

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0837.01 Esther van Mourik

SENATE BILL 10-133

SENATE SPONSORSHIP

Heath and Romer,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor and Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT TO**
102 **INCENTIVIZE COLORADO BUSINESSES TO REHIRE LAID-OFF**
103 **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
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.

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

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

5 **39-22-534. Incentive tax credit for rehiring laid-off employees**
6 **- rules - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 ==
9 (a) "PERSON" SHALL HAVE THE SAME MEANING AS SET FORTH IN
10 SECTION 39-21-101 (3).

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

13 (2) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1,
14 2011, ONLY, THERE SHALL BE ALLOWED TO ANY TAXPAYER AN INCENTIVE
15 TAX CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE FOR
16 REHIRING LAID-OFF EMPLOYEES. A TAXPAYER MAY CLAIM THE CREDIT IN
17 AN AMOUNT AS SET FORTH IN SUBSECTION (3) OF THIS SECTION.

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

1 AS FOLLOWS:

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

11 (b) FOR EACH EMPLOYEE WHO WORKED FOR THE TAXPAYER FOR A
12 FULL YEAR PRIOR TO BEING LAID OFF, WAS LAID OFF DURING THE 2009
13 CALENDAR YEAR, WAS REHIRED BETWEEN JUNE 1, 2010, AND SEPTEMBER
14 30, 2010, AND WAS EMPLOYED FOR A FULL YEAR FROM THE DATE OF
15 REHIRE, THIRTY-THREE PERCENT OF THE TAXPAYER'S TOTAL TAXES
16 IMPOSED ON THE EMPLOYER DURING THE YEAR OF EMPLOYMENT
17 COMMENCING WITH THE DATE OF REHIRE, PURSUANT TO THE "FEDERAL
18 INSURANCE CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3111 (a) AND (b), FOR
19 EACH EMPLOYEE REHIRED.

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

23 (a) THE TAXPAYER'S NAME;

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

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

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

4 (d) THE NUMBER OF EMPLOYEES REHIRED;

5 (e) THE DATE EACH EMPLOYEE WAS REHIRED;

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

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

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

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

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

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

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

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

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

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

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