

House Finance

HB21-1311 Income Tax

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Heather Tritten For Parent Possible	<p>Madame Chair and members of the committee, my name is Heather Tritten and I am the Executive Director of Parent Possible. We equip parents with the tools and information to be their child's most valuable teacher, trainer, and mentor in life through evidence-based home visiting and family support programs for families from pregnancy through kindergarten. We know that being a parent in Colorado has become increasingly challenging with the current pandemic in addition to major stressors like astronomical housing and childcare costs. The families our programs support are working their hardest to connect emotionally with their children and develop the solid relationships that will help their young children thrive now and into the future. Financial stressors make that goal of being connected much harder to reach by producing further stress for the family. The EITC and CTC have proven their effectiveness in helping to lift families out of poverty and support the children receiving this support in living healthier lives and being more successful in school. Colorado has an opportunity to work together as a state to support families, help reduce childhood adversity, and be an example to other states in how to strengthen the early foundational years for our children. We have this opportunity through these bills to right-size our tax code and provide more financial resources for those that need it the most.</p> <p>I ask for your support today on HB21-1311 and HB21-1312.</p>
Erica Flores For Colorado Peoples Alliance	<p>Hello my name is Erica Flores and I would like to express my support for HB21-1311 and the need for the Childcare tax credit expansion. I worked as a hairstylist for three years at a job that I really enjoyed. When everything closed down, I had to leave my job to stay home and care for my child since we could no longer find affordable childcare. The pandemic has made things really difficult for many families, and even though we're in a better place now, we could really use continued support to ensure we can support our family.</p> <p>My husband has luckily been able to keep working and I am picking up a little work from home as a hairstylist. We are happy that our child is now</p>

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	<p>able to start going to ECE. Although, starting ECE made us aware that he is in need of receiving speech therapy. This is not covered by the insurance and we are having to pay out of pocket for the quality support that he needs.</p> <p>My husband and I are happy to do what is needed in order to ensure that our child gets all of the support that is needed, but it would be really helpful to have an extended child care tax credit to help us afford these necessary services. Please support HB21-1311</p>
<p>Jeannie Hernandez For Colorado People's Alliance</p>	<p>Hello my name is Jeannie Hernandez. I am writing to support HB21-1311. I am a part of Colorado People's Alliance and I have raised my six adopted grandchildren. I have relied on my strong faith and the support of my Christian church community, but facing this system all on my own I could have just failed. I am urging legislators to support expanding the childcare tax credit because as parents and caretakers we really do need support to prepare our children to enter the community and be prepared themselves.</p> <p>I am really struggling to find secure opportunities for my children especially in times of COVID for them to advance and grow into independent adults. My oldest is 17 and she struggles with dyslexia. She works hard at a Little Caesars, but I worry if I will be able to find opportunities for her to get ahead. I am preparing them to enter into a chaotic world and I want to make sure that with my limited means I can create some security for them. The pandemic has really forced me to face the possibility that they might have to navigate this world without me. I am in a good place where I can take care of them but I have to depend on the small income of \$150 a week for babysitting and the adoption subsidies that I receive for my children each month.</p> <p>Getting a childcare tax credit is a small way to help hard working parents like myself to create more stability for our children. That's why I urge you to support HB21-1311.</p>
<p>Kevi Archibeque For Colorado Peoples Alliance</p>	<p>Hello my name is Kevi Archibeque. I would like to thank the legislators for considering my testimony in support of HB21-1311. As a part of what is considered the middle class, our family has been put in a very difficult position as we do our best to succeed.</p>

	<p>Our family is not able to qualify for any government assistance when we fall on hard times, but we are also often left to struggle to make it month by month. It doesn't help that I am a stay at home mom, but at the same time it is the only option that my family is left with since daycare is so unaffordable. I fully understand that it is not the responsibility of the government to support my children, but I think it should also be considered that my family is heavily contributing to our collective tax infrastructure. At the end of each year we are left to owe a considerable amount in taxes. While my husband does all he can to ensure that he can pay what is due it has resulted in us getting garnished the past two years. We have even set up monthly payment plans with the IRS, but with the cost of living and providing for the essentials for our family we always end up getting behind. We are proud to be able to contribute back to the economy and pay into our American infrastructure that has granted us many opportunities. While we continue to work hard to succeed, it also seems that there is an uneven burden on us as the middle class as we fight to take advantage of opportunities.</p> <p>The childcare tax credit is one way that could provide some much needed relief for our family, and we hope that it will reflect more changes that support those of us who are fighting to advance. Thank you for considering my testimony and I hope it will encourage you to vote in favor of HB21-1311.</p>
<p>Patrick Espinoza For Colorado Peoples Alliance</p>	<p>Hello my name is Patrick Espinoza. I am a part of Colorado People's Alliance. I am writing in support of HB21-1311. I am a father of 2 teenagers and 2 toddlers. I am urging legislators to support the childcare tax credit because it could really support us as parents to prepare for unexpected expenses and circumstances. As an example, I was working hard to get all of my culinary certifications before the pandemic and I hardly had the chance to work one weekend when everything closed down because of the pandemic. I had to make a quick shift back into working in the automotive industry to make sure that I could sustain the needs of me and my family. I always try to get one month ahead on all of my expenses and expanding the childcare tax credit could be a tangible way to support families that are working to stay ahead. That is why I ask you to support HB21-1311.</p>
<p>Morgan Royal For New Era Colorado</p>	<p>New Era Colorado strongly supports House Bill 1311. New Era Colorado is a nonpartisan nonprofit organization that works to mobilize and empower the next generation to participate in democracy and move our state forward to become a better place for us all. Economic justice is one of our organization's core values that we fight for year after year, because we</p>

