

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0936.01 Esther van Mourik x4215

SENATE BILL 17-188

SENATE SPONSORSHIP

Marble, Baumgardner, Cooke, Holbert, Lundberg, Neville T., Sonnenberg

HOUSE SPONSORSHIP

(None),

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF INCOME TAX CREDITS FOR INNOVATIVE
102 MOTOR VEHICLES FOR PURCHASES AND LEASES ENTERED INTO
103 ON OR AFTER JANUARY 1, 2018.

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>.)

The bill repeals the income tax credits for innovative motor vehicles and innovative trucks for purchase and leases entered into on or after January 1, 2018.

For the 2017-18 state fiscal year and each fiscal year thereafter through the 2020-21 state fiscal year, the bill requires the state controller

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.

to credit an amount of tax revenue estimated to be retained by the repeal of the income tax credits to the highway users tax fund.

The bill requires the secretary of state to submit a ballot question, to be treated as a proposition, at the statewide election to be held in November 2017 asking the voters:

- ! To increase state tax revenue by a specified amount in each fiscal year through the 2020-21 state fiscal year by the repeal of the income tax credit for innovative motor vehicles and the income tax credit for innovative trucks;
- ! To credit the resulting estimated tax revenue to the highway users tax fund; and
- ! To allow an estimate of the resulting tax revenue to be collected and spent notwithstanding any limitations in section 20 of article X of the state constitution (TABOR).

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-516.7, **repeal**
3 **as it will become effective December 31, 2019,** (1)(a)(I)(A) as follows:

4 **39-22-516.7. Tax credit for innovative motor vehicles -**
5 **definitions - repeal.** (1) (a) (I) (A) [*Editor's note: This version of*
6 *subsection (1)(a)(I)(A) is effective December 31, 2019.*] "~~Actual cost~~
7 ~~incurred"~~ means ~~the actual cost paid by the purchaser for a used motor~~
8 ~~vehicle or conversion minus any credits, grants, or rebates, including~~
9 ~~federal credits, grants, or rebates for which the purchaser is eligible, but~~
10 ~~excluding the credit specified in this section.~~

11 **SECTION 2.** In Colorado Revised Statutes, 39-22-516.7, **amend**
12 (2)(a), (2)(c), (4)(a)(II), (4)(b)(II), and (10); and **repeal** (4)(a)(III),
13 (4)(a)(IV), (4)(b)(III), and (4)(b)(IV) as follows:

14 **39-22-516.7. Tax credit for innovative motor vehicles -**
15 **definitions - repeal.** (2) (a) With respect to the tax years commencing on
16 or after January 1, 2013, but prior to ~~January 1, 2022~~ JANUARY 1, 2018,
17 there is allowed to any person a credit against the tax imposed by this

1 article, not to exceed the amount specified in subsection (4) of this
2 section, for the purchase or lease of a motor vehicle defined as category
3 1.

4 (c) With respect to the tax years commencing on or after January
5 1, 2014, but prior to ~~January 1, 2022~~ JANUARY 1, 2018, there is allowed
6 to any person a credit against the tax imposed by this article, not to
7 exceed the amount specified in subsection (4) of this section, for the
8 conversion of a motor vehicle defined as category 1 A.

9 (4) The amount of the credit allowed pursuant to this section is
10 calculated as follows:

11 (a) **Category 1.** (II) With respect to the tax years commencing on
12 or after January 1, 2017, but prior to ~~January 1, 2020~~ JANUARY 1, 2018,
13 five thousand dollars for a purchase or two thousand five hundred dollars
14 for a lease;

15 (III) ~~With respect to the tax years commencing on or after January~~
16 ~~1, 2020, but prior to January 1, 2021, four thousand dollars for a purchase~~
17 ~~or two thousand dollars for a lease;~~

18 (IV) ~~With respect to the tax years commencing on or after January~~
19 ~~1, 2021, but prior to January 1, 2022, two thousand five hundred dollars~~
20 ~~for a purchase or one thousand five hundred dollars for a lease.~~

21 (b) **Category 1 A.** (II) With respect to the tax years commencing
22 on or after January 1, 2017, but prior to ~~January 1, 2020~~ JANUARY 1,
23 2018, five thousand dollars;

24 (III) ~~With respect to the tax years commencing on or after January~~
25 ~~1, 2020, but prior to January 1, 2021, four thousand dollars;~~

26 (IV) ~~With respect to the tax years commencing on or after January~~
27 ~~1, 2021, but prior to January 1, 2022, two thousand five hundred dollars.~~

1 (10) This section is repealed, effective ~~December 31, 2026~~
 2 DECEMBER 31, 2022.

