

CHAPTER 88

GOVERNMENT - STATE

HOUSE BILL 07-1027

BY REPRESENTATIVE(S) Witwer, Casso, Jahn, Kefalas, Kerr J., May M., Stafford, Stephens, and White;
also SENATOR(S) Taylor, and Kopp.

AN ACT**CONCERNING TECHNICAL MODIFICATIONS TO CERTAIN TAX CREDITS ALLOWED TO QUALIFIED TAXPAYERS AS ECONOMIC DEVELOPMENT INCENTIVES.**

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

SECTION 1. 39-30-103.5 (1) (a) (I), Colorado Revised Statutes, is 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, 2000~~ JANUARY 1, 1989, 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 ~~that has been~~ designated as the enterprise zone administrator by the DEPARTMENT OF LOCAL AFFAIRS, AND ON OR AFTER JANUARY 1, 2000, 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.

SECTION 2. 39-30-105 (1) (a) (I), (1) (a) (IV), (2), and (3) (a), Colorado Revised Statutes, are amended, and the said 39-30-105 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, 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, any taxpayer who establishes a new business facility in an enterprise zone ~~as defined in section 39-22-508.2 (3) but excluding the requirements of paragraph (b) of that~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~subsection~~; 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, ~~as determined under~~ PURSUANT TO SUBSECTION (6) OF THIS section, ~~39-22-508.2 but without regard to section 39-22-508.2 (3) (b) and without regard to whether the tax credit allowed by section 39-22-508.3 is claimed;~~ who is working within the zone, prorated according to the number of months the ~~new business facility~~ employee was employed by the taxpayer during the income tax year. ~~A new business facility~~ 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.

(IV) A new business facility qualifying for credit shall be allowed the credit for each subsequent tax year for each additional new business facility employee in excess of the maximum number employed in any prior tax year. Any credit shall be allowed for a maximum of twelve consecutive months for each new business facility employee employed by the taxpayer. ~~Any special tax credit for new business facility employees allowed pursuant to this subsection (1) shall be in lieu of any credit that the taxpayer might otherwise obtain pursuant to section 39-22-508.3 for the same income tax year.~~

(2) For ~~such~~ new business facilities in enterprise zones or enhanced rural enterprise zones, the number of new business facility employees engaged or maintained in employment at the new business facility for each taxable year for which the credit is claimed must equal or exceed one person. ~~section 39-22-508.3 (1) notwithstanding.~~

(3) (a) Any taxpayer who operates a business within an enterprise zone that adds value through manufacturing or processing to agricultural commodities shall be allowed ~~in lieu of the credit under section 39-22-508.3 but~~ in addition to the credit allowed under subsection (1) of this section, while located in ~~such~~ 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.

(6) (a) THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES DURING ANY TAXABLE YEAR SHALL BE DETERMINED BY DIVIDING BY TWELVE THE SUM OF THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES ON THE LAST BUSINESS DAY OF EACH MONTH OF SUCH TAXABLE YEAR. IF THE NEW BUSINESS FACILITY IS IN OPERATION FOR LESS THAN THE ENTIRE TAXABLE YEAR, THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES SHALL BE DETERMINED BY DIVIDING THE SUM OF THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES ON THE LAST BUSINESS DAY OF EACH FULL CALENDAR MONTH DURING THE PORTION OF THE TAXABLE YEAR DURING WHICH THE NEW BUSINESS FACILITY WAS IN OPERATION BY THE NUMBER OF FULL CALENDAR MONTHS DURING THE PERIOD.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (6), FOR THE PURPOSE OF DETERMINING THE CREDIT ALLOWED BY THIS SECTION IN THE CASE OF A FACILITY THAT QUALIFIES AS A NEW BUSINESS FACILITY BUT IS A REPLACEMENT BUSINESS FACILITY, THE NUMBER OF NEW BUSINESS FACILITY

EMPLOYEES EMPLOYED IN THE OPERATION OF THE FACILITY SHALL BE REDUCED BY THE AVERAGE NUMBER, DETERMINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6), OF INDIVIDUALS EMPLOYED IN THE OPERATION OF THE FACILITY THAT THE NEW BUSINESS FACILITY REPLACES DURING THE THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR IN WHICH COMMENCEMENT OF COMMERCIAL OPERATIONS OCCURS AT THE NEW BUSINESS FACILITY.

