Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0757.01 Nicole Myers **HOUSE BILL 10-1396**

HOUSE SPONSORSHIP

Judd, Benefield, Frangas, Labuda, Weissmann

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

CONCERNING THE REDUCTION IN TAX INCENTIVE REVENUE LOSS THROUGH THE "URBAN AND RURAL ENTERPRISE ZONE 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.)

Currently, several income tax and sales and use tax credits are available to qualified taxpayers through the "Urban and Rural Enterprise Zone Act" (act). The bill eliminates the credits available through the act as of January 1, 2011.

Specifically, the bill limits the following income tax credits

allowed pursuant to the act to income tax years commencing prior to January 1, 2011: The credit for contributions to enterprise zone administrators to implement economic development plans, the credit for investment in property that is used solely and exclusively in an enterprise zone for at least a year, the credit for an investment made in a qualified job training program, the credit for hiring new business facility employees, the credit for expenditures in research and experimental activities for the purpose of carrying out trade or business, and the credit for an expenditure to rehabilitate a vacant building.

In addition, beginning on January 1, 2011, the bill eliminates the sales and use tax exemption for purchases of machinery or machine tools to be used solely and exclusively in an enterprise zone.

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

SECTION 1. 39-30-103.5 (1) (a) (I), the introductory portion to 39-30-103.5 (1) (a) (II), and 39-30-103.5 (1) (e), (2) (b), and (3.5), Colorado Revised Statutes, are amended to read:

39-30-103.5. Credit against tax - contributions to enterprise zone administrators to implement economic development plans. (1) (a) (I) Except as otherwise provided in subparagraph (II) of this paragraph (a), for income tax years commencing on or after January 1, 1989, BUT PRIOR TO JANUARY 1, 1996, any taxpayer who makes a monetary or in-kind contribution for the purpose of implementing the economic development plan for the enterprise zone to the person or agency designated as the enterprise zone administrator by the department of local affairs, and on or after July 1, 2008, by the person or agency designated as the enterprise zone administrator by the Colorado economic development commission, shall be allowed a credit against the income tax imposed by article 22 of this title in an amount equal to fifty percent of the total value of the contribution as certified by the enterprise zone administrator.

(II) For income tax years commencing on or after January 1, 1996,

~~the amount of the credit allowed for contributions made pursuant to this paragraph (a) shall be~~ BUT PRIOR TO JANUARY 1, 2011, ANY TAXPAYER WHO MAKES A MONETARY OR IN-KIND CONTRIBUTION FOR THE PURPOSE OF IMPLEMENTING THE ECONOMIC DEVELOPMENT PLAN FOR THE ENTERPRISE ZONE TO THE PERSON OR AGENCY DESIGNATED AS THE ENTERPRISE ZONE ADMINISTRATOR BY THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL BE ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO twenty-five percent of the total value of the contribution as certified by the enterprise zone administrator; except that nothing in this subparagraph (II) shall be construed to affect the amount of the credit:

(e) On or before November 1, 2000, and November 1 of each year thereafter THROUGH NOVEMBER 1, 2009, each zone administrator shall provide to the director of the Colorado office of economic development on behalf of the Colorado economic development commission a list of all programs, projects, and organizations to which taxpayers may contribute during the next calendar year for the purpose of implementing the economic development plan of the zone and receiving a tax credit pursuant to this section. The list shall be accompanied by a description of each program, project, or organization, including the purpose and relationship of the program, project, or organization to the economic development goals of the enterprise zone, the expected benefits of the program, project, or organization to the enterprise zone, and an estimate of the amount of potential contributions to the program, project, or organization during the next calendar year. Any modifications to a list, including programs, projects, or organizations that are to be added thereto, shall be submitted to the director of the office of economic development on behalf of the commission by the zone administrator no later than thirty days after the modification is made. ~~Commencing~~ ON AND AFTER July 1, 1999, BUT PRIOR TO JANUARY 1, 2011, the commission is authorized to hold hearings and review any new program, project, or organization included on a list that is submitted to the director of the Colorado office of economic development on behalf of the commission pursuant to this section, any modification to a list, and any other program, project, or organization that the commission determines has changed materially. A list or modification of a list that is submitted to the director of the Colorado office of economic development on behalf of the commission pursuant to this section shall not be considered final until thirty days after the commission has received such information. The commission shall approve any program, project, or organization that it determines is eligible under the requirements of this section or is essential to the mission of the enterprise zone upon a majority vote of the members of the commission present at a meeting at which such approval is considered. The director of the Colorado office of economic development on behalf of the commission shall notify the zone administrator of any program, project, or organization that is not approved within thirty days of receipt of the list or modification of the list. Any program, project, or organization not approved by the commission may request that the commission reconsider its decision within thirty days after the date the notice indicating that the program, project, or organization was not approved was provided to the zone administrator. A zone administrator may accept contributions for any program, project, or organization it has submitted pursuant to this paragraph (e).

