

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

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BILL 1

LLS NO. 25-0215.01 Jed Franklin x5484

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Tax Policy

BILL TOPIC: Adjusting Certain Tax Expenditures

A BILL FOR AN ACT

101 **CONCERNING THE ADJUSTMENT OF CERTAIN 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 adjusts several tax expenditures as follows:

- **Section 1** disallows the income tax credit for unsalable alcohol after December 31, 2025, and repeals the credit on December 31, 2030.
- Currently, a taxpayer is allowed to deduct up to 2% of the taxable gallons of fuel removed from a fuel terminal to account for fuel that is lost in transit. **Section 2** changes the

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

- allowance to 1% starting January 1, 2026.
- Currently, for income tax years commencing before January 1, 2025, a purchaser who installs an energy storage system in a residential dwelling may claim an income tax credit in an amount equal to 10% of the purchase price paid by the purchaser for the energy storage system. **Section 3** extends the credit to include subsequent income tax years commencing before January 1, 2027, and extends the repeal of the credit from January 1, 2028, to January 1, 2030.
 - Currently, the reducing emissions from lawn equipment income tax credit is available until the tax year beginning January 1, 2027, and the department of revenue is required to issue a report on the credit for each income tax year from January 1, 2025, through January 1, 2028. **Section 4** extends the credit until the tax year beginning January 1, 2029, extends the reporting requirement through January 1, 2030, and extends the repeal date of the credit from December 31, 2033, to December 31, 2035.
 - By amending a definition of "agricultural compounds" that is incorporated into the definition of "wholesale sale" used for purposes of the sales and use tax statutes, **section 5** exempts from sales and use tax soil conditioners, plant amendments, plant growth regulators, mulches, compost, soil used for above-ground production of agricultural commodities, and manure beginning January 1, 2026.
 - **Section 6** states that the purpose of the insolvency assessments paid insurance premium tax credit is to offset the cost for an insurer paying required assessments into the life and health insurance protection association and that the credit's effectiveness is measured by how many eligible insurers claim the credit and the amount claimed relative to payments into the life and health insurance protection association.
 - **Sections 7 and 8** state that the purpose of the state refund income tax deduction is to avoid re-taxing a taxpayer's state income tax refund when a state refund is required to be included as income on the taxpayer's federal return pursuant to the internal revenue code and that the effectiveness of the deduction is measured by the number of taxpayers claiming the deduction and the total amount of state refunds claimed as deductions from Colorado taxable income.
 - **Section 9** states that the purpose of the dyed special fuels and off-road fuel tax excise tax exemption is to entirely

exclude dyed diesel or kerosene from the special fuels excise tax where the dyed fuel is used for specified off-road purposes or by governmental entities and that the effectiveness of the exemption is measured by the number of taxpayers claiming the exemption and the amount of tax that would have been paid without the exemption.

- **Section 10** states that the purpose of the off-road fuel use refund is to compensate taxpayers who buy and pay the tax on otherwise taxable fuels for the purpose of using the fuels for specified non-taxable purposes under federal law and that the effectiveness of the refund is measured by the number of taxpayers claiming a refund and the amount of tax that was already collected and is refunded.
- **Section 11** states that the purpose of the wholesale sales exemption from sales tax is to ensure that sales tax is levied and collected only on a final end sale to a retail consumer and not on wholesale sales and that the effectiveness of the wholesale exemption from sales tax is measured by the number of taxpayers claiming the wholesale exemption from tax and the amount of tax liability not paid.

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

2 **SECTION 1.** In Colorado Revised Statutes, 44-3-503, **amend** (9)
3 as follows:

4 **44-3-503. Excise tax - records - rules - definition - repeal.**

5 (9) (a) The department shall make a refund or allow a credit to the
6 manufacturer, the wholesaler, or the holder of a winery direct shipper's
7 permit, as the case may be, of the amount of the excise tax paid on
8 alcohol beverages sold in this state when, after payment of the excise tax,
9 the alcohol beverages are rendered unsalable by reason of destruction or
10 damage upon submission of evidence satisfactory to the state licensing
11 authority that the excise tax has actually been paid. Such refund or credit
12 shall be made by the department within sixty days after the submission of
13 evidence satisfactory to the department. NO REFUND OR CREDIT IS
14 ALLOWED AFTER DECEMBER 31, 2025.

