

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 23-0122.01 Pierce Lively x2059

HOUSE BILL 23-1121

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A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF INFREQUENTLY USED TAX**
102 **EXPENDITURES.**

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://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning Tax Policy. The bill repeals the following infrequently used tax expenditures:

- The crop hail insurance premium tax exemption (**section 1** of the bill);
- The in-state investment pre-1959 insurance premium tax deduction (section 1);

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
2nd Reading Unamended
March 9, 2023

HOUSE
3rd Reading Unamended
February 13, 2023

HOUSE
2nd Reading Unamended
February 10, 2023

- The corporate condemnation capital gains income tax deduction (**section 2**);
- The oil shale excess percentage depletion income tax deduction (section 2);
- The mining and milling impact assistance corporate income tax credit (**section 3**);
- The oil shale equipment and machinery severance tax deduction (**section 4**);
- The oil shale processing severance tax deduction (section 4);
- The oil shale severance tax rate reductions (section 4);
- The oil shale noncommercial production severance tax exemption (section 4); and
- The mineral and mineral fuels impact assistance severance tax credit (**section 5**).

Sections 6 and 7 make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-209, **repeal**
 3 (1)(d)(II), (1)(d)(III), and (1)(g) as follows:

4 **10-3-209. Tax on premiums collected - exemptions - penalties.**

5 (1) (d) (II) ~~Mutual protective associations writing crop hail insurance~~
 6 ~~only and operating on an advance premium basis shall be exempt from the~~
 7 ~~taxes provided by this section on that portion of the premium designated~~
 8 ~~to the loss fund.~~

9 (III) ~~There shall be no tax under this section in the case of any~~
 10 ~~policy issued prior to 1959 by a domestic insurance company organized~~
 11 ~~under the laws of this state, maintaining its principal place of business in~~
 12 ~~this state, and having thirty percent or more of its assets invested in bonds~~
 13 ~~or warrants of this state or of any county, city, town, or district of this~~
 14 ~~state, and other property within this state in which such company is~~
 15 ~~permitted by law to invest its funds, and the premium of which policy was~~
 16 ~~fixed and is contractually binding upon the company.~~

1 (g) ~~For the purpose of obtaining the exemption provided in~~
2 ~~paragraph (d)(III) of this subsection (1), the term "other property within~~
3 ~~this state" means: Real estate and tangible personal property within this~~
4 ~~state; first mortgages upon real estate within this state; stocks or bonds of~~
5 ~~corporations organized under the laws of this state; deposits with banks,~~
6 ~~trust companies, savings and loan associations, building and loan~~
7 ~~associations, or financial institutions domiciled within this state; stocks~~
8 ~~or bonds of foreign or alien corporations which on the date of purchase~~
9 ~~of such stocks or bonds have fifty percent or more of their assets invested~~
10 ~~in this state; and accounts of agents who are residents of this state.~~

11 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **amend**
12 (3)(d)(I) and (3)(h); and **add** (3)(d)(IV) as follows:

13 **39-22-304. Net income of corporation - legislative declaration**
14 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
15 income:

16 (d) (I) PRIOR TO JANUARY 1, 2024, the portion of any gain
17 received during the taxable year from a qualified sale.

18 (IV) THIS SUBSECTION (3)(d) IS REPEALED, EFFECTIVE DECEMBER
19 31, 2028.

20 (h) (I) PRIOR TO JANUARY 1, 2024, an amount equal to the
21 difference between the depletion allowance permitted under the internal
22 revenue code for oil shale and an amount which would be permitted as
23 the depletion allowance for oil shale if: The percentage depletion rate
24 were twenty-seven and one-half percent; and the crushing, retorting,
25 condensing, and other processes by which oil, gas, or both oil and gas are
26 removed from oil shale, were deemed to be treatment processes
27 considered as mining.

1 (II) THIS SUBSECTION (3)(h) IS REPEALED, EFFECTIVE DECEMBER
2 31, 2028.

