
South Metro Denver Chamber

[HB23-1272](#)

Tax Policy That Advances Decarbonization

Comment:

Position: **MONITOR**

Calendar Monday, April 24 2023

Notification: THIRD READING OF BILLS - FINAL PASSAGE
(18) in house calendar.

Short Title: Tax Policy That Advances Decarbonization

Sponsors: M. Weissman (D) | J. Joseph (D) / S. Fenberg (D)

Summary: **Section 2** of the bill extends the innovative motor vehicles income tax credit for the purchase or lease of electric motor vehicles and plug-in hybrid electric motor vehicles that weigh 8,500 pounds or less through tax year 2028 and adjusts the amount of the credit that may be claimed, including with certain allowances for additional credit amounts for vehicles purchased or leased at a location that allows the credit to be assigned and is assigned to a motor vehicle dealer or financing entity and for vehicles that have a manufacturer's suggested retail price below \$30,000.

However, the credit cannot be claimed for vans, sport utility vehicles, and pickup trucks that have a manufacturer's suggested retail price of \$80,000 or more or for any other vehicle that has a manufacturer's suggested retail price of \$55,000 or more. Additionally, if for any one of the state fiscal years 2025-26, 2026-27, or 2027-28, the state is not projected to exceed the state fiscal year spending limit imposed by section 20 of article X of the state constitution by 5% then for any income tax year commencing in the calendar year that begins in that fiscal year, the amount of the credit is reduced by 50%, and if the amount of the reduced credit is at or below \$500, then no credit is allowed for such a tax year.

Section 3 extends the income tax credit for the purchase or lease of an innovative truck through tax year 2028 and adjusts the amount of the credit that may be claimed. However, for light-duty trucks, if for any one of the state fiscal years 2025-26, 2026-27, or 2027-28, the state is not projected to exceed the state fiscal year spending limit imposed by section 20 of article X of the state constitution by 5% then for any income tax year commencing in the calendar year that begins in that fiscal year, the amount of the credit is reduced by 50%, and if the amount of the reduced credit is at or below \$500, then no credit is allowed for such a tax year. Additionally, under current law, the

innovative motor vehicles tax credit and the innovative trucks tax credit may be assigned by a purchaser to the entity that finances the purchase or lease of the vehicle. Sections 1 and 2 expand the purchaser's ability to assign the credits to a motor vehicle dealer in addition to a financing entity. For income tax years commencing on or after January 1, 2024, sections 1 and 2 also allow a tax exempt person or political subdivision of the state to claim or assign the tax credit. **Section 4** terminates an existing heat pump tax credit so that it is allowed only for income tax years beginning on and after January 1, 2023, but before January 1, 2024. **Section 5** creates a refundable income tax credit allowable in tax years commencing on or after January 1, 2024, but before January 1, 2033, for the owner of an industrial facility that undertakes a industrial study (study) or puts greenhouse gas emissions reduction improvements (improvements) into service. The credit is administered by the Colorado energy office (office). The amount of credit that can be claimed for an industrial study is 30% of the costs paid for completing the study up to \$1 million.

The amount of credit that can be claimed for improvements is 30% of the capital costs paid by the owner, not including the cost for design; except that for certain improvements that have the potential to significantly reduce greenhouse gas emissions but are not yet commercially available, the office may approve a higher percentage to be claimed of up to 50%. Owners must apply semi-annually for the credit to the office and the office reviews applications and awards a reservation of credits based on a merit-based review. Upon completion of a study or upon putting the improvements into service, the office issues the owner a tax credit certificate to claim the credit in the amount reserved to the owner. The availability of the credit is subject to an aggregate cap each application period. If the aggregate maximum amount is not claimed in a tax year, the aggregate maximum amount in the next income tax year is increased by an amount equal to the excess amount.

Section 6 creates a refundable tax credit for an expenditure an eligible taxpayer makes in connection with a geothermal energy project, which is a project in the state that is intended to evaluate and develop a geothermal resource for the purpose of electricity production. The office is required to approve geothermal energy projects that can receive a qualified expenditure made by an eligible taxpayer. The office sets the amount of credit an eligible taxpayer may receive and reserves the amount of credit for the income tax year in which the eligible taxpayer anticipates making the expenditure. Subject to specified limits on the maximum amount of credits that the office may approve and that an eligible taxpayer may receive, the office issues a tax credit certificate in the reserved amount of tax credit after an eligible taxpayer submits a cost

