

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

DRAFT  
9.18.14

**BILL 4**

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LLS NO. 15-0126.01 Esther van Mourik x4215

**INTERIM COMMITTEE BILL**

**Wildfire Matters Review Committee**

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**BILL TOPIC:** "Change Wildfire Mitigation Tax Deduction To Credit"

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**A BILL FOR AN ACT**

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

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**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/billssummaries>.)*

**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 25% 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.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4           (a) Warm winters, hot and dry summers, severe drought, insect  
5 and disease infestations, years of fire suppression, and population growth  
6 in the wildland-urban interface continue to increase wildfire risk and the  
7 potential for catastrophic wildland fires in Colorado;

8           (b) Mitigating wildfire risk by creating a defensible space around  
9 structures is imperative not only to the home and the homeowner, but also  
10 to the homeowner's community and to the safety of the firefighters called  
11 to a home to defend it from a wildfire;

12           (c) By creating an adequate defensible space around structures, a  
13 homeowner can give firefighters the safest and best chance to defend the  
14 home from a wildfire; and

15           (d) Offering an income tax credit to a taxpayer for a portion of the  
16 costs of wildfire mitigation measures that the taxpayer incurs is sound  
17 public policy.

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

20           **39-22-104. Income tax imposed on individuals, estates, and**  
21 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted  
22 from federal taxable income:

23           (n.5) (I) (A) For income tax years commencing on or after January

1 1, 2014, but prior to ~~January 1, 2025~~ JANUARY 1, 2016, an amount equal  
2 to fifty percent of a landowner's costs incurred in performing wildfire  
3 mitigation measures in that income tax year on his or her property located  
4 within the state; except that the amount of the deduction claimed in an  
5 income tax year shall not exceed two thousand five hundred dollars or the  
6 total amount of the landowner's federal taxable income for the income tax  
7 year for which the deduction is claimed, whichever is less.

8 (IV) This paragraph (n.5) is repealed, effective ~~January 1, 2026~~  
9 JANUARY 1, 2017.

10 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-538 as  
11 follows:

12 **39-22-538. Credit for wildfire mitigation - definitions - repeal.**

13 (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1,  
14 2016, BUT PRIOR TO JANUARY 1, 2022, THERE SHALL BE ALLOWED A  
15 WILDFIRE MITIGATION TAX CREDIT AGAINST THE INCOME TAXES IMPOSED  
16 PURSUANT TO THIS ARTICLE. EXCEPT AS PROVIDED IN SUBSECTION (3) OF  
17 THIS SECTION, THE AMOUNT OF THE CREDIT IS TWENTY-FIVE PERCENT OF  
18 A LANDOWNER'S COSTS INCURRED IN THAT INCOME TAX YEAR IN  
19 PERFORMING WILDFIRE MITIGATION MEASURES ON HIS OR HER PROPERTY  
20 LOCATED IN A WILDLAND-URBAN INTERFACE AREA WITHIN THE STATE;  
21 EXCEPT THAT THE CREDIT CLAIMED IN AN INCOME TAX YEAR SHALL NOT  
22 EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

23 (2) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION  
24 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE  
25 TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS  
26 BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET  
27 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE

1 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'  
2 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE YEARS AND  
3 SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.  
4 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR  
5 CREDITED TO THE TAXPAYER.

6 (3) (a) IN THE CASE OF TWO TAXPAYERS FILING A JOINT RETURN,  
7 THE AMOUNT OF THE CREDIT SHALL NOT EXCEED TWO THOUSAND FIVE  
8 HUNDRED DOLLARS IN ANY TAXABLE YEAR. IN THE CASE OF TWO  
9 TAXPAYERS WHO MAY LEGALLY FILE A JOINT RETURN BUT ACTUALLY FILE  
10 SEPARATE RETURNS, ONLY ONE OF THE TAXPAYERS MAY CLAIM THE  
11 CREDIT SPECIFIED IN THIS SECTION.

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

15 (4) FOR PURPOSES OF THIS SECTION:

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

18 (b) "COSTS" MEANS ANY ACTUAL OUT-OF-POCKET EXPENSE  
19 INCURRED AND PAID BY THE LANDOWNER, DOCUMENTED BY RECEIPT, FOR  
20 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE  
21 ANY INSPECTION OR CERTIFICATION FEES, IN-KIND CONTRIBUTIONS,  
22 DONATIONS, INCENTIVES, OR COST SHARING ASSOCIATED WITH  
23 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE  
24 EXPENSES PAID BY THE LANDOWNER FROM ANY GRANTS AWARDED TO THE  
25 LANDOWNER FOR PERFORMING WILDFIRE MITIGATION MEASURES.

26 (c) "LANDOWNER" MEANS ANY OWNER OF RECORD OF PRIVATE  
27 LAND LOCATED WITHIN THE STATE, INCLUDING ANY EASEMENT,

1 RIGHT-OF-WAY, OR ESTATE IN THE LAND, AND INCLUDES THE HEIRS,  
2 SUCCESSORS, AND ASSIGNS OF SUCH LAND, AND SHALL NOT INCLUDE ANY  
3 PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR ENTITY THAT OWNS  
4 PRIVATE LAND AS AN ENTITY.

5 (d) "WILDFIRE MITIGATION MEASURES" MEANS THE CREATION OF  
6 A DEFENSIBLE SPACE AROUND STRUCTURES; THE ESTABLISHMENT OF FUEL  
7 BREAKS; THE THINNING OF WOODY VEGETATION FOR THE PRIMARY  
8 PURPOSE OF REDUCING RISK TO STRUCTURES FROM WILDLAND FIRE; OR  
9 THE SECONDARY TREATMENT OF WOODY FUELS BY LOPPING AND  
10 SCATTERING, PILING, CHIPPING, REMOVING FROM THE SITE, OR PRESCRIBED  
11 BURNING; SO LONG AS SUCH ACTIVITIES MEET OR EXCEED ANY COLORADO  
12 STATE FOREST SERVICE STANDARDS OR ANY OTHER APPLICABLE STATE  
13 RULES.

14 (5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2027.

15 **SECTION 4. Act subject to petition - effective date.** This act  
16 takes effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly (August  
18 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
19 referendum petition is filed pursuant to section 1 (3) of article V of the  
20 state constitution against this act or an item, section, or part of this act  
21 within such period, then the act, item, section, or part will not take effect  
22 unless approved by the people at the general election to be held in  
23 November 2016 and, in such case, will take effect on the date of the  
24 official declaration of the vote thereon by the governor.