3 **SECTION 3.** In Colorado Revised Statutes, **repeal** 39-22-307 as
4 follows:

5 **39-22-307. Credit allowed for prior payment of impact**
6 **assistance.** ~~(1) For income tax years commencing on or after January 1,~~
7 ~~1981, there shall be allowed, as a credit against any taxes imposed by this~~
8 ~~part 3 on income derived from a new mining, milling, or mining and~~
9 ~~milling operation or expansion of an existing mining, milling, or mining~~
10 ~~and milling operation, an amount equal to the value of eligible~~
11 ~~contributions by the taxpayer made prior to the commencement of~~
12 ~~operations by the new operation or by the expansion of an existing~~
13 ~~operation to assist in solving the impact problems of units of local~~
14 ~~government resulting from the initiation of a new operation or an~~
15 ~~expansion of an existing operation. The credit allowed by this section~~
16 ~~shall be allowed only on a new operation or an expansion of an existing~~
17 ~~operation located within Colorado which begins actual operations~~
18 ~~subsequent to June 30, 1980. Such credit shall be based on the ratio of the~~
19 ~~gross income attributable to such new operation or expansion to the total~~
20 ~~Colorado gross income multiplied by the Colorado income tax liability for~~
21 ~~the year for which the credit is claimed.~~

22 ~~(2) Eligible contributions, for the purpose of such credit, shall~~
23 ~~include the donation of property or payments to units of local government~~
24 ~~for use in the planning or construction or expansion of public facilities,~~
25 ~~limited to roads, schools, water facilities, sewerage facilities, police and~~
26 ~~fire protection facilities, and hospitals, which are deemed to be~~
27 ~~neecessitated by the initiation of a new operation or an expansion of an~~

1 existing operation. In order to qualify as an eligible contribution for
2 credit, the following requirements shall be fulfilled:

3 (a) Each contribution shall be based on an agreement between the
4 taxpayer and a unit of local government specifying the need for the
5 contribution and its nature, value, and purpose. The agreement shall be
6 submitted for review to each unit of local government that is impacted by
7 the new operation or the expansion of an existing operation. Each
8 impacted unit of local government may send comments on the agreement
9 to the parties to the agreement and the energy impact assistance advisory
10 committee pursuant to section 34-63-102 (5)(b)(VI):

11 (b) Each contribution must be determined to be eligible for credit,
12 after joint submission by the taxpayer and the unit of local government,
13 by the executive director of the department of local affairs upon the
14 recommendation of the energy impact assistance advisory committee:

15 (c) Certification of eligibility for credit of a contribution of a
16 specified value must be made by the executive director of the department
17 of local affairs to the executive director of the department of revenue, the
18 unit of local government, and the taxpayer. Certification of eligibility for
19 credit shall not be made to the specified value of any contribution
20 submitted, but to a prorated value of the contribution, if the total of all
21 claims received by the department of local affairs exceeds one hundred
22 thousand dollars:

23 (3) A taxpayer may claim credit against income tax liability during
24 the first five years of operations by a new operation or an expansion of an
25 existing operation in the amount of the total value of all contributions
26 certified as eligible for credit by submitting with the annual declarations
27 and returns required by section 39-29-112 the certifications of eligibility

1 ~~for such credit. Any unabsorbed credit may not be claimed as a refund or~~
2 ~~applied as a credit to estimated tax.~~

3 **SECTION 4.** In Colorado Revised Statutes, 39-29-107, **amend**
4 (1), (2), (3), and (3.1) as follows:

5 **39-29-107. Tax on severance of oil shale - repeal.**

6 (1) (a) (I) PRIOR TO JANUARY 1, 2024, in addition to any other tax, there
7 shall be levied, collected, and paid for each taxable year a tax upon the
8 severance of oil shale as to all such severance occurring on and after
9 January 1, 1978. Such tax shall be levied against every person engaged in
10 the severance of oil shale. Subject to the provisions of subsections (2) and
11 (3) of this section, such tax shall be levied on the gross proceeds from
12 each commercial oil shale facility at a rate of four percent of such gross
13 proceeds.

14 (II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE DECEMBER
15 31, 2027.

16 (b) ON AND AFTER JANUARY 1, 2024, IN ADDITION TO ANY OTHER
17 TAX, THERE SHALL BE LEVIED, COLLECTED, AND PAID FOR EACH TAXABLE
18 YEAR A TAX UPON THE SEVERANCE OF OIL SHALE. SUCH TAX SHALL BE
19 LEVIED AGAINST EVERY PERSON ENGAGED IN THE SEVERANCE OF OIL
20 SHALE. SUCH TAX SHALL BE LEVIED ON THE GROSS PROCEEDS FROM EACH
21 COMMERCIAL OIL SHALE FACILITY AT A RATE OF FOUR PERCENT OF SUCH
22 GROSS PROCEEDS.