3 **SECTION 3.** In Colorado Revised Statutes, 39-22-516.8, **amend**
 4 (2.3), (2.5), (3.5), (4.3), (4.5), (5.5), (6), (7), (8.3), (8.5), (9.5), (10), (11),
 5 (11.6), and (18); and **repeal** (14)(c) as follows:

6 **39-22-516.8. Tax credit for innovative trucks - definitions -**
 7 **repeal.** (2.3) **Category 4 purchase.** (a) Except as provided in subsection
 8 (14) of this section, with respect to the income tax years commencing on
 9 or after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018,
 10 there is allowed to any person a credit against the tax imposed by this
 11 article in an amount set forth in paragraph (b) of this subsection (2.3) for
 12 each purchase of a category 4 truck during the tax year.

13 (b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
17 Light duty passenger			
18 motor vehicle	\$5,000	\$4,000	\$2,500
19 Light duty truck	\$7,000	\$5,500	\$3,500
20 Medium duty truck	\$10,000	\$8,000	\$5,000
21 Heavy duty truck	\$20,000	\$16,000	\$10,000

22 (2.5) **Category 4 lease.** (a) Except as provided in subsection (14)
 23 of this section, with respect to the income tax years commencing on or
 24 after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018, there
 25 is allowed to any person a credit against the tax imposed by this article in
 26 an amount set forth in paragraph (b) of this subsection (2.5) for each lease
 27 of a category 4 truck during the tax year.

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(b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
Light duty passenger motor vehicle	\$2,500	\$2,000	\$1,500
Light duty truck	\$3,500	\$2,750	\$1,750
Medium duty truck	\$5,000	\$4,000	\$2,500
Heavy duty truck	\$10,000	\$8,000	\$5,000

(3.5) **Category 4 A.** (a) Except as provided in subsection (14) of this section, with respect to the income tax years commencing on or after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018, there is allowed to any person a credit against the tax imposed by this article an amount set forth in paragraph (b) of this subsection (3.5) for the conversion of a category 4 A truck during the tax year.

(b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
Light duty passenger motor vehicle	\$5,000	\$4,000	\$2,500
Light duty truck	\$7,000	\$5,500	\$3,500
Medium duty truck	\$10,000	\$8,000	\$5,000
Heavy duty truck	\$20,000	\$16,000	\$10,000

(4.3) **Category 4 B purchase.** (a) Except as provided in subsection (14) of this section, with respect to the income tax years

1 commencing on or after January 1, 2017, but before ~~January 1, 2022~~
 2 JANUARY 1, 2018, there is allowed to any person a credit against the tax
 3 imposed by this article an amount set forth in paragraph (b) of this
 4 subsection (4.3) for each purchase of a category 4 B truck during the tax
 5 year.

6 (b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
7 Light duty passenger			
8 motor vehicle	\$5,000	\$4,000	\$2,500
9 Light duty truck	\$7,000	\$5,500	\$3,500
10 Medium duty truck	\$10,000	\$8,000	\$5,000
11 Heavy duty truck	\$20,000	\$16,000	\$10,000

12 (4.5) **Category 4 B lease.** (a) Except as provided in subsection
 13 (14) of this section, with respect to the income tax years commencing on
 14 or after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018,
 15 there is allowed to any person a credit against the tax imposed by this
 16 article an amount set forth in paragraph (b) of this subsection (4.5) for
 17 each lease of a category 4 B truck during the tax year.

18 (b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
19 Light duty passenger			
20 motor vehicle	\$2,500	\$2,000	\$1,500

1	Light duty truck	\$3,500	\$2,750	\$1,750
2	Medium duty truck	\$5,000	\$4,000	\$2,500
3	Heavy duty truck	\$10,000	\$8,000	\$5,000

4 (5.5) **Category 4 C.** (a) Except as provided in subsection (14) of
5 this section, with respect to the income tax years commencing on or after
6 January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018, there is
7 allowed to any person a credit against the tax imposed by this article in
8 the amount set forth in paragraph (b) of this subsection (5.5) for the
9 conversion of a category 4 C truck during the tax year.

