

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 13, 2013
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB13-1142 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, after line 13 insert:
- 2 **"SECTION 2.** In Colorado Revised Statutes, 39-30-103, **repeal**
- 3 (2) (b)."
- 4 Renumber succeeding sections accordingly.
- 5 Page 3, line 15, before "(2) (c) (I)" insert "(2) (a) and".
- 6 Page 3, strike lines 16 and 17 and substitute:
- 7 **"39-30-103. Zones established - review - termination - repeal.**
- 8 (2) (a) Except as provided in ~~paragraphs (b) and (c)~~ PARAGRAPH (c) of
- 9 this subsection (2), the director of the Colorado office of economic
- 10 development shall determine whether an area meets the criteria specified
- 11 in subsection (1) of this section based on the most recent statistics
- 12 available. Except as provided in ~~paragraphs (b) and (c)~~ PARAGRAPH (c) of
- 13 this subsection (2), all decisions concerning the designation or
- 14 termination of an enterprise zone or any portion of an enterprise zone
- 15 shall be made by the Colorado economic development commission
- 16 created in section 24-46-102, C.R.S., upon the recommendations of the
- 17 director of the Colorado office of economic development.
- 18 (c) (I) Commencing ~~January 1, 2016~~ JANUARY 1, 2014, the
- 19 director".

1 Page 3, line 26, strike "period." and substitute "period, BUT THE DIRECTOR
2 AND THE COMMISSION SHALL REVIEW THE NEED FOR SUCH MODIFICATIONS
3 AGAIN AS SOON AS THE STATE IS NO LONGER IN A HIGH UNEMPLOYMENT
4 PERIOD."

5 Page 4, line 5, strike "(2)" and substitute "(2), (2.5) (a),".

6 Page 4, strike line 27.

7 Strike pages 5 and 6.

8 Page 7, strike line 1 and substitute:

9 "(c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
10 JANUARY 1, 2014, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
11 PARAGRAPH (c), THE AMOUNT THAT MAY BE CLAIMED BY A TAXPAYER FOR
12 THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS
13 MADE IS LIMITED TO THE LESSER OF:

14 (A) THE SUM OF UP TO FIVE THOUSAND DOLLARS OF THE
15 TAXPAYER'S ACTUAL TAX LIABILITY FOR THE INCOME TAX YEAR PLUS
16 FIFTY PERCENT OF ANY PORTION OF THE TAX LIABILITY FOR THE INCOME
17 TAX YEAR THAT EXCEEDS FIVE THOUSAND DOLLARS; OR

18 (B) SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS PLUS ANY
19 INVESTMENT TAX CREDIT CARRYOVERS ALLOWED IN SUBPARAGRAPH (III)
20 OF THIS PARAGRAPH (c) OR PREVIOUSLY ALLOWED IN SUBSECTION (2.5) OF
21 THIS SECTION.

22 (II) (A) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION
23 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) BY COMPLETING
24 A WRITTEN APPLICATION TO THE COLORADO ECONOMIC DEVELOPMENT
25 COMMISSION FOR PERMISSION TO CLAIM A CREDIT IN EXCESS OF SUCH
26 LIMIT FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED
27 INVESTMENT IS MADE. THE APPLICATION MUST INCLUDE AN
28 IDENTIFICATION OF THE SUBSTANTIAL POSITIVE IMPACT THE WAIVER OF
29 THE LIMITATION WOULD HAVE ON INVESTMENTS AND ON WELL-PAYING
30 JOBS IN THE ENTERPRISE ZONE, DOCUMENTATION THAT DEMONSTRATES
31 THAT WITHOUT THE WAIVER OF THE LIMITATION THE SUBSTANTIAL
32 POSITIVE IMPACT ON INVESTMENTS AND ON WELL-PAYING JOBS IN THE
33 ENTERPRISE ZONE IS NOT LIKELY TO OCCUR, AND INFORMATION THAT THE
34 WAIVER OF THE LIMITATION IS A SUBSTANTIAL FACTOR TO THE START-UP,
35 EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS, THAT RECEIPT
36 OF THE WAIVER OF THE LIMITATION IS A MAJOR FACTOR IN THE

1 TAXPAYER'S DECISION, AND THAT WITHOUT THE WAIVER OF THE
2 LIMITATION THE TAXPAYER IS NOT LIKELY TO MAKE THE QUALIFIED
3 INVESTMENT. IN DECIDING WHETHER TO GRANT THE WAIVER OF THE
4 LIMITATION, THE COMMISSION MUST CONSIDER THE OVERALL ECONOMIC
5 HEALTH OF THIS STATE AND THE ECONOMIC VIABILITY OF THE ARGUMENTS
6 MADE BY THE TAXPAYER IN SUPPORT OF THE TAXPAYER'S APPLICATION.
7 THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY REQUIRE THE
8 TAXPAYER TO PROVIDE AN INDEPENDENT ANALYSIS, AT THE TAXPAYER'S
9 EXPENSE, SUBSTANTIATING THE TAXPAYER'S ARGUMENTS IN SUPPORT OF
10 THE APPLICATION. THE TAXPAYER'S APPLICATION MUST BE CONSIDERED
11 AT A REGULARLY SCHEDULED MEETING OF THE COLORADO ECONOMIC
12 DEVELOPMENT COMMISSION WHERE THE PUBLIC IS ALLOWED TO
13 COMMENT.