	<p>know that economic safety, opportunity, and access are the only way to ensure we are building our generation’s power beyond the ballot box.</p> <p>Economic injustice is all around us, baked into our economic system in ways that people with economic power may not even realize, and it’s one of white supremacy’s strongest tools for diverting power away from marginalized communities. We support HB-1311 because our current tax structure is full of inequities and this bill would mitigate and support everyday handworking Coloradans in a fair and equitable way.</p> <p>One of the issues we work on as an organization is student debt. In Colorado student debt is a multi-billion dollar problem and its impacting entire communities and generations who are held back because of it. Across the state students and families of color are disproportionately impacted by the rising costs of postsecondary education and the growing student debt crisis which is widening the intergenerational wealth gap between families of color and white families. Student debt is a major barrier preventing young people in particular from buying homes, starting families, and accessing the healthcare that they need. In the last 20 years - state investments to higher ed as well as healthcare have shrunk and that means that these costs get shifted onto individuals and families - particularly impacting families of color at higher rates. This bill would expand the earned income tax credit system to include all workers over the age of 18 - this will support young people who are often impacted by low wages. This is a powerful way to offset the economic burden that so many young people in our state carry due to the rising cost of a degree, the high cost of living in Colorado, and growing student debt.</p> <p>At New Era, we believe in an economic system that works for everyone - no matter how old you are, what you look like, or where you live. We strongly support this bill and other efforts to create a fairer and more just tax system in Colorado - we urge you to support this bill.</p>
<p>Janine Vanderburg For Self</p>	<p>Why HB 1311 and the Earned Income Tax Credit is important to older Coloradans</p> <p>Dear House Finance Committee Member</p> <p>As someone is in daily contact with older Coloradans and who has heard hundreds of stories about the financial stress and insecurity experienced</p>

	<p>bu older Coloradans across the state, I wanted to share with you why extending the availability of the Earned Income Tax Credit beyond age 65 is so important to older workers.</p> <p>Before the pandemic, one in four Coloradans age 65 and over was in the workforce, and this number and percentage are expected to grow. As you know, Colorado has the second fastest growing population of people aged 65 and over, and we represent the fastest growing segment of Colorado’s workforce.</p> <p>While many work for meaning and purpose, and ongoing social connection, many work because they need to. Without ongoing work, they would be plunged into poverty. Many have inadequate savings, especially women, women of color and women in rural communities, a result of both being paid less over a lifetime and often being the ones to step out of the workforce to care for children and older family members.</p> <p>Extending the Earned Income Tax Credit to those age 65 and over:</p> <ul style="list-style-type: none">▪ Recognizes that the current law is unjust by denying access to the credit to Coloradans who have worked hard all their lives, simply because of their age▪ Contributes to greater economic and retirement security for older Coloradans nearing retirement▪ Makes sense for Colorado’s overall economy <p>By passing this law, Colorado can be in the forefront of states recognizing the value of older workers, and helping to contribute to their economic security.</p> <p>Sincerely,</p> <p>Janine Vanderburg</p>
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House Finance

HB21-1312 Insurance Premium Property Sales Severance Tax

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Patrick Boyle Against Colorado Competitive Council	My name is Patrick Boyle I represent the Colorado Competitive Council as statewide business organization. We oppose HB 1312 and HB 1311. This is a poor time to increase taxes on business as we recover from the recent Covid induced recession. The overall tax increases in HB 1312 and 1311 will burden business and slow recovery. The home office premium tax credit is an economic development incentive that has proved successful according to the state auditor at increasing insurance employment in Colorado. Restricting it threatens these highly mobile jobs, the payroll benefits to our economy and the commercial real estate impact of the insurance industry. The personal property tax exemption for small business is a genuine benefit to small businesses that must be acknowledged but in summary the increased taxes outweigh the benefits in this package of legislation. We do not think it necessary to raise taxes at this time and believe the stimulus money from the federal government will provide all the revenue necessary for the state at this time. Thank you for your attention.
Martin Terek Amend Self	HB21-1312 Insurance Premium, Property, Sales, Severance Tax By way of introduction, my name is Martin (Marty) Terek with over 30 years of experience in all aspects of state and local taxes. Compliance, audit, litigation and legislative. All non-payroll taxes. Currently employed as the SALT Program Manager, Tax Planning and Controversy for a multi-state public utility - Black Hills Energy. Previously, I worked for Ball Corporation as the Manager, State & Local Tax Administration. The Colorado sales and use tax structure is most likely the most complex one in the USA. Sister states have taken steps to simplify their structures recognizing the evolution of e-commerce by incorporating the SSUTA definition of "Digital Product." This definition has already been incorporated by multiple cities in Colorado. Please make it clear... define

