

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0067.02 Sarah Lozano x3858

HOUSE BILL 22-1361

HOUSE SPONSORSHIP

Boesenecker,

SENATE SPONSORSHIP

(None),

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENHANCE OVERSIGHT OF OIL AND GAS
102 OPERATIONS WITHIN THE STATE.

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 requires:

- No later than January 1, 2023, the oil and gas conservation commission (commission) to promulgate rules to require an oil and gas operator to conduct meter certification and calibration on an annual basis and submit an annual report to the commission that describes the results of that meter

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

- certification and calibration;
- No later than February 1, 2025, the state auditor to select a random sample of operators (random sample) and provide the list of operators in the random sample to the commission, the executive director of the department of revenue (executive director), and the division of administration in the department of public health and environment (division);
- No later than April 15, 2025, the commission, executive director, and division to submit certain reporting information for the operators in the random sample for calendar year 2023 and other information to the state auditor;
- No later than May 1, 2025, the state auditor to commence conducting or cause to be conducted a performance audit based on the information submitted by the commission, the executive director, and the division; and
- No later than March 1, 2026, the state auditor to prepare a report and recommendations based on the performance audit, which the state auditor will present to the legislative audit committee.

The bill also establishes a maximum penalty of \$1,000 per day per violation for oil and gas operators in relation to violations related to the filing of air pollution emission notices with the division.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
 3 hereby finds and declares that:

4 (a) The office of the state auditor found substantial
 5 noncompliance and areas for improvement for oil and gas reporting in its
 6 January 2020 severance tax performance audit and its September 2021 oil
 7 and gas production reporting;

8 (b) The oil and gas industry is an important source of revenue to
 9 fund operations of the department of natural resources and Colorado oil
 10 and gas conservation commission and to provide revenue to impacted
 11 local governments;

1 (c) Recent instances of noncompliance with legal requirements
2 and related enforcement actions have demonstrated the need for the office
3 of the state auditor to conduct a performance audit of oil and gas
4 reporting; and

5 (d) The state and its citizens have a strong interest in ensuring that
6 the information provided through oil and gas reporting is accurate and
7 provided in a timely manner.

8 (2) The general assembly declares that the purpose of this act is
9 to ensure proper reporting related to oil and gas extraction through a
10 performance audit conducted by the state auditor.

11 **SECTION 2.** In Colorado Revised Statutes, **add 2-3-128** as
12 follows:

13 **2-3-128. Oil and gas - performance audit - report - definitions**
14 **- repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "COMMISSION" MEANS THE OIL AND GAS CONSERVATION
17 COMMISSION CREATED IN SECTION 34-60-104.3 (1).

18 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

19 (c) "DIVISION" MEANS THE DIVISION OF ADMINISTRATION IN THE
20 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

21 (d) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
22 34-60-103 (6.8).

23 (e) "RANDOM SAMPLE" MEANS THE GROUP OF OPERATORS THAT
24 ARE RANDOMLY SELECTED BY THE STATE AUDITOR PURSUANT TO
25 SUBSECTION (2)(a) OF THIS SECTION.

26 (2) NO LATER THAN FEBRUARY 1, 2025, THE STATE AUDITOR
27 SHALL:

1 (a) SELECT A RANDOM SAMPLE OF OPERATORS IN THE STATE FOR
2 WHICH THE SAMPLE SIZE MUST BE REPRESENTATIVE OF THE TOTAL
3 POPULATION OF OPERATORS IN THE STATE IN THE 2023 CALENDAR YEAR;
4 AND

5 (b) PROVIDE THE LIST OF OPERATORS SELECTED PURSUANT TO
6 SUBSECTION (2)(a) OF THIS SECTION TO THE COMMISSION, THE
7 DEPARTMENT, AND THE DIVISION.