14 (B) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY
15 ALLOW ALL, PART, OR NONE OF A TAXPAYER'S APPLICATION TO WAIVE THE
16 LIMITATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c). THE
17 COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL ISSUE A CREDIT
18 CERTIFICATE THAT SETS FORTH THE AMOUNT OF THE CREDIT THAT THE
19 TAXPAYER MAY CLAIM FOR THE INCOME TAX YEAR IN WHICH THE TOTAL
20 QUALIFIED INVESTMENT IS MADE. THE CREDIT CERTIFICATE SHALL BE
21 SUBMITTED BY THE TAXPAYER TO THE DEPARTMENT OF REVENUE WITH
22 THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE
23 CREDIT CERTIFICATE IS ISSUED.

24 (C) IN THE EVENT THE COLORADO ECONOMIC DEVELOPMENT
25 COMMISSION APPROVES A TAXPAYER'S APPLICATION TO WAIVE THE
26 LIMITATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE
27 COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL INCLUDE ITS
28 DECISION IN THE ENTERPRISE ZONE ANNUAL REPORT TO THE GENERAL
29 ASSEMBLY SPECIFIED IN SECTION 39-30-103 (4) (b.7), INCLUDING THE
30 TAXPAYER'S NAME, THE AMOUNT OF THE CREDIT THAT THE COMMISSION
31 ALLOWED THE TAXPAYER TO CLAIM, AND THE COLORADO ECONOMIC
32 DEVELOPMENT COMMISSION'S JUSTIFICATION FOR APPROVING THE
33 APPLICATION.

34 (III) ANY EXCESS CREDIT ALLOWED PURSUANT TO THIS
35 PARAGRAPH (c) SHALL BE AN INVESTMENT TAX CREDIT CARRYOVER TO
36 EACH OF THE FOURTEEN INCOME TAX YEARS FOLLOWING THE UNUSED
37 CREDIT YEAR.

38 (IV) THE LIMITATION CONTAINED IN THIS PARAGRAPH (c) ON THE
39 AMOUNT A TAXPAYER MAY CLAIM FOR THE INCOME TAX YEAR IN WHICH
40 THE TOTAL QUALIFIED INVESTMENT IS MADE DOES NOT LIMIT THE TOTAL
41 AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (1) OF THIS

1 SECTION, NOR DOES IT LIMIT THE ABILITY OF A TAXPAYER TO CARRYOVER
2 A CREDIT TO SUBSEQUENT TAX YEARS AS ALLOWED IN SUBPARAGRAPH
3 (III) OF THIS PARAGRAPH (c) OR PREVIOUSLY ALLOWED IN SUBSECTION
4 (2.5) OF THIS SECTION.

5 (V) IN COMPUTING THE AMOUNT THAT MAY BE CLAIMED BY A
6 TAXPAYER PURSUANT TO THIS PARAGRAPH (c), A TAXPAYER'S ACTUAL TAX
7 LIABILITY FOR THE INCOME TAX YEAR SHALL BE DERIVED FROM THE
8 CALCULATED TAX BEFORE ANY REDUCTION OF CREDITS.

9 (2.5) (a) Notwithstanding the provisions of section 39-22-507.5
10 (7) (b), and except as otherwise provided in paragraph (b) of this
11 subsection (2.5), any excess credit ~~claimed~~ ALLOWED pursuant to this
12 section shall be an investment tax credit carryover to each of the twelve
13 income tax years following the unused credit year."

14 Page 10, after line 5, insert:

15 "SECTION 6. In Colorado Revised Statutes, 2-3-1203, **repeal** (3)
16 (aa) (VI) as follows:

17 **2-3-1203. Sunset review of advisory committees.** (3) The
18 following dates are the dates for which the statutory authorization for the
19 designated advisory committees is scheduled for repeal:

20 (aa) July 1, 2014:

21 (VI) ~~The enterprise zone review task force, created in section~~
22 ~~39-30-103, C.R.S.;~~".

23 Renumber succeeding section accordingly.

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