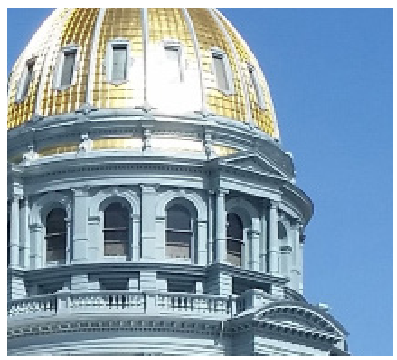
2021

Report to the Colorado General Assembly

Legislative Oversight Committee Concerning Tax Policy



Prepared by Legislative Council Staff
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December 2021

Legislative Oversight Committee Concerning Tax Policy

Members of the Committee

Representative Adrienne Benavidez, Chair
Senator Chris Hansen, Vice-Chair

Senator Chris Kolker
Senator Larry Liston
Representative Shannon Bird
Representative Dan Woog

Legislative Council Staff

Jeff Stupak, Senior Economist
Greg Sobetski, Deputy Chief Economist
Elizabeth Ramey, Principal Economist
David Hansen, Senior Economist
Katie Ruedebusch, Principal Research Analyst

Office of Legislative Legal Services

Ed DeCecco, Senior Attorney

December 2021

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us
303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2021

To Members of the Seventy-third General Assembly:

Submitted herewith is the final report of the Legislative Oversight Committee Concerning Tax Policy. This committee was created pursuant to Article 21 of Title 39, Colorado Revised Statutes. The purpose of this committee is to review the state's current tax policy.

At its meeting on November 15, 2021, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2022 session was approved.

Sincerely,

/s/ Senator Leroy Garcia
Chair

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This report is also available online at:

https://leg.colorado.gov/committees/legislative-oversight-committee-concerning-tax-policy-task-force/2021-regular-session

Committee Charge

The Legislative Oversight Committee Concerning Tax Policy (committee) is charged with reviewing the state's current tax policy and the evaluations of tax expenditures that are statutorily completed by the Office of the State Auditor. The committee is also charged with oversight of the Task Force Concerning Tax Policy. For purposes of the committee's work, tax policy includes:

- decisions by the state or local governments regarding taxes that have or may be levied; and
- analysis of the benefits and burdens of the state's overall tax structure with respect to the promotion of certainty, fairness, adequacy, transparency, and administrative ease.

In addition, the committee must annually define in writing the scope of tax policy to be considered for the committee and task force. For 2021, the scope of tax policy to be considered for the committee is:

- tax expenditure evaluations produced by the Office of the State Auditor, and the policy considerations contained therein;
- recommendations, proposals, and studies arising from the work of the task force; and
- other tax expenditure policy considerations arising during the work of the committee.

For 2021, the scope of tax policy to be considered for the task force is:

- applying the state income tax to federal adjusted gross income rather than federal taxable income;
- homestead exemptions for senior citizens and veterans with a disability;
- the geographic extent of enterprise zones within Colorado, and options for their continuation or discontinuation;
- property tax treatment of short term rentals; and
- options for expanding the sales and use tax to apply to services.

Committee Activities

The committee held five meetings during the 2021 interim. The committee heard presentations on tax expenditures and tax expenditure evaluation from the Tax Foundation and the Pew Charitable Trusts, as well as presentations on tax expenditures in Colorado's state budget and Taxpayers' Bill of Rights (TABOR) considerations from legislative staff. The committee also heard briefings and reviewed expenditure evaluations produced by the Office of the State Auditor (OSA).

The following sections discuss the committee's activities during the 2021 interim.

Tax Expenditure Presentations from the Tax Foundation and Pew Charitable Trusts

Representatives of the Tax Foundation and the Pew Charitable Trusts presented to the committee on tax expenditures and tax expenditure evaluation.

The Tax Foundation. The committee heard a presentation from Katherine Loughead, Senior Policy Analyst at the Tax Foundation. Ms. Loughead began by discussing the four principles of sound tax policy: simplicity, ease of administration, transparency, and neutrality. She also noted that the definition used for tax expenditures in the presentation is any provision in the tax code that results in decreased revenue. She continued by highlighting common types of tax expenditures as well as discussing structural versus preferential expenditures.

She continued by noting that tax expenditure evaluation is important. Reasons she stated include, but are not limited to, that tax expenditures:

- are not subject to an annual appropriation process;
- reduce the amount of revenue available for spending;
- may be longstanding and not evaluated often; and
- may not be the most efficient way to achieve policy goals.

In addition, Ms. Loughead discussed the effectiveness of tax expenditures and offered suggestions on questions to ask when evaluating tax expenditures. She answered questions from the committee on structural changes in sales taxes and services and broad-based, low-rate competitive tax codes.

Ms. Loughead's presentation may be found here:

https://leg.colorado.gov/sites/default/files/images/committees/2017/tax_foundation_tax_expenditure_evaluation_presentation.pdf

The Pew Charitable Trusts. The committee received a presentation from John Hamman, Principal Associate at The Pew Charitable Trusts. Mr. Hamman noted that tax expenditures cost billions of dollars a year, but that information on the value of tax expenditures may be hard to come by relative to other traditional budget expenditures. He suggested that tax expenditure evaluation is becoming a more widely used way to investigate the efficacy of tax expenditures. Thirty states now perform regular tax expenditure evaluations, versus just six states before 2013. Depending on the state, evaluations may be performed by executive branch agencies, independent agencies, outside experts, legislators, or legislative staff.