23 (2) (a) PRIOR TO JANUARY 1, 2024, the tax shall only have
24 application to a commercial oil shale facility one hundred eighty days
25 after the facility commences commercial production, as follows:

26 Year	Fraction of tax imposed
27	by subsection (1)

1 First year 1/4
2 Second year 1/2
3 Third year 3/4
4 Fourth and each succeeding year Entire rate imposed by
5 subsection (1).

6 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 31,
7 2027.

8 (3) (a) PRIOR TO JANUARY 1, 2024, the production of the first
9 fifteen thousand tons per day of oil shale or ten thousand barrels per day
10 of shale oil, whichever is greater, shall be exempt from the tax.

11 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE DECEMBER 31,
12 2027.

13 (3.1) (a) PRIOR TO JANUARY 1, 2024, the calculation of the daily
14 production subject to the tax and to the exemption in subsection (3) of
15 this section shall be determined by dividing the total production of a
16 calendar month by the total number of days in such month.

17 (b) THIS SUBSECTION (3.1) IS REPEALED, EFFECTIVE DECEMBER 31,
18 2027.

19 **SECTION 5.** In Colorado Revised Statutes, **repeal** 39-29-107.5
20 as follows:

21 **39-29-107.5. Credit allowed for prior payment of impact**
22 **assistance.** ~~(1) (a) There shall be allowed, as a credit against any taxes~~
23 ~~imposed by this article on the severance of minerals or mineral fuels from~~
24 ~~or for a new operation from or for which first severance occurs~~
25 ~~subsequent to June 30, 1979, an amount equal to the value of approved~~
26 ~~contributions by the taxpayer made prior to first severance of such~~
27 ~~minerals or mineral fuels to assist in solving the impact problems of units~~

1 of local government resulting from the initiation of such new operation.

2 (b) ~~There shall be allowed, as a credit against any taxes imposed~~
3 ~~by this article on the severance of minerals or mineral fuels from or for~~
4 ~~an operation which has an increase in production from or for which~~
5 ~~increased severance occurs subsequent to June 30, 1980, an amount equal~~
6 ~~to the value of approved contributions by the taxpayer made to assist in~~
7 ~~solving the impact problems of units of local government or local units~~
8 ~~of government locally impacted by the increase in production of an~~
9 ~~operation.~~

10 (c) ~~There shall be allowed, pursuant to an agreement between or~~
11 ~~on behalf of the taxpayer and the unit of local government specified in~~
12 ~~subparagraph (f) of paragraph (a) of subsection (2) of this section as a~~
13 ~~credit against any taxes imposed by this article on the severance of~~
14 ~~minerals or mineral fuels, in addition to any amounts determined under~~
15 ~~paragraphs (a) and (b) of this subsection (1) and subsection (2) of this~~
16 ~~section, an amount equal to three-fourths of one percent per month times~~
17 ~~the amount of approved contributions by a taxpayer for each month that~~
18 ~~any approved contribution precedes the month in which said approved~~
19 ~~contribution is credited against a taxpayer's yearly severance tax liability.~~
20 ~~Any amounts of approved contributions credited against a taxpayer's~~
21 ~~yearly severance tax liability shall be applied to reduce the amount, if any,~~
22 ~~of approved contributions not previously credited, and the additional~~
23 ~~percentage provided in this paragraph (c) shall apply solely to said~~
24 ~~reduced amount of approved contributions.~~

25 (2) (a) ~~Approved contributions, for the purpose of such credits,~~
26 ~~shall include the contribution of property or payment of money to units~~
27 ~~of local government or local units of government locally impacted, for~~

