

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0517.01 Ed DeCecco x4216

SENATE BILL 12-052

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SENATE SPONSORSHIP

Scheffel,

HOUSE SPONSORSHIP

Priola,

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

101 CONCERNING A PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL  
102 PROPERTY.

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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>.)*

Under current law, the amount of the exemption from property tax for business personal property listed on a single personal property schedule is \$5,500 for the current property tax year cycle, \$7,000 for the next property tax year cycle, and an inflation-adjusted amount for each property tax year cycle thereafter. The bill increases the exemption to

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.*

\$14,000 for the next property tax year cycle, which in turn increases the future inflation-adjusted amount of the exemption.

For a period of 10 years, the bill also exempts a portion of the business personal property of a state-assessed public utility through the creation of a valuation cap. The valuation cap is based on the actual value of the public utility's operating property and plant for the 2011 property tax year, or a later property tax year in the case of a new public utility, with an incremental increase each year thereafter during the 10-year period. The value of property above the cap is deemed to be attributable to business personal property, unless the property tax administrator determines otherwise.

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 hereby declares that the intended purpose of the tax expenditures included  
4 in this act is to stimulate investment in capital by businesses in Colorado  
5 by reducing the tax on business personal property.

6           **SECTION 2.** In Colorado Revised Statutes, 39-3-119.5, **amend**  
7 (2) (a) introductory portion and (2) (a) (IV) as follows:

8           **39-3-119.5. Personal property - exemption - definitions.**  
9 (2) (a) The exemption created in subsection (1) of this section ~~shall be~~ IS  
10 up to and including the following amounts:

11           (IV) ~~Seven~~ FOURTEEN thousand dollars for property tax years  
12 commencing on January 1, 2013, and January 1, 2014.

13           **SECTION 3.** In Colorado Revised Statutes, 39-4-102, **amend** (1)  
14 introductory portion as follows:

15           **39-4-102. Valuation of public utilities.** (1) EXCEPT AS LIMITED  
16 BY SECTION 39-4-102.5, the administrator shall determine the actual value  
17 of the operating property and plant of each public utility as a unit, giving  
18 consideration to the following factors and assigning such weight to each  
19 of such factors as in the administrator's judgment will secure a just value

1 of such public utility as a unit:

2 **SECTION 4.** In Colorado Revised Statutes, **add** 39-4-102.5 as  
3 follows:

4 **39-4-102.5. Business personal property - public utilities -**  
5 **exemption - legislative declaration - definitions.** (1) THE GENERAL  
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) SECTION 20 (8) (b) OF ARTICLE X OF THE STATE CONSTITUTION  
8 PERMITS THE STATE OR A LOCAL GOVERNMENT TO ENACT CUMULATIVE  
9 UNIFORM EXEMPTIONS AND CREDITS TO REDUCE OR END BUSINESS  
10 PERSONAL PROPERTY TAXES;

11 (b) FOR PROPERTY TAX PURPOSES, A PUBLIC UTILITY IS VALUED AS  
12 A SINGLE UNIT, WHICH IS DIFFERENT FROM A PERSON OR ENTITY WHOSE  
13 PROPERTY IS LOCALLY ASSESSED;

14 (c) IN ADDITION TO THE VALUE OF TANGIBLE PROPERTY  
15 COMPRISING A PUBLIC UTILITY'S PLANT, THE ADMINISTRATOR MUST  
16 CONSIDER A VARIETY OF OTHER FACTORS IN DETERMINING THE VALUE OF  
17 THE PROPERTY OF A PUBLIC UTILITY, WHICH FACTORS INCLUDE  
18 INTANGIBLES, GROSS AND NET OPERATING REVENUES, THE AVERAGE  
19 MARKET VALUE OF OUTSTANDING SECURITIES, AND, FOR CERTAIN ENERGY  
20 FACILITIES, COST PER KILOWATT;

21 (d) AS SUCH, A BUSINESS PERSONAL PROPERTY TAX EXEMPTION  
22 CANNOT BE CREATED IN THE SAME MANNER AS AN EXEMPTION FOR  
23 LOCALLY ASSESSED PROPERTY;

24 (e) ESTABLISHING A VALUATION CAP IS A FAIR AND EQUITABLE  
25 METHOD FOR EXEMPTING FROM PROPERTY TAX THE VALUE OF ANY  
26 PROPERTY THAT IS ABOVE SUCH CAP;

27 (f) THE GENERAL ASSEMBLY DEEMS THAT ANY EXEMPT AMOUNT

1 ABOVE SUCH CAP IS ATTRIBUTABLE TO BUSINESS PERSONAL PROPERTY;  
2 AND

3 (g) THEREFORE, THE EXEMPTION CREATED IN THIS SECTION IS  
4 CONSISTENT WITH THE AUTHORITY GRANTED TO THE GENERAL ASSEMBLY  
5 IN THE STATE CONSTITUTION.