1 (b) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE DECEMBER 31,
2 2030.

3 **SECTION 2.** In Colorado Revised Statutes, 39-27-102, **amend**
4 (1)(b)(I) as follows:

5 **39-27-102. Tax imposed on gasoline and special fuel - deposits**
6 **- penalties.** (1) (b) (I) In the case of gasoline or special fuel removed
7 from a terminal, the tax is imposed upon the person first receiving the
8 gasoline or special fuel at the terminal even if such person is also the
9 supplier. In the case of gasoline or special fuel removed from a terminal
10 by a common carrier, the consignor who owns the gasoline or special fuel
11 removed by the common carrier is deemed to be the remover and first
12 recipient thereof. The amount of gasoline or special fuel removed is
13 deemed to be the amount shipped from the terminal, measured in gallons,
14 as shown by the terminal manifest; except that, FOR TAX YEARS
15 COMMENCING BEFORE JANUARY 1, 2026, an allowance of two percent of
16 the total amount of gasoline or special fuel acquired during any calendar
17 month, AND, FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1,
18 2026, AN ALLOWANCE OF ONE PERCENT OF THE TOTAL AMOUNT OF
19 GASOLINE OR SPECIAL FUEL ACQUIRED DURING ANY CALENDAR MONTH, as
20 shown by terminal manifests, is deducted by the licensed distributor to
21 cover losses in transit and in unloading the gasoline or special fuel but
22 there is no allowance for liquefied petroleum gas or removal by bulk
23 transfer. The ~~two percent~~ allowance provided under this subsection
24 (1)(b)(I) is allowed whether the terminal is within or without this state.

25 **SECTION 3.** In Colorado Revised Statutes, 39-22-546, **amend**
26 (3)(a) and (7) as follows:

27 **39-22-546. Credit against tax - residential energy storage**

1 **systems - tax preference performance statement - legislative**
2 **declaration - definition - repeal.** (3) (a) For income tax years
3 commencing on or after January 1, 2023, but before ~~January 1, 2025~~
4 JANUARY 1, 2027, any purchaser that installs an energy storage system in
5 a residential dwelling in this state is allowed a credit against the tax
6 imposed by this article 22 in an amount equal to ten percent of the
7 purchase price paid by the purchaser for the energy storage system.

8 (7) This section is repealed, effective ~~January 1, 2028~~ JANUARY
9 1, 2030.

10 **SECTION 4.** In Colorado Revised Statutes, 39-22-550, **amend**
11 (3)(a), (5), and (6) as follows:

12 **39-22-550. Tax credit for reducing emissions from certain**
13 **lawn equipment - tax preference performance statement - legislative**
14 **declaration - definitions - report - repeal.** (3) (a) For income tax years
15 commencing on or after January 1, 2024, but before ~~January 1, 2027~~
16 JANUARY 1, 2029, a retailer qualified pursuant to subsection (3)(e)(II) of
17 this section is allowed a tax credit against the tax imposed pursuant to this
18 article 22 in an amount equal to thirty-three percent of the aggregate
19 purchase price for all retail sales of new, electric-powered lawn
20 equipment that the qualified retailer sold in the state during the tax year.

21 (5) Pursuant to section 39-21-304 (3), notwithstanding section
22 24-1-136 (11)(a)(I), and for the purpose of providing data that allows the
23 general assembly and the state auditor to measure the effectiveness of the
24 tax credit created in subsection (3) of this section, the department of
25 revenue, on or before January 1, 2025, and on or before January 1 of each
26 year thereafter through ~~January 1, 2028~~ JANUARY 1, 2030, shall submit to
27 the general assembly and the state auditor a report detailing the sales of

1 new, electric-powered lawn equipment, as reported by a qualified retailer
2 claiming the tax credit authorized under subsection (3) of this section.
3 The tax credit established in this section meets its purpose if sales of new,
4 gasoline-powered lawn equipment are significantly reduced within five
5 years after the tax credit becomes effective, as determined by the general
6 assembly and the state auditor pursuant to section 39-21-304 (3).

7 (6) This section is repealed, effective ~~December 31, 2033~~
8 DECEMBER 31, 2035.