10	(b)	Income tax year commencing:		
		1/1/2017		
11		but before	1/1/2020	1/1/2021
12		1/1/2020	but before	but before
13		1/1/2018	1/1/2021	1/1/2022
14	Light duty passenger			
15	motor vehicle	\$5,000	\$4,000	\$2,500
16	Light duty truck	\$7,000	\$5,500	\$3,500
17	Medium duty truck	\$10,000	\$8,000	\$5,000
18	Heavy duty truck	\$20,000	\$16,000	\$10,000

19 (6) **Category 5.** With respect to the income tax years commencing
20 on or after January 1, 2015, but before ~~January 1, 2022~~ JANUARY 1, 2018,
21 there is allowed to any person a credit against the tax imposed by this
22 article of twenty-five percent of the actual cost incurred by the taxpayer
23 during a tax year for category 5, not to exceed six thousand dollars.

24 (7) **Category 6.** With respect to the income tax years commencing
25 on or after January 1, 2014, but before ~~January 1, 2022~~ JANUARY 1, 2018,
26 there is allowed to any person a credit against the tax imposed by this
27 article of twenty-five percent of the actual cost incurred by the taxpayer

1 during a tax year for category 6, not to exceed six thousand dollars for
 2 each installed device and not to exceed fifty thousand dollars during a tax
 3 year for the installation of multiple devices. For purposes of the income
 4 tax year commencing on or after January 1, 2014, but before January 1,
 5 2015, the installation must occur on or after July 1, 2014, but before
 6 January 1, 2015.

7 (8.3) **Category 7 purchase.** (a) Except as provided in subsection
 8 (14) of this section, with respect to the income tax years commencing on
 9 or after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018,
 10 there is allowed to any person a credit against the tax imposed by this
 11 article in an amount set forth in paragraph (b) of this subsection (8.3) for
 12 each purchase of a category 7 truck during the tax year.

13 (b)

	Income tax year commencing:		
	1/1/2017 but before 1/1/2020 1/1/2018	1/1/2020 but before 1/1/2021	1/1/2021 but before 1/1/2022
17 Light duty passenger 18 motor vehicle over 8,500 19 GVWR	\$5,000	\$4,000	\$2,500
20 Light duty electric truck	\$7,000	\$5,500	\$3,500
21 Medium duty electric 22 truck	\$10,000	\$8,000	\$5,000
23 Heavy duty truck	\$20,000	\$16,000	\$10,000

24 (8.5) **Category 7 lease.** (a) Except as provided in subsection (14)
 25 of this section, with respect to the income tax years commencing on or
 26 after January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018, there
 27 is allowed to any person a credit against the tax imposed by this article in

1 an amount set forth in paragraph (b) of this subsection (8.5) for each lease
 2 of a category 7 truck during the tax year.

3 (b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
4 Light duty passenger			
5 motor			
6 vehicle over 8,500 GVWR	\$2,500	\$2,000	\$1,500
7 Light duty electric truck	\$3,500	\$2,750	\$1,750
8 Medium duty electric			
9 truck	\$5,000	\$4,000	\$2,500
10 Heavy duty truck	\$10,000	\$8,000	\$5,000

14 (9.5) **Category 7 A.** (a) Except as provided in subsection (14) of
 15 this section, with respect to the income tax years commencing on or after
 16 January 1, 2017, but before ~~January 1, 2022~~ JANUARY 1, 2018, there is
 17 allowed to any person a credit against the tax imposed by this article in an
 18 amount set forth in paragraph (b) of this subsection (9.5) for the
 19 conversion of a category 7 A truck during the tax year.

