

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0149.02 Esther van Mourik x4215

HOUSE BILL 15-1219

HOUSE SPONSORSHIP

McCann and Becker J.,

SENATE SPONSORSHIP

Hodge and Sonnenberg,

House Committees

Transportation & Energy
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ENTERPRISE ZONE INVESTMENT TAX CREDIT FOR
102 RENEWABLE ENERGY PROJECTS.

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>.)

Current law allows for an investment tax credit if a taxpayer makes a qualified investment in an enterprise zone. The tax credit can be carried forward by a taxpayer and it is not refundable. The bill allows a taxpayer who places a new renewable energy investment in service on or after January 1, 2015, that results in an investment tax credit to elect to receive a refund of 80% of the amount of the credit and forego the remaining

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.

20% as a cost of the election. If 80% of the credit is \$750,000 or less, the taxpayer receives the full refund in the first year. If 80% of the credit is more than \$750,000, the taxpayer annually receives a refund not to exceed \$750,000 per income tax year until 80% of the credit is completely refunded to the taxpayer.

The bill also requires the Colorado economic development commission to annually post on its web site, or on the web site of the Colorado office of economic development, the level of renewable energy investment on and after the effective date of the bill.

Finally, the bill changes the definition of renewable energy investment. In current law it refers specifically to solar thermal electric, photovoltaic, landfill gas, wind, biomass, hydroelectric, geothermal electric, recycled energy, anaerobic digestion, or renewable fuel cell projects. The bill changes the definition to projects that generate electricity from eligible energy resources that an electric utility may use to comply with Colorado's renewable energy standard.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds and declares that the goal of the tax expenditure in this act is to
4 allow for the reduction in the state's overall liability for certified
5 enterprise zone investment tax credits by allowing taxpayers who make
6 renewable energy investments in an enterprise zone to elect to receive a
7 refund from the state equal to eighty percent of their tax credit in amounts
8 that may be up to seven hundred fifty thousand dollars annually,
9 foregoing twenty percent of the credit for the ability to receive the refund.
10 This effectively reduces the state's liability for future enterprise zone
11 investment tax credit carryovers by twenty percent and helps Colorado
12 remain competitive with neighboring renewable energy markets. The
13 general assembly further finds and declares that this change in tax policy
14 is intended to increase renewable energy investment and thus increase
15 associated jobs and expand the tax base in rural Colorado.

16 **SECTION 2.** In Colorado Revised Statutes, 39-30-104, **amend**

1 (2.7) and (2.8); and **add** (2.6) as follows:

2 **39-30-104. Credit against tax - investment in certain property**

3 **- definition.** (2.6) (a) NOTWITHSTANDING ANY OTHER PROVISION IN THIS
4 SECTION, IN EACH INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY
5 1, 2015, A TAXPAYER WHO PLACES A NEW RENEWABLE ENERGY
6 INVESTMENT IN SERVICE ON OR AFTER JANUARY 1, 2015, THAT RESULTS IN
7 A CREDIT PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY ELECT TO
8 RECEIVE A REFUND OF EIGHTY PERCENT OF THE AMOUNT OF SUCH CREDIT
9 AS SPECIFIED IN THIS PARAGRAPH (a) AND FOREGO THE REMAINING
10 TWENTY PERCENT AS A COST OF SUCH ELECTION. IF EIGHTY PERCENT OF
11 THE AMOUNT OF THE CREDIT IN SUBSECTION (1) OF THIS SECTION IS:

12 (I) SEVEN HUNDRED FIFTY THOUSAND DOLLARS OR LESS, THE
13 TAXPAYER RECEIVES THE FULL REFUND IN THE FIRST TAX YEAR; OR

14 (II) MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS, THE
15 TAXPAYER ANNUALLY RECEIVES A REFUND NOT TO EXCEED SEVEN
16 HUNDRED FIFTY THOUSAND DOLLARS PER INCOME TAX YEAR UNTIL EIGHTY
17 PERCENT OF THE AMOUNT OF THE CREDIT IN SUBSECTION (1) OF THIS
18 SECTION FOR THE NEW RENEWABLE ENERGY INVESTMENT DESCRIBED IN
19 THE FINAL CERTIFICATION IS COMPLETELY REFUNDED TO THE TAXPAYER.

