR EACH BUSINESS FACILITY EMPLOYEE, PURSUANT TO
17 SUBSECTION (5) OF THIS SECTION, WHO IS WORKING WITHIN THE ZONE,
18 PRORATED ACCORDING TO THE NUMBER OF MONTHS THE EMPLOYEE WAS
19 EMPLOYED BY THE TAXPAYER DURING THE INCOME TAX YEAR. AN
20 EMPLOYEE WHOSE PRIMARY DUTIES CONSIST OF OPERATING A
21 COMMERCIAL MOTOR VEHICLE WITH A COMMERCIAL DRIVER'S LICENSE
22 SHALL BE DEEMED TO BE WORKING ONE HUNDRED PERCENT WITHIN THE
23 ZONE IF THE EMPLOYEE SPENDS NO MORE THAN FIVE PERCENT OF HIS OR
24 HER TOTAL TIME AT ANY BUSINESS OF THE EMPLOYER OTHER THAN THE
25 BUSINESS WITHIN THE ZONE.

26 (II) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
27 JANUARY 1, 2014, ANY TAXPAYER WHO OPERATES A BUSINESS FACILITY

1 IN AN ENHANCED RURAL ENTERPRISE ZONE IS ALLOWED AN ADDITIONAL
2 CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE
3 IN AN AMOUNT EQUAL TO TWO THOUSAND DOLLARS PER INCOME TAX YEAR
4 FOR EACH BUSINESS FACILITY EMPLOYEE WHO IS WORKING WITHIN THE
5 ENHANCED RURAL ENTERPRISE ZONE, PRORATED ACCORDING TO THE
6 NUMBER OF MONTHS SUCH EMPLOYEE WAS EMPLOYED BY THE TAXPAYER
7 DURING THE INCOME TAX YEAR.

8 (III) A BUSINESS FACILITY QUALIFYING FOR THE CREDIT IS
9 ALLOWED THE CREDIT FOR EACH SUBSEQUENT TAX YEAR FOR EACH
10 BUSINESS FACILITY EMPLOYEE OVER THE NUMBER EMPLOYED IN ANY
11 PRIOR TAX YEAR. ANY CREDIT IS ALLOWED FOR A MAXIMUM OF TWELVE
12 CONSECUTIVE MONTHS FOR EACH BUSINESS FACILITY EMPLOYEE
13 EMPLOYED BY THE TAXPAYER.

14 (b) IN ADDITION TO THE CREDIT AVAILABLE UNDER PARAGRAPH (a)
15 OF THIS SUBSECTION (1), FOR ANY INCOME TAX YEAR COMMENCING ON OR
16 AFTER JANUARY 1, 2014, A TAXPAYER QUALIFIED UNDER SAID PARAGRAPH
17 (a) IS ALLOWED FOR THE FIRST TWO FULL INCOME TAX YEARS WHILE
18 LOCATED IN AN ENTERPRISE ZONE A CREDIT IN AN AMOUNT EQUAL TO ONE
19 THOUSAND DOLLARS FOR EACH BUSINESS FACILITY EMPLOYEE WHO IS
20 INSURED UNDER A HEALTH INSURANCE PLAN OR PROGRAM PROVIDED
21 THROUGH HIS OR HER EMPLOYER. TO BE ELIGIBLE FOR THE CREDIT, THE
22 EMPLOYER MUST CONTRIBUTE FIFTY PERCENT OR MORE OF THE TOTAL
23 COST OF A HEALTH INSURANCE PLAN OR PROGRAM, AND SUCH PLAN OR
24 PROGRAM MUST BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 8
25 OF TITLE 10 OR PART 1, 2, 3, OR 4 OF ARTICLE 16 OF TITLE 10, C.R.S., OR
26 BE A SELF-INSURANCE PROGRAM AND INCLUDE PARTIAL OR COMPLETE
27 COVERAGE FOR HOSPITAL AND PHYSICIAN SERVICES.

1 (2) FOR BUSINESS FACILITIES ESTABLISHED IN AN ENTERPRISE ZONE
2 OR AN ENHANCED RURAL ENTERPRISE ZONE, THE NUMBER OF BUSINESS
3 FACILITY EMPLOYEES ENGAGED OR MAINTAINED IN EMPLOYMENT AT THE
4 BUSINESS FACILITY FOR EACH TAXABLE YEAR FOR WHICH THE CREDIT IS
5 CLAIMED MUST EQUAL OR EXCEED ONE PERSON.