20 (b)

	Income tax year commencing:		
	1/1/2017		
	but before	1/1/2020	1/1/2021
	1/1/2020	but before	but before
	1/1/2018	1/1/2021	1/1/2022
21 Light duty passenger			
22 motor vehicle with a			
23 GVWR over 8,500 lbs	\$5,000	\$4,000	\$2,500

1	Light duty electric truck	\$7,000	\$5,500	\$3,500
2	Medium duty electric			
3	truck	\$10,000	\$8,000	\$5,000
4	Heavy duty truck	\$20,000	\$16,000	\$10,000

5 (10) **Category 8.** (a) With respect to the income tax years
6 commencing on or after January 1, 2014, but before ~~January 1, 2022~~
7 JANUARY 1, 2018, there is allowed to any person a credit against the tax
8 imposed by this article as a percentage set forth in paragraph (b) of this
9 subsection (10) of the actual cost incurred by the taxpayer during the tax
10 year for each purchase or lease of a category 8 trailer, not to exceed the
11 amount set forth in paragraph (b) of this subsection (10). For purposes of
12 the income tax year commencing on or after January 1, 2014, but before
13 January 1, 2015, the purchase or lease of a category 8 trailer must occur
14 on or after July 1, 2014, but before January 1, 2015.

15 (b)

Income tax year commencing:							
16	1/1/20	1/1/20	1/1/20	1/1/20	1/1/20	Cap	
17	14	17	19	20	21 but	per	
18	1/1/20	BUT			before	inco	
19	15	BEFOR			1/1/20	me	
	1/1/20	E			22	tax	
	16	1/1/20				year	
		18					
20	Category 8	18%	15%	11.75	7.5%	3.75%	\$7,500

21 (11) **Category 8 A.** (a) With respect to the income tax years
22 commencing on or after January 1, 2014, but before ~~January 1, 2022~~
23 JANUARY 1, 2018, there is allowed to any person a credit against the tax

1 imposed by this article as a percentage set forth in paragraph (b) of this
 2 subsection (11) of the actual cost incurred by the taxpayer during the tax
 3 year for the conversion of a refrigerated trailer to a category 8 A trailer,
 4 not to exceed the amount set forth in paragraph (b) of this subsection
 5 (11). For purposes of the income tax year commencing on or after January
 6 1, 2014, but before January 1, 2015, the conversion of a refrigerated
 7 trailer to a category 8 A trailer must occur on or after July 1, 2014, but
 8 before January 1, 2015.

9 (b)

Income tax year commencing:						
	1/1/20 141/1/ 20151 /1/201 6	1/1/20 17 BUT BEFOR E 1/1/20 18	1/1/20 19	1/1/20 20	1/1/20 21 but before 1/1/20 22	Cap per incom e tax year
14	Category 8 A	55%	45%	33.75 %	22.5% %	11.25 \$7,50 0

15 (11.6) **Category 9.** (a) Except as otherwise provided in
 16 subsection (14) of this section, with respect to the income tax years
 17 commencing on or after January 1, 2017, but before ~~January 1, 2022~~
 18 JANUARY 1, 2018, there is allowed to any person a credit against the tax
 19 imposed by this article in an amount set forth in paragraph (b) of this
 20 subsection (11.6) for the conversion of a category 9 truck during the tax
 21 year.

22 (b)

Income tax year commencing:

	1/1/2017 but before 1/1/2020 1/1/2018	1/1/2020 but before 1/1/2021	1/1/2021 but before 1/1/2022
Category 9	\$5,000	\$4,000	\$2,500

5 (14) (c) ~~In the event that category 4, 4 A, 4 B, 4 C, 7, 7 A, or 9~~
 6 ~~medium or heavy duty trucks are shown to generate life-cycle emissions~~
 7 ~~materially greater than comparable traditional fuel trucks, then the~~
 8 ~~Colorado energy office shall notify the department of revenue that no tax~~
 9 ~~credit specified in this section is available for such trucks for the income~~
 10 ~~tax years commencing on or after January 1, 2019, but before January 1,~~
 11 ~~2022; except that the Colorado energy office may determine if a particular~~
 12 ~~category 4, 4 A, 4 B, 4 C, 7, 7 A, or 9 truck model or engine does not~~
 13 ~~generate life-cycle emissions materially greater than a comparable~~
 14 ~~traditional fuel truck model or engine and is thus allowed a credit for a~~
 15 ~~given income tax year, or the Colorado energy office may allow a credit~~
 16 ~~if the taxpayer can demonstrate that the taxpayer has a long-term fuel~~
 17 ~~contract for his or her category 4, 4 A, 4 B, 4 C, 7, 7 A, or 9 truck from~~
 18 ~~a green fuel provider, such that the life-cycle emissions from such truck~~
 19 ~~are not materially greater than the emissions of a comparable traditional~~
 20 ~~fuel truck. For purposes of this paragraph (c), "green fuel provider"~~
 21 ~~means the alternative fuel is produced and delivered by providers that~~
 22 ~~have adopted best practices for low life-cycle emissions. On or before~~
 23 ~~January 1, 2019, and on or before each January 1 thereafter through~~
 24 ~~January 1, 2021, the Colorado energy office and the department of~~
 25 ~~revenue shall, through their respective websites, specify which category~~
 26 ~~4, 4 A, 4 B, 4 C, 7, 7 A, or 9 medium or heavy duty trucks are not allowed~~

1 a credit for a given income tax year.