Mr. Hamman discussed what kind of information should be included in tax expenditure evaluations, and noted that Colorado's evaluations already include much of this information. One of the most important questions is whether the economic activity that benefits from a tax incentive would have occurred even in the absence of the tax incentive. Part of this can be accomplished mathematically, but it also requires evaluators to discuss business planning decisions with business owners and executives.

Mr. Hamman continued by noting that per OSA, as of August 2021, 162 tax expenditures have been evaluated to date. He stated that the OSA performs evaluations that are more comprehensive than those in most other states, and evaluations are provided directly to legislators for use in the lawmaking process. In other states, like Maryland and North Dakota, evaluations have driven major restructuring of tax expenditures.

Mr. Hamman's presentation may be found here:

https://leg.colorado.gov/sites/default/files/images/committees/2017/pew_tax_expenditure_evaluation_presentation.pdf

Presentations from the Legislative Council Staff and the Office of Legislative Legal Services

Legislative Council Staff. The committee received a presentation from Dr. Elizabeth Ramey, representing Legislative Council Staff, concerning the impacts of tax expenditures on Colorado's state budget. Dr. Ramey explained that most tax expenditures, including income and sales tax expenditures, affect General Fund revenue. She stated that the budget impact of tax expenditures depend on the state's TABOR situation. In years when the state collects a TABOR surplus, a tax expenditure reduces the amount of the TABOR surplus, with no net impact on the General Fund budget. However, in future years when the state does not collect a TABOR surplus, tax expenditures reduce the amount available for the budget.

In addition, Dr. Ramey noted that the collection of data on tax expenditures may be somewhat opaque due to transactions being entirely unreported or not sufficiently itemized. Additionally, tax expenditures with a small number of claimants cannot be reported due to statutory constraints in place to protect taxpayer confidentiality.

Finally, Dr. Ramey highlighted that the 2020 Tax Profile & Expenditure Report estimates $7.4 billion in foregone revenue for the most recent year(s) for which data are available (2018 or 2019 depending on the revenue stream). That amount includes $5.4 billion in sales and use tax expenditures, $1.6 billion in income tax expenditures, $0.4 billion in severance tax expenditures, $0.1 billion in fuel excise tax expenditures, and $0.01 billion in cigarette and tobacco tax expenditures. She noted that most of the revenue loss is attributable to structural tax expenditures. For example, goods are subject to tax when sold at retail, so wholesale sales are exempt from taxation. The largest preferential tax expenditures include the pension and annuity deduction and the ad valorem credit allowed against severance tax.

Dr. Ramey's presentation may be found here:

https://leg.colorado.gov/sites/default/files/images/committees/2017/lcs_tax_expenditures_in_the_budget_presentation.pdf

Office of Legislative Legal Services. Mr. Ed DeCecco, representing the Office of Legislative Legal Services presented to the committee on the Taxpayers' Bill of Rights (TABOR). He noted that taxes are intended to raise revenues to defray the general expenses of government. He stated that TABOR requires voter approval for certain tax changes: a new tax, tax rate increase, certain mill levies valuation for assessment ratio increase for a property class, extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain.

Examples of voter approval requirements for a new tax include Proposition AA (retail marijuana sales and excise taxes), Proposition DD (sports betting tax), and Proposition EE (nicotine products tax). Examples of voter approval requirements for a tax rate increase include Amendment 35 and Proposition EE which each increased tax rates on cigarettes and other tobacco products.

Mr. DeCecco also discussed the events that may not require voter approval: tax rate decrease, new tax expenditures, and temporary expenditures or rate changes that return to present rates/bases after a certain amount of time. He indicated that the committee may wish to approach whether a change requires voter to approval by asking the question, "Does the change relate to the imposition of a tax being created, repealed, or amended in a manner that results in a modification of the standards or rules governing the imposition of the tax?" If so, then the committee may be discussing a tax policy change.

Mr. DeCecco's presentation may be found here:

https://leg.colorado.gov/sites/default/files/images/committees/2017/olls_tabor_presentation.pdf

Tax Expenditure Evaluations from the Office of the State Auditor

Representatives of the OSA presented to the committee on their tax expenditure evaluation reports with policy considerations. OSA highlighted several categories of expenditures, including: income tax, excise tax, insurance, and sales and use tax. In total, the OSA presented on 32 tax expenditures to the committee. Information on the tax expenditure evaluation reports covered may be found here:

https://leg.colorado.gov/sites/default/files/images/committees/2017/osa_policy_considerations_for_tax_policy_committee_8.2021.pdf

Committee recommendations. Overall, as a result of the committee's discussions with the OSA, the committee recommends Bill B, which eliminates several tax expenditures from the state's insurance premium tax, income tax, sales and use tax, and the liquor excise tax.