(2) (b) Notwithstanding any other provision to the contrary, nothing in this subsection (2) shall be construed to limit the ability of a taxpayer to claim a credit under this subsection (2) for contributions made on or after January 1, 1999, BUT PRIOR TO JANUARY 1, 2011, pursuant to the terms of an agreement entered into prior to such date between the taxpayer and an enterprise zone administrator.

(3.5) For income tax years commencing on and after January 1, 2003, BUT PRIOR TO JANUARY 1, 2011, monetary or in-kind contributions to promote nonprofit or government-funded community development projects in enterprise zones shall be deemed to be for the purpose of implementing the economic development plan for the enterprise zone.

SECTION 2. 39-30-104 (1), (4) (a), and (6), Colorado Revised Statutes, are amended to read:

39-30-104. Credit against tax - investment in certain property. (1) (a) In lieu of any credit allowable under section 39-22-507.5, there shall be allowed to any person as a credit against the tax imposed by article 22 of this title, for income tax years commencing on or after January 1, 1986, BUT PRIOR TO JANUARY 1, 2011, an amount equal to the total of three percent of the total qualified investment, as determined under section 46 (c) (2) of the federal "Internal Revenue Code of 1986", as amended, in such taxable year in qualified property as defined in section 48 of the internal revenue code to the extent that such investment is in property that is used solely and exclusively in an enterprise zone for at least one year. The references in this subsection (1) to sections 46 (c) (2) and 48 of the internal revenue code mean sections 46 (c) (2) and 48 of the internal revenue code as they existed immediately prior to the enactment of the federal "Revenue Reconciliation Act of 1990".

(b) ~~(I) For income tax years commencing on or after January 1, 2011, but before January 1, 2016, a commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle weight rating of sixteen thousand pounds or greater that is model year 2010 or newer, as well as any parts associated with the vehicle at the time of purchase, shall be deemed to be used solely and exclusively in an enterprise zone if it is licensed and registered within the state and predominantly housed and based at the taxpayer's business trucking facility within an enterprise zone for the twelve-month period following its purchase.~~

~~(II) The income tax credit for a qualified investment in a commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle weight rating of sixteen thousand pounds or greater that is model year 2010 or newer, as well as any parts associated with the vehicle at the time of purchase, shall be allowed as follows:~~

~~(A) For the income tax year commencing on January 1, 2011, an amount equal to one-half of one percent of the total qualified investment;~~

~~(B) For the income tax year commencing on January 1, 2012, an amount equal to one percent of the total qualified investment;~~

~~(C) For the income tax year commencing on January 1, 2013, an amount equal to one and one-half percent of the total qualified investment;~~

~~(D) For the income tax year commencing on January 1, 2014, an amount equal to two percent of the total qualified investment; and~~

~~(E) For the income tax year commencing on January 1, 2015, an amount equal to three percent of the total qualified investment.~~

~~(III) For purposes of this paragraph (b), "facility" means any factory, mill, plant, refinery, warehouse, feedlot, building, or complex of~~

~~buildings located within the state, including the land on which such facility is located and all machinery, equipment, and other real and tangible personal property located at or within such facility and used in connection with the operation of such facility, which facility the taxpayer owns, rents, or leases in the business's name at which continuous and ongoing operational activities of the business are maintained and at which at least one full-time employee of the business is employed.~~

~~(IV) This paragraph (b) is repealed, effective January 1, 2017.~~

(4) (a) In addition to any other credit allowed under this section, for income tax years commencing on or after January 1, 1997, BUT PRIOR TO JANUARY 1, 2011, there shall be allowed to any person as a credit against the tax imposed by article 22 of this title an amount equal to ten percent of the total investment made during the taxable year in a qualified job training program.

(6) For credits claimed for income tax years commencing on or after January 1, 1997, BUT PRIOR TO JANUARY 1, 2011, no credit shall be allowed pursuant to this section if the investment resulted from the relocation of a business operation from within the state to an enterprise zone, regardless of whether the original location of the operation was within an enterprise zone, except to the extent such relocation meets the criteria for an expansion pursuant to section 39-30-105 (7) (c) (II) and (7) (c) (III).

SECTION 3. 39-30-105 (1) (a) (I), (1) (a) (III), (1) (b), (3), and (7) (c) (III) (A), Colorado Revised Statutes, are amended to read:

39-30-105. Credit for new business facility employees - definitions. (1) (a) (I) For any income tax year commencing on or after January 1, 1993, BUT PRIOR TO JANUARY 1, 2011, any taxpayer who establishes a new business facility in an enterprise zone shall be allowed a credit against the income tax imposed by article 22 of this title in an amount equal to five hundred dollars per income tax year for each new business facility employee, pursuant to subsection (6) of this section, who is working within the zone, prorated according to the number of months the employee was employed by the taxpayer during the income tax year. An employee whose primary duties consist of operating a commercial motor vehicle with a commercial driver's license shall be deemed to be working one hundred percent within the zone if the employee spends no more than five percent of his or her total time at any facility of the employer other than the facility within the zone.