certification of the qualified expenditure. **Section 7** creates a refundable tax credit for income tax years beginning on or after January 1, 2024, but before January 1, 2033, that is administered by the office and is available to a person subject to income tax or a person or political subdivision of the state exempt from income tax that produces geothermal electricity for sale or for the person or political subdivision's own use. The credit amount is equal to \$0.003 per kilowatt hour of geothermal electricity that is produced in the state in the tax year, up to a maximum amount of \$1 million. **Section 8** creates a new refundable income tax credit for heat pump technology for income tax years commencing on or after January 1, 2024, but before January 1, 2033. The office is responsible for maintaining a list of eligible taxpayers who meet certain industry criteria and who are allowed the credit for the installation of heat pump technology or a thermal energy network if the eligible taxpayer provides a discount from the amount charged for installation, unless the eligible taxpayer installs their own heat pump technology or thermal energy network. The amount of the tax credit is calculated based on the applicable percentage, set annually by the office, of a flat dollar amount which depends on the type of heat pump technology installed and the year the credit is claimed. The calculation of the amount of allowable credit may be modified depending on whether the heat pump technology is installed at a multifamily property, at a nonresidential building, or for a thermal energy network. However, for heat pump technology that is installed in an existing residential building or nonresidential building, if for any one of the state fiscal years 2025-26 through 2032-33, the state is not projected to exceed the state fiscal year spending limit imposed by section 20 of article X of the state constitution by 5% then for any income tax year commencing in the calendar year that begins in that fiscal year, the amount of the credit is reduced by 50%, and if the amount of the reduced credit is at or below \$250, then no credit is allowed for such a tax year. **Section 9** creates a refundable income tax credit for income tax years commencing on or after January 1, 2024, but before January 1, 2033, for the sale of new qualifying electric bicycles in the state. The credit is allowed in the amount of \$800 to a qualified retailer who sells a qualifying electric bicycle to a resident of the state and offers a discount equal to the lesser of \$700 or the purchase price. However, if for any one of the state fiscal years 2025-26 through 2032-33, the state is not projected to exceed the state fiscal year spending limit imposed by section 20 of article X of the state constitution by 5% then for any income tax year commencing in the calendar year that begins in that fiscal year, the amount of the credit is reduced by 50%. **Section 10** creates a refundable income tax credit for income tax years commencing on or after January 1, 2024, but before January 1, 2033, for a percentage of the actual costs incurred to construct, reconstruct, or erect a sustainable aviation fuel production facility in the state. The credit can be claimed by an aviation business, a sustainable aviation fuel producer,

or an airport for the income tax year in which the production facility is put in service and is subject to aggregate caps for each income tax year for which the credit can be claimed. Additionally, the credit is subject to recapture if the sustainable aviation fuel production of a facility comprises less than 60% of the total fuel production of the facility in any of the 5 taxable years immediately following the taxable year in which the facility was placed in service. **Section 11** creates a mechanism to allow for advance payment of income tax credits to a motor vehicle dealer or financing entity that has been assigned the innovative motor vehicle tax credit or innovative truck tax credit, or to a qualified retailer for the electric bicycle tax credit. **Section 12** creates a sales and use tax exemption for a fleet vehicle that is a heavy-duty truck or a medium-duty truck. For tax years commencing on or after January 1, 2024, but before January 1, 2028, the exemption amount is equal to 50% of the purchase price of the vehicle, and for tax years commencing on or after January 1, 2028, but before January 1, 2033, the exemption amount is equal to 60% of the purchase price of the vehicle. **Section 13** terminates an existing sales and use tax exemption for heat pump systems and heat pump water heaters used in commercial or residential buildings so that it is allowed only for income tax years beginning on or after January 1, 2023, but before January 1, 2024. **Section 14** creates a sales and use tax exemption for all sales to an eligible taxpayer of heat pump technology and equipment necessary for the proper functioning of a thermal energy network and for the storage and use of the same for income tax years commencing on or after January 1, 2024, but before January 1, 2033. **Section 15** reduces the severance tax credit allowed for oil and gas production. Under current law, the amount of credit allowed is calculated by applying rate of 87.5% of all ad valorem taxes assessed during the taxable year for accrual basis taxpayers or paid during the taxable year by cash basis taxpayers upon oil and gas, oil and gas leaseholds and leasehold interests, and oil and gas royalties and royalty interests. The bill reduces the rate to 75% for 2024 and 2025. For tax years beginning on and after January 1, 2026, the bill modifies the calculation for the oil and gas tax that otherwise would have been implemented in tax year 2025 by making a parallel downward adjustment so that the amount of credit is derived by multiplying 65.625% of the gross income of the well by the mill levy fixed in the prior calendar year. **Section 16** requires that for state fiscal years 2024-25 through 2032-33, the revenue collected that is equal to the amount attributable to the decreased amount of severance tax credit allowed for oil and gas production is credited to the general fund; except that on July 1, 2025, the revenue must first be credited to the cash funds used for state fiscal years 2023-24 and 2024-25 by the office for the administration of the tax credits created by the bill and the remaining money is credited to the state general fund. Additionally, the stakeholder group that was required to convene pursuant to HB22-1391 is required to additionally consider long-term changes for the severance

