

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

PREAMENDED

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

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 FIVE HUNDRED DOLLARS PER INCOME TAX YEAR
16 FOR EACH BUSINESS FACILITY EMPLOYEE, PURSUANT TO SUBSECTION (5)
17 OF THIS SECTION, WHO IS WORKING WITHIN THE ZONE, PRORATED
18 ACCORDING TO THE NUMBER OF MONTHS THE EMPLOYEE WAS EMPLOYED
19 BY THE TAXPAYER DURING THE INCOME TAX YEAR. AN EMPLOYEE WHOSE
20 PRIMARY DUTIES CONSIST OF OPERATING A COMMERCIAL MOTOR VEHICLE
21 WITH A COMMERCIAL DRIVER'S LICENSE SHALL BE DEEMED TO BE WORKING
22 ONE HUNDRED PERCENT WITHIN THE ZONE IF THE EMPLOYEE SPENDS NO
23 MORE THAN FIVE PERCENT OF HIS OR HER TOTAL TIME AT ANY BUSINESS OF
24 THE EMPLOYER OTHER THAN THE BUSINESS WITHIN THE ZONE.

25 (II) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
26 JANUARY 1, 2014, ANY TAXPAYER WHO OPERATES A BUSINESS FACILITY
27 IN AN ENHANCED RURAL ENTERPRISE ZONE IS ALLOWED AN ADDITIONAL

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

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

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

27 (2) FOR BUSINESS FACILITIES ESTABLISHED IN AN ENTERPRISE ZONE

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

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

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

23 (4) (a) (I) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
24 JANUARY 1, 2014, IF THE TOTAL AMOUNT OF THE CREDITS CLAIMED BY A
25 TAXPAYER PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF
26 PARAGRAPH (a) OF SUBSECTION (1), PARAGRAPH (b) OF SUBSECTION (1),
27 AND PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION EXCEEDS THE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 USED IN CONNECTION WITH THE OPERATION OF THE FACILITY.

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

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

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

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

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

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

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

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

19 **SECTION 3.** In Colorado Revised Statutes, 39-30-105.1, **amend**
20 **as added by House Bill 13-1265** (1) (a) (I) and (1) (b) as follows:

21 **39-30-105.1. Credit for new enterprise zone business**
22 **employees - definitions.** (1) (a) (I) For any income tax year commencing
23 on or after January 1, 2014, any taxpayer who operates a business facility
24 in an enterprise zone is allowed a credit against the income tax imposed
25 by article 22 of this title in an amount equal to ~~five~~ ONE THOUSAND ONE
26 hundred dollars per income tax year for each business facility employee,
27 pursuant to subsection (5) of this section, who is working within the zone,

1 prorated according to the number of months the employee was employed
2 by the taxpayer during the income tax year. An employee whose primary
3 duties consist of operating a commercial motor vehicle with a commercial
4 driver's license shall be deemed to be working one hundred percent within
5 the zone if the employee spends no more than five percent of his or her
6 total time at any business of the employer other than the business within
7 the zone.

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

20 **SECTION 4. Effective date.** This act takes effect upon passage;
21 except that section 3 of this act takes effect only if House Bill 13-1142
22 becomes law and takes effect either upon the effective date of this act or
23 House Bill 13-1142, whichever is later.

24 **SECTION 5. 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.