

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1064.01 Kate Meyer x4348

SENATE BILL 16-175

SENATE SPONSORSHIP

Grantham,

HOUSE SPONSORSHIP

Pabon,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING A STATE INCOME TAX CREDIT FOR RETAIL DEALERS
102 SELLING E-15 GASOLINE.

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>.)

The bill creates an income tax credit for retail dealers selling E-15 gasoline. The amount of credit to which a taxpayer is entitled is \$.03 per gallon of E-15 gasoline sold in the tax year for which the credit is claimed. The credit is available for 3 tax years, commencing January 1, 2017. Any portion of the credit to which a taxpayer is entitled but exceeds the taxpayer's income tax liability may not be carried forward, but must

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.

be refunded to the taxpayer.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-538 as
3 follows:

4 **39-22-538. E-15 gasoline promotion tax credit - eligibility -**
5 **rules - legislative declaration - definitions - repeal.** (1) (a) THE
6 GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

7 (I) COLORADO HAS LONG EMBRACED THE USE OF A WIDE RANGE OF
8 FUELS FOR MOTOR VEHICLES, FROM TRADITIONAL GASOLINE AND DIESEL
9 TO ALTERNATIVE FUELS;

10 (II) LEGISLATION HAS BEEN PASSED TO DEFINE WHAT CONSTITUTES
11 AN ALTERNATIVE FUEL AND TO SET FORTH UTILIZATION STRATEGIES FOR
12 THE STATE'S MOTOR VEHICLE FLEET TO USE ALTERNATIVE FUELS;

13 (III) CONSISTENT WITH THE CALL FOR UTILIZATION OF
14 ALTERNATIVE FUELS IN SECTION 24-30-1104 (2) (c) (II), C.R.S., THE
15 ABILITY TO INCENTIVIZE PRIVATE SECTOR FUEL PROVIDERS IN THE STATE
16 TO INVEST IN NECESSARY EQUIPMENT, AND TO BUY, STORE, AND DISPENSE
17 THESE ALTERNATIVE FUELS IS NECESSARY;

18 (IV) THE UTILIZATION OF ALTERNATIVE FUELS LIKE E-15
19 GASOLINE, WHICH BLENDS CORN ETHANOL, A RENEWABLE FUEL SOURCE,
20 WITH A PETROLEUM BASE, OFFERS A GREATER CONSUMER CHOICE FOR
21 ALTERNATIVE FUEL PURCHASES AND ASSISTS THE STATE MOTOR VEHICLE
22 FLEET IN MEETING THE GOALS FOR ALTERNATIVE FUEL USAGE;

23 (V) THE ABILITY OF PRIVATE FUEL DISTRIBUTORS TO PROVIDE E-15
24 GASOLINE AS AN ALTERNATIVE FUEL OPTION IS AN INVESTMENT THAT IS
25 NEEDED IN THE STATE; AND

1 (VI) THE BENEFIT OF UTILIZING A MAJOR COLORADO
2 AGRICULTURAL CASH CROP WHILE INCREASING THE USE OF AN
3 ALTERNATIVE FUEL PROVIDES THE STATE A DUAL ADVANTAGE GOING
4 FORWARD.

5 (b) THEREFORE, TO INCENTIVIZE THE INVESTMENT IN AND
6 PROMOTE THE DISTRIBUTION OF E-15 GASOLINE IN THE STATE IN
7 ACCORDANCE WITH EXISTING OBJECTIVES FOR USE OF ALTERNATIVE
8 FUELS, THIS SECTION CREATES A TAX CREDIT FOR RETAIL DEALERS SELLING
9 E-15 GASOLINE IN THE STATE.

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

12 (a) "E-15 GASOLINE" MEANS ETHANOL-BLENDED GASOLINE
13 FORMULATED WITH A PERCENTAGE OF BETWEEN FIFTEEN AND FIFTY
14 PERCENT BY VOLUME OF ETHANOL.

15 (b) "ETHANOL" MEANS ETHYL ALCOHOL THAT IS TO BE BLENDED
16 WITH GASOLINE.

17 (c) "GASOLINE" MEANS ANY LIQUID PRODUCT PREPARED,
18 ADVERTISED, OFFERED FOR SALE OR SOLD FOR USE AS, OR COMMONLY AND
19 COMMERCIALY USED AS, MOTOR FUEL FOR USE IN A SPARK-IGNITION,
20 INTERNAL COMBUSTION ENGINE.

21 (d) "MOTOR FUEL PUMP" MEANS A MOTOR FUEL PUMP THAT THE
22 DIVISION OF OIL AND PUBLIC SAFETY IN THE DEPARTMENT OF LABOR AND
23 EMPLOYMENT CERTIFIES AND LABELS TO SELL E-15 GASOLINE.

24 (e) "RETAIL DEALER" MEANS A PERSON ENGAGED IN THE BUSINESS
25 OF STORING AND DISPENSING MOTOR FUEL FROM A MOTOR FUEL PUMP FOR
26 SALE ON A RETAIL BASIS, REGARDLESS OF WHETHER THE MOTOR FUEL
27 PUMP IS LOCATED AT A RETAIL MOTOR FUEL SITE INCLUDING A PERMANENT

1 OR MOBILE LOCATION.

2 (f) "RETAIL MOTOR FUEL SITE" MEANS A GEOGRAPHIC LOCATION
3 IN THE STATE WHERE A RETAIL DEALER SELLS AND DISPENSES MOTOR FUEL
4 ON A RETAIL BASIS.

5 (g) "SELL" MEANS TO SELL ON A RETAIL BASIS.

6 (3) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
7 JANUARY 1, 2017, BUT PRIOR TO JANUARY 1, 2020, A TAXPAYER IS
8 ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS
9 ARTICLE IF:

10 (a) THE TAXPAYER IS A RETAIL DEALER WHO SELLS AND DISPENSES
11 E-15 GASOLINE THROUGH A MOTOR FUEL PUMP LOCATED AT THE RETAIL
12 DEALER'S RETAIL MOTOR FUEL SITE DURING THE CALENDAR YEAR OR
13 PORTION OF THE CALENDAR YEAR FOR WHICH THE TAX CREDIT IS CLAIMED
14 AS PROVIDED IN THIS SECTION; AND

15 (b) THE RETAIL DEALER COMPLIES WITH RULES OF THE
16 DEPARTMENT ESTABLISHED TO ADMINISTER THIS SECTION.

17 (4) THE AMOUNT OF A CREDIT THAT MAY BE CLAIMED UNDER THIS
18 SECTION IS THREE CENTS PER GALLON OF E-15 GASOLINE DISPENSED
19 THROUGH A MOTOR FUEL PUMP THAT IS SOLD BY THE RETAIL DEALER IN
20 THE TAX YEAR FOR WHICH THE CREDIT IS CLAIMED.

21 (5) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE
22 INCOME TAX DUE ON THE INCOME OF THE TAXPAYER FOR THE TAXABLE
23 YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND MUST BE
24 REFUNDED TO THE TAXPAYER.

25 (6) AN INDIVIDUAL MAY CLAIM THE TAX CREDIT ALLOWED A
26 PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, ESTATE, OR
27 TRUST ELECTING TO HAVE THE INCOME TAXED DIRECTLY TO THE

1 INDIVIDUAL. THE AMOUNT CLAIMED BY THE INDIVIDUAL SHALL BE BASED
2 UPON THE PRO RATA SHARE OF THE INDIVIDUAL'S EARNINGS OF A
3 PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, ESTATE, OR
4 TRUST.

5 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

6 **SECTION 2. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.