

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0689.01 Ed DeCecco

HOUSE BILL 11-1263

HOUSE SPONSORSHIP

Priola,

SENATE SPONSORSHIP

Scheffel,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROPERTY TAX EXEMPTIONS 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

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 2010 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.

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

2 **SECTION 1.** 39-3-119.5 (2) (a) (IV), Colorado Revised Statutes,
3 is amended to read:

4 **39-3-119.5. Personal property - exemption - definitions.**

5 (2) (a) The exemption created in subsection (1) of this section shall be up
6 to and including the following amounts:

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

9 **SECTION 2.** Article 4 of title 39, Colorado Revised Statutes, is
10 amended BY THE ADDITION OF A NEW SECTION to read:

11 **39-4-102.5. Business personal property - public utilities -
12 exemption - legislative declaration - definitions.** (1) THE GENERAL
13 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

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

1 PROPERTY IS LOCALLY ASSESSED;

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

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

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

15 (f) THE GENERAL ASSEMBLY DEEMS THAT ANY EXEMPT AMOUNT
16 ABOVE SUCH CAP IS ATTRIBUTABLE TO BUSINESS PERSONAL PROPERTY;
17 AND

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

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

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

24 (I) FOR A PUBLIC UTILITY THAT IS NOT A NEW PUBLIC UTILITY, THE
25 PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2010.

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

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

4 (c) "NEW PUBLIC UTILITY" MEANS A PUBLIC UTILITY THAT IS FIRST
5 ASSESSED PURSUANT TO THIS ARTICLE FOR A PROPERTY TAX YEAR
6 COMMENCING ON JANUARY 1, 2010, BUT PRIOR TO JANUARY 1, 2021.

7 (d) "VALUATION CAP" MEANS:

8 (I) FOR THE FIRST PROPERTY TAX YEAR AFTER THE BASE PROPERTY
9 TAX YEAR, AN AMOUNT EQUAL TO THREE PERCENT OVER THE BASE
10 VALUATION;

11 (II) FOR A GIVEN PROPERTY TAX YEAR DURING THE SECOND
12 THROUGH FIFTH PROPERTY TAX YEARS AFTER THE BASE PROPERTY TAX
13 YEAR, AN AMOUNT EQUAL TO THREE PERCENT OVER THE VALUATION CAP
14 FOR THE PRIOR PROPERTY TAX YEAR; AND

15 (III) FOR A GIVEN PROPERTY TAX YEAR DURING THE SIXTH
16 THROUGH TENTH PROPERTY TAX YEARS AFTER THE BASE PROPERTY TAX
17 YEAR, AN AMOUNT EQUAL TO ONE PERCENT OVER THE VALUATION CAP FOR
18 THE PRIOR PROPERTY TAX YEAR.

19 (3) FOR A PROPERTY TAX YEAR COMMENCING ON OR AFTER
20 JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2021, THE ACTUAL VALUE OF
21 A PUBLIC UTILITY'S OPERATING PROPERTY AND PLANT SHALL NOT EXCEED
22 THE PUBLIC UTILITY'S VALUATION CAP. THIS SUBSECTION (3) SHALL NOT
23 APPLY TO A NEW PUBLIC UTILITY UNTIL THE FIRST PROPERTY TAX YEAR
24 AFTER THE BASE PROPERTY TAX YEAR.

25 (4) IN THE CASE OF A MERGER OR ACQUISITION, THE VALUATION
26 CAP, IF ANY, FOR EACH PUBLIC UTILITY THAT IS MERGED OR ACQUIRED
27 SHALL BE AGGREGATED TO DETERMINE THE VALUATION CAP FOR THE

1 RESULTANT PUBLIC UTILITY THAT IS THEREAFTER ASSESSED PURSUANT TO
2 THIS ARTICLE.

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

11 **SECTION 3. Act subject to petition - effective date.** This act
12 shall take effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part shall not take effect
18 unless approved by the people at the general election to be held in
19 November 2012 and shall take effect on the date of the official
20 declaration of the vote thereon by the governor.