

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

DRAFT  
9.2.22

**BILL 1**

LLS NO. 23-0122.01 Pierce Lively x2059

**INTERIM COMMITTEE BILL**

**Legislative Oversight Committee Concerning Tax Policy**

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**BILL TOPIC: "Repeal Of Infrequently Used Tax Expenditures"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF INFREQUENTLY USED TAX**  
102 **EXPENDITURES.**

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**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 infrequently used tax expenditures:

- The crop hail insurance premium tax exemption (**section 1** of the bill);
- The in-state investment pre-1959 insurance premium tax deduction (**section 1**);

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

- The corporate condemnation capital gains income tax deduction (**section 2**);
- The oil shale excess percentage depletion income tax deduction (**section 2**);
- The mining and milling impact assistance corporate income tax credit (**section 3**);
- The oil shale equipment and machinery severance tax deduction (**section 4**);
- The oil shale processing severance tax deduction (**section 4**);
- The oil shale excess percentage depletion income tax deduction (**section 4**);
- The oil shale severance tax rate reductions (**section 4**);
- The oil shale noncommercial production severance tax exemption (**section 4**);
- The mineral and mineral fuels impact assistance severance tax credit (**section 5**);

**Sections 6, 7, and 8** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-209, **repeal**  
3 (1)(d)(II), (1)(d)(III), and (1)(g) as follows:

4 **10-3-209. Tax on premiums collected - exemptions - penalties.**

5 ~~(1) (d) (II) Mutual protective associations writing crop hail insurance~~  
6 ~~only and operating on an advance premium basis shall be exempt from the~~  
7 ~~taxes provided by this section on that portion of the premium designated~~  
8 ~~to the loss fund:~~

9 ~~(III) There shall be no tax under this section in the case of any~~  
10 ~~policy issued prior to 1959 by a domestic insurance company organized~~  
11 ~~under the laws of this state, maintaining its principal place of business in~~  
12 ~~this state, and having thirty percent or more of its assets invested in bonds~~  
13 ~~or warrants of this state or of any county, city, town, or district of this~~  
14 ~~state, and other property within this state in which such company is~~  
15 ~~permitted by law to invest its funds, and the premium of which policy was~~

1 ~~fixed and is contractually binding upon the company.~~

2 (g) ~~For the purpose of obtaining the exemption provided in~~  
3 ~~paragraph (d)(III) of this subsection (1), the term "other property within~~  
4 ~~this state" means: Real estate and tangible personal property within this~~  
5 ~~state; first mortgages upon real estate within this state; stocks or bonds of~~  
6 ~~corporations organized under the laws of this state; deposits with banks,~~  
7 ~~trust companies, savings and loan associations, building and loan~~  
8 ~~associations, or financial institutions domiciled within this state; stocks~~  
9 ~~or bonds of foreign or alien corporations which on the date of purchase~~  
10 ~~of such stocks or bonds have fifty percent or more of their assets invested~~  
11 ~~in this state; and accounts of agents who are residents of this state.~~

12 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **repeal**  
13 (3)(d)(III) and (3)(h) as follows:

14 **39-22-304. Net income of corporation - legislative declaration**  
15 **- definitions - repeal.** (3) There shall be subtracted from federal taxable  
16 income:

17 (d) (III) ~~The purpose of this paragraph (d) is, for purposes of~~  
18 ~~Colorado income tax, to accord a seller in a qualified sale the same~~  
19 ~~treatment received by a taxpayer under section 1033 of the internal~~  
20 ~~revenue code relating to gains from involuntary conversion, even though~~  
21 ~~said seller does not qualify under said section 1033 due to the absence of~~  
22 ~~condemnation or the threat or imminence thereof and the buyer of the~~  
23 ~~property purchased initiates the transaction. The executive director shall~~  
24 ~~promulgate such reasonable rules and regulations as are necessary to~~  
25 ~~accomplish the purpose of this paragraph (d).~~

26 (h) ~~An amount equal to the difference between the depletion~~  
27 ~~allowance permitted under the internal revenue code for oil shale and an~~

1 amount which would be permitted as the depletion allowance for oil shale  
2 if: The percentage depletion rate were twenty-seven and one-half percent;  
3 and the crushing, retorting, condensing, and other processes by which oil,  
4 gas, or both oil and gas are removed from oil shale, were deemed to be  
5 treatment processes considered as mining;

6 **SECTION 3.** In Colorado Revised Statutes, **repeal** 39-22-307 as  
7 follows:

8 **39-22-307. Credit allowed for prior payment of impact**  
9 **assistance.** ~~(1) For income tax years commencing on or after January 1,~~  
10 ~~1981, there shall be allowed, as a credit against any taxes imposed by this~~  
11 ~~part 3 on income derived from a new mining, milling, or mining and~~  
12 ~~milling operation or expansion of an existing mining, milling, or mining~~  
13 ~~and milling operation, an amount equal to the value of eligible~~  
14 ~~contributions by the taxpayer made prior to the commencement of~~  
15 ~~operations by the new operation or by the expansion of an existing~~  
16 ~~operation to assist in solving the impact problems of units of local~~  
17 ~~government resulting from the initiation of a new operation or an~~  
18 ~~expansion of an existing operation. The credit allowed by this section~~  
19 ~~shall be allowed only on a new operation or an expansion of an existing~~  
20 ~~operation located within Colorado which begins actual operations~~  
21 ~~subsequent to June 30, 1980. Such credit shall be based on the ratio of the~~  
22 ~~gross income attributable to such new operation or expansion to the total~~  
23 ~~Colorado gross income multiplied by the Colorado income tax liability for~~  
24 ~~the year for which the credit is claimed.~~

25 ~~(2) Eligible contributions, for the purpose of such credit, shall~~  
26 ~~include the donation of property or payments to units of local government~~  
27 ~~for use in the planning or construction or expansion of public facilities;~~

1 ~~limited to roads, schools, water facilities, sewerage facilities, police and~~  
2 ~~fire protection facilities, and hospitals, which are deemed to be~~  
3 ~~necessitated by the initiation of a new operation or an expansion of an~~  
4 ~~existing operation. In order to qualify as an eligible contribution for~~  
5 ~~credit, the following requirements shall be fulfilled:~~

6 (a) ~~Each contribution shall be based on an agreement between the~~  
7 ~~taxpayer and a unit of local government specifying the need for the~~  
8 ~~contribution and its nature, value, and purpose. The agreement shall be~~  
9 ~~submitted for review to each unit of local government that is impacted by~~  
10 ~~the new operation or the expansion of an existing operation. Each~~  
11 ~~impacted unit of local government may send comments on the agreement~~  
12 ~~to the parties to the agreement and the energy impact assistance advisory~~  
13 ~~committee pursuant to section 34-63-102 (5)(b)(VI).~~

14 (b) ~~Each contribution must be determined to be eligible for credit,~~  
15 ~~after joint submission by the taxpayer and the unit of local government,~~  
16 ~~by the executive director of the department of local affairs upon the~~  
17 ~~recommendation of the energy impact assistance advisory committee.~~

18 (c) ~~Certification of eligibility for credit of a contribution of a~~  
19 ~~specified value must be made by the executive director of the department~~  
20 ~~of local affairs to the executive director of the department of revenue, the~~  
21 ~~unit of local government, and the taxpayer. Certification of eligibility for~~  
22 ~~credit shall not be made to the specified value of any contribution~~  
23 ~~submitted, but to a prorated value of the contribution, if the total of all~~  
24 ~~claims received by the department of local affairs exceeds one hundred~~  
25 ~~thousand dollars.~~

26 (3) ~~A taxpayer may claim credit against income tax liability during~~  
27 ~~the first five years of operations by a new operation or an expansion of an~~

1 existing operation in the amount of the total value of all contributions  
2 certified as eligible for credit by submitting with the annual declarations  
3 and returns required by section 39-29-112 the certifications of eligibility  
4 for such credit. Any unabsorbed credit may not be claimed as a refund or  
5 applied as a credit to estimated tax.

6 **SECTION 4.** In Colorado Revised Statutes, **repeal** 39-29-107 as  
7 follows:

8 **39-29-107. Tax on severance of oil shale.** ~~(1) In addition to any~~  
9 ~~other tax, there shall be levied, collected, and paid for each taxable year~~  
10 ~~a tax upon the severance of oil shale as to all such severance occurring on~~  
11 ~~and after January 1, 1978. Such tax shall be levied against every person~~  
12 ~~engaged in the severance of oil shale. Subject to the provisions of~~  
13 ~~subsections (2) and (3) of this section, such tax shall be levied on the~~  
14 ~~gross proceeds from each commercial oil shale facility at a rate of four~~  
15 ~~percent of such gross proceeds.~~

16 ~~(2) The tax shall only have application to a commercial oil shale~~  
17 ~~facility one hundred eighty days after the facility commences commercial~~  
18 ~~production, as follows:~~

19	<b>Year</b>	<b>Fraction of tax imposed by subsection (1)</b>
20	First year	1/4
21	Second year	1/2
22	Third year	3/4
23	Fourth and each succeeding year	Entire rate imposed by
24	subsection (1)	