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	<p>“Digital Product” in the statute so ambiguity is not created and permits the State of Colorado to quasi-participate in the national SSUTA momentum endorsed by the Supreme Court of the United States.</p> <p>Please do not hesitate to contact me 605-721-2703 or marty.terek@blackhillsenergy.com with any questions.</p>
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May 14, 2021

VIA EMAIL

Colorado House Finance Committee
Representative Shannon Bird, Chair
Representative Marc Snyder, Vice Chair

Re: House Bill 21-1311 – Opposition to Tax Haven List

Dear Chair Bird, Vice Chair Snyder and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing to oppose certain provisions of House Bill 21-1311 (H.B. 1311), which would require corporate taxpayers to include affiliates incorporated in certain foreign jurisdictions in their combined group income. Under House Bill 1311, taxpayer affiliates are presumptively incorporated in these jurisdictions (tax havens) for purposes of tax avoidance.

COST has a long-standing policy position in opposition to state tax haven legislation. The tax haven “blacklist” approach is arbitrary and misleading and fraught with Constitutional infirmities. Further, in light of the federal response to partially tax foreign source income through the Tax Cuts and Jobs Act of 2017 (TCJA) global intangible low taxed income (GILTI) provision or the proposed Made in America tax plan, adopting a tax haven list would lead to double taxation and is severely out-of-step with federal and state tax policy.

About COST

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which directly do business in Colorado. COST’s objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

Misguided Tax Policy

The COST Board of Directors has approved a policy position opposed to all state tax haven provisions which provides in part:

State “tax haven” designations are arbitrary and overly broad, reflect a discarded “worldwide” approach to state taxation, and are inappropriate to address income shifting or other tax avoidance concerns. Punitive treatment of multinational businesses with affiliates in countries designated by states as “tax havens” interferes with the U.S. Government’s ability to “speak with one voice” on foreign affairs and is constitutionally suspect. States should limit their income tax base to the domestic “water’s-edge” and not tax foreign income with little or no connection with the United States.¹

In addition to the policy position, the State Tax Research Institute (STRI), a 501(c)(3) research organization founded by COST, undertook a significant research project relating to state tax haven legislation. In 2016, STRI published its report, entitled “State Tax Haven Legislation: A Misguided Approach to a Global Issue,” that provides a detailed analysis of why states should not adopt tax haven legislation.²

Detrimental Impact on the State’s Economy

The blacklisting of foreign countries as tax havens and inclusion in the state tax base of income from businesses operating in these countries contravenes the approach taken by virtually all other U.S. states and nations in the world.³ Branding foreign nations as tax havens has been widely rejected as an arbitrary and illegitimate means for dealing with tax avoidance. The U.S. federal government has never adopted the tax haven list approach as a means for defining its income tax base. Neither state legislatures nor state revenue departments are equipped to make determinations the U.S. federal government has declined to exercise. A tax haven provision will clearly deter international businesses from operating in Colorado, undermining the State’s ability to attract jobs and capital investment that would improve the State’s overall economy. To date, only Montana maintains a blacklist approach to the inclusion of foreign income in the corporate income tax base, as similarly contemplated under this bill.

Further, when a state arbitrarily penalizes taxpayers for doing business in specific countries - that state also violates the foreign Commerce Clause. The constitutional standard set forth in *Japan Line, LTD v. County of Los Angeles*, 441 U.S. 434 (1979), is clear: state tax measures may not impose a risk of multiple taxation at the international level and may not prevent the federal government from “speaking with one voice” on international policy matters.

¹ COST’s policy position on this issue is available at: <https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/cost-state-tax-haven-policy-statement-final-4-16-15.pdf>

² Karl Frieden and Ferdinand Hogroian, State Tax Haven Legislation: A Misguided Approach to a Global Issue, State Tax Research Inst. (Feb. 2016), <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/coststudies-articles-reports/state-tax-haven-legislation--a-misguided-approach-to-a-global-issue.pdf>.

³ COST recognizes that six states (Alaska, Connecticut, Kentucky, Montana, Rhode Island and West Virginia) continue to maintain tax haven provisions in their state tax laws. All of these states, but for Montana, however, have rejected the blacklist approach and instead utilize a criteria approach.

