

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
10.24.13

BILL 5

LLS NO. 14-0196.01 Esther van Mourik x4215

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

SHORT TITLE: "Change Wildfire Mitigation Tax Deduction To Credit"

A BILL FOR AN ACT

101 **CONCERNING CHANGING THE WILDFIRE MITIGATION INCOME TAX**
102 **DEDUCTION TO THE WILDFIRE MITIGATION INCOME TAX CREDIT.**

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>.)

Wildfire Matters Review Committee. The bill changes the wildfire mitigation income tax deduction to the wildfire mitigation income tax credit. An income tax deduction reduces a taxpayer's taxable income, the amount to which the tax rate is applied. A tax credit reduces a taxpayer's tax liability by taking a dollar-for-dollar reduction in what is

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

owed by what the credit allows. The bill allows a landowner a credit of 50% of the costs incurred in performing wildfire mitigation measures, not to exceed \$2,500. Any amount in excess of the landowner's tax liability in the year the credit is first claimed may be carried forward to offset the landowner's future tax liability for 5 years.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **amend**
3 (4) (n.5) (I) (A) and (4) (n.5) (IV) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
6 from federal taxable income:

7 (n.5) (I) (A) For income tax years commencing on or after January
8 1, 2014, but prior to ~~January 1, 2025~~ JANUARY 1, 2015, an amount equal
9 to fifty percent of a landowner's costs incurred in performing wildfire
10 mitigation measures in that income tax year on his or her property located
11 within the state; except that the amount of the deduction claimed in an
12 income tax year shall not exceed two thousand five hundred dollars or the
13 total amount of the landowner's federal taxable income for the income tax
14 year for which the deduction is claimed, whichever is less.

15 (IV) This paragraph (n.5) is repealed, effective ~~January 1, 2026~~
16 JANUARY 1, 2016.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-536 as
18 follows:

19 **39-22-536. Credit for wildfire mitigation - definitions - repeal.**

20 (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1,
21 2015, BUT PRIOR TO JANUARY 1, 2025, THERE SHALL BE ALLOWED A
22 WILDFIRE MITIGATION TAX CREDIT AGAINST THE INCOME TAXES IMPOSED
23 PURSUANT TO THIS ARTICLE. EXCEPT AS PROVIDED IN SUBSECTION (3) OF

1 THIS SECTION, THE AMOUNT OF THE CREDIT IS FIFTY PERCENT OF A
2 LANDOWNER'S COSTS INCURRED IN THAT INCOME TAX YEAR IN
3 PERFORMING WILDFIRE MITIGATION MEASURES ON HIS OR HER PROPERTY
4 LOCATED IN A WILDLAND-URBAN INTERFACE AREA WITHIN THE STATE;
5 EXCEPT THAT THE CREDIT CLAIMED IN AN INCOME TAX YEAR SHALL NOT
6 EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

7 (2) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION
8 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
9 TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS
10 BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET
11 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE
12 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'
13 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE YEARS AND
14 SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.
15 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR
16 CREDITED TO THE TAXPAYER.

17 (3) (a) IN THE CASE OF TWO INDIVIDUALS FILING A JOINT RETURN,
18 THE AMOUNT OF THE CREDIT SHALL NOT EXCEED TWO THOUSAND FIVE
19 HUNDRED DOLLARS IN ANY TAXABLE YEAR. IN THE CASE OF A MARRIED
20 INDIVIDUAL WHO FILES A SEPARATE RETURN, ONLY ONE INDIVIDUAL IN THE
21 MARRIAGE MAY CLAIM THE CREDIT SPECIFIED IN THIS SECTION.

22 (b) IN THE CASE OF REAL PROPERTY OWNED AS TENANTS IN
23 COMMON, THE CREDIT ALLOWED PURSUANT TO THIS SECTION IS ONLY
24 ALLOWED FOR ONE OF THE INDIVIDUALS OF THE OWNERSHIP GROUP.

25 (4) FOR PURPOSES OF THIS SECTION:

26 (a) "COLORADO STATE FOREST SERVICE" MEANS THE COLORADO
27 STATE FOREST SERVICE IDENTIFIED IN SECTION 23-31-302, C.R.S.

1 (b) "COSTS" MEANS ANY ACTUAL OUT-OF-POCKET EXPENSE
2 INCURRED AND PAID BY THE LANDOWNER, DOCUMENTED BY RECEIPT, FOR
3 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE
4 ANY INSPECTION OR CERTIFICATION FEES, IN-KIND CONTRIBUTIONS,
5 DONATIONS, INCENTIVES, OR COST SHARING ASSOCIATED WITH
6 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE
7 EXPENSES PAID BY THE LANDOWNER FROM ANY GRANTS AWARDED TO THE
8 LANDOWNER FOR PERFORMING WILDFIRE MITIGATION MEASURES.

9 (c) "LANDOWNER" MEANS ANY OWNER OF RECORD OF PRIVATE
10 LAND LOCATED WITHIN THE STATE, INCLUDING ANY EASEMENT,
11 RIGHT-OF-WAY, OR ESTATE IN THE LAND, AND INCLUDES THE HEIRS,
12 SUCCESSORS, AND ASSIGNS OF SUCH LAND, AND SHALL NOT INCLUDE ANY
13 PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR ENTITY THAT OWNS
14 PRIVATE LAND AS AN ENTITY.

15 (d) "WILDFIRE MITIGATION MEASURES" MEANS THE CREATION OF
16 A DEFENSIBLE SPACE AROUND STRUCTURES; THE ESTABLISHMENT OF FUEL
17 BREAKS; THE THINNING OF WOODY VEGETATION FOR THE PRIMARY
18 PURPOSE OF REDUCING RISK TO STRUCTURES FROM WILDLAND FIRE; OR
19 THE SECONDARY TREATMENT OF WOODY FUELS BY LOPPING AND
20 SCATTERING, PILING, CHIPPING, REMOVING FROM THE SITE, OR PRESCRIBED
21 BURNING; SO LONG AS SUCH ACTIVITIES MEET OR EXCEED ANY COLORADO
22 STATE FOREST SERVICE STANDARDS OR ANY OTHER APPLICABLE STATE
23 RULES.

24 (5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2026.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2014 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor. <{Ask
8 committee. A safety clause is not necessary since this is for the income
9 tax year that commences January 1, 2015, which is not payable until
10 2016.}>