2 (18) This section is repealed, effective ~~December 31, 2026~~
3 DECEMBER 31, 2022.

4 **SECTION 4.** In Colorado Revised Statutes, 43-4-205, **add** (6.4)
5 as follows:

6 **43-4-205. Allocation of fund.** (6.4) FOR THE 2017-18 STATE
7 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER THROUGH THE 2020-21
8 STATE FISCAL YEAR, THE STATE CONTROLLER SHALL CREDIT AN AMOUNT
9 OF TAX REVENUE ESTIMATED TO BE RETAINED BY THE REPEAL OF THE
10 INCOME TAX CREDIT FOR INNOVATIVE MOTOR VEHICLES AND THE REPEAL
11 OF THE INCOME TAX CREDIT FOR INNOVATIVE TRUCKS TO THE HIGHWAY
12 USERS TAX FUND, TO BE ALLOCATED AND EXPENDED IN ACCORDANCE WITH
13 THE FORMULA SPECIFIED IN SUBSECTION (6)(b) OF THIS SECTION.

14 **SECTION 5.** In Colorado Revised Statutes, **add** 39-22-516.9 as
15 follows:

16 **39-22-516.9. Voter approved revenue change related to repeals**
17 **of the income tax credit for innovative motor vehicles and the income**
18 **tax credit for innovative trucks - crediting of estimated revenue to the**
19 **highway users tax fund - definition - repeal.** (1) AS USED IN THIS
20 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "BALLOT ISSUE"
21 MEANS THE QUESTION REFERRED TO VOTERS IN SUBSECTION (2) OF THIS
22 SECTION.

23 (2) AT THE ELECTION HELD ON NOVEMBER 7, 2017, THE
24 SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED ELECTORS OF
25 THE STATE FOR THEIR APPROVAL OR REJECTION THE FOLLOWING BALLOT
26 ISSUE: "SHALL STATE TAX REVENUE BE INCREASED BY \$7 MILLION
27 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE

1 RAISED ANNUALLY THEREAFTER THROUGH THE 2020-21 STATE FISCAL
2 YEAR BY THE REPEAL OF THE INCOME TAX CREDIT FOR INNOVATIVE MOTOR
3 VEHICLES AND THE INCOME TAX CREDIT FOR INNOVATIVE TRUCKS AS A
4 TAX POLICY CHANGE DIRECTLY CAUSING A NET TAX REVENUE GAIN TO THE
5 STATE, WITH THE RESULTING ESTIMATED TAX REVENUE BEING CREDITED
6 TO THE HIGHWAY USERS TAX FUND, AND WITH AN ESTIMATE OF THE
7 RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT
8 NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?"

9 (3) FOR PURPOSES OF SECTION 1-5-407 (5)(b), THE BALLOT ISSUE
10 IS A PROPOSITION. SECTION 1-40-106 (3)(d) DOES NOT APPLY TO THE
11 BALLOT ISSUE.

12 (4) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
13 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
14 FEBRUARY 1, 2018.

15 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
16 VOTE "YES/FOR", THEN THIS SUBSECTION (4) IS REPEALED, EFFECTIVE
17 FEBRUARY 1, 2018.

18 **SECTION 6. Effective date.** (1) Except as specified in
19 subsection (2) of this section, this act takes effect upon passage.

20 (2) (a) Sections 1 through 4 of this act take effect only if, at the
21 November 2017 statewide election, a majority of the voters approve the
22 ballot issue submitted pursuant to section 39-22-516.9, Colorado Revised
23 Statutes, enacted in section 5 of this act.

24 (b) If the voters at the November 2017 statewide election approve
25 a measure described in subsection (2)(a) of this section, then sections 1
26 through 4 of this act take effect on the date of the official declaration of
27 the vote thereon by the governor.

1 **SECTION 7. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.