1 use in planning, including financial, architectural, and engineering
2 services, construction, or expansion of public facilities, including but not
3 limited to county or municipal roads, schools, recreation facilities, water
4 facilities, sewage facilities, police and fire protection facilities, and
5 hospitals, which are deemed to be necessitated by the initiation of a new
6 operation or increase in production of an existing operation. In addition,
7 subject to the agreement reached pursuant to paragraph (c) of subsection
8 (1) of this section, approved contributions may also include any loss
9 sustained by reason of the sale of any bonds by the taxpayer who
10 purchased such bonds, the proceeds of which bonds are used in the
11 planning, construction, or expansion of any such public facilities by a unit
12 of local government or local unit of government locally impacted, and any
13 loss by reason of the default on loans made by a taxpayer or satisfaction
14 of a guaranty obligation of the taxpayer arising out of the issuance of such
15 bonds, whether or not such bonds are purchased by the taxpayer. Such
16 losses shall be approved contributions as of the date of the making of a
17 loan, the date of issuance of the bonds, or the date of entering into the
18 guaranty obligation; except that, for purposes of the additional credit
19 allowed pursuant to paragraph (c) of subsection (1) of this section, the
20 date of the approved contribution shall be the date of default on any such
21 loan, the date of loss on any such bond, or the date of satisfaction of any
22 such guaranty obligation. In no event shall the total amount of approved
23 contributions by a taxpayer exceed fifty percent of the severance tax
24 liability which the taxpayer anticipates will be incurred during the first ten
25 years of severance from a new operation or fifty percent of the increased
26 severance tax liability which the taxpayer anticipates will be incurred
27 during the first ten years of severance from an expanded existing

1 ~~operation plus the amounts calculated pursuant to paragraph (c) of~~
2 ~~subsection (1) of this section. In order for an approved contribution to~~
3 ~~qualify for credit, the following requirements shall be fulfilled:~~

4 ~~(I) Each contribution shall be based on an agreement between or~~
5 ~~on behalf of the taxpayer and a unit of local government or local unit of~~
6 ~~government locally impacted, specifying the need for such contribution~~
7 ~~and its nature, value or amount, and purpose;~~

8 ~~(II) Each contribution must be acted upon for credit and, if~~
9 ~~approved, a certificate of eligibility issued, within ninety days after joint~~
10 ~~submission by the taxpayer and the unit of local government, or local unit~~
11 ~~of government locally impacted, by the executive director of the~~
12 ~~department of local affairs upon the recommendation of the energy~~
13 ~~impact assistance advisory committee created by section 34-63-102~~
14 ~~(5)(b), C.R.S., and failure to act upon the eligibility within said ninety~~
15 ~~days shall be deemed as approval and certification of the contribution;~~
16 ~~and~~

17 ~~(III) Certification of eligibility for credit of a contribution of a~~
18 ~~specified value or amount must be transmitted by the executive director~~
19 ~~of the department of local affairs to the executive director of the~~
20 ~~department of revenue, the unit of local government or local unit of~~
21 ~~government locally impacted, and the taxpayer.~~

22 ~~(b) In the event that the taxpayer purchases any bonds relating to~~
23 ~~public facilities as provided in this subsection (2) or makes any loans or~~
24 ~~guaranty arising out of the issuance of such bonds, the contribution, for~~
25 ~~purposes of subparagraphs (I) and (II) of paragraph (a) of this subsection~~
26 ~~(2), shall be the purchase price of any bonds purchased, the face value of~~
27 ~~any bonds guaranteed, or the amount loaned; except that the taxpayer~~

1 shall be entitled to claim as a credit pursuant to subsection (3) of this
2 section only the amount of loss on any such bonds, the amount paid in
3 satisfaction of any such guaranty, or the amount of default on any such
4 bonds.

5 (c) In order for a loss from the purchase and sale of bonds to
6 qualify as an approved contribution:

7 (I) The purchase must arise out of the original distribution of such
8 bonds; and

9 (II) The sale of such bonds must be made through a registered
10 broker; and

11 (III) The sale must take place within five business days of the
12 purchase.

13 (3) A taxpayer shall be entitled to credit against its severance tax
14 liability in an amount equal to the total of all contributions made and
15 certified as eligible for credit plus the amounts calculated pursuant to
16 paragraph (c) of subsection (1) of this section. The taxpayer may claim
17 such credit by submitting with the annual declarations and returns
18 required by section 39-29-112 the certifications of eligibility for such
19 credit or evidence regarding deemed certification, and in the case of
20 losses sustained by reason of the sale of any bonds purchased by the
21 taxpayer, by reason of satisfaction of a guaranty obligation of the taxpayer
22 arising out of the issuance of bonds, or by reason of loans made by the
23 taxpayer, evidence of such losses. The amount of credit available in any
24 one taxable year, including carry-overs, shall not exceed the taxpayer's
25 severance tax liability in such year. Any excess shall be carried over and
26 shall be available as a credit in the next succeeding year or years subject
27 to the same annual limitation.