(7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

(c) (I) "FACILITY" MEANS ANY FACTORY, MILL, PLANT, REFINERY, WAREHOUSE, FEEDLOT, BUILDING, OR COMPLEX OF BUILDINGS LOCATED WITHIN THE STATE, INCLUDING THE LAND ON WHICH THE FACILITY IS LOCATED AND ALL MACHINERY, EQUIPMENT, AND OTHER REAL AND TANGIBLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE FACILITY AND USED IN CONNECTION WITH THE OPERATION OF THE FACILITY.

(II) (A) IF A FACILITY THAT DOES NOT CONSTITUTE A NEW BUSINESS FACILITY IS EXPANDED BY THE TAXPAYER, THE EXPANSION SHALL BE CONSIDERED A SEPARATE FACILITY ELIGIBLE FOR THE CREDIT ALLOWED BY THIS SECTION IF: THE TAXPAYER'S INVESTMENT IN THE EXPANSION EXCEEDS ONE MILLION DOLLARS OR THE INVESTMENT IS LESS THAN ONE MILLION DOLLARS BUT THE INVESTMENT IN THE EXPANSION EXCEEDS ONE HUNDRED PERCENT OF THE INVESTMENT IN THE ORIGINAL FACILITY PRIOR TO EXPANSION; AND THE EXPANSION OTHERWISE CONSTITUTES A NEW BUSINESS FACILITY.

(B) THE TAXPAYER'S INVESTMENT IN THE EXPANSION AND IN THE ORIGINAL FACILITY PRIOR TO EXPANSION SHALL BE DETERMINED IN THE MANNER PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (7).

(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, 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

(B) THE EXPANSION OTHERWISE CONSTITUTES A NEW BUSINESS FACILITY.

(d) "NET ANNUAL RENTAL RATE" MEANS THE ANNUAL RENTAL RATE PAID BY THE TAXPAYER ON REAL AND TANGIBLE PERSONAL PROPERTY, LESS ANY ANNUAL RENTAL RATE RECEIVED BY THE TAXPAYER FROM SUBRENTALS.

(e) "NEW BUSINESS FACILITY" MEANS A FACILITY THAT SATISFIES THE FOLLOWING REQUIREMENTS:

(I) THE FACILITY IS OPERATED BY THE TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE. A FACILITY SHALL NOT BE CONSIDERED A NEW BUSINESS FACILITY IN THE HANDS OF THE TAXPAYER IF THE TAXPAYER'S ONLY ACTIVITY WITH RESPECT TO THE FACILITY IS TO LEASE IT TO ANOTHER PERSON. IF THE TAXPAYER OPERATES ONLY A PORTION OF THE FACILITY IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE AND LEASES ANOTHER PORTION OF THE FACILITY TO ANOTHER PERSON OR DOES NOT OTHERWISE USE THE OTHER PORTIONS IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE, THE PORTION OPERATED BY THE TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE SHALL BE CONSIDERED A NEW BUSINESS FACILITY IF THE REQUIREMENTS OF SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (e) ARE SATISFIED.

(II) IF THE FACILITY WAS ACQUIRED BY THE TAXPAYER FROM ANOTHER PERSON, THE FACILITY WAS NOT OPERATED IMMEDIATELY PRIOR TO THE TRANSFER OF TITLE TO THE FACILITY TO THE TAXPAYER OR IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE TERM OF THE LEASE OF THE FACILITY TO THE TAXPAYER BY ANY OTHER PERSON IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE, AND THE TAXPAYER CONTINUES THE OPERATION OF THE SAME OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING ENTERPRISE AT THE FACILITY.