6 (3) (a) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
7 JANUARY 1, 2014, ANY TAXPAYER WHO OPERATES A BUSINESS WITHIN AN
8 ENTERPRISE ZONE THAT ADDS VALUE THROUGH MANUFACTURING OR
9 PROCESSING TO AGRICULTURAL COMMODITIES IS ALLOWED IN ADDITION
10 TO THE CREDIT ALLOWED UNDER SUBSECTION (1) OF THIS SECTION, WHILE
11 LOCATED IN THE ENTERPRISE ZONE, A CREDIT AGAINST THE INCOME TAX
12 IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO FIVE
13 HUNDRED DOLLARS FOR EACH ADDITIONAL BUSINESS FACILITY EMPLOYEE
14 IN EXCESS OF THE MAXIMUM NUMBER EMPLOYED IN ANY PRIOR TAX YEAR.

15 (b) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
16 JANUARY 1, 2014, ANY TAXPAYER WHO OPERATES A BUSINESS WITHIN AN
17 ENHANCED RURAL ENTERPRISE ZONE THAT ADDS VALUE THROUGH
18 MANUFACTURING OR PROCESSING TO AGRICULTURAL COMMODITIES IS
19 ALLOWED IN ADDITION TO THE CREDIT ALLOWED UNDER PARAGRAPH (a)
20 OF THIS SUBSECTION (3) A CREDIT AGAINST THE INCOME TAX IMPOSED BY
21 ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO FIVE HUNDRED
22 DOLLARS FOR EACH ADDITIONAL BUSINESS FACILITY EMPLOYEE IN EXCESS
23 OF THE MAXIMUM NUMBER EMPLOYED IN ANY PRIOR TAX YEAR.

24 (4) (a) (I) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
25 JANUARY 1, 2014, IF THE TOTAL AMOUNT OF THE CREDITS CLAIMED BY A
26 TAXPAYER PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF
27 PARAGRAPH (a) OF SUBSECTION (1), PARAGRAPH (b) OF SUBSECTION (1),

1 AND PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION EXCEEDS THE
2 AMOUNT OF INCOME TAXES DUE ON THE INCOME OF THE TAXPAYER IN THE
3 INCOME TAX YEAR FOR WHICH THE CREDITS ARE BEING CLAIMED, THE
4 AMOUNT OF THE CREDITS NOT USED AS AN OFFSET AGAINST INCOME TAXES
5 IN SAID INCOME TAX YEAR IS NOT ALLOWED AS A REFUND BUT MAY BE
6 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' TAX
7 LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND IS APPLIED FIRST
8 TO THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE
9 CREDIT THAT IS NOT USED DURING SAID PERIOD IS NOT REFUNDABLE TO
10 THE TAXPAYER.

11 (II) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
12 JANUARY 1, 2014, IF THE TOTAL AMOUNT OF CREDITS CLAIMED BY A
13 TAXPAYER PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF
14 SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (b) OF SUBSECTION (3)
15 OF THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAXES DUE ON THE
16 INCOME OF THE TAXPAYER IN THE INCOME TAX YEAR FOR WHICH THE
17 CREDITS ARE BEING CLAIMED, THE AMOUNT OF CREDITS NOT USED AS AN
18 OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR IS NOT
19 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AS A CREDIT
20 AGAINST SUBSEQUENT YEARS' TAX LIABILITY FOR A PERIOD NOT
21 EXCEEDING SEVEN YEARS AND IS APPLIED FIRST TO THE EARLIEST INCOME
22 TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT THAT IS NOT USED
23 DURING SAID PERIOD IS NOT REFUNDABLE TO THE TAXPAYER.

24 (b) FOR PURPOSES OF THIS SECTION, A PARTNERSHIP, S
25 CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY ELECTING
26 NOT TO BE TAXED AS A CORPORATION MAY PASS THROUGH THE CREDITS
27 EARNED UNDER THIS SECTION IN ANY TAX YEAR TO ITS PARTICIPATING

1 PARTNERS, SHAREHOLDERS, OR MEMBERS, HEREINAFTER REFERRED TO AS
2 THE "INVESTORS" OF THE ENTITY, IN ANY PERCENTAGE THE ENTITY
3 CHOOSES, UP TO THE AMOUNT OF THE CREDIT EARNED IN THE TAX YEAR.
4 CREDITS EARNED BUT UNCLAIMED IN A TAX YEAR FOR WHICH THE ENTITY
5 ELECTS TO BE TAXED AS A CORPORATION MAY NOT BE DISTRIBUTED TO
6 INVESTORS IN A LATER TAX YEAR FOR WHICH THE ENTITY ELECTS NOT TO
7 BE TAXED AS A CORPORATION. IN ANY TAX YEAR FOR WHICH THE ENTITY
8 ELECTS NOT TO BE TAXED AS A CORPORATION, ALL CREDITS PASSED
9 THROUGH TO INVESTORS MAY BE CARRIED FORWARD AT THE INVESTOR
10 LEVEL FOR THE CARRYOVER PERIODS SPECIFIED IN THIS SECTION.

