

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 11-0067.01 Ed DeCecco

HOUSE BILL 11-1104

HOUSE SPONSORSHIP

Ferrandino, Duran, Hullinghorst, Kefalas, Levy, Pabon, Pace, Tyler

SENATE SPONSORSHIP

Steadman, Hodge

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A TAX EXPENDITURE REPORT.**

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 department of revenue (department) to prepare an annual tax expenditure report (report). The report includes information for every state tax and federal income tax regarding each tax expenditure, which is a tax provision that provides a gross or taxable income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue for the state. Among the information that will be included in

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.*

the report is the decrease in revenue that results from the tax expenditure, whether the tax expenditure is achieving its intended purpose, and the effect of the tax expenditure on the distribution of the tax burden by various income and business classes. Legislative council staff will assist the department in the preparation of some of the information required in the report.

The department is required to:

- ! Provide copies of the report to each member of the general assembly;
- ! Present the report to the finance committees of the house of representatives and the senate;
- ! Make the report available for public inspection; and
- ! Publish the report on the department web site.

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 **Tax Expenditure Report**

6 **39-36-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) THE GENERAL ASSEMBLY USES BOTH DIRECT EXPENDITURE OF
9 GOVERNMENT FUNDS AND SPECIAL OR SELECTIVE TAX RELIEF, WHICH IS
10 KNOWN AS A TAX EXPENDITURE, TO FURTHER VARIOUS PUBLIC POLICY
11 GOALS;

12 (b) A TAX EXPENDITURE DIFFERS FROM A DIRECT SPENDING
13 PROGRAM BECAUSE A DIRECT SPENDING PROGRAM CONTINUES ONLY IF
14 FUNDS ARE APPROPRIATED FOR EACH BUDGET PERIOD, WHILE THE
15 CONTINUATION OF A TAX EXPENDITURE GENERALLY DOES NOT REQUIRE
16 ANY LEGISLATIVE ACTION;

17 (c) IN ADDITION, A DIRECT SPENDING PROGRAM IS GENERALLY
18 DETAILED ON THE EXPENDITURE SIDE OF THE BUDGET, BUT A TAX

1 EXPENDITURE IS SIMPLY INCLUDED ON THE REVENUE SIDE OF THE BUDGET
2 WITHOUT ITEMIZATION;

3 (d) A TAX EXPENDITURE SHOULD RECEIVE A PERIODIC AND
4 COMPREHENSIVE REVIEW AS TO ITS TOTAL COST AND EFFECTIVENESS IN
5 ACHIEVING ITS OBJECTIVES; AND

6 (e) IT IS IMPORTANT THAT STATE GOVERNMENT BE ACCOUNTABLE
7 AND TRANSPARENT IN SUCH A WAY THAT THE GENERAL PUBLIC CAN
8 UNDERSTAND THE VALUE OF TAX EXPENDITURES GIVEN BY THE STATE.

9 (2) IN ENACTING THIS ARTICLE, IT IS THE INTENT OF THE GENERAL
10 ASSEMBLY TO CREATE A MEANS FOR PROVIDING THE GENERAL ASSEMBLY
11 AND THE PUBLIC WITH THIS VITAL TAX-RELATED INFORMATION IN AN
12 ANNUAL TAX EXPENDITURE REPORT.

13 **39-36-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

16 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
17 THE DEPARTMENT OF REVENUE.

18 (3) "TAX EXPENDITURE" MEANS A TAX PROVISION THAT PROVIDES
19 A GROSS OR TAXABLE INCOME DEFINITION, DEDUCTION, EXEMPTION,
20 CREDIT, OR RATE FOR CERTAIN PERSONS, TYPES OF INCOME,
21 TRANSACTIONS, OR PROPERTY THAT RESULTS IN REDUCED TAX REVENUE.

22 (4) "TAX EXPENDITURE REPORT" OR "REPORT" MEANS THE ANNUAL
23 REPORT THAT THE DEPARTMENT OF REVENUE IS REQUIRED TO PREPARE
24 PURSUANT TO SECTION 39-36-103 (1).

25 (5) "TAX OF INTEREST" MEANS THE FEDERAL INCOME TAX AND
26 ANY TAX LEVIED AND COLLECTED BY THE STATE.

27 **39-36-103. Tax expenditure report.** (1) ON OR BEFORE

1 JANUARY 1, 2012, AND EACH JANUARY 1 THEREAFTER, THE DEPARTMENT
2 SHALL PREPARE A TAX EXPENDITURE REPORT FOR THE STATE THAT
3 INCLUDES THE INFORMATION SET FORTH IN SUBSECTION (2) OF THIS
4 SECTION.