8 (3) NO LATER THAN MAY 1, 2025, THE STATE AUDITOR SHALL
9 COMMENCE CONDUCTING OR CAUSE TO BE CONDUCTED A PERFORMANCE
10 AUDIT BASED ON THE REPORTS SUBMITTED BY THE COMMISSION UNDER
11 SECTION 34-60-106 (21), BY THE EXECUTIVE DIRECTOR OF THE
12 DEPARTMENT UNDER SECTION 39-29-112 (8), AND BY THE DIVISION UNDER
13 SECTION 25-7-132 (2). ON OR BEFORE MARCH 1, 2026, THE STATE
14 AUDITOR SHALL PREPARE A REPORT AND RECOMMENDATIONS BASED ON
15 THE AUDIT THAT MUST:

16 (a) FOR THE RANDOM SAMPLE:

17 (I) COMPARE THE MONTHLY PRODUCTION REPORTS, QUARTERLY
18 CONSERVATION LEVIES, AND QUARTERLY CALIBRATION REPORTS
19 SUBMITTED BY THE COMMISSION PURSUANT TO SECTION 34-60-106
20 (21)(b)(I) WITH THE SEVERANCE TAX MONTHLY WITHHOLDING
21 STATEMENTS AND ANNUAL SEVERANCE TAX REPORTS SUBMITTED BY THE
22 DEPARTMENT PURSUANT TO SECTION 39-29-112 (8)(b)(I);

23 (II) COMPARE THE EMISSIONS DATA SUBMITTED BY THE
24 COMMISSION PURSUANT TO SECTION 34-60-106 (21)(b)(I) WITH THE OIL
25 AND NATURAL GAS EMISSIONS INVENTORY REPORTS SUBMITTED BY THE
26 DIVISION PURSUANT TO SECTION 25-7-132 (2); AND

27 (III) IDENTIFY ANY GAPS OR INCONSISTENCIES IN THE PAYMENTS

1 AND REPORTING DESCRIBED UNDER SUBSECTIONS (3)(a)(I) AND (3)(a)(II)
2 OF THIS SECTION.

3 (b) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
4 OPERATORS IN THE STATE:

5 (I) DESCRIBE THE TOTAL AMOUNT OF MISSING, INCOMPLETE, OR
6 INCORRECT REPORTS DUE OR SUBMITTED FOR THE 2023 CALENDAR YEAR,
7 AS IDENTIFIED BY THE COMMISSION PURSUANT TO SECTION 34-60-106
8 (21)(b)(II) AND THE DEPARTMENT PURSUANT TO SECTION 39-29-112
9 (8)(b)(II); AND

10 (II) DESCRIBE THE TOTAL AMOUNT OF PENALTIES ASSESSED FOR
11 CALENDAR YEAR 2023, AS IDENTIFIED BY THE COMMISSION PURSUANT TO
12 SECTION 34-60-106 (21)(b)(IV) AND THE DEPARTMENT PURSUANT TO
13 SECTION 39-29-112 (8)(b)(III), WITH THE DATA BROKEN DOWN BY:

14 (A) TYPE OF VIOLATION;

15 (B) PENALTY AMOUNT ASSESSED AGAINST A PERSON FOR THE
16 VIOLATION; AND

17 (C) STATE AGENCY THAT ASSESSED THE VIOLATION.

18 (4) NO LATER THAN MARCH 1, 2026, THE STATE AUDITOR SHALL
19 PRESENT THE REPORT AND RECOMMENDATIONS DESCRIBED IN SUBSECTION
20 (3) OF THIS SECTION TO THE COMMITTEE.

21 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

22 **SECTION 3.** In Colorado Revised Statutes, **amend** 25-7-132 as
23 follows:

24 **25-7-132. Emission data - public availability - submission of**
25 **2023 reports to state auditor - definitions - repeal.**

26 (1) Notwithstanding any other provisions of this ~~article~~ ARTICLE 7 or any
27 other law to the contrary, all emission data received or obtained by the

1 commission or the division shall be available to the public to the extent
2 required by the federal act.

3 (2) (a) AS USED IN THIS SUBSECTION (2), UNLESS THE CONTEXT
4 OTHERWISE REQUIRES:

5 (I) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
6 34-60-103 (6.8).

7 (II) "RANDOM SAMPLE" HAS THE MEANING SET FORTH IN SECTION
8 2-3-128 (1)(e).

9 (b) ON OR BEFORE APRIL 15, 2025, THE DIVISION SHALL SUBMIT TO
10 THE STATE AUDITOR THE OIL AND NATURAL GAS EMISSIONS INVENTORY
11 REPORTS, AS REQUIRED TO BE SUBMITTED BY RULE OF THE COMMISSION,
12 FILED FOR CALENDAR YEAR 2023 BY THE OPERATORS INCLUDED IN THE
13 RANDOM SAMPLE.

14 (c) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2026.