1 (4) For the purposes of this section, minerals or mineral fuels shall
2 include, but not be limited to, oil shale, crude oil, natural gas, and oil and
3 gas.

4 (5) ~~The executive director of the department of local affairs, or his~~
5 ~~or her designee; the executive director of the department of natural~~
6 ~~resources, or his or her designee; the executive director of the department~~
7 ~~of revenue, or his or her designee; and the energy impact assistance~~
8 ~~advisory committee created in section 34-63-102 (5)(b)(I), C.R.S., shall~~
9 ~~work together with the executive director, or his or her designee, of the~~
10 ~~Colorado municipal league, or its successor organization; the executive~~
11 ~~director, or his or her designee, of Colorado counties, incorporated, or its~~
12 ~~successor organization; representatives of the energy and mineral~~
13 ~~industry; and any other stakeholders to determine how best to improve the~~
14 ~~impact assistance credit established in this section so that any major~~
15 ~~infrastructure needs of communities impacted by the energy and mineral~~
16 ~~industry are addressed. The group specified in this subsection (5) shall~~
17 ~~recommend any proposed legislation to the agriculture, livestock, and~~
18 ~~natural resources committee of the house of representatives and the~~
19 ~~agriculture, natural resources, and energy committee of the senate, or any~~
20 ~~successor committees, no later than January 31, 2009.~~

21 **SECTION 6.** In Colorado Revised Statutes, 39-21-112, **amend**
22 (1) as follows:

23 **39-21-112. Duties and powers of executive director.** (1) It is
24 the duty of the executive director to administer the provisions of this
25 ~~article~~ ARTICLE 21, and ~~he or she~~ THE EXECUTIVE DIRECTOR has the power
26 to adopt, amend, or rescind such rules not inconsistent with the provisions
27 of this ~~article~~ ARTICLE 21, articles 22 to 29 of this ~~title~~ TITLE 39, and

1 article 3 of title 42 ~~C.R.S.~~, and, subject to other provisions of law relating
2 to the promulgation of rules, to appoint, pursuant to section 13 of article
3 XII of the state constitution, such persons, to make such expenditures, to
4 require such reports, to make such investigations, and to take such other
5 action as ~~he or she~~ THE EXECUTIVE DIRECTOR deems necessary or suitable
6 to that end. The executive director shall determine ~~his or her own~~ THE
7 organization and methods of procedure in accordance with the provisions
8 of this ~~article~~ ARTICLE 21. For the purpose of ascertaining the correctness
9 of any return or for the purpose of making an estimate of the tax due from
10 any taxpayer, the executive director has the power to examine or cause to
11 be examined by any employee, agent, or representative designated by ~~him~~
12 ~~or her~~ THE EXECUTIVE DIRECTOR for that purpose any books, papers,
13 records, or memoranda bearing upon the matters required to be included
14 in the return. ~~In the exercise of rule-making authority as to article 29 of~~
15 ~~this title, as granted by the general assembly pursuant to this subsection~~
16 ~~(1), the executive director, in interpreting section 39-29-107.5 (1)(c), shall~~
17 ~~not have authority to reduce the amount of any approved contributions not~~
18 ~~previously credited by applying the amount of any additional percentage~~
19 ~~previously allowed pursuant to said section.~~ In the exercise of
20 rule-making authority as to article 29 of this ~~title~~ TITLE 39, as granted by
21 the general assembly pursuant to this subsection (1), the executive
22 director may not readopt any rule, or portion thereof, disapproved on or
23 after July 1, 1982, by the general assembly pursuant to section 24-4-103
24 (8)(d) ~~C.R.S.~~, without the approval of the general assembly.

25 **SECTION 7.** In Colorado Revised Statutes, 39-29-108, **repeal** (3)
26 as follows:

27 **39-29-108. Allocation of severance tax revenues - definitions**

1 ~~- repeal. (3) Effective July 1, 1981, the total gross receipts from any~~
2 ~~taxpayer who has previously claimed the full amount of the credit for an~~
3 ~~approved contribution under section 39-29-107.5 shall be allocated solely~~
4 ~~to the state severance tax trust fund until such time as there is allocated~~
5 ~~to such fund, in addition to any current allocation to such fund, an amount~~
6 ~~equal to what would have been allocated to such fund during the time the~~
7 ~~taxpayer claimed such credit.~~

8 **SECTION 8. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2024 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.