

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0273.01 Esther van Mourik x4215

HOUSE BILL 16-1052

HOUSE SPONSORSHIP

Becker K., Singer

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

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 owed by what the credit allows. The bill allows a landowner a credit of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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.

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 defend a home 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, 2017, 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, 2018.

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 2017, BUT PRIOR TO JANUARY 1, 2020, THERE IS ALLOWED A WILDFIRE
15 MITIGATION TAX CREDIT AGAINST THE INCOME TAXES IMPOSED PURSUANT
16 TO PART 1 OF 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 EXPENSES
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 DOES NOT INCLUDE ANY
3 PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR ENTITY THAT OWNS
4 PRIVATE LAND.

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 DECEMBER 31, 2024.

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 10, 2016, if adjournment sine die is on May 11, 2016); 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.