Arbitrary and Overly Broad Approach

Branding foreign nations as tax havens has been widely rejected as a legitimate means for dealing with tax avoidance. The tax haven lists (such as that proposed in H.B. 1311) are derived largely from a list created over 15 years ago by the Organization for Economic Cooperation and Development (OECD) to encourage countries to adopt greater transparency and information sharing about tax issues, not to broaden the tax base of member countries. Presently, no countries remain on the OECD's list of uncooperative tax jurisdictions. Moreover, no country, including the United States, has ever adopted the tax haven list approach as a means for defining their income tax base. Rather than providing a viable solution to the issue of foreign income sourcing, the adoption of a tax haven list creates new problems by arbitrarily targeting sovereign nations.

Out-of-Step with the State Trends for Taxing Foreign Source Income

Prior to 2018, Oregon imposed a blacklist approach similar to the bill's proposal for determining foreign income included in its corporate income tax base. During its 2018 legislative session, however, Oregon repealed its tax haven blacklist provision and created a credit for taxpayers previously subject to tax haven provisions.⁴ Oregon realized that the passage of the TCJA provided an opportunity to abandon its tax haven provisions and align itself more closely with the approach taken by the federal government. The TCJA forced the Oregon Legislature to deal with the potential of double taxation of income previously taxed under its tax haven provisions that would now be included in Oregon taxable income pursuant to the TCJA, including both the repatriation transition tax (for tax years prior to 2018) and GILTI (for tax years 2018 and forward). To avoid double taxation, the Legislature opted to fully repeal its tax haven provisions in light of the complexities and potential litigation that would result from retaining the provisions.

Colorado is in a similar position to Oregon. Colorado has also conformed in part to the TCJA, changing how it taxes foreign source income. We strongly urge Colorado to follow suit and not rely on the arbitrary and constitutionally infirm blacklist approach that is utilized by Montana alone.

Out-of-Step with the Proposed Federal Tax Plan for Taxing Foreign Source Income

On March 31, President Biden presented the American Jobs Plan—a more than \$2 trillion infrastructure spending plan. Although still in flux, the current proposal raises revenue through a tax reform plan, the Made in America tax plan, that would significantly increase corporate income taxes, in part by expanding the GILTI tax base. This is accomplished partly by applying GILTI on a country-by-country basis, and partly by eliminating the qualified business asset investment (QBAI) deduction.⁵ The proposed Biden administration approach, while broadening the impact of GILTI, is consistent with prior federal legislation that steered clear of the tax haven blacklist approach. Moreover, the Biden administration proposals, if enacted, may significantly impact Colorado's corporate income tax system such that adoption of a tax haven list will exacerbate existing concerns over double taxation and protracted litigation.

⁴ Oregon S.B. 1529 (2018), <https://olis.leg.state.or.us/liz/2018R1/Downloads/MeasureDocument/SB1529/Enrolled>.

⁵ The plan also proposes to increase the tax rate on GILTI to 21%.

Conclusion

COST urges Colorado to reject the tax haven provisions in H.B. 1311. Please let us know if we can provide additional information or assistance.

Respectfully,



Erica S. Kenney
West Coast Tax Counsel

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director



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May 14, 2021

VIA EMAIL

Colorado House Finance Committee
Representative Shannon Bird, Chair
Representative Marc Snyder, Vice Chair

Re: Comments on House Bill 21-1312

Dear Chair Bird, Vice Chair Snyder and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing to oppose certain provisions of House Bill 21-1312 (H.B. 1312), which would include digital goods in the definition of tangible personal property for purposes of the sales and use tax, include “mainframe computer access, photocopying, and packing and crating” in the taxable purchase price for purposes of the sales and use tax, and would repeal the vendor allowance for retailers with taxable sales greater than one million dollars.

About COST

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which directly do business in Colorado. COST’s objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

Inclusion of “Digital Gods” as Tangible Personal Property Subject to Sales Tax

The inclusion of digital goods within the definition of tangible personal property to include services not previously subject to tax creates ambiguities related to taxation of goods and services, including how those digital goods which are not physically delivered to a customer are sourced. Additionally, the inclusion of digital goods within the tangible personal property definition raises concerns with the legislation attempting to avoid the application of Colorado’s Taxpayer Bill of Rights (TABOR).

Further, COST has long advocated for simplification and uniformity in state sales and use tax systems. Uniformity is essential to substantially reducing the burden of tax compliance and improving sales and use tax administration. To that end, to the extent the General Assembly intends to impose sales and use tax on new products, we

encourage using the SSUTA definitions and sourcing rules which have been adopted by other states and multiple Colorado cities.¹

Specifically, adopting the “specified digital products” definition and general sourcing rules will create more certainty over sales and use tax imposition and alleviate some of the risks of multiple taxation. If Colorado wishes to tax digital products, it should do so by adopting the “specified digital products” definition and general sourcing rules will create more certainty over sales and use tax imposition and alleviate some of the risks of multiple taxation. There should also be clear prospective effective date (at least 90 days at the beginning of a calendar month) before this goes into effect to give sellers time to set up their systems to collect the tax.