Income tax-related expenditures. The OSA presented on the following income tax-related expenditures:

- mass transit and ridesharing expenses deduction;
- old and new investment tax credits;
- new plastic recycling technology investment tax credit;
- crop and livestock contribution corporate income tax credit;
- state-employed chaplains housing allowance;
- alternative income tax;
- deduction for wages and salaries due to Internal Revenue Code 280C;
- previously taxed income or gain deduction for C corporations;
- previously taxed income deduction for individuals, estates, and trusts; and
- state income tax refund deductions for individuals, estates, and trusts.

Committee recommendations. As a result of its discussions, the committee recommends Bill A, which eliminates the current corporate income tax deduction for expenses incurred to provide alternative means of transportation for employees, and replaces this deduction with a new refundable tax credit equal to 50 percent of expenditures incurred by employers to provide alternative transportation options to their employees.

Excise tax-related expenditures. The OSA also presented on the following excise tax-related expenditures:

- sacramental wines excise tax exemption;
- exemption for alcoholic beverages originating outside the U.S.;
- excise tax credit for unsalable alcoholic beverages; and
- occasional sale of liquor by public auction.

Committee recommendations. As a result of the committee's discussion of excise tax-related expenditures, the committee recommends Bill D, which expands the current excise tax exemption for alcohol brought by air passengers into the state from a foreign country.

Insurance premium tax. In addition, the OSA presented on the following insurance premium tax expenditures:

- crop hail insurance premium tax exemption;
- in-state investment pre-1959 premium tax deduction; and
- unauthorized insurance premium tax expenditures.

Sales and use tax-related expenditures. Finally, the OSA ended their presentations by discussing the following sales and use tax expenditures:

- construction and building materials exemption;
- school sales exemptions;
- food service employer-provided meals exemption;
- prefabricated homes exemptions;
- farm close-out sales tax exemption;
- sales to charitable organizations exemption;
- complimentary marketing property to out-of-state vendees exemptions;
- materials used in ore manufacturing and processing exemption;
- aircraft used in interstate commerce exemption;
- precious metal bullion and coin exemption;
- food for home consumption and retirement communities exemption;
- food ingredients exemption;
- machinery used in manufacturing exemption; and
- pre-press printing exemption.

Committee recommendations. As a result of its discussion, the committee recommends Bill C and Bill E. Bill C requires home rule municipalities to exempt sales of construction and building materials used in public school construction to contractors and subcontractors. Bill E excludes vehicles subject to state registration requirements from the farm close-out sales tax exemption.

Summary of Recommendations

As a result of the committee's activities, it recommended five bills to the Legislative Council for consideration in the 2022 session. At its meeting on November 15, 2021, the Legislative Council approved all five recommended bills for introduction. The approved bills are described below.

Bill A — Alternative Transportation Options Credit

The bill eliminates the current corporate income tax deduction for expenses incurred to provide alternative means of transportation for employees, and replaces this deduction with a new refundable tax credit equal to 50 percent of expenditures incurred by employers to provide alternative transportation options to their employees beginning in 2023. The tax credit is set to expire at the end of 2032.

Bill B — Repeal of Infrequently Used Tax Expenditures

The bill eliminates several tax expenditures from the state's insurance premium tax, income tax, sales and use tax, and the liquor excise tax, including:

- the exemption from the insurance premium tax for educational and scientific institution life insurance effective upon passage of the bill;
- the alternative minimum income tax based on annual gross receipts from sales in or into the state as of January 1, 2023;
- the income tax credit for investment in technologies for recycling plastics as of January 1, 2023;
- the income tax credit for crop or livestock contributions to a charitable organization as of January 1, 2023;
- the income tax deduction for income or gain for a C corporation that was taxed prior to 1965 as of January 1, 2023;
- the income tax credits for qualifying investments as of January 1, 2023;
- the sales and use tax exemption for the transfer of complimentary promotional materials to an out-of-state vendee as of January 1, 2023;
- the requirement that a portion of a state-employed chaplain's salary is designated as a rental allowance effective upon passage of the bill; and
- the excise tax exemption for sacramental wines sold and used for religious purposes effective upon passage of the bill.

Bill C — Sales and Use Tax Exemption for Public School Construction

The bill requires home rule municipalities to exempt sales of construction and building materials used in public school construction to contractors and subcontractors.

Bill D — Increase Alcohol Beverage Excise Tax Exemption

The bill expands the current excise tax exemption for alcohol brought by air passengers into the state from a foreign country from up to one gallon, or four liters to:

- 2.25 gallons of malt liquor or hard cider;
- 9 liters of vinous liquor; and
- 6 liters of spirituous liquor.

Bill E — Farm Close-out Exemption Exclude Motor Vehicles

The bill excludes vehicles subject to state registration requirements from the farm close-out sales tax exemption.

Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to each entity. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of commission and subcommittee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

https://leg.colorado.gov/content/committees
https://leg.colorado.gov/committees/legislative-oversight-committee-concerning-tax-policy-task-force/2021-regular-session

Meeting Date and Topics Discussed

August 9, 2021

- Introductions
- Opening remarks and committee plans
- Introduction to tax expenditure evaluations
- Scope of tax policy to be considered
- Next steps

August 24, 2021

- Tax expenditure and tax expenditure evaluation
- Tax expenditures in the Colorado's state budget
- TABOR considerations
- Written scope of tax policy for committee and task force
- Tax expenditure policy considerations: income tax

August 27, 2021

- Tax expenditure policy considerations: excise tax
- Tax expenditure policy considerations: insurance premium tax
- Tax expenditure policy considerations: sales and use tax

September 14, 2021

- Public testimony
- Committee discussion of bill draft requests

October 27, 2021

- Public testimony
- Committee discussion: consideration of bill draft requests
- Committee discussion: referral of bills to Legislative Council

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

BILL A

LLS NO. 22-0161.01 Jason Gelender x4330 **HOUSE BILL**

HOUSE SPONSORSHIP

Bird and Woog, Benavidez

SENATE SPONSORSHIP

Hansen and Liston, Kolker

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING THE REPLACEMENT OF THE INCOME TAX DEDUCTION FOR AMOUNTS SPENT BY AN EMPLOYER TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO EMPLOYEES WITH AN INCOME TAX CREDIT FOR AMOUNTS SPENT BY AN EMPLOYER FOR THAT PURPOSE.

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 replaces an existing income tax deduction for expenses incurred by

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.

employers when providing alternative transportation options to employees with a refundable income tax credit of 50% of such expenses for such employers. The credit is allowed for income tax years beginning on or after January 1, 2023, but before January 1, 2033.

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

SECTION 1. In Colorado Revised Statutes, **amend** 39-22-509 as follows:

39-22-509. Credit against tax - employer expenditures for alternative transportation options for employees - legislative declaration - definitions. (1) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE GENERAL LEGISLATIVE PURPOSES OF THE TAX CREDIT ALLOWED BY THIS SECTION ARE:

(I) TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PROVISION OF ALTERNATIVE TRANSPORTATION OPTIONS BY EMPLOYERS TO EMPLOYEES; AND

(II) TO PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES, SPECIFICALLY EMPLOYERS THAT PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO THEIR EMPLOYEES;

(b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT ALLOWED BY THIS SECTION IS TO INCREASE THE USE OF ALTERNATIVE TRANSPORTATION OPTIONS BY EMPLOYEES IN GOING TO AND RETURNING FROM THEIR PLACES OF EMPLOYMENT BY PROVIDING AN INCENTIVE TO EMPLOYERS TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO

EMPLOYEES. IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE DEPARTMENT OF REVENUE, WHEN ADMINISTERING THE CREDIT, SHALL REQUIRE EACH EMPLOYER THAT CLAIMS THE CREDIT TO PROVIDE, AT A MINIMUM, INFORMATION ABOUT THE SPECIFIC ALTERNATIVE TRANSPORTATION OPTIONS OFFERED, THE NUMBER OF EMPLOYEES OFFERED AN ALTERNATIVE TRANSPORTATION OPTION, AND, TO THE EXTENT FEASIBLE, THE NUMBER OF EMPLOYEES ACTUALLY USING AN ALTERNATIVE TRANSPORTATION OPTION AND THE NUMBER OF TRIPS TAKEN BY EMPLOYEES USING AN ALTERNATIVE TRANSPORTATION OPTION.

~~(1)~~ (2) ~~There shall be allowed to corporate employers a deduction from Colorado gross income, to the extent not previously deducted in arriving at Colorado gross income, equal to the employer's contribution to:~~ AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ALTERNATIVE TRANSPORTATION OPTIONS" MEANS free or partially subsidized ridesharing arrangements for employees, including, but not limited ~~to, providing~~ TO:

(I) PROVIDING vehicles for such ~~arrangements, cash incentives (not~~ ARRANGEMENTS;

(II) CASH INCENTIVES, NOT to exceed the value of such ~~transportation)~~ ARRANGEMENTS, for participation in ridesharing ~~arrangements, and the~~ ARRANGEMENTS;

(III) THE payment of all or part of the administrative cost incurred in organizing, establishing, or administering a ridesharing program FOR EMPLOYEES; AND

(IV) FREE OR PARTIALLY SUBSIDIZED MASS TRANSIT TICKETS, TOKENS, PASSES, OR FARES FOR USE BY EMPLOYEES IN GOING TO AND

RETURNING FROM THEIR PLACES OF EMPLOYMENT.

(b) "EMPLOYER" MEANS AN ENTITY, INCLUDING BUT NOT LIMITED TO A CORPORATION, PARTNERSHIP, JOINT VENTURE, COMMON TRUST FUND, LIMITED ASSOCIATION, POOL OR WORKING AGREEMENT, OR LIMITED LIABILITY COMPANY, THAT EMPLOYS ONE OR MORE PERSONS IN THIS STATE.

