

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0869.02 Ed DeCecco

HOUSE BILL 10-1429

HOUSE SPONSORSHIP

Weissmann, Judd

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE LEGISLATIVE REVIEW OF TAX BENEFITS.**

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>.)

The bill requires the finance committees of the house of representatives and the senate (joint finance committee) to jointly conduct meetings on an annual basis to review specified state tax benefits and determine whether they should be continued, repealed, or modified. The meetings will be during the legislative session or, if approved by the executive committee of legislative council, during the interim. State tax benefits include credits against and exemptions from the state severance

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.*

tax, gasoline and special fuel tax, alcohol beverage tax, sales and use tax, and income tax. In making their determination regarding a tax benefit, the joint finance committee shall consider:

- ! Any known economic benefits related to the tax benefit;
- ! Whether the tax benefit is accomplishing the purpose for which it was created;
- ! The amount of state and local government tax revenue that is directly lost as a result of the tax benefit;
- ! The fairness of the tax benefit; and
- ! Whether the tax benefit is in the public interest.

Legislative council staff will prepare a report on the fiscal impact of each tax benefit prior to the joint finance committee's meetings. The director of legislative council staff will also be responsible for determining which sales and income tax benefits are reviewed in a particular year. The department of revenue shall, to the extent reasonable, provide legislative council staff with aggregated information to assist in the preparation of the report.

Any legislation recommended by the joint finance committee to repeal or modify any tax benefit shall not be subject to any introduction deadlines or bill limitations imposed by the rules of the general assembly.

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

2 **SECTION 1.** Title 39, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 36**

5 **Review of Tax Benefits**

6 **39-36-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "JOINT FINANCE COMMITTEE" MEANS THE FINANCE
9 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR
10 ANY SUCCESSOR COMMITTEES.

11 (2) "TAX BENEFIT" MEANS ANY TAX CREDIT AGAINST OR
12 EXEMPTION FROM THE SEVERANCE TAX SET FORTH IN ARTICLE 29 OF THIS
13 TITLE, EXEMPTION FROM THE GASOLINE AND SPECIAL FUEL TAX SET FORTH
14 IN ARTICLE 27 OF THIS TITLE, EXEMPTION FROM THE TAX ON ALCOHOL

1 BEVERAGES SET FORTH IN ARTICLE 47 OF TITLE 12, C.R.S., EXEMPTION
2 FROM THE SALES AND USE TAX SET FORTH IN ARTICLE 26 OF THIS TITLE, OR
3 CREDIT AGAINST THE INCOME TAX OR REDUCTION IN TAXABLE INCOME FOR
4 PURPOSES OF THE INCOME TAX SET FORTH IN ARTICLE 22 OF THIS TITLE.

5 **39-36-102. Tax benefits - legislative review - joint finance**
6 **committee - committee bills.** (1) (a) COMMENCING IN 2011 AND EACH
7 YEAR THEREAFTER, THE JOINT FINANCE COMMITTEE SHALL ANNUALLY
8 HOLD ONE OR MORE JOINT MEETINGS TO REVIEW THE TAX BENEFITS
9 DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND TO DETERMINE
10 WHETHER EACH TAX BENEFIT SHOULD BE CONTINUED, REPEALED, OR
11 MODIFIED. THE MEETINGS SHALL INCLUDE AN OPPORTUNITY FOR PUBLIC
12 TESTIMONY. THE MEETINGS MAY BE CONDUCTED DURING THE REGULAR
13 LEGISLATIVE SESSION OR DURING THE INTERIM, IF SUCH INTERIM MEETINGS
14 ARE APPROVED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE
15 COUNCIL PURSUANT TO SECTION 2-3-303.3, C.R.S.