(III) THE FACILITY IS NOT A REPLACEMENT BUSINESS FACILITY.

(f) "NEW BUSINESS FACILITY EMPLOYEE" MEANS A PERSON EMPLOYED BY THE TAXPAYER IN THE OPERATION OF A NEW BUSINESS FACILITY DURING THE TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED BY THIS SECTION IS CLAIMED. A PERSON SHALL BE DEEMED AN EMPLOYEE IF THE PERSON PERFORMS DUTIES IN CONNECTION WITH THE OPERATION OF THE NEW BUSINESS FACILITY ON:

(I) A REGULAR, FULL-TIME BASIS;

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

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

(g) "NEW BUSINESS FACILITY INVESTMENT" MEANS THE VALUE OF THE REAL AND TANGIBLE PERSONAL PROPERTY, EXCEPT INVENTORY OR PROPERTY HELD FOR SALE TO CUSTOMERS IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS, THAT

CONSTITUTES THE NEW BUSINESS FACILITY OR THAT IS USED BY THE TAXPAYER IN THE OPERATION OF THE NEW BUSINESS FACILITY DURING THE TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED BY THIS SECTION IS CLAIMED. THE VALUE OF THE PROPERTY DURING THE TAXABLE YEAR SHALL BE:

(I) THE ORIGINAL COST OF THE REAL AND TANGIBLE PERSONAL PROPERTY IF OWNED BY THE TAXPAYER; OR

(II) EIGHT TIMES THE NET ANNUAL RENTAL RATE OF THE REAL AND TANGIBLE PERSONAL PROPERTY IF LEASED BY THE TAXPAYER.

(h) (I) "RELATED TAXPAYER" MEANS:

(A) A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, TRUST, OR ASSOCIATION CONTROLLED BY THE TAXPAYER;

(B) AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ASSOCIATION UNDER THE CONTROL OF THE TAXPAYER; OR

(C) A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ASSOCIATION CONTROLLED BY AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ASSOCIATION UNDER THE CONTROL OF THE TAXPAYER.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (h), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "CONTROL OF A CORPORATION" MEANS OWNERSHIP, DIRECTLY OR INDIRECTLY, OF STOCK POSSESSING AT LEAST EIGHTY PERCENT OF THE TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK ENTITLED TO VOTE AND AT LEAST EIGHTY PERCENT OF ALL OTHER CLASSES OF STOCK OF THE CORPORATION.

(B) "CONTROL OF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR ASSOCIATION" MEANS OWNERSHIP OF AT LEAST EIGHTY PERCENT OF THE CAPITAL OR PROFITS INTEREST IN THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR ASSOCIATION.

(C) "CONTROL OF A TRUST" MEANS OWNERSHIP, DIRECTLY OR INDIRECTLY, OF AT LEAST EIGHTY PERCENT OF THE BENEFICIAL INTEREST IN THE PRINCIPAL OR INCOME OF THE TRUST.

(i) (I) "REPLACEMENT BUSINESS FACILITY" MEANS A FACILITY, OTHERWISE DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7) AND REFERRED TO IN THIS PARAGRAPH (i) AS A "NEW FACILITY", WHICH REPLACES ANOTHER FACILITY, REFERRED TO IN THIS PARAGRAPH (i) AS AN "OLD FACILITY", LOCATED WITHIN THE STATE THAT THE TAXPAYER OR A RELATED TAXPAYER PREVIOUSLY OPERATED BUT DISCONTINUED OPERATING ON OR BEFORE THE CLOSE OF THE FIRST TAXABLE YEAR IN WHICH THE CREDIT ALLOWED BY THIS SECTION IS CLAIMED. A NEW FACILITY SHALL BE DEEMED TO REPLACE AN OLD FACILITY IF THE FOLLOWING CONDITIONS ARE MET:

(A) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A RELATED TAXPAYER FOR MORE THAN THREE FULL TAXABLE YEARS OUT OF THE FIVE TAXABLE YEARS NEXT PRECEDING THE TAXABLE YEAR IN WHICH COMMENCEMENT OF COMMERCIAL OPERATIONS OCCURS AT THE NEW FACILITY; AND

(B) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A RELATED TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE AND THE TAXPAYER CONTINUES THE OPERATION OF THE SAME OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING ENTERPRISE AT THE NEW FACILITY.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (i), A FACILITY SHALL NOT BE CONSIDERED A REPLACEMENT BUSINESS FACILITY IF THE TAXPAYER'S INVESTMENT IN THE NEW FACILITY EXCEEDS THREE MILLION DOLLARS OR THE INVESTMENT IS LESS THAN THREE MILLION DOLLARS BUT THE INVESTMENT IN THE NEW FACILITY EXCEEDS THREE HUNDRED PERCENT OF THE INVESTMENT IN THE OLD FACILITY BY THE TAXPAYER OR RELATED TAXPAYER. THE INVESTMENT IN THE NEW FACILITY AND IN THE OLD FACILITY SHALL BE DETERMINED IN THE MANNER PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (7).

(j) "REVENUE-PRODUCING ENTERPRISE" MEANS AN ENTERPRISE THAT ENGAGES IN THE FOLLOWING:

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

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

(III) THE FEEDING OF LIVESTOCK AT A FEEDLOT;

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

(V) THE PERFORMANCE OF SERVICES OF ANY TYPE;

(VI) THE ADMINISTRATIVE MANAGEMENT OF ANY OF THE ACTIVITIES LISTED IN SUBPARAGRAPHS (I) TO (V) OF THIS PARAGRAPH (j); OR

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

(k) "SAME OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING ENTERPRISE" MEANS A REVENUE-PRODUCING ENTERPRISE IN WHICH THE PRODUCTS PRODUCED OR SOLD, SERVICES PERFORMED, OR ACTIVITIES CONDUCTED ARE THE SAME IN CHARACTER AND USE AND ARE PRODUCED, SOLD, PERFORMED, OR CONDUCTED IN THE SAME MANNER AND TO OR FOR THE SAME TYPES OF CUSTOMERS AS THE PRODUCTS, SERVICES, OR ACTIVITIES PRODUCED, SOLD, PERFORMED, OR CONDUCTED IN ANOTHER REVENUE-PRODUCING ENTERPRISE.

SECTION 3. 22-32-110 (1) (ff) (I) and (1) (gg) (I), Colorado Revised Statutes,

are amended to read:

22-32-110. Board of education - specific powers. (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(ff) (I) To negotiate for an incentive payment or credit with any taxpayer who establishes a new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE school district; however, no negotiations may be entered into with any taxpayer establishing a new business facility unless ~~such~~ THE school district has been notified, pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by any county and by any municipality in which ~~such~~ THE new business facility would be located of agreements negotiated by ~~such~~ THE local governments with ~~such~~ THE taxpayer. In no instance shall any ~~such~~ negotiation result in an annual incentive payment or credit that exceeds fifty percent of the amount of the taxes levied by the school district upon the taxable personal property located at or within ~~such~~ THE new business facility and used in connection with the operation of ~~such~~ THE new business facility for the current property tax year. An agreement negotiated pursuant to this paragraph (ff) prior to July 1, 1994, shall be valid. Any school district that negotiates any agreement pursuant to the provisions of this paragraph (ff) shall inform any county and any municipality in which a new business facility would be located of ~~such~~ THE negotiations. The terms of any agreement made pursuant to the provisions of this paragraph (ff) shall not exceed four years; except that the term of any agreement made or amended on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed, if the county, and if applicable the municipality, in which a new business facility is established have negotiated agreements with the same taxpayer for the same period pursuant to sections 30-11-123 (1) (b) and 31-15-903 (1) (b), C.R.S.