~~(II)~~ (c) ~~For the purposes of this section,~~ "Ridesharing arrangement" means the vehicular transportation of passengers traveling together primarily to and from such passengers' places of business or work or traveling together on a regularly scheduled basis with a commonality of purposes if the vehicle used in such transportation is not operated for profit by an entity primarily engaged in the transportation business and if no charge is made therefor other than that reasonably calculated to recover the direct and indirect costs of the "ridesharing arrangement", including, but not limited to, a reasonable incentive to maximize occupancy of the vehicle. However, nothing in this ~~subparagraph (II) shall be construed as excluding~~ SUBSECTION (2)(c) EXCLUDES from this definition an arrangement by an employer engaged in the transportation business ~~who~~ THAT provides ridesharing arrangements for its employees. ~~The term~~ "RIDESHARING" includes "ridesharing arrangements" commonly known as carpools and vanpools, ~~except that this term~~ BUT does not include school transportation vehicles operated by elementary and secondary schools when they are operated for the transportation of children to or from school or on school-related events.

~~(b) Free or partially subsidized mass transit tickets, tokens, passes, or fares for use by employees in going to and returning from their places~~

~~of employment.~~

(3) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2033, THERE IS ALLOWED A CREDIT TO EACH EMPLOYER IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT SPENT BY THE EMPLOYER TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO SOME OR ALL OF ITS EMPLOYEES.

(4) THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SECTION THAT EXCEEDS THE EMPLOYER'S INCOME TAXES DUE IS REFUNDED TO THE EMPLOYER.

(5) THE EXECUTIVE DIRECTOR MAY PRESCRIBE FORMS AND PROMULGATE RULES AS NECESSARY TO ADMINISTER THIS SECTION.

(6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2037.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect January 1, 2023, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

BILL B

LLS NO. 22-0162.01 Ed DeCecco x4216 **HOUSE BILL**

HOUSE SPONSORSHIP

Benavidez,

SENATE SPONSORSHIP

Kolker, Hansen

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING THE REPEAL OF INFREQUENTLY USED TAX 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 tax expenditures:

- The exemption from the insurance premium tax for educational and scientific institution life insurance (**section 1** of the bill);
- The alternative minimum income tax based on annual gross

receipts from sales in or into the state (**sections 2 and 4**);

- The income tax credit for investment in technologies for recycling plastics (**section 3**);
- The income tax credit for crop or livestock contributions to a charitable organization (**section 4**);
- The income tax deduction for income or gain for a C corporation that was taxed prior to 1965, to the extent it is included in current taxable income (**section 5**);
- Income tax credits for qualifying investments (**sections 6 and 7**);
- The sales and use tax exemption for the transfer of complimentary promotional materials to an out-of-state vendee (**section 8**);
- The requirement that a portion of a state-employed chaplain's salary is designated as a rental allowance (**section 9**); and
- The excise tax exemption for sacramental wines sold and used for religious purposes (**section 12**). This section also specifies that a religious organization that distributes sacramental wines for religious purposes is not subject to licensing and other regulatory requirements.

Sections 10 and 11 make conforming amendments.

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

SECTION 1. In Colorado Revised Statutes, 10-3-910, **repeal** (3) as follows:

10-3-910. Application of this part 9. (3) ~~This part 9 shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts directly from the home office of the company and without agents or representatives in this state only to or for the benefit of such institutions and to individuals engaged in the services of such institutions, nor to any policy or contract which it issues; but this exemption is conditioned upon any such company complying with the~~

~~following requirements:~~

~~(a) Payment of an annual registration fee of five thousand dollars; except that the commissioner by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commissioner by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.~~

~~(b) Filing a copy of any policy or contract issued to Colorado residents with the commissioner;~~

~~(c) Filing a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested with the commissioner; and~~

~~(d) Providing, in such form as may be acceptable to the commissioner, for the appointment of the commissioner as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Colorado citizen, and process so served against such company shall have the same force and validity as if served upon the company.~~

SECTION 2. In Colorado Revised Statutes, 39-22-104, **amend** (5) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - legislative declaration - definitions - repeal. (5) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2023, any person who is required by the terms of this ~~article~~ ARTICLE

22 to file a return whose only activities in Colorado consist of making sales, who does not own or rent real estate within the state of Colorado, and whose annual gross sales in or into this state amount to not more than one hundred thousand dollars may elect to pay a tax of one-half of one percent of his annual gross receipts derived from sales in or into Colorado in lieu of paying an income tax.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 3. In Colorado Revised Statutes, 39-22-114.5, **amend** (1); and **add** (4) as follows:

39-22-114.5. Tax credit for investment in technologies for recycling plastics - repeal. (1) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2023, there shall be allowed to each resident individual, as a credit against the income taxes imposed by this ~~article~~ ARTICLE 22, a plastic recycling credit equal to twenty percent of net expenditures to third parties for rent, wages, supplies, consumable tools, equipment, test inventory, and utilities up to ten thousand dollars made by the taxpayer for new plastic recycling technology in Colorado, with a maximum credit of two thousand dollars. The tax credit allowed in this section shall be applicable only to income related to the expenditures described in this subsection (1).

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2029.