25 ~~(3) The production of the first fifteen thousand tons per day of oil~~  
26 ~~shale or ten thousand barrels per day of shale oil, whichever is greater,~~  
27 ~~shall be exempt from the tax.~~

1           (3.1) ~~The calculation of the daily production subject to the tax and~~  
2 ~~to the exemption in subsection (3) of this section shall be determined by~~  
3 ~~dividing the total production of a calendar month by the total number of~~  
4 ~~days in such month.~~

5           (4) ~~Repealed.~~

6           **SECTION 5.** In Colorado Revised Statutes, **repeal** 39-29-107.5  
7 as follows:

8           **39-29-107.5. Credit allowed for prior payment of impact**  
9 **assistance.** ~~(1) (a) There shall be allowed, as a credit against any taxes~~  
10 ~~imposed by this article on the severance of minerals or mineral fuels from~~  
11 ~~or for a new operation from or for which first severance occurs~~  
12 ~~subsequent to June 30, 1979, an amount equal to the value of approved~~  
13 ~~contributions by the taxpayer made prior to first severance of such~~  
14 ~~minerals or mineral fuels to assist in solving the impact problems of units~~  
15 ~~of local government resulting from the initiation of such new operation.~~

16           ~~(b) There shall be allowed, as a credit against any taxes imposed~~  
17 ~~by this article on the severance of minerals or mineral fuels from or for~~  
18 ~~an operation which has an increase in production from or for which~~  
19 ~~increased severance occurs subsequent to June 30, 1980, an amount equal~~  
20 ~~to the value of approved contributions by the taxpayer made to assist in~~  
21 ~~solving the impact problems of units of local government or local units~~  
22 ~~of government locally impacted by the increase in production of an~~  
23 ~~operation.~~

24           ~~(c) There shall be allowed, pursuant to an agreement between or~~  
25 ~~on behalf of the taxpayer and the unit of local government specified in~~  
26 ~~subparagraph (I) of paragraph (a) of subsection (2) of this section as a~~  
27 ~~credit against any taxes imposed by this article on the severance of~~

1 ~~minerals or mineral fuels, in addition to any amounts determined under~~  
2 ~~paragraphs (a) and (b) of this subsection (1) and subsection (2) of this~~  
3 ~~section, an amount equal to three-fourths of one percent per month times~~  
4 ~~the amount of approved contributions by a taxpayer for each month that~~  
5 ~~any approved contribution precedes the month in which said approved~~  
6 ~~contribution is credited against a taxpayer's yearly severance tax liability.~~  
7 ~~Any amounts of approved contributions credited against a taxpayer's~~  
8 ~~yearly severance tax liability shall be applied to reduce the amount, if any,~~  
9 ~~of approved contributions not previously credited, and the additional~~  
10 ~~percentage provided in this paragraph (c) shall apply solely to said~~  
11 ~~reduced amount of approved contributions.~~

12 ~~(2) (a) Approved contributions, for the purpose of such credits,~~  
13 ~~shall include the contribution of property or payment of money to units~~  
14 ~~of local government or local units of government locally impacted, for~~  
15 ~~use in planning, including financial, architectural, and engineering~~  
16 ~~services, construction, or expansion of public facilities, including but not~~  
17 ~~limited to county or municipal roads, schools, recreation facilities, water~~  
18 ~~facilities, sewage facilities, police and fire protection facilities, and~~  
19 ~~hospitals, which are deemed to be necessitated by the initiation of a new~~  
20 ~~operation or increase in production of an existing operation. In addition,~~  
21 ~~subject to the agreement reached pursuant to paragraph (c) of subsection~~  
22 ~~(1) of this section, approved contributions may also include any loss~~  
23 ~~sustained by reason of the sale of any bonds by the taxpayer who~~  
24 ~~purchased such bonds, the proceeds of which bonds are used in the~~  
25 ~~planning, construction, or expansion of any such public facilities by a unit~~  
26 ~~of local government or local unit of government locally impacted, and any~~  
27 ~~loss by reason of the default on loans made by a taxpayer or satisfaction~~



1 of a guaranty obligation of the taxpayer arising out of the issuance of such  
2 bonds, whether or not such bonds are purchased by the taxpayer. Such  
3 losses shall be approved contributions as of the date of the making of a  
4 loan, the date of issuance of the bonds, or the date of entering into the  
5 guaranty obligation; except that, for purposes of the additional credit  
6 allowed pursuant to paragraph (c) of subsection (1) of this section, the  
7 date of the approved contribution shall be the date of default on any such  
8 loan, the date of loss on any such bond, or the date of satisfaction of any  
9 such guaranty obligation. In no event shall the total amount of approved  
10 contributions by a taxpayer exceed fifty percent of the severance tax  
11 liability which the taxpayer anticipates will be incurred during the first ten  
12 years of severance from a new operation or fifty percent of the increased  
13 severance tax liability which the taxpayer anticipates will be incurred  
14 during the first ten years of severance from an expanded existing  
15 operation plus the amounts calculated pursuant to paragraph (c) of  
16 subsection (1) of this section. In order for an approved contribution to  
17 qualify for credit, the following requirements shall be fulfilled:

18 (I) Each contribution shall be based on an agreement between or  
19 on behalf of the taxpayer and a unit of local government or local unit of  
20 government locally impacted, specifying the need for such contribution  
21 and its nature, value or amount, and purpose;

22 (II) Each contribution must be acted upon for credit and, if  
23 approved, a certificate of eligibility issued, within ninety days after joint  
24 submission by the taxpayer and the unit of local government, or local unit  
25 of government locally impacted, by the executive director of the  
26 department of local affairs upon the recommendation of the energy  
27 impact assistance advisory committee created by section 34-63-102

1 ~~(5)(b), C.R.S., and failure to act upon the eligibility within said ninety~~  
2 ~~days shall be deemed as approval and certification of the contribution;~~  
3 ~~and~~

4 ~~(HH) Certification of eligibility for credit of a contribution of a~~  
5 ~~specified value or amount must be transmitted by the executive director~~  
6 ~~of the department of local affairs to the executive director of the~~  
7 ~~department of revenue, the unit of local government or local unit of~~  
8 ~~government locally impacted, and the taxpayer.~~

9 ~~(b) In the event that the taxpayer purchases any bonds relating to~~  
10 ~~public facilities as provided in this subsection (2) or makes any loans or~~  
11 ~~guaranty arising out of the issuance of such bonds, the contribution, for~~  
12 ~~purposes of subparagraphs (I) and (H) of paragraph (a) of this subsection~~  
13 ~~(2), shall be the purchase price of any bonds purchased, the face value of~~  
14 ~~any bonds guaranteed, or the amount loaned; except that the taxpayer~~  
15 ~~shall be entitled to claim as a credit pursuant to subsection (3) of this~~  
16 ~~section only the amount of loss on any such bonds, the amount paid in~~  
17 ~~satisfaction of any such guaranty, or the amount of default on any such~~  
18 ~~bonds.~~

19 ~~(c) In order for a loss from the purchase and sale of bonds to~~  
20 ~~qualify as an approved contribution:~~

21 ~~(I) The purchase must arise out of the original distribution of such~~  
22 ~~bonds; and~~

23 ~~(H) The sale of such bonds must be made through a registered~~  
24 ~~broker; and~~

25 ~~(HH) The sale must take place within five business days of the~~  
26 ~~purchase.~~

27 ~~(3) A taxpayer shall be entitled to credit against its severance tax~~

1 liability in an amount equal to the total of all contributions made and  
2 certified as eligible for credit plus the amounts calculated pursuant to  
3 paragraph (c) of subsection (1) of this section. The taxpayer may claim  
4 such credit by submitting with the annual declarations and returns  
5 required by section 39-29-112 the certifications of eligibility for such  
6 credit or evidence regarding deemed certification, and in the case of  
7 losses sustained by reason of the sale of any bonds purchased by the  
8 taxpayer, by reason of satisfaction of a guaranty obligation of the taxpayer  
9 arising out of the issuance of bonds, or by reason of loans made by the  
10 taxpayer, evidence of such losses. The amount of credit available in any  
11 one taxable year, including carry-overs, shall not exceed the taxpayer's  
12 severance tax liability in such year. Any excess shall be carried over and  
13 shall be available as a credit in the next succeeding year or years subject  
14 to the same annual limitation.

15 (4) For the purposes of this section, minerals or mineral fuels shall  
16 include, but not be limited to, oil shale, crude oil, natural gas, and oil and  
17 gas.