(gg) (I) To negotiate for an incentive payment or credit with any taxpayer who expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE school district; however, no negotiations may be entered into with any taxpayer expanding a facility unless ~~such~~ THE school district has been notified, pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by any county and by any municipality in which ~~such~~ THE expanded business facility is located of agreements negotiated by ~~such~~ THE local governments with ~~such~~ THE taxpayer. In no instance shall any ~~such~~ negotiation result in ~~such~~ an annual incentive payment or credit that is greater than fifty percent of the amount of the taxes levied by the school district upon the taxable personal property directly attributable to ~~such~~ THE expansion, located at or within ~~such~~ THE expanded facility, and used in connection with the operation of ~~such~~ THE expanded facility for the current property tax year. An agreement negotiated pursuant to this paragraph (gg) prior to July 1, 1994, shall be valid. Any school district which negotiates any agreement pursuant to the provisions of this paragraph (gg) shall inform any county and any municipality in which an expanded business facility is located of ~~such~~ THE negotiations. The terms

of any agreement made pursuant to the provisions of this paragraph (gg) shall not exceed four years; except that the term of any agreement made or amended on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed, if the county, and if applicable the municipality, in which an expanded business facility is located have negotiated agreements with the same taxpayer for the same period pursuant to sections 30-11-123 (2) and 31-15-903 (2), C.R.S.

SECTION 4. 30-11-123 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

30-11-123. Legislative declaration - counties - new business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitations. (1) (b) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment or credit with any taxpayer who establishes a new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE county. In no instance shall any ~~such~~ negotiation result in ~~such~~ an annual incentive payment or credit that is greater than fifty percent of the amount of the taxes levied by the county upon the taxable personal property located at or within ~~such~~ THE new business facility and used in connection with the operation of ~~such~~ THE new business facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years; except that the term of any agreement made or renewed on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed.

(2) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment or credit with any taxpayer who expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE county. In no instance shall any ~~such~~ negotiation result in ~~such~~ an annual incentive payment or credit that is greater than fifty percent of the amount of the taxes levied by the county upon the taxable personal property directly attributable to ~~such~~ THE expansion, located at or within ~~such~~ THE expanded facility, and used in connection with the operation of ~~such~~ THE expanded facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years; except that the terms of any agreement made or renewed on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed.

SECTION 5. 31-15-903 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

31-15-903. Legislative declaration - municipalities - new business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation. (1) (b) Notwithstanding any law to the contrary, any municipality may negotiate for an incentive payment or credit with any taxpayer who establishes a new business facility, as defined in ~~section 39-22-508.2~~

~~(3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE municipality. In no instance shall any ~~such~~ negotiation result in an annual incentive payment or credit that is greater than fifty percent of the amount of taxes levied by the municipality upon the taxable personal property located at or within ~~such~~ THE new business facility and used in connection with the operation of ~~such~~ THE new business facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years; except that the term of any agreement made or renewed on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed.

(2) Notwithstanding any law to the contrary, any municipality may negotiate for an incentive payment or credit with any taxpayer who expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new business facility, as defined in ~~section 39-22-508.2 (3),~~ C.R.S. ~~but excluding the requirements of paragraph (b) of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE municipality. In no instance shall any ~~such~~ negotiation result in ~~such~~ an annual incentive payment or credit that is greater than fifty percent of the amount of the taxes levied by the municipality upon the taxable personal property directly attributable to ~~such~~ THE expansion, located at or within ~~such~~ THE expanded facility, and used in connection with the operation of ~~such~~ THE expanded facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years; except that the terms of any agreement made or renewed on or after June 3, 2002, may extend to as many as ten years, including the term of any original agreement being renewed.

SECTION 6. 32-1-1702 (1) and (2), Colorado Revised Statutes, are amended to read:

32-1-1702. New business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation.