SECTION 4. In Colorado Revised Statutes, 39-22-301, **amend** (2) and (3)(b); and **add** (3)(e) as follows:

39-22-301. Corporate tax imposed. (2) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2023, any corporation which is required by the terms of this ~~article~~ ARTICLE 22 to file a return, and whose only activities in Colorado consist of making sales, and which does not own or rent real estate within the state of Colorado, and whose annual gross sales in or into this state amount to not more than one hundred thousand dollars may elect to pay a tax of one-half of one percent of its annual gross receipts derived from sales in or into Colorado in lieu of paying an income tax.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2025.

(3) (b) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2023, there shall be allowed to taxpayers, as a credit with respect to the income taxes imposed by this part 3, an amount equal to twenty-five percent of the wholesale market price or twenty-five percent of the most recent sale price of crop contributions or livestock contributions, or both, made to a tax-exempt charitable organization. Credit, as provided for in this subsection (3), may not exceed one thousand dollars per tax year.

(e) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2029.

SECTION 5. In Colorado Revised Statutes, 39-22-304, **amend** (3)(e) as follows:

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

(e) (I) FOR AN INCOME TAX YEAR COMMENCING PRIOR TO JANUARY 1, 2023, the amount necessary to prevent the taxation under this ~~article~~ ARTICLE 22 of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state, for a taxable year prior to January 1, 1965, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(II) THIS SUBSECTION (3)(e) IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 6. In Colorado Revised Statutes, 39-22-507.5, **amend** (1) introductory portion; and **add** (13) as follows:

39-22-507.5. Credits against tax - investment in certain property - repeal. (1) Except as otherwise provided in this section, there shall be allowed to any person as a credit against the tax imposed by this ~~article~~ ARTICLE 22, for income tax years commencing on or after January 1, 1979, BUT PRIOR TO JANUARY 1, 2023, an amount equal to the total of:

(13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

SECTION 7. In Colorado Revised Statutes, 39-22-507.6, **amend** (1) introductory portion; and **add** (7) as follows:

39-22-507.6. Credits against corporate tax - investment in certain property - repeal. (1) Except as otherwise provided in this section, there shall be allowed to any person as a credit against the tax imposed by part 3 of this ~~article~~ ARTICLE 22, for income tax years commencing on or after January 1, 1988, BUT PRIOR TO JANUARY 1, 2023, an amount equal to the total of:

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 8. In Colorado Revised Statutes, 39-26-713, **amend** (1) introductory portion and (2)(h); and **repeal** (1)(b) and (2)(i) as follows:

39-26-713. Tangible personal property. (1) The following shall be exempt from taxation under the provisions of part 1 of this ~~article~~ ARTICLE 22:

(b) ~~The transfer of tangible personal property without consideration, other than the purchase, sale, or promotion of the transferor's product, to an out-of-state vendee for use outside of this state~~

~~in selling products normally sold at wholesale by the transferor;~~

(2) The following are exempt from taxation under part 2 of this article 26:

(h) The storage, use, or consumption of tangible personal property purchased by a resident of Colorado while outside the state in amounts of one hundred dollars or less; AND

(i) ~~The storage, use, or consumption of tangible personal property that is thereafter transferred to an out-of-state vendee without consideration, other than the purchase, sale, or promotion of the transferor's product, for use outside of this state in selling products normally sold at wholesale by the corporation or person storing, using, or consuming said property; and~~

SECTION 9. In Colorado Revised Statutes, **repeal** 39-22-510 as follows:

39-22-510. State-employed chaplains - designation of rental allowance. ~~(1) In the case of a chaplain, "salary" means the amount of money or credit received as compensation for services rendered, exclusive of mileage, traveling allowances, and other sums received for actual and necessary expenses incurred in the performance of the state's business.~~

~~(2) The state of Colorado, being a tax-exempt entity, designates a portion of the annual compensation of every chaplain who is employed full-time by this state, in the amount of four thousand two hundred dollars, as the payment of a rental allowance for the purpose of renting or providing a home for the chaplain and his family when such rent or home is not provided by the state.~~

SECTION 10. In Colorado Revised Statutes, 39-22-517, **amend**

(1) and (2) as follows:

39-22-517. Tax credit for child care center investments. (1) With respect to taxable years commencing on or after January 1, 1992, there shall be allowed to any person operating a child care center, family child care home, or foster care home licensed pursuant to the provisions of section 26-6-104, ~~C.R.S.,~~ a credit against the tax imposed by this ~~article~~ ARTICLE 22 in the amount of twenty percent of the taxpayer's annual investment in tangible personal property to be used in such child care center, family child care home, or foster care home. ~~Such credit shall be in addition to any credit for which the taxpayer may be eligible pursuant to the provisions of section 39-22-507.5 or section 39-22-507.6.~~

(2) With respect to taxable years commencing on or after July 1, 1992, there shall be allowed to any sole proprietorship, partnership, limited liability corporation, subchapter S corporation, or regular corporation which provides child care facilities which are incidental to their business and are licensed pursuant to section 26-6-104, ~~C.R.S.,~~ for the use of its employees a credit against the tax imposed by this ~~article~~ ARTICLE 22 in the amount of ten percent of the taxpayer's annual investment in tangible personal property to be used in such child care facilities. ~~Such credit shall be in addition to any credit for which the taxpayer may be eligible pursuant to the provisions of section 39-22-507.5 or section 39-22-507.6.~~