18 (5) The executive director of the department of local affairs, or his  
19 or her designee; the executive director of the department of natural  
20 resources, or his or her designee; the executive director of the department  
21 of revenue, or his or her designee; and the energy impact assistance  
22 advisory committee created in section 34-63-102 (5)(b)(I), C.R.S., shall  
23 work together with the executive director, or his or her designee, of the  
24 Colorado municipal league, or its successor organization; the executive  
25 director, or his or her designee, of Colorado counties, incorporated, or its  
26 successor organization; representatives of the energy and mineral  
27 industry; and any other stakeholders to determine how best to improve the

1 ~~impact assistance credit established in this section so that any major~~  
2 ~~infrastructure needs of communities impacted by the energy and mineral~~  
3 ~~industry are addressed. The group specified in this subsection (5) shall~~  
4 ~~recommend any proposed legislation to the agriculture, livestock, and~~  
5 ~~natural resources committee of the house of representatives and the~~  
6 ~~agriculture, natural resources, and energy committee of the senate, or any~~  
7 ~~successor committees, no later than January 31, 2009.~~

8           **SECTION 6.** In Colorado Revised Statutes, 39-21-112, **amend**  
9 (1) as follows:

10           **39-21-112. Duties and powers of executive director.** (1) It is  
11 the duty of the executive director to administer the provisions of this  
12 ~~article~~ ARTICLE 21, and ~~he or she~~ THE EXECUTIVE DIRECTOR has the power  
13 to adopt, amend, or rescind such rules not inconsistent with the provisions  
14 of this ~~article~~ ARTICLE 21, articles 22 to 29 of this ~~title~~ TITLE 39, and  
15 article 3 of title 42 ~~C.R.S.~~, and, subject to other provisions of law relating  
16 to the promulgation of rules, to appoint, pursuant to section 13 of article  
17 XII of the state constitution, such persons, to make such expenditures, to  
18 require such reports, to make such investigations, and to take such other  
19 action as ~~he or she~~ THE EXECUTIVE DIRECTOR deems necessary or suitable  
20 to that end. The executive director shall determine ~~his or her own~~ THE  
21 organization and methods of procedure in accordance with the provisions  
22 of this ~~article~~ ARTICLE 21. For the purpose of ascertaining the correctness  
23 of any return or for the purpose of making an estimate of the tax due from  
24 any taxpayer, the executive director has the power to examine or cause to  
25 be examined by any employee, agent, or representative designated by ~~him~~  
26 ~~or her~~ THE EXECUTIVE DIRECTOR for that purpose any books, papers,  
27 records, or memoranda bearing upon the matters required to be included

1 in the return. ~~In the exercise of rule-making authority as to article 29 of~~  
2 ~~this title, as granted by the general assembly pursuant to this subsection~~  
3 ~~(1), the executive director, in interpreting section 39-29-107.5 (1)(c), shall~~  
4 ~~not have authority to reduce the amount of any approved contributions not~~  
5 ~~previously credited by applying the amount of any additional percentage~~  
6 ~~previously allowed pursuant to said section.~~ In the exercise of  
7 rule-making authority as to article 29 of this title TITLE 39, as granted by  
8 the general assembly pursuant to this subsection (1), the executive  
9 director may not readopt any rule, or portion thereof, disapproved on or  
10 after July 1, 1982, by the general assembly pursuant to section 24-4-103  
11 (8)(d) C.R.S.; without the approval of the general assembly.

12 **SECTION 7.** In Colorado Revised Statutes, 39-29-102, **repeal** (4)  
13 as follows:

14 **39-29-102. Definitions.** As used in this article 29, unless the  
15 context otherwise requires:

16 (4) ~~"Gross proceeds", for oil shale, means the value of the oil~~  
17 ~~shale at the point of severance. Such value shall be determined by~~  
18 ~~deducting from the first sales price of the shale oil all costs, including~~  
19 ~~direct and indirect expenditures, for:~~

20 (a) ~~Equipment and machinery;~~

21 (b) ~~Fragmenting, crushing, conveying, beneficiating, pyrolysis,~~  
22 ~~retorting, refining, and transporting; and~~

23 (c) ~~Royalty payments.~~

24 **SECTION 8.** In Colorado Revised Statutes, 39-29-108, **repeal** (3)  
25 as follows:

26 **39-29-108. Allocation of severance tax revenues - definitions**  
27 **- repeal.** (3) ~~Effective July 1, 1981, the total gross receipts from any~~

1 taxpayer who has previously claimed the full amount of the credit for an  
2 approved contribution under section 39-29-107.5 shall be allocated solely  
3 to the state severance tax trust fund until such time as there is allocated  
4 to such fund, in addition to any current allocation to such fund, an amount  
5 equal to what would have been allocated to such fund during the time the  
6 taxpayer claimed such credit.

7           **SECTION 9. Act subject to petition - effective date.** This act  
8 takes effect January 1, 2024; except that, if a referendum petition is filed  
9 pursuant to section 1 (3) of article V of the state constitution against this  
10 act or an item, section, or part of this act within the ninety-day period  
11 after final adjournment of the general assembly, then the act, item,  
12 section, or part will not take effect unless approved by the people at the  
13 general election to be held in November 2024 and, in such case, will take  
14 effect on the date of the official declaration of the vote thereon by the  
15 governor.