(III) For any income tax year commencing on or after January 1, 2003, BUT PRIOR TO JANUARY 1, 2011, any taxpayer who establishes a new business facility in an enhanced rural enterprise zone shall be allowed an additional credit against the income tax imposed by article 22 of this title in an amount equal to two thousand dollars per income tax year for each new business facility employee who is working within the enhanced rural enterprise zone, prorated according to the number of months such employee was employed by the taxpayer during the income tax year.

(b) In addition to the credit available under paragraph (a) of this subsection (1), FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2011, a taxpayer qualified under said paragraph (a) shall be allowed for the first two full income tax years while located in an enterprise zone a credit in an amount equal to two hundred dollars for each new business facility employee who is insured under a health insurance plan or program provided through his or her employer. To be eligible for such credit, the employer must contribute fifty percent or more of the total cost of a health insurance plan or program, and such plan or program must be in accordance with the provisions of article 8 of title 10 or part 1, 2, 3, or 4 of article 16 of title 10, C.R.S., or be a self-insurance program and include partial or complete coverage for hospital and physician services.

(3) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2011, any taxpayer who operates a business within an enterprise zone that adds value through manufacturing or processing to agricultural commodities shall be allowed in addition to the credit allowed under subsection (1) of this section, while located in the enterprise zone, a credit against the income tax imposed by article 22 of this title in an amount equal to five hundred dollars for each additional new business facility employee in excess of the maximum number employed in any prior tax year.

(b) For any income tax year commencing on or after January 1, 2003, BUT PRIOR TO JANUARY 1, 2011, any taxpayer who operates a business within an enhanced rural enterprise zone that adds value through manufacturing or processing to agricultural commodities shall be allowed in addition to the credit allowed under paragraph (a) of this subsection (3) a credit against the income tax imposed by article 22 of this title in an amount equal to five hundred dollars for each additional new business facility employee in excess of the maximum number employed in any prior tax year.

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

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

(A) The expansion results in the employment of ten or more new business facility employees or, for income tax years commencing on or after January 1, 1996, BUT PRIOR TO JANUARY 1, 2011, a ten percent increase in the number of new business facility employees resulting in the employment of at least one full-time new business facility employee, whichever is less, during the taxable year over and above the average number of employees employed in the enterprise zone by the taxpayer during the twelve months immediately prior to the expansion, determined pursuant to subsection (6) of this section; and

SECTION 4. 39-30-105.5 (1) (a), Colorado Revised Statutes, is amended to read:

39-30-105.5. Credit against Colorado income taxes based on expenditures for research and experimental activities. (1) Any taxpayer who makes expenditures in research and experimental activities, as defined in section 174 of the federal "Internal Revenue Code of 1986", as amended, which activities are conducted in an enterprise zone for the purpose of carrying out a trade or business, shall be allowed a credit against the income tax imposed by article 22 of this title as follows:

(a) For income tax years commencing on or after January 1, 1989, BUT PRIOR TO JANUARY 1, 2011, an amount equal to three percent of the amount by which the amount expended for research and experimental activities in the enterprise zone in the income tax year of the taxpayer exceeds the taxpayer's average of the total actual expenditures for such purposes made in the same area as that which comprises the enterprise zone in the next preceding two income tax years.

SECTION 5. 39-30-105.6 (1), Colorado Revised Statutes, is amended to read:

39-30-105.6. Credit against tax - rehabilitation of vacant buildings. (1) For income tax years commencing on or after January 1, 1989, BUT PRIOR TO JANUARY 1, 2011, any taxpayer who is the owner or tenant of a building which is located in an enterprise zone, which is at least twenty years old, and which has been unoccupied for at least two years and who makes qualified expenditures for the purpose of rehabilitating said building shall be allowed a credit against the income tax imposed by article 22 of this title in an amount equal to twenty-five percent of the aggregate qualified expenditures per building or fifty thousand dollars per building, whichever is less.

SECTION 6. 39-30-106 (1) (a), Colorado Revised Statutes, is amended to read:

39-30-106. Sales and use tax - machinery and equipment exempted. (1) (a) On or after July 1, 1995, BUT PRIOR TO JANUARY 1, 2011, purchases of machinery or machine tools, or parts thereof, and materials for the construction or repair of machinery or machine tools, in excess of five hundred dollars to be used solely and exclusively in an enterprise zone in manufacturing tangible personal property, for sale or profit, whether or not such purchases are capitalized or expensed, are exempt from taxation under article 26 of this title.

SECTION 7. 39-30-109, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

39-30-109. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2025.

SECTION 8. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August

11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.