Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments Adopted in the House of Introduction

LLS NO. 10-0837.01 Esther van Mourik **SENATE BILL 10-133**

SENATE SPONSORSHIP

Heath and Romer,

HOUSE SPONSORSHIP

Rice,

Senate Committees
Business, Labor and Technology
Appropriations

House Committees

A BILL FOR AN ACT

CONCERNING THE CREATION OF AN INCOME TAX CREDIT TO INCENTIVIZE COLORADO BUSINESSES TO REHIRE LAID-OFF WORKERS SOONER.

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 establishes an income tax credit to incentivize Colorado businesses to rehire laid-off workers sooner. The tax credit is available for the income tax year commencing January 1, 2011, only. A qualified taxpayer may claim a credit for each employee the taxpayer rehires, so

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.

SENATE
3rd Reading Unamended
April 5, 2010

SENATE
Amended 2nd Reading
March 25, 2010

long as the taxpayer submits an affidavit stating that:

- Each employee worked for the taxpayer for a full year prior to being laid off, was laid off by the taxpayer in 2009, and is not a new employee but is a former employee who has been rehired;
- The employee has been retained by the taxpayer for one full year since the date of rehire; and
- Without the credit allowed in the bill the taxpayer would not have rehired the employee by the date he or she was rehired.

The credit may be carried forward for a 5-year period but not refunded. The bill also grants the department of revenue rule-making authority to administer and enforce the credit.

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

SECTION 1. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-534. Incentive tax credit for rehiring laid-off employees - rules - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PERSON" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 39-21-101 (3).

(b) "TAXPAYER" MEANS ANY PERSON DOING BUSINESS IN THE STATE.

(2) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2011, ONLY, THERE SHALL BE ALLOWED TO ANY TAXPAYER AN INCENTIVE TAX CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE FOR REHIRING LAID-OFF EMPLOYEES. A TAXPAYER MAY CLAIM THE CREDIT IN AN AMOUNT AS SET FORTH IN SUBSECTION (3) OF THIS SECTION.

(3) THE CREDIT ALLOWED IN THIS SECTION SHALL BE CALCULATED

AS FOLLOWS:

(a) FOR EACH EMPLOYEE WHO WORKED FOR THE TAXPAYER FOR A FULL YEAR PRIOR TO BEING LAID OFF, WAS LAID OFF DURING THE 2009 CALENDAR YEAR, WAS REHIRED BETWEEN THE EFFECTIVE DATE OF THIS SECTION AND MAY 31, 2010, AND WAS EMPLOYED FOR A FULL YEAR FROM THE DATE OF REHIRE, SIXTY-SIX PERCENT OF THE TAXPAYER'S TOTAL TAXES IMPOSED ON THE EMPLOYER DURING THE YEAR OF EMPLOYMENT COMMENCING WITH THE DATE OF REHIRE, PURSUANT TO THE "FEDERAL INSURANCE CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3111 (a) AND (b), FOR EACH EMPLOYEE REHIRED.

(b) FOR EACH EMPLOYEE WHO WORKED FOR THE TAXPAYER FOR A FULL YEAR PRIOR TO BEING LAID OFF, WAS LAID OFF DURING THE 2009 CALENDAR YEAR, WAS REHIRED BETWEEN JUNE 1, 2010, AND SEPTEMBER 30, 2010, AND WAS EMPLOYED FOR A FULL YEAR FROM THE DATE OF REHIRE, THIRTY-THREE PERCENT OF THE TAXPAYER'S TOTAL TAXES IMPOSED ON THE EMPLOYER DURING THE YEAR OF EMPLOYMENT COMMENCING WITH THE DATE OF REHIRE, PURSUANT TO THE "FEDERAL INSURANCE CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3111 (a) AND (b), FOR EACH EMPLOYEE REHIRED.

(4) A TAXPAYER SHALL SUBMIT WITH THE TAXPAYER'S STATE INCOME TAX RETURN IN WHICH A CREDIT AUTHORIZED IN THIS SECTION IS CLAIMED AN AFFIDAVIT, SIGNED UNDER PENALTY OF PERJURY, STATING:

(a) THE TAXPAYER'S NAME;

(b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION NUMBER;

(c) ANY ASSOCIATED TAXPAYER'S NAMES, COLORADO ACCOUNT NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL

SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY PURSUANT TO SUBSECTION (6) OF THIS SECTION;

(d) THE NUMBER OF EMPLOYEES REHIRED;

(e) THE DATE EACH EMPLOYEE WAS REHIRED;

(f) THAT EACH EMPLOYEE WAS PREVIOUSLY LAID OFF BY THE TAXPAYER DURING THE 2009 CALENDAR YEAR AND IS NOT A NEW EMPLOYEE BUT IS A FORMER EMPLOYEE WHO WORKED FOR THE TAXPAYER FOR A FULL YEAR PRIOR TO BEING LAID OFF AND WHO HAS BEEN REHIRED;

(g) THAT EACH EMPLOYEE HAS BEEN RETAINED BY THE TAXPAYER FOR ONE FULL YEAR SINCE THE DATE OF REHIRE; AND

(h) (I) FOR A CREDIT CALCULATED AS SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THAT WITHOUT THE CREDIT ALLOWED IN THIS SECTION THE TAXPAYER WOULD NOT HAVE REHIRED THE EMPLOYEE BY MAY 31, 2010; OR

(II) FOR A CREDIT CALCULATED AS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, THAT WITHOUT THE CREDIT ALLOWED IN THIS SECTION THE TAXPAYER WOULD NOT HAVE REHIRED THE EMPLOYEE BY SEPTEMBER 30, 2010.

(5) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.

ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR CREDITED TO THE TAXPAYER.

(6) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY SUCH PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE TAXPAYER SHALL CERTIFY TO THE DEPARTMENT OF REVENUE THE AMOUNT OF THE CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH AMOUNT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

(7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE ANY PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(8) ANY TAXPAYER WHO OFFSETS A TAX DEFICIENCY WITH A CREDIT ALLOWED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO THIS SECTION SHALL BE LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE PROVIDED BY LAW.

(9) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.