6 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
7 REQUIRES:

8 (a) "BASE PROPERTY TAX YEAR" MEANS:

9 (I) FOR A PUBLIC UTILITY THAT IS NOT A NEW PUBLIC UTILITY, THE  
10 PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2011.

11 (II) FOR A NEW PUBLIC UTILITY, THE THIRD PROPERTY TAX YEAR  
12 THAT THE NEW PUBLIC UTILITY IS ASSESSED PURSUANT TO THIS ARTICLE.

13 (b) "BASE VALUATION" MEANS THE ACTUAL VALUE OF THE PUBLIC  
14 UTILITY'S OPERATING PROPERTY AND PLANT FOR THE BASE PROPERTY TAX  
15 YEAR.

16 (c) "NEW PUBLIC UTILITY" MEANS A PUBLIC UTILITY THAT IS FIRST  
17 ASSESSED PURSUANT TO THIS ARTICLE FOR A PROPERTY TAX YEAR  
18 COMMENCING ON JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2022.

19 (d) "VALUATION CAP" MEANS, FOR A PUBLIC UTILITY FOR A GIVEN  
20 PROPERTY TAX YEAR, AN AMOUNT EQUAL TO THE BASE VALUATION PLUS  
21 TWO PERCENT OF THE BASE VALUATION ADDED FOR EACH OF THE FIRST  
22 FIVE PROPERTY TAX YEARS AFTER THE BASE PROPERTY TAX YEAR AND ONE  
23 PERCENT OF THE BASE VALUATION ADDED FOR EACH OF THE SIXTH  
24 THROUGH TENTH PROPERTY TAX YEARS AFTER THE BASE PROPERTY TAX  
25 YEAR.

26 (3) FOR A PROPERTY TAX YEAR COMMENCING ON OR AFTER  
27 JANUARY 1, 2012, BUT PRIOR TO JANUARY 1, 2022, THE ACTUAL VALUE OF

1 A PUBLIC UTILITY'S OPERATING PROPERTY AND PLANT SHALL NOT EXCEED  
2 THE PUBLIC UTILITY'S VALUATION CAP. THIS SUBSECTION (3) DOES NOT  
3 APPLY TO A NEW PUBLIC UTILITY UNTIL THE FIRST PROPERTY TAX YEAR  
4 AFTER THE BASE PROPERTY TAX YEAR.

5 (4) IN THE CASE OF A MERGER OR ACQUISITION, THE VALUATION  
6 CAP, IF ANY, FOR EACH MERGED OR ACQUIRED PUBLIC UTILITY IS  
7 AGGREGATED TO DETERMINE THE VALUATION CAP FOR THE RESULTANT  
8 PUBLIC UTILITY THAT IS THEREAFTER ASSESSED PURSUANT TO THIS  
9 ARTICLE.

10 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
11 CONTRARY, IF THE ADMINISTRATOR DETERMINES THAT A PORTION OF THE  
12 ACTUAL VALUE OF A PUBLIC UTILITY'S OPERATING PROPERTY AND PLANT  
13 EXCEEDS THE VALUATION CAP FOR A PARTICULAR PROPERTY TAX YEAR  
14 AND SUCH EXCESS IS DIRECTLY ATTRIBUTABLE TO REAL PROPERTY, THEN  
15 THE VALUATION CAP IS INCREASED FOR SUCH PROPERTY TAX YEAR ONLY  
16 BY AN AMOUNT EQUAL TO THE VALUE OF THE REAL PROPERTY THAT  
17 EXCEEDS THE CAP.

18 **SECTION 5. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly (August  
21 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
22 referendum petition is filed pursuant to section 1 (3) of article V of the  
23 state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2012 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.