

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.10.19

BILL 3

LLS NO. 20-0226.01 Pierce Lively x2059

INTERIM COMMITTEE BILL

Tax Expenditure Evaluation Interim Study Committee

BILL TOPIC: "Employee Retirement Plan Insurance Premium Tax"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE INSURANCE PREMIUM TAX**
102 **DEDUCTION FOR EMPLOYEE RETIREMENT PLANS.**

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/>.)

Tax Expenditure Evaluation Interim Study Committee. Under current law, the insurance premium tax deduction for employee retirement plans allows insurers to deduct from their taxable insurance premiums any premiums they collect after December 31, 1968, on policies or contracts connected to pensions, profit sharing, or annuity plans that employers provide to their employees, if the employer contributions to

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

those plans are deductible for state or federal income tax purposes. The bill repeals this insurance premium tax deduction.

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

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

4 (a) The insurance premium tax deduction for employee retirement
5 plans allows insurers to deduct from their taxable insurance premiums
6 any premiums they collect after December 31, 1968, on policies or
7 contracts connected to pensions, profit sharing, or annuity plans that
8 employers provide to their employees, if the employer contributions to
9 those plans are deductible for state or federal income tax purposes.

10 (b) Due to changes in the insurance market since the enactment of
11 the insurance premium tax deduction for employee retirement plans in
12 1969, an increasingly small number of taxpayers qualify for the
13 deduction. The rise of defined contribution plans has lead to a decline in
14 defined benefits plans eligible for the deduction. More specifically, in the
15 years following the general assembly enacting the insurance premium tax
16 deduction for employee retirement plans, the federal government created
17 401(k) plans and enacted the federal "Employee Retirement Income
18 Security Act", which increased federal regulation of pensions and other
19 defined benefit plans and introduced individual retirement accounts.

20 (c) In tax year 1970, 45% of all private-sector workers in the
21 United States were covered by a pension plan. In tax year 2018, only 45
22 Colorado insurers claimed the deduction and it only applied to 0.6% of
23 the life insurance premiums those insurers received.

24 (d) Under the annuity exemption in section 10-3-209 (1)(d)(IV),
25 Colorado Revised Statutes, all purchases of annuities are exempt from

1 insurance premium taxes regardless of whether the annuities are
2 connected to an employer-provided retirement plan. Thus, the employee
3 retirement plan insurance premium tax deduction is duplicative for
4 annuities.

5 (2) Therefore, it is the intent of the general assembly to simplify
6 the collection and administration of taxes for the state of Colorado and to
7 relieve taxpayers' confusion and vendors' administrative burdens by
8 repealing tax expenditures that are outdated, rarely claimed, and partially
9 redundant.

10 **SECTION 2.** In Colorado Revised Statutes, 10-3-209, **amend**
11 (1)(d)(IV) as follows:

12 **10-3-209. Tax on premiums collected - exemptions - penalties**
13 **- repeal.** (1) (d) (IV) Except to the extent provided in subsection (2) of
14 this section, the tax imposed by this section ~~shall not apply to premiums~~
15 ~~collected or contracted for after December 31, 1968, on policies or~~
16 ~~contracts issued in connection with a pension, profit sharing, or annuity~~
17 ~~plan established by an employer for employees if contributions by such~~
18 ~~employer thereunder are deductible by such employer in determining such~~
19 ~~employer's net income as defined in section 39-22-304, C.R.S., and shall~~
20 ~~not apply to premiums collected or contracted for after December 31,~~
21 ~~1968, on policies or contracts purchased for an employee by an employer~~
22 ~~if such employer is exempt under section 39-22-112 C.R.S., from the tax~~
23 ~~imposed by article 22 of title 39, C.R.S., or is a state, a political~~
24 ~~subdivision of a state, or an agency or instrumentality of a state or~~
25 ~~political subdivision of a state. Except to the extent provided in~~
26 ~~subsection (2) of this section, the tax imposed by this section shall not~~
27 ~~apply to annuity considerations collected or contracted for after December~~

1 31, 1976.

2 **SECTION 3. Act subject to petition - effective date -**

3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

4 the expiration of the ninety-day period after final adjournment of the

5 general assembly (August 5, 2020, if adjournment sine die is on May 6,

6 2020); except that, if a referendum petition is filed pursuant to section 1

7 (3) of article V of the state constitution against this act or an item, section,

8 or part of this act within such period, then the act, item, section, or part

9 will not take effect unless approved by the people at the general election

10 to be held in November 2020 and, in such case, will take effect on the

11 date of the official declaration of the vote thereon by the governor.

12 (2) This act applies to tax years commencing on or after January

13 1, 2021.