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STATE OF COLORADO

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BILL 2

LLS NO. 22-0162.01 Ed DeCecco x4216

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Tax Policy

BILL TOPIC: "Repeal Of Infrequently Used Tax Expenditures"

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF INFREQUENTLY USED TAX
102 EXPENDITURES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning Tax Policy. The bill repeals the following tax expenditures:

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

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

- receipts from sales in or into the state (**sections 2 and 4**);
- The income tax credit for investment in technologies for recycling plastics (**section 3**);
- The income tax credit for crop or livestock contributions to a charitable organization (**section 4**);
- The income tax deduction for income or gain for a C corporation that was taxed prior to 1965, to the extent it is included in current taxable income (**section 5**);
- Income tax credits for qualifying investments (**sections 6 and 7**);
- The sales and use tax exemption for the transfer of complimentary promotional materials to an out-of-state vendee (**section 8**);
- The requirement that a portion of a state-employed chaplain's salary is designated as a rental allowance (**section 9**); and
- The excise tax exemption for sacramental wines sold and used for religious purposes (**section 12**). This section also specifies that a religious organization that distributes sacramental wines for religious purposes is not subject to licensing and other regulatory requirements.

Sections 10 and 11 make conforming amendments.

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

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

4 **10-3-910. Application of this part 9.** (3) ~~This part 9 shall not~~
5 ~~apply to any life insurance company organized and operated, without~~
6 ~~profit to any private shareholder or individual, exclusively for the purpose~~
7 ~~of aiding educational or scientific institutions organized and operated~~
8 ~~without profit to any private shareholder or individual by issuing~~
9 ~~insurance and annuity contracts directly from the home office of the~~
10 ~~company and without agents or representatives in this state only to or for~~
11 ~~the benefit of such institutions and to individuals engaged in the services~~
12 ~~of such institutions, nor to any policy or contract which it issues; but this~~
13 ~~exemption is conditioned upon any such company complying with the~~

1 following requirements:

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

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

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

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

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

24 **39-22-104. Income tax imposed on individuals, estates, and**
25 **trusts - single rate - report - legislative declaration - definitions -**
26 **repeal.** (5) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY
27 1, 2023, any person who is required by the terms of this ~~article~~ ARTICLE

1 22 to file a return whose only activities in Colorado consist of making
2 sales, who does not own or rent real estate within the state of Colorado,
3 and whose annual gross sales in or into this state amount to not more than
4 one hundred thousand dollars may elect to pay a tax of one-half of one
5 percent of his annual gross receipts derived from sales in or into Colorado
6 in lieu of paying an income tax.

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

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

10 **39-22-114.5. Tax credit for investment in technologies for**
11 **recycling plastics - repeal.** (1) FOR INCOME TAX YEARS COMMENCING
12 PRIOR TO JANUARY 1, 2023, there shall be allowed to each resident
13 individual, as a credit against the income taxes imposed by this ~~article~~
14 ARTICLE 22, a plastic recycling credit equal to twenty percent of net
15 expenditures to third parties for rent, wages, supplies, consumable tools,
16 equipment, test inventory, and utilities up to ten thousand dollars made by
17 the taxpayer for new plastic recycling technology in Colorado, with a
18 maximum credit of two thousand dollars. The tax credit allowed in this
19 section shall be applicable only to income related to the expenditures
20 described in this subsection (1).

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

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

24 **39-22-301. Corporate tax imposed.** (2) (a) FOR INCOME TAX
25 YEARS COMMENCING PRIOR TO JANUARY 1, 2023, any corporation which
26 is required by the terms of this ~~article~~ ARTICLE 22 to file a return, and
27 whose only activities in Colorado consist of making sales, and which does

1 not own or rent real estate within the state of Colorado, and whose annual
2 gross sales in or into this state amount to not more than one hundred
3 thousand dollars may elect to pay a tax of one-half of one percent of its
4 annual gross receipts derived from sales in or into Colorado in lieu of
5 paying an income tax.

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

7 (3) (b) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY
8 1, 2023, there shall be allowed to taxpayers, as a credit with respect to the
9 income taxes imposed by this part 3, an amount equal to twenty-five
10 percent of the wholesale market price or twenty-five percent of the most
11 recent sale price of crop contributions or livestock contributions, or both,
12 made to a tax-exempt charitable organization. Credit, as provided for in
13 this subsection (3), may not exceed one thousand dollars per tax year.