COST Opposes Sales Tax on Business Inputs

The COST Board of Directors has adopted a policy position opposing the imposition of state taxation on business inputs, which provides in part:

Imposing sales taxes on business inputs violates several tax policy principles and causes significant economic distortions. Taxing business inputs raises production costs and places businesses within a State at a competitive disadvantage to businesses not burdened by such taxes. Taxes on business inputs, including taxes on services purchased by businesses, must be avoided.²

With the rapid growth of the services sector in recent decades, it is understandable why a jurisdiction would want to expand its sales tax base to include more service categories. However, the proposed expansion of the sales tax base contained in Section 8 of H.B. 1312 directly violates the economic principle that an ideal sales tax should tax household consumption and not business inputs. The proposal to include “mainframe computer access, photocopying, and packing and crating” in the purchase price for purposes of the sales tax primarily targets services consumed by businesses, not those consumed by households. Importantly, if the tax base is expanded, a broad exemption should be provided for business inputs. Compounding matters, some of these services such as “mainframe computer access”, are undefined and are difficult to “source” to a specific location because they may be simultaneously provided to multiple regional, national and international markets.

Imposing sales tax on business inputs causes a number of economic distortions. These distortions result primarily from pyramiding, which occurs when a tax is imposed at multiple levels and results in a hidden effective tax rate that exceeds the retail sales tax rate. Pyramiding forces companies to either pass these increased costs on to consumers or reduce their economic activity in the State to remain competitive with other producers who do not bear the burden of such increased taxes. Because of these choices, the economic burden of taxes on business inputs

¹ The Agreement is available at: <http://www.streamlinedsalestax.org/index.php?page=modules>. See sections 332 and 333 of the SSUTA.

² COST’s policy position on this issue is available at: <https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/sales-taxation-of-business-inputs.pdf>

inevitably shifts to labor in the State (through lower wages and employment) or consumers (through higher prices).

Repeal of the Vendor Allowance is Arbitrary and Inequitable

The provisions of H.B. 1312 that would repeal the vendor allowance for retailers that have taxable sales greater than one million dollars is not needed because the vendor allowance is subject to a cap that went into effect last year. Further, the repeal of the vendor allowance as proposed in H.B. 1312 creates an inequitable division of retailers subject to sales tax reporting requirements in Colorado. The purpose of the vendor allowance is to acknowledge expenses incurred by the retailer to collect and remit Colorado sales tax. All retailers, regardless of size, incur expenses related to sales tax collection and remittance. Elimination of this provision for a single group of retailers among all retailers that are all subject to sales tax compliance responsibilities has no sound policy basis other than penalize those taxpayers that account for a large source of sales and use tax revenue for the Colorado. All retailers should continue to be permitted to utilize the vendor allowance.

Conclusion

For the foregoing reasons, COST urges this committee to reject these provisions of H.B. 1312. Please let us know if we can provide additional information or assistance.

Respectfully,



Erica S. Kenney
West Coast Tax Counsel

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director



Colorado Retail Council
1580 Lincoln Street, Suite 970 / Denver, CO 80203
Phone (303) 246-5753

Please Vote NO on House Bill 1312 by Reps. Weissman & Sirota
Vendor Allowance Reduction

Summary - Large retailers are currently allowed to keep up to \$1,000 per month of state sales tax collected as a very small reimbursement for their costs of serving as the state's tax collector. Page 14 of the bill strikes this provision for large retailers.

It's really complicated - Tax experts understand that Colorado now has the most complicated sales tax collection system in the country. For years, the Colorado General Assembly's *Sales and Use Tax Simplification Task Force* brainstormed on ways to unburden businesses of all sizes from the "ongoing challenges within existing fiscal frameworks" and "to adopt innovative revenue-neutral solutions that do not require constitutional amendments or voter approval." The very fact that the General Assembly had such an ongoing task force proves how complicated the current system really is and why retailers should receive an allowance for their troubles.

Our members operate in nearly every jurisdiction in the state, so their tax collection and remittance process is MORE complicated than a small business, not less.

The state requires that retailers act as the tax collector - Our retail members incur real costs for the tax compliance and remittance duties that are required in state law. The main components of these costs are: the labor involved in preparing and remitting sales tax returns, the professional accounting firms necessary to ensure the process is handled properly, the periodic audits from the state, and liability costs associated with the potential to over/under-collect the sales tax.

The Colorado vendor fee for large retailers was once quite robust - and appropriately so - because nearly every large city in the state provides provide 0% vendor allowance for collection of city sales taxes. Unlike the other states in the nation with more modest vendor discounts, Colorado does not offer centralized collection for retailers at the state level.