11 (c) FOR PURPOSES OF THIS SECTION, A TAXPAYER MAY ONLY CLAIM
12 THE BUSINESS FACILITY EMPLOYEE CREDIT FOR EMPLOYEES FOR WHOM:

13 (I) THE TAXPAYER WITHHOLDS SOCIAL SECURITY, MEDICARE, AND
14 INCOME TAXES UNDER THE TAXPAYER'S OWN FEDERAL AND STATE
15 TAXPAYER IDENTIFICATION NUMBERS; OR

16 (II) THE TAXPAYER IS THE WORK-SITE EMPLOYER, AS DEFINED IN
17 SECTION 8-70-114 (2) (a) (VII), C.R.S., AND AN EMPLOYEE LEASING
18 COMPANY, AS DEFINED IN SECTION 8-70-114 (2) (a) (V), C.R.S., AS THE
19 EMPLOYING UNIT FOR, OR COEMPLOYER WITH, THE TAXPAYER, AND
20 WITHHOLDS SOCIAL SECURITY, MEDICARE, AND INCOME TAXES UNDER THE
21 EMPLOYEE LEASING COMPANY'S OWN FEDERAL AND STATE TAXPAYER
22 IDENTIFICATION NUMBERS.

23 (5) (a) THE NUMBER OF BUSINESS FACILITY EMPLOYEES DURING
24 ANY TAXABLE YEAR IS DETERMINED BY DIVIDING BY TWELVE THE SUM OF
25 THE NUMBER OF BUSINESS FACILITY EMPLOYEES ON THE LAST BUSINESS
26 DAY OF EACH MONTH OF SUCH TAXABLE YEAR. IF THE BUSINESS FACILITY
27 IS IN OPERATION FOR LESS THAN THE ENTIRE TAXABLE YEAR, THE NUMBER

1 OF BUSINESS FACILITY EMPLOYEES IS DETERMINED BY DIVIDING THE SUM
2 OF THE NUMBER OF BUSINESS FACILITY EMPLOYEES ON THE LAST BUSINESS
3 DAY OF EACH FULL CALENDAR MONTH DURING THE PORTION OF THE
4 TAXABLE YEAR DURING WHICH THE BUSINESS FACILITY WAS IN OPERATION
5 BY THE NUMBER OF FULL CALENDAR MONTHS DURING THE PERIOD.

6 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
7 THIS SUBSECTION (5), FOR THE PURPOSE OF DETERMINING THE CREDIT
8 ALLOWED BY THIS SECTION IN THE CASE OF A FACILITY THAT QUALIFIES AS
9 A BUSINESS FACILITY BUT IS A REPLACEMENT BUSINESS FACILITY, THE
10 NUMBER OF BUSINESS FACILITY EMPLOYEES EMPLOYED IN THE OPERATION
11 OF THE FACILITY IS REDUCED BY THE AVERAGE NUMBER, DETERMINED
12 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), OF INDIVIDUALS
13 EMPLOYED IN THE OPERATION OF THE FACILITY THAT THE BUSINESS
14 FACILITY REPLACES DURING THE THREE TAXABLE YEARS PRECEDING THE
15 TAXABLE YEAR IN WHICH COMMENCEMENT OF COMMERCIAL OPERATIONS
16 OCCURS AT THE BUSINESS FACILITY.

17 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
18 REQUIRES:

19 (a) "BUILDING" MEANS ONLY STRUCTURES WITHIN WHICH
20 INDIVIDUALS ARE CUSTOMARILY EMPLOYED OR THAT ARE CUSTOMARILY
21 USED TO HOUSE MACHINERY, EQUIPMENT, OR OTHER PROPERTY.