tax credit for oil and gas production. **Section 17** creates a partial, temporary, and specific ownership tax exemption for new class A or class B personal property that is a fleet vehicle and meets the definition of a category 7 truck for purposes of the innovative truck tax credit. **Section 18** and **section 19** allow for cities and counties to opt out of the sales and use tax exemption created for sales of category 7 fleet vehicles that are heavy-duty trucks or medium-duty electric trucks, sales to an eligible taxpayer of heat pump technology and equipment necessary for a proper functioning of a thermal energy network, and for the storage and use of the same for income tax years commencing on or after January 1, 2024, but before January 1, 2033. **Section 20** gives the office the authority to expend money from the industrial and manufacturing operations clean air grant program cash fund for state fiscal years 2023-24 and 2024-25 to administer and implement the industrial clean energy tax credit that is created in section 5. **Section 21** gives the office the authority to expend money from the geothermal energy grant fund for state fiscal years 2023-24 and 2024-25 to administer and implement the tax credit for expenditure made in connection with a geothermal energy project that is created in section 6 and the geothermal electricity generation production tax credit that is created in section 7. **Section 22** gives the office the authority to expend money from the community access to electric bicycles cash fund for state fiscal years 2023-24 and 2024-25 to administer and implement the electric bicycle tax credit created in section 9 for state fiscal years 2023-24 and 2024-25. **Section 23** gives the office the authority to expend money from the electrifying school buses grant program cash fund for state fiscal years 2023-24 and 2024-25 to administer and implement the changes made to the innovative motor vehicles and innovative trucks tax credits set forth in sections 2 and 3.

(Note: This summary applies to this bill as introduced.)

Status:

4/21/2023 House Second Reading Special Order - Passed with Amendments - Committee, Floor

Fiscal Notes:

[Fiscal Note](#)

HB23-1294**Pollution Protection Measures****Comment:****Position:****OPPOSE****Calendar**

Tuesday, April 25 2023

Notification:

State Library Appropriations

8:00 a.m. Room Old

(4) in house calendar.

Short Title:

Pollution Protection Measures

Sponsors:

J. Bacon (D) | J. Willford (D) / F. Winter (D) | J. Gonzales (D)

Summary:

Section 2 of the bill removes the requirement that the air quality control commission (AQCC) promulgate rules setting the conditions and limitations for periods of start-up, shutdown, or malfunction of a source of air pollution (source) that justify temporary relief from an emission control regulation.

Current law provides that a person shall not permit the emission of air pollutants at a nonresidential structure unless an air pollution emission notice has been filed with the division of administration in the department of public health and environment (division). **Section 5** adds the requirements that any:

- Relevant permits have been approved by the division; and
- Applicable period of review by the federal environmental protection agency has been completed.

Section 6 removes the prohibition against the AQCC adopting rules covering indirect sources that are more stringent than applicable federal law. **Section 6** also requires the division, in evaluating a construction permit application for a source that includes new oil and gas operations, to:

- Aggregate emissions from a proposed or modified oil and gas system; and
- Consider emissions from exploration and preproduction activities if a proposed or modified oil and gas system is in an ozone nonattainment area and if the activities will be conducted beginning May 1 and ending August 31 of any year (ozone season).

Section 8 clarifies that only the filing of a renewable operating permit application can operate as a defense to an enforcement action for operating without a permit during the time period that the division or the AQCC is reviewing the permit application.

Current law requires the division or the AQCC to give public notice of certain construction permit applications or renewable operating permit applications and of certain public hearings through a newspaper publication or another method that ensures effective public notice. Current law also requires the division to maintain a copy of a construction permit application and applicable preliminary analysis or a notice of public hearing with the county clerk and recorder of the county where the applicable project is located. **Section 8** also removes the newspaper publication option and the county clerk and recorder filing requirements and provides for alternative methods of giving public notice, including posting information about the application or any public hearings on the division's or the AQCC's website.