SECTION 11. In Colorado Revised Statutes, 39-30-104, **amend** (1)(a); and **repeal** (2)(a) as follows:

39-30-104. Credit against tax - investment in certain property - definitions. (1) (a) ~~In lieu of any credit allowable under section~~

~~39-22-507.5,~~ There shall be allowed to any person as a credit against the tax imposed by article 22 of this ~~title~~ TITLE 39, for income tax years commencing on or after January 1, 1986, an amount equal to the total of three percent of the total qualified investment, as determined under section 46 (c)(2) of the federal "Internal Revenue Code of 1986", as amended, in such taxable year in qualified property as defined in section 48 of the internal revenue code to the extent that such investment is in property that is used solely and exclusively in an enterprise zone for at least one year. The references in this subsection (1) to sections 46 (c)(2) and 48 of the internal revenue code mean sections 46 (c)(2) and 48 of the internal revenue code as they existed immediately prior to the enactment of the federal "Revenue Reconciliation Act of 1990".

(2) (a) ~~For income tax years commencing prior to January 1, 2014, the amount of the credit set forth in subsection (1) of this section shall be subject to the limitations of section 39-22-507.5; except that, in computing the limitations on credit pursuant to section 39-22-507.5 (3), a taxpayer's actual tax liability for the income tax year shall not be reduced by the amount of credits allowed by section 39-30-105.1 and the limit on that portion of a taxpayer's tax liability that exceeds five thousand dollars shall be fifty percent.~~

SECTION 12. In Colorado Revised Statutes, 44-3-106, **amend** (1) as follows:

44-3-106. Exemptions. (1) (a) ~~The provisions of this article 3 shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.~~ EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, THE REQUIREMENTS SET FORTH IN THIS ARTICLE 3 DO NOT APPLY TO ANY RELIGIOUS ORGANIZATION THAT DISTRIBUTES

SACRAMENTAL WINES FOR RELIGIOUS PURPOSES.

(b) THE SALE OR DISTRIBUTION OF SACRAMENTAL WINES USED FOR RELIGIOUS PURPOSES IS SUBJECT TO THE EXCISE TAX AS SPECIFIED IN SECTION 44-3-503.

SECTION 13. Act subject to petition - effective date. (1) Except as set forth in subsection (2) of this section, this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Sections 8, 10, and 11 of this act take effect January 1, 2023.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

BILL C

LLS NO. 22-0165.01 Bob Lackner x4350 **HOUSE BILL**

HOUSE SPONSORSHIP

Bird and Woog,

SENATE SPONSORSHIP

Hansen and Kolker, Liston

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING AN EXPANSION OF THE EXISTING SALES AND USE TAX EXEMPTION FOR CONSTRUCTION AND BUILDING MATERIALS USED FOR THE BUILDING OF PUBLIC WORKS TO REQUIRE THAT HOME RULE CITIES EXEMPT SUCH TAX ON SALES OF SUCH MATERIALS WHEN USED FOR PUBLIC SCHOOL CONSTRUCTION.

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. Under current law, all sales of construction and building materials to

contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works are exempt from the sales and use tax levied by the state and certain local governments. Home rule cities continue to levy the tax on sales of construction and building materials within their jurisdiction. The bill extends the exemption to the sales and use tax levied by home rule cities on such materials for use in connection with the building, erection, alteration, or repair of a public school.

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

SECTION 1. In Colorado Revised Statutes, 39-26-708, **add** (2.5) as follows:

39-26-708. Construction and building materials - legislative declaration - definition. (2.5) (a) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(I) THE EXEMPTION UNDER THIS SECTION WAS ENACTED BY THE GENERAL ASSEMBLY TO REDUCE COSTS INVOLVED IN THE CONSTRUCTION OF PUBLIC WORKS;

(II) THE EXEMPTION CODIFIES THE PRINCIPLE THAT CONTRACTORS SHOULD NOT BE PAYING A TAX LEVIED BY GOVERNMENTAL ENTITIES ON BUILDING MATERIALS USED FOR THE BENEFIT OF THOSE SAME GOVERNMENTAL ENTITIES;

(III) UNDER CURRENT LAW, OUT OF THE STATE AND ALL LOCAL GOVERNMENTS ACROSS THE STATE, THE SALES AND USE TAX ON CONSTRUCTION AND BUILDING MATERIALS USED IN THE CONSTRUCTION OF PUBLIC BUILDINGS IS ONLY LEVIED BY HOME RULE CITIES;

(IV) EXTENDING THE EXEMPTION TO INCLUDE THE SALES AND USE TAX LEVIED BY HOME RULE CITIES ON MATERIALS USED IN THE CONSTRUCTION OF PUBLIC SCHOOL FACILITIES WOULD REDUCE THE OVERALL COSTS OF CONSTRUCTING SUCH FACILITIES FOR THE MANY