22 (b) "BUSINESS FACILITY" MEANS A FACILITY THAT IS OPERATED BY
23 THE TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE.
24 A FACILITY IS NOT CONSIDERED A BUSINESS FACILITY IN THE HANDS OF
25 THE TAXPAYER IF THE TAXPAYER'S ONLY ACTIVITY WITH RESPECT TO THE
26 FACILITY IS TO LEASE IT TO ANOTHER PERSON. IF THE TAXPAYER OPERATES
27 ONLY A PORTION OF THE FACILITY IN THE OPERATION OF A

1 REVENUE-PRODUCING ENTERPRISE AND LEASES ANOTHER PORTION OF THE
2 FACILITY TO ANOTHER PERSON OR DOES NOT OTHERWISE USE THE OTHER
3 PORTIONS IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE, THE
4 PORTION OPERATED BY THE TAXPAYER IN THE OPERATION OF A
5 REVENUE-PRODUCING ENTERPRISE IS CONSIDERED A BUSINESS FACILITY.

6 (c) "BUSINESS FACILITY EMPLOYEE" MEANS A PERSON EMPLOYED
7 BY THE TAXPAYER IN THE OPERATION OF A BUSINESS FACILITY DURING THE
8 TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED BY THIS SECTION IS
9 CLAIMED. A PERSON IS DEEMED AN EMPLOYEE IF THE PERSON PERFORMS
10 DUTIES IN CONNECTION WITH THE OPERATION OF THE BUSINESS FACILITY
11 ON:

12 (I) A REGULAR, FULL-TIME BASIS;

13 (II) A PART-TIME BASIS IF THE PERSON IS CUSTOMARILY
14 PERFORMING HIS OR HER DUTIES AT LEAST TWENTY HOURS PER WEEK
15 THROUGHOUT THE TAXABLE YEAR; OR

16 (III) A SEASONAL BASIS IF THE PERSON PERFORMS HIS OR HER
17 DUTIES FOR SUBSTANTIALLY ALL OF THE SEASON CUSTOMARY FOR THE
18 POSITION IN WHICH THE PERSON IS EMPLOYED.

19 (d) "COMMENCEMENT OF COMMERCIAL OPERATIONS" MEANS THE
20 FIRST TAXABLE YEAR THAT THE BUSINESS FACILITY IS FIRST AVAILABLE
21 FOR USE BY THE TAXPAYER, OR FIRST CAPABLE OF BEING USED BY THE
22 TAXPAYER, IN THE REVENUE-PRODUCING ENTERPRISE IN WHICH THE
23 TAXPAYER INTENDS TO USE THE BUSINESS FACILITY.

24 (e) "FACILITY" MEANS ANY FACTORY, MILL, PLANT, REFINERY,
25 WAREHOUSE, FEEDLOT, BUILDING, OR COMPLEX OF BUILDINGS LOCATED
26 WITHIN THE STATE, INCLUDING THE LAND ON WHICH THE FACILITY IS
27 LOCATED AND ALL MACHINERY, EQUIPMENT, AND OTHER REAL AND

1 TANGIBLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE FACILITY AND
2 USED IN CONNECTION WITH THE OPERATION OF THE FACILITY.

3 (f) "REVENUE-PRODUCING ENTERPRISE" MEANS AN ENTERPRISE
4 THAT ENGAGES IN THE FOLLOWING:

5 (I) THE PRODUCTION, ASSEMBLY, FABRICATION, MANUFACTURING,
6 OR PROCESSING OF ANY AGRICULTURAL, MINERAL, OR MANUFACTURED
7 PRODUCT;

8 (II) THE STORAGE, WAREHOUSING, DISTRIBUTION, OR SALE OF ANY
9 PRODUCTS OF AGRICULTURE, MINING, OR MANUFACTURING;

10 (III) THE FEEDING OF LIVESTOCK AT A FEEDLOT;

11 (IV) THE OPERATION OF LABORATORIES OR OTHER FACILITIES FOR
12 SCIENTIFIC, AGRICULTURAL, ANIMAL HUSBANDRY, OR INDUSTRIAL
13 RESEARCH, DEVELOPMENT, OR TESTING;

14 (V) THE PERFORMANCE OF SERVICES OF ANY TYPE;

15 (VI) THE ADMINISTRATIVE MANAGEMENT OF ANY OF THE
16 ACTIVITIES LISTED IN SUBPARAGRAPHS (I) TO (V) OF THIS PARAGRAPH (f);
17 OR

18 (VII) ANY COMBINATION OF ANY OF THE ACTIVITIES REFERRED TO
19 IN SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (f).

20 **SECTION 3. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.