15 **SECTION 4.** In Colorado Revised Statutes, 25-7-122, **amend**
16 (1)(c) as follows:

17 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
18 application of the division, the division may collect penalties as
19 determined under this article 7 by instituting an action in the district court
20 for the district in which the air pollution source affected is located, in
21 accordance with the following provisions:

22 (c) (I) Any person failing to comply with ~~the provisions of section~~
23 25-7-114.1 ~~shall be~~ IS subject to a civil penalty of not more than five
24 hundred dollars.

25 (II) ANY OPERATOR, AS DEFINED IN SECTION 34-60-103 (6.8),
26 FAILING TO COMPLY WITH SECTION 25-7-114.1 IS SUBJECT TO A CIVIL
27 PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS PER DAY PER

1 VIOLATION.

2 **SECTION 5.** In Colorado Revised Statutes, 34-60-106, **amend**
3 (11)(b)(II); and **add** (21) as follows:

4 **34-60-106. Additional powers of commission - rules -**
5 **definitions - repeal.** (11) (b) (II) (A) By January 1, 2008, the
6 commission shall promulgate rules to ensure the accuracy of oil and gas
7 production reporting by establishing standards for wellhead oil and gas
8 measurement and reporting. At a minimum, the rules ~~shall~~ **MUST** address
9 engineering standards, heating value, specific gravity, pressure,
10 temperature, meter certification and calibration, and methodology for
11 sales reconciliation to wellhead meters. The rules ~~shall~~ **MUST** be
12 consistent with standards established by the American Society for Testing
13 and Materials, the American Petroleum Institute, the Gas Processors
14 Association, or other applicable standards-setting organizations, and shall
15 not affect contractual rights or obligations.

16 (B) NO LATER THAN JANUARY 1, 2023, THE COMMISSION SHALL
17 PROMULGATE RULES THAT REQUIRE AN OPERATOR TO CONDUCT METER
18 CERTIFICATION AND CALIBRATION ON AN ANNUAL BASIS AND SUBMIT AN
19 ANNUAL REPORT THAT DESCRIBES THE RESULTS OF THE METER
20 CERTIFICATION AND CALIBRATION TO THE COMMISSION.

21 (21) (a) AS USED IN THIS SUBSECTION (21), UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

23 (I) "OIL AND GAS REPORTS" MEANS THE TYPES OF REPORTS
24 DESCRIBED IN SUBSECTION (21)(b)(I) OF THIS SECTION.

25 (II) "RANDOM SAMPLE" HAS THE MEANING SET FORTH IN SECTION
26 2-3-128 (1)(e).

27 (b) ON OR BEFORE APRIL 15, 2025, THE COMMISSION SHALL

1 SUBMIT A REPORT TO THE STATE AUDITOR THAT INCLUDES:
2 (I) THE FOLLOWING REPORTS FILED FOR THE 2023 CALENDAR YEAR
3 BY THE OPERATORS INCLUDED IN THE RANDOM SAMPLE:
4 (A) MONTHLY PRODUCTION REPORTS;
5 (B) QUARTERLY CONSERVATION LEVIES;
6 (C) ANNUAL CALIBRATION REPORTS;
7 (D) MECHANICAL INTEGRITY TESTS; AND
8 (E) ANY REPORTING OF EMISSIONS DATA, INCLUDING OIL AND GAS
9 LOCATION ASSESSMENTS AND CUMULATIVE IMPACT DATA
10 IDENTIFICATIONS;
11 (II) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
12 OPERATORS IN THE STATE, A DESCRIPTION OF ANY MISSING OIL AND GAS
13 REPORTS DUE FOR THE 2023 CALENDAR YEAR OR INCOMPLETE OR
14 INCORRECT OIL AND GAS REPORTS THAT WERE ACCEPTED FOR THE 2023
15 CALENDAR YEAR WITHOUT A REQUEST FOR COMPLETION OR CORRECTION;
16 (III) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
17 OPERATORS IN THE STATE, A COPY OF ANY NOTICES GIVEN BY THE
18 COMMISSION TO AN OPERATOR PURSUANT TO SECTION 34-60-121 (4) FOR
19 THE 2023 CALENDAR YEAR; AND
20 (IV) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
21 OPERATORS IN THE STATE, A DESCRIPTION OF ANY PENALTIES ASSESSED
22 FOR THE 2023 CALENDAR YEAR, WITH THE DATA BROKEN DOWN BY:
23 (A) TYPE OF VIOLATION; AND
24 (B) PENALTY AMOUNT ASSESSED AGAINST A PERSON FOR THE
25 VIOLATION.
26 (c) THE COMMISSION SHALL PUBLISH THE REPORT SUBMITTED TO
27 THE STATE AUDITOR PURSUANT TO SUBSECTION (21)(b) OF THIS SECTION

1 ON ITS WEBSITE.

2 (d) THE COMMISSION SHALL PROVIDE ANY ADDITIONAL
3 INFORMATION THAT THE STATE AUDITOR REQUESTS PURSUANT TO SECTION
4 2-3-128.