9 **SECTION 5.** In Colorado Revised Statutes, 39-26-102, **amend**
10 (19)(c)(II)(C); and **add** (19)(c)(II)(D) as follows:

11 **39-26-102. Definitions.** As used in this article 26, unless the
12 context otherwise requires:

13 (19) (c) (II) For purposes of this ~~paragraph (c)~~ SUBSECTION
14 (19)(c), "agricultural compounds" means:

15 (C) Animal pharmaceuticals that have been approved by the food
16 and drug administration; OR

17 (D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
18 1, 2026, SOIL CONDITIONERS, PLANT AMENDMENTS, PLANT GROWTH
19 REGULATORS, MULCHES, COMPOST, SOIL USED FOR ABOVE-GROUND
20 PRODUCTION OF AGRICULTURAL COMMODITIES, AND MANURE.

21 **SECTION 6.** In Colorado Revised Statutes, 10-20-114, **add** (3)
22 as follows:

23 **10-20-113. Credits for assessments paid - tax offsets.**

24 (3) (a) THE PURPOSE OF THE CREDIT AUTHORIZED IN SUBSECTION (1)(a)
25 OF THIS SECTION IS TO OFFSET THE COST FOR AN INSURER PAYING
26 REQUIRED ASSESSMENTS INTO THE LIFE AND HEALTH INSURANCE
27 PROTECTION ASSOCIATION CREATED IN SECTION 10-20-106 (1).

1 (b) THE EFFECTIVENESS OF THE CREDIT AUTHORIZED IN
2 SUBSECTION (1)(a) OF THIS SECTION IS MEASURED BY HOW MANY ELIGIBLE
3 INSURERS CLAIM THE CREDIT AND THE AMOUNT CLAIMED RELATIVE TO
4 PAYMENTS INTO THE LIFE AND HEALTH INSURANCE PROTECTION
5 ASSOCIATION CREATED IN SECTION 10-20-106 (1).

6 **SECTION 7.** In Colorado Revised Statutes, 39-22-104, **amend**
7 (4)(e) as follows:

8 **39-22-104. Income tax imposed on individuals, estates, and**
9 **trusts - single rate - report - tax preference performance statement**
10 **- legislative declaration - definitions - repeal.** (4) There shall be
11 subtracted from federal taxable income:

12 (e) (I) The amount of any refund or credit for overpayment of
13 income taxes imposed by this state or any other taxing jurisdiction to the
14 extent included in gross income for federal income tax purposes but not
15 previously allowed as a deduction for Colorado income tax purposes;

16 (II) THE PURPOSE OF THE DEDUCTION AUTHORIZED IN THIS
17 SUBSECTION (4)(e) IS TO AVOID RE-TAXING A TAXPAYER'S STATE INCOME
18 TAX REFUND WHEN A STATE REFUND IS REQUIRED TO BE INCLUDED AS
19 INCOME ON THE TAXPAYER'S FEDERAL RETURN PURSUANT TO THE
20 INTERNAL REVENUE CODE;

21 (III) THE EFFECTIVENESS OF THE DEDUCTION AUTHORIZED IN THIS
22 SUBSECTION (4)(e) IS MEASURED BY THE NUMBER OF TAXPAYERS
23 CLAIMING THE DEDUCTION AND THE TOTAL AMOUNT OF STATE REFUNDS
24 CLAIMED AS DEDUCTIONS FROM COLORADO TAXABLE INCOME;

25 **SECTION 8.** In Colorado Revised Statutes, 39-22-304, **amend**
26 (3)(f) as follows:

27 **39-22-304. Net income of corporation - legislative declaration**

1 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
2 income:

3 (f) (I) The amount of any refund or credit for overpayment of
4 income taxes imposed by this state to the extent included in federal
5 taxable income;

6 (II) THE PURPOSE OF THE DEDUCTION AUTHORIZED IN THIS
7 SUBSECTION (3)(f) IS TO AVOID RE-TAXING A TAXPAYER'S STATE INCOME
8 TAX REFUND WHEN A STATE REFUND IS REQUIRED TO BE INCLUDED AS
9 INCOME ON THE TAXPAYER'S FEDERAL RETURN PURSUANT TO THE
10 INTERNAL REVENUE CODE; AND

