Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0517.01 Ed DeCecco x4216 **SENATE BILL 12-052**

SENATE SPONSORSHIP

Scheffel,

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A BILL FOR AN ACT

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

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

$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.

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

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

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

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

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

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

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

of such public utility as a unit:

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

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

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

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

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

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

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

(f) THE GENERAL ASSEMBLY DEEMS THAT ANY EXEMPT AMOUNT

ABOVE SUCH CAP IS ATTRIBUTABLE TO BUSINESS PERSONAL PROPERTY; AND

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

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

(a) "BASE PROPERTY TAX YEAR" MEANS:

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

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

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

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

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

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

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

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

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

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