Current law requires the division or AQCC to make a finding that a source or activity will meet all applicable emission control regulations, including ambient air quality standards (AAQS), before granting a permit for the source or activity. **Section 8** also requires that, beginning January 1, 2024, for at least any source or activity that has the potential to emit levels of air contaminants above certain modeling thresholds, the division or AQCC must base any finding that the source or activity will not cause or contribute to an exceedance of applicable AAQS on air quality modeling. **Section 8** also allows the division, after an investigation into whether an activity meets the requirements of a construction permit, to propose additional terms and conditions of the construction permit.

With respect to a complaint alleging or the division's own belief regarding a violation or noncompliance (violation), **section 9** requires the division to:

- Cause a diligent investigation into the violation to be made unless the complaint clearly appears to be frivolous or trivial or the complainant withdraws the complaint;
- Notify the owner or operator of the applicable air pollution source of the complaint or the division's belief of an alleged violation within 30 days after the complaint was filed or the division discovered the alleged violation;
- Consider all relevant evidence that it acquires when investigating the alleged violation; and
- Determine whether a violation occurred within 90 days after the division gives notice that it has commenced an investigation on the matter.

If the division determines that a violation has occurred, current law requires the division to issue a compliance order unless the responsible party gives timely notice that the violation occurred during a

period of start-up, shutdown, or malfunction. **Section 9** removes the exception for periods of start-up, shutdown, or malfunction. **Section 9** also requires, if a hearing is requested after the receipt of a compliance order, the commission to provide at least 45 days' notice to any complainant that submitted a complaint alleging the applicable violation. **Section 9** also allows a complainant to submit a request for a hearing within 20 calendar days after receipt of a determination by the division that no violation occurred.

Current law provides that any noncompliance that occurs during a period of start-up, shutdown, or malfunction exempts the owner or operator of a source from the duty to pay penalties related to that noncompliance. **Section 9** removes this provision. **Section 9** also allows a person, with respect to certain clean air regulations, to commence a civil action (action) against an alleged violator for a current or past violation of the regulation. A person shall not commence an action until at least 60 days after a notice has been provided to the executive director of the department, the director of the division, and the alleged violator. Except for violations of an ongoing or recurring nature, any action that is not commenced within 5 years after the discovery of the alleged violation is time barred.

Current law requires the division to consider certain factors in determining the amount of a civil penalty to assess for a violation. **Section 10** requires the division to also consider the impact of the violation on safety and wildlife and biological resources and the severity of the violation.

Current law provides that any action related to an alleged violation of air quality laws that is not commenced within 5 years after the occurrence of the alleged violation is time barred. **Section 11** excludes actions commenced to address a failure to obtain a permit from this statute of limitation. **Section 12** creates new electrification requirements and emissions standards for stationary engines used in oil and gas operations. **Section 13** creates new control measures that must be included in any state implementation plan for ozone adopted by the AQCC until a serious, severe, or extreme ozone nonattainment area in the state is redesignated as a maintenance area by the federal environmental protection agency. **Section 15** requires the district court, in a suit against a person that has violated a state law, rule, or order related to oil and gas, to award the initial complaining party any costs of litigation incurred by the initial complaining party if the court determines that the award is appropriate. **Section 16** allows any person to submit a complaint to the oil and gas conservation commission (COGCC) alleging a violation of a state law, rule, or order related to oil and gas. Upon receipt of the complaint, the COGCC or the director of the COGCC is

required to promptly commence and complete an investigation into the violation alleged by the complaint, unless the complaint clearly appears on its face to be trivial or the complainant withdraws the complaint. **Section 17** requires the COGCC to evaluate and address adverse cumulative impacts on the environment and disproportionately impacted communities for each permit application for a new or substantially modified oil and gas location through a cumulative impact analysis.

(Note: This summary applies to this bill as introduced.)

Status: 4/20/2023 House Committee on Energy & Environment Refer Amended to Appropriations

Fiscal Notes: [Fiscal Note](#)

HB23-1297 **Prohibit Corporation Issuing Scrip In Bearer Form**

Comment:

Position: **MONITOR**

Calendar Monday, April 24 2023

Notification: Finance
Upon Adjournment Room 0112
(5) in house calendar.