Please vote NO.

Contact: Chris Howes, President, chris@chrishowes.com

Thank you Madame Chair and committee members for allowing me to submit written testimony. My name is Michael Conway and I am the State's Insurance Commissioner. I am submitting written testimony in support of House Bill 21-1312 and I am asking for a yes vote.

In particular, my comments will focus on section 2 of the bill and the changes that the bill makes to the regional home office tax rate and annuity exemption. The change to the regional home office tax rate is appropriate because this exemption no longer meets its intended purpose. Further, the modification to the annuity exemption is intended to align with the original intent of this exemption.

Beginning with the regional home office tax rate - this lower rate was put in place originally in part to encourage insurance companies to hire employees in Colorado. The RHO allows insurers with a qualifying "regional home office" in Colorado to pay a state insurance premium tax of 1% of their premiums, compared to the normal 2%. Companies can qualify for this tax rate if they either substantially perform certain types of insurance company functions or they have significant direct insurance operations in the state.

This bill limits the RHO rate to insurers who maintain at least 2.5% of their national workforce in Colorado. This is a reasonable expectation for a home office tax break. 3 of the 10 states with similar tax breaks for in-state insurance investment tie their credits to certain levels of in-state employment, and 1 state ties it to certain levels of new insurance employees.

A recent national study found that when including state premium taxes, local government premium taxes, licenses, and fees, Colorado has the fifth-lowest effective premium tax rate in the nation.

Most of the claimants of the regional home office tax rate in Colorado are large national insurance groups. There are 1,500 insurance companies licensed in CO and currently 29 insurance groups claim the RHO

The Office of State Auditor ([OSA evaluation](#)) performed an evaluation on the regional home office rate and it indicated that the Regional Home office lower rate HAS NOT caused CO to have a significantly higher concentration of insurance industry employees than other states. For example, several other states have either a higher concentration of insurance sector employees than CO or have experienced more growth of insurance employees than CO has without having a similar tax expenditure. The State Auditor found that the value of the credit has nearly doubled from \$49 million to more than \$90 million since 2011 (it's now over \$100M), but the number of industry employees has remained fairly flat (around 14,000).

The OSA eval also found that the rate reduction isn't successful in encouraging insurers to open offices in CO. For example, since 1990 the relative concentration of insurance-sector business establishments in CO has decreased substantially, and in 2018 CO had a lower concentration than the average state, and the 10th lowest of all states.

According to the widely-used Herfindahl-Hirschman measure of market concentration, Colorado's property-casualty and life insurance markets are competitive, meaning insurers face market pressure to not raise rates.

Research recently conducted on the pricing of many different lines of insurance using publicly-available quotes on insurers' websites shows virtually no difference in pricing for identical products purchased in different states. In other words, this tax break is likely NOT getting passed to consumers, and it's therefore unlikely that removing it will increase costs for CO consumers.

Turning to the Annuities exemption - under current law, annuities are exempted from paying premium tax. This bill would limit that current exemption to annuities purchased as part of retirement plans. This better aligns the exemption with its original intent. The sponsors of the bill originally creating the exemption in 1977 repeatedly stressed that the exemption was to help low- and middle-income Coloradans save for retirement, not to subsidize annuities used as tax shelters, which many nonqualified annuities are.

The majority of annuities will remain exempt from tax because they're purchased as part of a qualified retirement plan, like a pension or 401k, or as part of an IRA, Roth IRA, or Roth 401k. Wyoming, Nevada, Tennessee, and Maine limit their annuity exemptions in this way, and California levies a lower tax on these sort of annuities.

Research recently conducted on annuity prices using publicly-available quotes on life insurance websites shows virtually no difference in pricing for identical annuities purchased in different states. In other words, this tax break is NOT getting passed to consumers and its therefore unlikely that removing it will increase costs for consumers.

According to the widely-used Herfindahl-Hirschman measure of market concentration, Colorado has a competitive market for life insurance and annuities, meaning insurers face market pressure to not raise rates.

Again - thank you very much for the opportunity to submit this written testimony. I would ask the Committee to vote yes on this very important piece of legislation.

The tax reform package was crafted over a year with in-depth research on Colorado's tax code and with input from the Urban-Brookings Tax Policy Center. It gets rid of the most egregious loopholes and special interest breaks that individuals and companies do not get in other states. Sponsors were careful to ensure these reforms would not cause jobs or businesses to leave Colorado because it brings Colorado in line with other states. Colorado enjoys a favorable business tax climate and these bills do not change that.

Each provision was included because:

- The state auditor found the tax expenditure no longer meets its purpose
 - Colorado's code is not aligned with other states - we are giving much larger benefits than other states
 - The original intent of the tax expenditure is no longer being met
 - The tax expenditure is providing a benefit to a only small fraction of taxpayers and is not broadly available
-
- It's important to note that the best comparison for this exemption is NOT how consumers are taxed on other financial products often used for retirement, like stocks and bonds in 401ks and IRAs. Instead, the best comparison is how banks and other financial entities are taxed. They ARE taxed on the income they make from managing retirement accounts (even though the consumers of these products enjoy individual income tax preferences). There's no reason that insurers also shouldn't be subject to tax on their management of assets.