(1) Notwithstanding any law to the contrary, a special district may negotiate for an incentive payment or credit with a taxpayer who establishes a new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of such subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in the special district. In no instance shall any negotiation result in an annual incentive payment or credit that is greater than fifty percent of the amount of taxes levied by the special district upon the taxable business personal property located at or within the new business facility and used in connection with the operation of the new business facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed ten years, including the term of any original agreement being renewed.

(2) Notwithstanding any law to the contrary, a special district may negotiate for an incentive payment or credit with a taxpayer who expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new business facility, as defined in ~~section 39-22-508.2 (3),~~ C.R.S., ~~but excluding the requirements of paragraph (b) of such subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in the special district. In no instance shall any negotiation result in an annual incentive payment or credit

that is greater than fifty percent of the amount of the taxes levied by the special district upon the taxable business personal property directly attributable to the expansion located at or within the expanded facility and used in connection with the operation of the expanded facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed ten years, including the term of any original agreement being renewed.

SECTION 7. 39-22-507.5 (3) (a) and (9) (a), Colorado Revised Statutes, are amended to read:

39-22-507.5. Credits against tax - investment in certain property. (3) The credit allowed by this section for any income tax year shall not exceed:

(a) The taxpayer's actual tax liability for the income tax year ~~after reduction for the credit allowed by section 39-22-508.3~~ to the extent such liability does not exceed five thousand dollars; plus

(9) (a) For any income tax year beginning on or after January 1, 1979, if any taxpayer is required to redetermine the credit allowed by section 38 of the internal revenue code due to the provisions of section 47 of the internal revenue code, such taxpayer must redetermine the credit allowed by subsection (1) of this section for the same income tax year. If ~~such~~ THE redetermination results in a reduction of the credit allowed by this section for ~~such~~ THE income tax year or for any income tax year to which ~~such~~ THE credit was carried back or carried forward, ~~such~~ THE reduction shall constitute an increase in the tax imposed by this article for the income tax year during which the disposition or reclassification of the nature of the property occurs, and the amount of any unused investment tax credit carryback or carryover must be redetermined as appropriate. ~~Such~~ THE increase in tax shall not be included as tax liability for the purposes of subsection (3) of this section. ~~or for determining the credits allowed by section 39-22-508.3.~~

SECTION 8. 39-22-507.6 (3), Colorado Revised Statutes, is amended to read:

39-22-507.6. Credits against corporate tax - investment in certain property. (3) The credit allowed by this section for any income tax year shall not exceed the taxpayer's actual tax liability for the income tax year ~~after reduction for the credit allowed by section 39-22-508.3~~ to the extent that ~~such~~ THE liability does not exceed one thousand dollars.

SECTION 9. 39-30-104 (6), Colorado Revised Statutes, is amended to read:

39-30-104. Credit against tax - investment in certain property. (6) For credits claimed for income tax years commencing on or after January 1, 1997, 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 as ~~described in section 39-22-508.2 (2) (b) and (2) (c)~~ PURSUANT TO SECTION 39-30-105 (7) (c) (II) AND (7) (c) (III).

SECTION 10. The introductory portion to 39-30-107.5 (3) and 39-30-107.5 (3)

(a) and (3) (b), Colorado Revised Statutes, are amended to read:

39-30-107.5. Taxable property valuations - sales taxes - incentives - definitions. (3) As used in this section, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "Facility" means a facility as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7) (c).

(b) "New business facility" means a new business facility as defined in ~~section 39-22-508.2 (3) but excluding the requirements of paragraph (b) of that subsection~~ SECTION 39-30-105 (7) (e).

SECTION 11. Repeal. 39-22-508.1, 39-22-508.2, 39-22-508.3, 39-22-508.4, 39-22-508.5, and 39-22-508.6, Colorado Revised Statutes, are repealed.

SECTION 12. 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 2, 2007