20 (b) THE TAXPAYER MAKES AN ELECTION DESCRIBED IN PARAGRAPH
21 (a) OF THIS SUBSECTION (2.6) BY FILING AN ELECTION STATEMENT ON SUCH
22 FORM AS PRESCRIBED BY THE DEPARTMENT OF REVENUE NOT LATER THAN
23 THE DUE DATE, INCLUDING EXTENSIONS, FOR FILING THE TAX RETURN FOR
24 THE TAXABLE YEAR DURING WHICH THE NEW RENEWABLE ENERGY
25 INVESTMENT DESCRIBED IN THE FINAL CERTIFICATION IS PLACED INTO
26 SERVICE.

27 (c) THE ELECTION DESCRIBED IN PARAGRAPH (a) OF THIS

1 SUBSECTION (2.6) ONLY APPLIES TO THE RENEWABLE ENERGY INVESTMENT
2 DESCRIBED IN THE FINAL CERTIFICATION.

3 (d) THE LIMITATIONS ON INVESTMENT TAX CREDIT CARRYOVERS
4 SPECIFIED IN SUBSECTIONS (2) AND (2.5) OF THIS SECTION DO NOT APPLY
5 TO ANY CREDIT FOR WHICH A TAXPAYER ELECTS TO SEEK A REFUND
6 PURSUANT TO THIS SUBSECTION (2.6). THE REFUND SPECIFIED IN THIS
7 SUBSECTION (2.6) IS IN ADDITION TO ANY OTHER CREDITS THAT A
8 TAXPAYER MAY CLAIM FOR OTHER RENEWABLE ENERGY INVESTMENTS
9 PURSUANT TO THIS SECTION.

10 (e) FOR PURPOSES OF THIS SUBSECTION (2.6), "FINAL
11 CERTIFICATION" MEANS A DOCUMENT PREPARED BY THE COLORADO
12 OFFICE OF ECONOMIC DEVELOPMENT AND PROVIDED TO THE TAXPAYER
13 GRANTING APPROVAL FOR A PROJECT AFTER IT IS PLACED IN SERVICE.

14 (2.7) (a) The Colorado economic development commission shall
15 annually post on its web site or on the Colorado office of economic
16 development's web site the following information regarding any
17 enterprise zone investment tax credit certified under this section:

- 18 (a) (I) The enterprise zone for the certified credit;
- 19 (b) (II) The name of the taxpayer or business;
- 20 (c) (III) The type of business;
- 21 (d) (IV) The tax year for which the credit is certified;
- 22 (e) (V) The total qualified investment reported;
- 23 (f) (VI) Whether the credit is for a renewable energy investment
24 as defined in subsection (2.8) of this section;
- 25 (g) (VII) The amount of the qualified investment that qualifies for
26 the credit;
- 27 (h) (VIII) The calculated credit; and

1 (†) (IX) The county where the qualified investment is made.

2 (b) NOTWITHSTANDING SECTION 24-1-136 (11), C.R.S., NO LATER
3 THAN NOVEMBER 1, 2020, AND EVERY NOVEMBER 1 THEREAFTER, THE
4 COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL POST ON ITS
5 WEB SITE OR ON THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT'S
6 WEB SITE THE LEVEL OF RENEWABLE ENERGY INVESTMENT ON AND AFTER
7 THE EFFECTIVE DATE OF SUBSECTION (2.6) OF THIS SECTION, AS AMENDED.

8 (2.8) For purposes of this section, "renewable energy investment"
9 means an investment that qualifies for the credit specified in paragraph
10 (a) of subsection (1) of this section for ~~solar thermal electric,~~
11 ~~photovoltaic, landfill gas, wind, biomass, hydroelectric, geothermal~~
12 ~~electric, recycled energy, anaerobic digestion, or renewable fuel cell~~
13 projects THAT GENERATE ELECTRICITY FROM ELIGIBLE ENERGY RESOURCES
14 AS DEFINED IN SECTION 40-2-124 (1), C.R.S.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.