May 13, 2021

Written Testimony Seeking to Amend H.B. 1312 Related to the Taxation of Certain Types of Annuities

Members of the House Finance Committee:

We are writing on behalf of Pacific Life Insurance Company and our customers to express concerns related to a specific provision of H.B. 1312. Respectfully, we encourage you to remove language contained in Section 2 of H.B. 1312 (Lines 20-26 on page 6) which seeks to limit the types of annuities that are currently exempt from state premium tax.

Pacific Life is a Fortune 500 company that helps people with their financial and retirement needs. Pacific Life offers a wide range of life insurance products, annuities, and mutual funds, and offers a variety of investment products and services to individuals, businesses, and pension plans. Pacific Life is also one of the largest providers of a type of annuity called a “structured settlement.”

In some civil lawsuits a claimant can opt to receive a monetary settlement over time instead of a lump sum. These are called structured settlements. Structured settlements are an important tool to help ensure that seriously injured individuals and their families can receive a steady stream of income. In these lawsuits, the defendants or their insurance companies purchase annuities to fund the settlements.

H.B. 1312 would result in a tax on those who have suffered a serious injury or the death of a loved one. Those who have suffered an injury or the death of a loved one should remain entitled to tax-free payments. This position is reaffirmed by federal tax policy which excludes damages received on the account of personal injury from income to benefit the injured party. Removing the above referenced language limiting the annuity exemption from premium taxation would fix this problem.

In addition to the tax this bill would impose on injured individuals and their families, Pacific Life is also concerned that this bill will negatively impact retirement savings for middle class families, small business owners, and self-employed individuals who do not have access to an employer-provided retirement or pension plan. One major risk in retirement, that is only intensifying as people live longer more active lives, is running out of income. Annuities, like those that would be taxed by H.B. 1312, are the only private market product that offer guaranteed income for life.

We thank you for consideration of Pacific Life’s views on H.B. 1312. We respectfully request that this letter be included as part of the public hearing record. Please do not hesitate to reach out should you wish to discuss this legislation further.

Regards,

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Dear Madame Chair and Members of the Committee,

My name is Dan Jablan, Legislative Director of the Rocky Mountain Insurance Association (RMIA), and our state insurance trade association represents approximately 70% of the Colorado Property and Casualty insurance marketplace. I am testifying today in opposition of HB21 1312.

Insurance companies that invest in putting a regional office in Colorado already have a multiple requirement, such as, of providing jobs—ranging from executive to staff-level along with a footprint and payroll requirements to receive a 1% tax credit on the amount of premium tax paid. Companies that do not qualify pay 2% on premiums collected.

The regional home office tax credit is tied closely to maintaining jobs in Colorado which also leads to greater investment in commercial real estate, residential real estate, and community investments including municipal bonds and charitable giving.

- Currently nearly 14,000 people are employed by 87 companies in 34 locations that are designated regional home offices.
- Insurers apply for this tax credit annually and are subjected to an inspection and audit process. This tax credit is not automatically given to ANY insurer.
- An industry survey showed this tax credit is a “significant factor” for property and casualty companies that choose to make Colorado a home for their business.

Insurance is highly regulated and extremely competitive, so it is fair to assume companies are passing the cost savings from the Regional Home Office Credit down to consumers. This may be a reason why companies with a Colorado home office have increased their business in Colorado significantly in recent years.

With a percentage requirement the math works in favor of smaller companies with fewer employees to stay in Colorado and may force larger companies with more employees nationally into some very tough business decisions. Weighing the benefits of staying in Colorado, or moving their operations to surrounding states, such as Arizona, Texas, and Utah.

The current benefits of the regional home office tax credit extend much further than to insurance companies. Many consumers benefit directly on their monthly insurance bill. Many business both large and small benefit from these large office centers and employees with green, good paying jobs. RMIA respectfully requests the committee consider these broader benefits when examining HB 1300.

I thank you for your time today.

Insurance Premium Property Sales Severance Tax (HB21-1312)

Testimony to House Finance Committee

Joshua Mantell, Policy Analyst · May 14, 2021

Thank you for the opportunity to testify today. My name is Joshua Mantell, and I am the rapid response policy analyst at the Bell Policy Center. The Bell Policy Center provides policymakers, advocates, and the public with reliable resources to create a practical policy agenda that promotes economic mobility for every Coloradan.

I am here to testify in favor of HB21-1312 because it would stop the waste of tax expenditures that just do not work as they were intended, while giving small businesses some help at a time of need. Thank you to Reps. Weissman and Sirota for bringing this bill forward.