16 (b) THE DETERMINATION OF WHETHER A TAX BENEFIT SHOULD BE
17 CONTINUED, REPEALED, OR MODIFIED SHALL BE BASED ON THE FOLLOWING
18 FACTORS, AMONG OTHERS:

19 (I) ANY KNOWN ECONOMIC BENEFITS RELATED TO THE TAX
20 BENEFIT;

21 (II) WHETHER THE TAX BENEFIT IS ACCOMPLISHING THE PURPOSE
22 FOR WHICH IT WAS CREATED;

23 (III) THE AMOUNT OF STATE AND LOCAL GOVERNMENT TAX
24 REVENUE THAT IS DIRECTLY LOST AS A RESULT OF THE TAX BENEFIT;

25 (IV) THE FAIRNESS OF THE TAX BENEFIT; AND

26 (V) WHETHER THE TAX BENEFIT IS IN THE PUBLIC INTEREST.

27 (2) (a) (I) EXCEPT AS SET FORTH IN PARAGRAPH (c) OF THIS

1 SUBSECTION (2), THE JOINT FINANCE COMMITTEE SHALL REVIEW THE
2 FOLLOWING TAX BENEFITS IN THE FOLLOWING YEARS:

3 (A) IN 2011, ANY TAX CREDITS AGAINST OR EXEMPTIONS FROM
4 THE SEVERANCE TAX SET FORTH IN ARTICLE 29 OF THIS TITLE, EXEMPTIONS
5 FROM THE GASOLINE AND SPECIAL FUEL TAX SET FORTH IN ARTICLE 27 OF
6 THIS TITLE, AND EXEMPTIONS FROM THE TAX ON ALCOHOL BEVERAGES SET
7 FORTH IN ARTICLE 47 OF TITLE 12, C.R.S.;

8 (B) IN 2012 THROUGH 2015, ANY EXEMPTIONS FROM THE SALES
9 AND USE TAX SET FORTH IN ARTICLE 26 OF THIS TITLE; AND

10 (C) IN 2016 THROUGH 2020, ANY CREDITS AGAINST THE INCOME
11 TAX AND REDUCTIONS IN TAXABLE INCOME FOR PURPOSES OF THE INCOME
12 TAX SET FORTH IN ARTICLE 22 OF THIS TITLE.

13 (II) IN 2021 AND EACH YEAR THEREAFTER, THE JOINT FINANCE
14 COMMITTEE SHALL REVIEW THE TAX BENEFITS SET FORTH IN
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IN THE SAME ORDER AND OVER
16 THE SAME TEN-YEAR PERIOD; EXCEPT THAT ANY TAX BENEFITS RELATED
17 TO ANY OTHER TAX NOT SPECIFIED IN SAID SUBPARAGRAPH (I) SHALL BE
18 ADDED TO THE REVIEW REQUIRED PURSUANT TO SUB-SUBPARAGRAPH (A)
19 OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

20 (b) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL
21 SHALL SELECT THE TAX BENEFITS TO BE REVIEWED EACH YEAR SET FORTH
22 IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND INCLUDE THOSE TAX
23 BENEFITS IN THE REPORT REQUIRED PURSUANT TO PARAGRAPH (a) OF
24 SUBSECTION (3) OF THIS SECTION. APPROXIMATELY ONE-FOURTH OF THE
25 EXEMPTIONS FROM THE SALES AND USE TAX SET FORTH IN ARTICLE 26 OF
26 THIS TITLE SHALL BE CONSIDERED IN EACH YEAR DESCRIBED IN
27 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS

1 SUBSECTION (2), AND APPROXIMATELY ONE-FIFTH OF THE CREDITS
2 AGAINST THE INCOME TAX AND REDUCTIONS IN TAXABLE INCOME FOR
3 PURPOSES OF THE INCOME TAX DESCRIBED IN ARTICLE 22 OF THIS TITLE
4 SHALL BE CONSIDERED IN EACH YEAR SET FORTH IN SUB-SUBPARAGRAPH
5 (C) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2).

6 (c) THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL OF
7 THE GENERAL ASSEMBLY MAY POSTPONE THE JOINT FINANCE COMMITTEE'S
8 REVIEW OF ANY TAX BENEFITS FOR A GIVEN YEAR. THE REMAINING
9 SCHEDULE OF TAX BENEFITS TO BE CONSIDERED IN ACCORDANCE WITH
10 PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE DELAYED ONE YEAR FOR
11 EACH YEAR OF POSTPONEMENT.