5 (e) THIS SUBSECTION (21) IS REPEALED, EFFECTIVE JULY 1, 2026.

6 **SECTION 6.** In Colorado Revised Statutes, 39-29-112, **add** (8)
7 as follows:

8 **39-29-112. Procedures and reports - definitions - repeal.**

9 (8) (a) AS USED IN THIS SUBSECTION (8), UNLESS THE CONTEXT
10 OTHERWISE REQUIRES:

11 (I) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
12 34-60-103 (6.8).

13 (II) "RANDOM SAMPLE" HAS THE MEANING SET FORTH IN SECTION
14 2-3-128 (1)(e).

15 (b) ON OR BEFORE APRIL 15, 2025, THE EXECUTIVE DIRECTOR
16 SHALL SUBMIT A REPORT TO THE STATE AUDITOR THAT INCLUDES:

17 (I) THE SEVERANCE TAX MONTHLY WITHHOLDING STATEMENTS
18 AND ANNUAL SEVERANCE TAX REPORTS FILED FOR THE 2023 CALENDAR
19 YEAR BY THE OPERATORS INCLUDED IN THE RANDOM SAMPLE;

20 (II) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
21 OPERATORS IN THE STATE, A DESCRIPTION OF ANY MISSING SEVERANCE
22 TAX MONTHLY WITHHOLDING STATEMENTS AND ANNUAL SEVERANCE TAX
23 REPORTS DUE FOR THE 2023 CALENDAR YEAR OR INCOMPLETE OR
24 INCORRECT SEVERANCE TAX MONTHLY WITHHOLDING STATEMENTS AND
25 ANNUAL SEVERANCE TAX REPORTS THAT WERE ACCEPTED FOR THE 2023
26 CALENDAR YEAR WITHOUT A REQUEST FOR COMPLETION OR CORRECTION;
27 AND

1 (III) FOR THE RANDOM SAMPLE AND THE TOTAL POPULATION OF
2 OPERATORS IN THE STATE, A DESCRIPTION OF ANY PENALTIES ASSESSED
3 FOR THE 2023 CALENDAR YEAR FOR MISSING, INCOMPLETE, OR INCORRECT
4 SEVERANCE TAX MONTHLY WITHHOLDING STATEMENTS AND ANNUAL
5 SEVERANCE TAX REPORTS, WITH THE DATA BROKEN DOWN BY:

6 (A) TYPE OF VIOLATION; AND

7 (B) PENALTY AMOUNT ASSESSED AGAINST A PERSON FOR THE
8 VIOLATION.

9 (c) THE EXECUTIVE DIRECTOR SHALL PUBLISH THE REPORT
10 SUBMITTED TO THE STATE AUDITOR PURSUANT TO SUBSECTION (8)(b) OF
11 THIS SECTION ON THE DEPARTMENT OF REVENUE'S WEBSITE.

12 (d) THE EXECUTIVE DIRECTOR SHALL PROVIDE THE STATE AUDITOR
13 WITH ANY ADDITIONAL INFORMATION THAT THE STATE AUDITOR REQUESTS
14 UNDER SECTION 2-3-128.

15 (e) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2026.

16 **SECTION 7.** In Colorado Revised Statutes, 39-21-113, **add** (31)
17 as follows:

18 **39-21-113. Reports and returns - rule.** (31) NOTWITHSTANDING
19 THE CONFIDENTIALITY REQUIREMENTS IN THIS SECTION, THE EXECUTIVE
20 DIRECTOR SHALL PROVIDE THE STATE AUDITOR WITH THE INFORMATION
21 DESCRIBED IN SECTION 39-29-112 (8)(b).

22 **SECTION 8. Effective date - applicability.** This act takes effect
23 July 1, 2022, and applies to conduct occurring on or after the effective
24 date of this act.

25 **SECTION 9. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.