11 (III) THE EFFECTIVENESS OF THE DEDUCTION AUTHORIZED IN THIS
12 SUBSECTION (3)(f) IS MEASURED BY THE NUMBER OF TAXPAYERS
13 CLAIMING THE DEDUCTION AND THE TOTAL AMOUNT OF STATE REFUNDS
14 CLAIMED AS DEDUCTIONS FROM COLORADO TAXABLE INCOME;

15 **SECTION 9.** In Colorado Revised Statutes, 39-27-102.5, **add**
16 (2.3) as follows:

17 **39-27-102.5. Exemptions on tax imposed - ex-tax purchases -**
18 **performance statement - definition - repeal.** (2.3) (a) THE PURPOSE OF
19 THE EXEMPTION AUTHORIZED IN SUBSECTIONS (1.5) AND (2)(a) OF THIS
20 SECTION IS TO ENTIRELY EXCLUDE DYED DIESEL OR KEROSENE FROM THE
21 SPECIAL FUELS EXCISE TAX WHERE THE DYED FUEL IS USED FOR SPECIFIED
22 OFF-ROAD PURPOSES OR BY GOVERNMENTAL ENTITIES.

23 (b) THE EFFECTIVENESS OF THE EXEMPTION AUTHORIZED IN
24 SUBSECTIONS (1.5) AND (2)(a) OF THIS SECTION IS MEASURED BY THE
25 NUMBER OF TAXPAYERS CLAIMING THE EXEMPTION AND THE AMOUNT OF
26 TAX THAT WOULD HAVE BEEN PAID WITHOUT THE EXEMPTION.

27 **SECTION 10.** In Colorado Revised Statutes, 39-27-103, **add** (8)

1 as follows:

2 **39-27-103. Refunds - penalties - checkoff - limits on collections**

3 **- performance statement - repeal.** (8) (a) THE PURPOSE OF THE REFUND

4 AUTHORIZED IN SUBSECTIONS (2.7) AND (3) OF THIS SECTION IS TO

5 COMPENSATE TAXPAYERS WHO BUY AND PAY THE TAX ON OTHERWISE

6 TAXABLE FUELS FOR THE PURPOSE OF USING THE FUELS FOR SPECIFIED

7 NON-TAXABLE PURPOSES UNDER FEDERAL LAW.

8 (b) THE EFFECTIVENESS OF THE REFUND AUTHORIZED IN

9 SUBSECTIONS (2.7) AND (3) OF THIS SECTION IS MEASURED BY THE NUMBER

10 OF TAXPAYERS CLAIMING A REFUND AND THE AMOUNT OF TAX THAT WAS

11 ALREADY COLLECTED AND IS REFUNDED.

12 **SECTION 11.** In Colorado Revised Statutes, 39-26-102, **amend**

13 (19)(a) as follows:

14 **39-26-102. Performance statement - definitions.** As used in this

15 article 26, unless the context otherwise requires:

16 (19) (a) (I) "Wholesale sale" means a sale by wholesalers to retail

17 merchants, jobbers, dealers, or other wholesalers for resale and does not

18 include a sale by wholesalers to users or consumers not for resale, and the

19 latter sales shall be deemed retail sales and subject to the provisions of

20 this ~~article~~ ARTICLE 26.

21 (II) THE PURPOSE OF THE WHOLESALE SALE EXEMPTION FROM THE

22 TAX LEVIED PURSUANT TO SECTION 39-26-104 (1)(a) IS TO ENSURE THAT

23 SALES TAX IS LEVIED AND COLLECTED ONLY ON A FINAL END SALE TO A

24 RETAIL CONSUMER AND NOT ON WHOLESALE SALES TO AVOID A SINGLE

25 PRODUCT BEING TAXED MULTIPLE TIMES BEFORE IT IS SOLD TO A

26 CONSUMER.

27 (III) THE EFFECTIVENESS OF THE WHOLESALE EXEMPTION FROM

1 THE TAX LEVIED PURSUANT TO SECTION 39-26-104 (1)(a) IS MEASURED BY
2 THE NUMBER OF TAXPAYERS CLAIMING THE WHOLESALE EXEMPTION FROM
3 TAX AND THE AMOUNT OF TAX LIABILITY NOT PAID.

4 **SECTION 12. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly; except
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V
8 of the state constitution against this act or an item, section, or part of this
9 act within such period, then the act, item, section, or part will not take
10 effect unless approved by the people at the general election to be held in
11 November 2026 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.