JURISDICTIONS ACROSS THE STATE THAT ARE HOME RULE CITIES; AND

(V) EXTENDING THE EXEMPTION TO INCLUDE HOME RULE CITIES WOULD ALSO PROMOTE A UNIFORM AND CONSISTENT TREATMENT OF THE SALE OF BUILDING AND CONSTRUCTION MATERIALS STATEWIDE, THEREBY FACILITATING A MORE CONSISTENT AND UNIFORM TAX STRUCTURE. ACCORDINGLY, THE MATTERS ADDRESSED IN SUBSECTION (2.5)(b) OF THIS SECTION ARE MATTERS OF STATEWIDE CONCERN.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ADDITION TO THE EXEMPTION FROM TAXATION CREATED BY SUBSECTIONS (1) AND (2) OF THIS SECTION, THERE SHALL ALSO BE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26 ANY TAX LEVIED BY A HOME RULE CITY ON ALL SALES OF CONSTRUCTION AND BUILDING MATERIALS TO CONTRACTORS AND SUBCONTRACTORS FOR USE IN THE BUILDING, ERECTION, ALTERATION, OR REPAIR OF A PUBLIC SCHOOL.

(c) AS USED IN SUBSECTION (2.5)(b) OF THIS SECTION, "PUBLIC SCHOOL" HAS THE SAME MEANING AS DEFINED IN SECTION 22-2-102 (4).

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to sales of construction and building materials made on or after the applicable effective date of this act.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

BILL D

LLS NO. 22-0169.01 Yelana Love x2295 **HOUSE BILL**

HOUSE SPONSORSHIP

Bird and Woog, Benavidez

SENATE SPONSORSHIP

Kolker and Liston,

House Committees **Senate Committees**

A BILL FOR AN ACT

101 **CONCERNING AN EXPANSION OF THE EXCISE TAX EXEMPTION FOR**
102 **ALCOHOL BEVERAGES BROUGHT INTO 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/.)

Legislative Oversight Committee Concerning Tax Policy. Current law provides an excise tax exemption for up to one gallon, or 4 liters, of alcohol beverages brought by air passengers into the state from a foreign country. The bill increases the exemption to:

- 2.25 gallons of malt liquor and hard cider;
- 9 liters of vinous liquor; and

- 6 liters of spirituous liquor.

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

SECTION 1. In Colorado Revised Statutes, 44-3-106, **amend** (4) as follows:

44-3-106. Exemptions. (4) Any passenger twenty-one years of age or older arriving at any airport in this state on an air flight originating in a foreign country who is ~~thereby~~ subject to customs clearance at the airport may lawfully possess ~~up to one gallon or four liters (one imperial gallon) whichever measure is applicable, of an alcohol beverage~~ ALCOHOL BEVERAGES without liability for the Colorado excise tax ~~thereon~~ ON THE ALCOHOL BEVERAGES UP TO THE FOLLOWING AMOUNTS:

(a) TWO AND ONE-FOURTH GALLONS, OR TWO HUNDRED EIGHTY-EIGHT OUNCES, OF MALT LIQUOR;

(b) TWO AND ONE-FOURTH GALLONS, OR TWO HUNDRED EIGHTY-EIGHT OUNCES, OF HARD CIDER;

(c) NINE LITERS OF VINOUS LIQUOR; AND

(d) SIX LITERS OF SPIRITOUS LIQUOR.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to passengers possessing alcohol beverages at an airport on or after the applicable effective date of this act.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

BILL E

LLS NO. 22-0170.01 Ed DeCecco x4216 **HOUSE BILL**

HOUSE SPONSORSHIP

Benavidez,

SENATE SPONSORSHIP

Kolker,

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING THE EXCLUSION OF MOTOR VEHICLES SUBJECT TO REGISTRATION REQUIREMENTS FROM THE FARM CLOSE-OUT SALE AND USE TAX EXEMPTION.

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. A farm close-out sale, which is a farmer's or rancher's sale by auction or private treaty of all tangible personal property used in carrying on the farming or ranching operations, is exempt from the sales and use tax. The bill excludes motor vehicles that are subject to registration requirements

from a farm close-out sale.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that a vehicle subject to registration requirements is excluded from the state sales and use tax exemption that applies to farm equipment, but it may be included in the exemption for farm close-out sales. The primary purpose of the act is to treat these vehicles the same for purposes of these similar exemptions, and this change will only have a de minimis revenue increase.

SECTION 2. In Colorado Revised Statutes, 39-26-102, **amend** (4) as follows:

39-26-102. Definitions. As used in this article 26, unless the context otherwise requires:

(4) "Farm close-out sale" means a sale by auction or private treaty of all tangible personal property, EXCLUDING VEHICLES SUBJECT TO THE REGISTRATION REQUIREMENTS OF SECTION 42-3-103, of a farmer or rancher previously used by him OR HER in carrying on his OR HER farming or ranching operations. Unless ~~said~~ THE farmer or rancher is making or attempting to make full and final disposition of all property used in his OR HER farming or ranching operations and is abandoning the ~~said~~ operations on the premises whereon they were previously conducted, ~~such~~ THE sale ~~shall not be~~ IS NOT deemed a "farm close-out sale" within the meaning of this ~~article~~ ARTICLE 26.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to farm close-out sales that occur on or after the applicable effective date of this act.