We have many structural issues with our tax code. But where this bill will be most helpful is in eliminating waste and unnecessary expenditures in our tax code. In a recent poll of Coloradans, 73 percent said they supported “eliminating some outdated tax exemptions and credits... in order to prevent misuse and ensure tax laws are consistently followed by everyone.” We stand with that huge majority of Coloradans in saying that wasting taxpayer money through our tax code is not an acceptable use of our state’s finite resources.

I want to call out a few provisions within this bill that illustrate why we need it:

- We have a Regional Home Office Rate Reduction credit in this state that was intended to create insurance jobs. The [State Auditor wrote in 2020](#), the Regional Home Office Rate Reduction’s “revenue impact has increased substantially in recent years without a proportionate increase in employment.” If we are measuring this particular provision by its impact on job creation and our budget, it is clearly not working as intended. By ensuring that any company receiving this tax break has at least 2.5 percent of its workforce in Colorado, we will restore the rightful intention of this expenditure and not give money away to companies that don’t actually create good jobs in our state.
- In 1977, our state put in place an exemption for annuities, to encourage more Coloradans to invest in their retirement. This was, and continues to be, a very laudable goal that we at the Bell Policy Center share. However, while the annuities market has changed dramatically in almost 45 years, our tax policy has not. This bill would ensure that exemption is only used for qualified retirement programs, restoring the original intention of that policy.
- Another provision embedded in the bill would close a loophole that was opened through a court decision – one that was not intended by the legislature. In 2016, the

Colorado Supreme Court ruled that oil and gas companies could deduct indirect costs, such as capital investments, through the transportation, manufacturing, and processing deduction. As noted by the [State Auditor in the 2020 Tax Expenditure Report](#), the Colorado Supreme Court “effectively expanded the Deductions by interpreting the statute to allow taxpayers to deduct additional costs not previously allowed by the Department” and suggested that the General Assembly revisit this credit to ensure it is being used as it is intended. Ensuring that the deduction is used only as originally intended will restore the legislature’s original idea to tax policy.

The above examples show how necessary it is to reform our tax code. It needs to be updated and modernized so that it conforms to what we, as a state, expect from our government and its spending. Our economy isn’t static, our state budget isn’t static, so why should our tax code be static?

And for this bill, we can reorient the savings from restoring the original intent to these expenditures to those that need it and will help grow our state’s economy. Our small, local businesses have suffered greatly over the last year plus. Giving them relief – instead of spending money through our tax codes in wasteful ways – will benefit our state and local communities. And using these tax expenditures to make our counties whole is crucial, as counties provide vital public services to everyone in Colorado.

Our tax code is complicated and fixing it is not easy. But we have to continue looking at whether individual provisions are working as intended and reflecting our state’s values. Wasting money through ineffective, inefficient, and unproductive tax expenditures is not what the people of Colorado want, or expect from our government. Cleaning up our tax code and using that money to help the people and businesses that need it makes sense. That’s what HB-1312 does and why **The Bell Policy Center urges a YES vote here today.**



May 13, 2021

Members of the House Finance Committee

Re: Hb 21-1312, Insurance Premium Property Sales Severance Tax
Representatives Weissman and Sirota/Senators Hansen and Morino

On behalf on the membership of NFIB Colorado we submit this written testimony supporting Hb 21-1312 and requesting a YES vote.

NFIB is an incorporated nonprofit association with nearly 300,000 members across America. NFIB protects and advances the ability of individuals to own, operate, and grow their businesses and ensures that the Congress of the United States and all 50 states hear the voice of small business as they formulate public policy.

While NFIB Colorado does have concerns with Sections 7 and 8 and believes changes to these two sections constitutes a definite change in tax policy requiring further discussion. We encourage the sponsors to strike Section 9 of the bill concerning changes to the Vender Fee. A small company selling a unique or highly technical product such as certain medical devices would be harmed by the loss of the vender fee.

Taxes on business personal property make up a small share of state and local tax collections, but create high compliance costs, distort investment decisions, and are an archaic mode of taxation.

NFIB Colorado supports Section 6 of the bill which increases the exemption from \$7900 to \$50,000 on business personal property.

Taxes on Tangible Personal Property (TPP) are a source of tax complexity and non-neutrality, incentivizing firms to change their investment decisions and relocate to avoid the tax. Different types of TPP often receive preferential treatment depending on how the property is used or where it is invested, further distorting economic decision making.

House bill 21-1312 raises the current exemption from \$7900. To \$50,000. For tax years 2021 2021 and 2022. Beginning with the property tax year January 1, 2023, the amount of the exemption is readjusted biennially to account for inflation since the amount of inflation since the amount of the exemption last changed pursuant to Section 2.

NFIB Colorado fully supports Section 6 and encourages a Yes vote on Hb 21-1312.

Contact: A.F. Tony Gagliardi, 303-831-6099