Short Title: Prohibit Corporation Issuing Scrip In Bearer Form

Sponsors: E. Epps (D) | R. Taggart (R) / B. Pelton (R)

Summary: **Statutory Revision Committee.** The bill repeals the allowance for a corporation to issue a scrip in bearer form upon the holder surrendering enough scrip to equal a full share. This repeal is in conformance with federal law, which has prohibited such practice since 2021.

(Note: This summary applies to this bill as introduced.)

Status: 4/19/2023 Introduced In House - Assigned to Finance

Fiscal Notes: [Fiscal Note](#)

SB23-291 **Utility Regulation**

Comment:

Position: **OPPOSE (Position determined through email vote on 4/20)**

Calendar Tuesday, April 25 2023

Notification: GENERAL ORDERS - SECOND READING OF BILLS
(2) in senate calendar.

Short Title: Utility Regulation

Sponsors: S. Fenberg (D) | L. Cutter (D) / C. deGruy Kennedy (D) | M. Martinez (D)

Summary: **Section 1** of the bill requires the public utilities commission (commission), if relying on a discount rate when calculating the net present value of future fuel costs as part of a utility's electric resource

plan, to apply a discount rate that does not exceed the long-term rate of inflation. **Section 2** requires the commission to establish mechanisms, guidelines, or rules to limit the amount of rate case expenses that an investor-owned electric or gas utility may recover from the utility's customers. **Section 3** prohibits an investor-owned electric or gas utility from recovering various costs from its customers, including:

- More than 50% of annual total compensation or of expense reimbursement for a utility's board of directors;
- Tax penalties or fines issued against the utility;
- Certain advertising and public relations expenses;
- Lobbying and other expenses intended to influence the outcome of local, state, or federal legislation or ballot measures;
- Certain organizational and membership dues;
- Travel, lodging, food, or beverage expenses for the utility's board of directors and officers; and
- Gift or entertainment expenses.

If an investor-owned utility recovers prohibited costs, the commission is required to assess a nonrecoverable penalty against the utility in an amount that is not less than the total amount improperly recovered and order the utility to refund the amount improperly recovered to its customers, plus interest.

Section 4 requires that, on or before November 1, 2023, an investor-owned gas utility file with the commission for the commission's approval, amendment, or denial a gas price risk management plan that includes proposals for addressing the volatility of fuel costs recovered from the utility's ratepayers. **Section 4** requires the commission to adopt rules, on or before January 1, 2025, to:

- Help protect investor-owned gas utility customers from the volatility of gas prices by establishing a mechanism that aligns an investor-owned utility's financial incentives with the financial interests of its customers; and
- Establish a mechanism to create a financial incentive for an investor-owned utility to improve its electricity production cost efficiency while minimizing its fuel costs.

As part of its rules, the commission may also consider requiring each investor-owned electric utility to bear a percentage of its total fuel costs in order to incentivize the utility to find efficiencies and reduce fuel waste.

Section 4 also requires the commission to open a proceeding to investigate the extent to which residential and other development in

certain geographic areas drive natural gas infrastructure costs for any natural gas utility that serves more than 500,000 customers in the state. **Section 5** requires:

- On or before December 31, 2023, each regulated gas utility to remove from the utility's rate tariffs any incentives offered to an applicant applying for natural gas service to establish gas service to a property;
- The Colorado energy office to contract with an independent third party, on or before July 1, 2024, to evaluate the risk that stranded or underutilized natural gas infrastructure investments pose and the annual projected rate impact that such stranded assets have on ratepayers;
- The commission to determine whether any changes to rules or depreciation schedules are warranted based on its review of the evaluation contracted by the Colorado energy office;
- An investor-owned gas utility to provide the commission information, including a map, about the utility's gas distribution system pipes;
- An investor-owned gas utility to refrain from penalizing or charging a fee to a customer that voluntarily terminates gas service. The commission may adopt rules to establish standards for a customer's voluntary disconnection from an investor-owned gas utility's gas distribution system.
- On or before July 1, 2024, the commission to examine existing investor-owned electric utility tariffs, policies, and practices to determine if the tariffs, policies, and practices pose a barrier to the beneficial electrification of buildings with respect to charges imposed for the cost of transformer or service upgrades.

Section 6 authorizes the commission to allow a wholesale customer of an investor-owned utility to intervene in a proceeding regarding the commission's consideration of the investor-owned utility's application for cost recovery from customers.

(Note: This summary applies to this bill as introduced.)

Status:

4/21/2023 Senate Committee on Appropriations Refer Amended to Senate Committee of the Whole

Fiscal Notes:

[Fiscal Note](#)