5 (2) (a) TO THE EXTENT DATA OR INFORMATION IS AVAILABLE, A
6 TAX EXPENDITURE REPORT MUST INCLUDE THE FOLLOWING INFORMATION
7 FOR EACH TAX EXPENDITURE FOR EACH TAX OF INTEREST:

8 (I) A CITATION OF THE STATUTORY OR OTHER LEGAL AUTHORITY
9 FOR THE TAX EXPENDITURE;

10 (II) THE YEAR THAT THE TAX EXPENDITURE WAS ENACTED;

11 (III) A DESCRIPTION OF THE TAX EXPENDITURE;

12 (IV) AN ESTIMATE OF THE DECREASE IN STATE REVENUE THAT
13 RESULTS FROM THE TAX EXPENDITURE FOR THE CURRENT TAX YEAR AND
14 FOR THE NEXT THREE TAX YEARS;

15 (V) A STATEMENT OF THE INTENDED PURPOSE OF THE TAX
16 EXPENDITURE;

17 (VI) AN ANALYSIS OF WHETHER THE TAX EXPENDITURE IS
18 ACHIEVING ITS INTENDED PURPOSE;

19 (VII) THE EFFECT OF THE TAX EXPENDITURE ON THE DISTRIBUTION
20 OF THE TAX BURDEN BY INCOME CLASS AND INDUSTRY OR BUSINESS CLASS,
21 AS APPROPRIATE; AND

22 (VIII) THE EFFECT OF THE TAX EXPENDITURE ON TOTAL INCOME
23 BY CLASS.

24 (b) THE INCOME CLASSES TO BE INCLUDED IN THE REPORT
25 PURSUANT TO SUBPARAGRAPHS (VII) AND (VIII) OF PARAGRAPH (a) OF
26 THIS SUBSECTION (2) SHALL:

27 (I) AT A MINIMUM, USE QUINTILES OF THE INCOME DISTRIBUTION,

1 WITH THE HIGHEST QUINTILE OR OTHER PROPORTIONAL CATEGORY
2 SUBDIVIDED INTO THE TOP ONE PERCENT OF INCOME, THE NEXT FOUR
3 PERCENT OF INCOME, AND THE REMAINDER OF THE INCOME WITHIN THE
4 QUINTILE OR CATEGORY;

5 (II) SEPARATELY CONSIDER CORPORATE AND INDIVIDUAL INCOME
6 TAXPAYERS.

7 (c) THE REPORT SHALL ALSO INCLUDE AN ESTIMATE OF THE TOTAL
8 DECREASE IN STATE REVENUE THAT RESULTS FROM ALL TAX
9 EXPENDITURES FOR EACH SEPARATE TAX OF INTEREST FOR THE CURRENT
10 TAX YEAR AND FOR THE NEXT THREE TAX YEARS.

11 (3) LEGISLATIVE COUNCIL STAFF SHALL PROVIDE THE
12 INFORMATION REQUIRED PURSUANT TO SUBPARAGRAPHS (V) AND (VI) OF
13 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION TO THE DEPARTMENT
14 FOR ITS INCLUSION IN THE TAX EXPENDITURE.

15 (4) (a) THE DEPARTMENT SHALL PROVIDE A COPY OF THE REPORT
16 TO ALL MEMBERS OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH
17 SECTION 24-1-136 (9), C.R.S.

18 (b) NO LATER THAN FEBRUARY 1, 2012, AND EACH FEBRUARY 1
19 THEREAFTER, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR HIS OR
20 HER DESIGNEE, SHALL PRESENT THE ANNUAL TAX EXPENDITURE REPORT
21 TO THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND
22 THE SENATE, OR ANY SUCCESSOR COMMITTEES.

23 (c) THE DEPARTMENT SHALL MAKE THE TAX EXPENDITURE REPORT
24 AVAILABLE FOR PUBLIC INSPECTION AND SHALL PUBLISH THE REPORT ON
25 THE DEPARTMENT WEB SITE.

26 (5) THE REPORTING REQUIREMENT SET FORTH IN THIS SECTION IS
27 EXEMPT FROM THE PROVISIONS OF SECTION 24-1-136 (11), C.R.S., AND

1 THE ANNUAL REPORTING REQUIREMENT SHALL REMAIN IN EFFECT UNTIL
2 CHANGED BY THE GENERAL ASSEMBLY ACTING BY BILL.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part shall not take effect
10 unless approved by the people at the general election to be held in
11 November 2012 and shall take effect on the date of the official
12 declaration of the vote thereon by the governor.