12 (3) (a) LEGISLATIVE COUNCIL STAFF SHALL ANNUALLY PREPARE A
13 REPORT ON THE FISCAL IMPACT OF EACH TAX BENEFIT IDENTIFIED IN
14 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION THAT IS TO BE
15 REVIEWED IN THE UPCOMING LEGISLATIVE SESSION. LEGISLATIVE
16 COUNCIL STAFF SHALL SUBMIT THE REPORT AND ANY SUPPORTING
17 MATERIALS TO THE JOINT FINANCE COMMITTEE PRIOR TO JANUARY 1 OF
18 THE YEAR IN WHICH THE TAX BENEFITS ARE TO BE REVIEWED.

19 (b) THE DEPARTMENT OF REVENUE SHALL PROVIDE LEGISLATIVE
20 COUNCIL STAFF WITH ANY INFORMATION THAT THE STAFF DEEMS
21 NECESSARY TO PREPARE THE REPORTS REQUIRED PURSUANT TO
22 PARAGRAPH (a) OF THIS SUBSECTION (3); EXCEPT THAT THE DEPARTMENT
23 SHALL NOT PROVIDE ANY INCOME TAX INFORMATION THAT WOULD
24 VIOLATE ANY CONFIDENTIALITY STANDARDS ESTABLISHED BY FEDERAL
25 LAW OR THE INTERNAL REVENUE SERVICE.

26 (c) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS
27 SUBSECTION (3), IF THE JOINT FINANCE COMMITTEE'S REVIEW OF TAX

1 BENEFITS IS POSTPONED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (2)
2 OF THIS SECTION, THE REPORT RELATED TO SUCH TAX BENEFITS SHALL NOT
3 BE REQUIRED TO BE PREPARED UNTIL THE FOLLOWING YEAR.

4 (d) THIS SUBSECTION (3) IS EXEMPT FROM THE PROVISIONS OF
5 SECTION 24-1-136 (11), C.R.S., AND THE PERIODIC REPORTING
6 REQUIREMENT SHALL REMAIN IN EFFECT UNTIL CHANGED BY THE GENERAL
7 ASSEMBLY ACTING BY BILL.

8 (4) ANY LEGISLATION RECOMMENDED BY THE JOINT FINANCE
9 COMMITTEE TO REPEAL OR MODIFY A TAX BENEFIT REVIEWED PURSUANT
10 TO THIS SECTION MAY BE INTRODUCED DURING THE YEAR OF REVIEW OR,
11 IF THE TAX BENEFIT IS REVIEWED IN THE LEGISLATIVE INTERIM, DURING
12 THE FOLLOWING YEAR, WITHOUT BEING SUBJECT TO ANY INTRODUCTION
13 DEADLINES OR BILL LIMITATIONS IMPOSED BY THE RULES OF THE GENERAL
14 ASSEMBLY.

15 **SECTION 2.** 39-21-113, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF A NEW SUBSECTION to read:

17 **39-21-113. Reports and returns - repeal.**

18 (22) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
19 EXECUTIVE DIRECTOR SHALL PROVIDE THE LEGISLATIVE COUNCIL STAFF
20 WITH INFORMATION PURSUANT TO SECTION 39-36-102 (3) (b). ANY
21 INFORMATION PROVIDED TO THE STAFF SHALL REMAIN CONFIDENTIAL, AND
22 ALL STAFF EMPLOYEES SHALL BE SUBJECT TO THE LIMITATIONS SET FORTH
23 IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES CONTAINED IN
24 SUBSECTION (6) OF THIS SECTION.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 shall take 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 11, 2010, if adjournment sine die is on May 12, 2010); 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 shall not take effect
5 unless approved by the people at the general election to be held in
6 November 2010 and shall take effect on the date of the official
7 declaration of the vote thereon by the governor.