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

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

17 **39-22-304. Net income of corporation - legislative declaration**
18 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
19 income:

20 (e) (I) FOR AN INCOME TAX YEAR COMMENCING PRIOR TO JANUARY
21 1, 2023, the amount necessary to prevent the taxation under this ~~article~~
22 ARTICLE 22 of any annuity or other amount of income or gain which was
23 properly included in income or gain and was taxed under the laws of this
24 state, for a taxable year prior to January 1, 1965, to the taxpayer, or to a
25 decedent by reason of whose death the taxpayer acquired the right to
26 receive the income or gain, or to a trust or estate from which the taxpayer
27 received the income or gain;

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

2 SECTION 6. In Colorado Revised Statutes, 39-22-507.5, **amend**
3 (1) introductory portion; and **add** (12) as follows:

4 39-22-507.5. **Credits against tax - investment in certain**
5 **property - repeal.** (1) Except as otherwise provided in this section, there
6 shall be allowed to any person as a credit against the tax imposed by this
7 ~~article~~ ARTICLE 22, for income tax years commencing on or after January
8 1, 1979, BUT PRIOR TO JANUARY 1, 2023, an amount equal to the total of:

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

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

12 39-22-507.6. **Credits against corporate tax - investment in**
13 **certain property - repeal.** (1) Except as otherwise provided in this
14 section, there shall be allowed to any person as a credit against the tax
15 imposed by part 3 of this ~~article~~ ARTICLE 22, for income tax years
16 commencing on or after January 1, 1988, BUT PRIOR TO JANUARY 1, 2023,
17 an amount equal to the total of:

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

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

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

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

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

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

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

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

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

15 **39-22-510. State-employed chaplains - designation of rental**
16 **allowance.** ~~(1) In the case of a chaplain, "salary" means the amount of~~
17 ~~money or credit received as compensation for services rendered,~~
18 ~~exclusive of mileage, traveling allowances, and other sums received for~~
19 ~~actual and necessary expenses incurred in the performance of the state's~~
20 ~~business.~~

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

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

1 (1) and (2) as follows:

2 **39-22-517. Tax credit for child care center investments.**

3 (1) With respect to taxable years commencing on or after January 1,
4 1992, there shall be allowed to any person operating a child care center,
5 family child care home, or foster care home licensed pursuant to the
6 provisions of section 26-6-104, ~~C.R.S.~~, a credit against the tax imposed
7 by this ~~article~~ ARTICLE 22 in the amount of twenty percent of the
8 taxpayer's annual investment in tangible personal property to be used in
9 such child care center, family child care home, or foster care home. ~~Such~~
10 ~~credit shall be in addition to any credit for which the taxpayer may be~~
11 ~~eligible pursuant to the provisions of section 39-22-507.5 or section~~
12 ~~39-22-507.6.~~

13 (2) With respect to taxable years commencing on or after July 1,
14 1992, there shall be allowed to any sole proprietorship, partnership,
15 limited liability corporation, subchapter S corporation, or regular
16 corporation which provides child care facilities which are incidental to
17 their business and are licensed pursuant to section 26-6-104, ~~C.R.S.~~, for
18 the use of its employees a credit against the tax imposed by this ~~article~~
19 ARTICLE 22 in the amount of ten percent of the taxpayer's annual
20 investment in tangible personal property to be used in such child care
21 facilities. ~~Such credit shall be in addition to any credit for which the~~
22 ~~taxpayer may be eligible pursuant to the provisions of section~~
23 ~~39-22-507.5 or section 39-22-507.6.~~

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

26 **39-30-104. Credit against tax - investment in certain property**
27 **- definitions.** (1) (a) ~~In lieu of any credit allowable under section~~

1 ~~39-22-507.5~~; There shall be allowed to any person as a credit against the
2 tax imposed by article 22 of this ~~title~~ TITLE 39, for income tax years
3 commencing on or after January 1, 1986, an amount equal to the total of
4 three percent of the total qualified investment, as determined under
5 section 46 (c)(2) of the federal "Internal Revenue Code of 1986", as
6 amended, in such taxable year in qualified property as defined in section
7 48 of the internal revenue code to the extent that such investment is in
8 property that is used solely and exclusively in an enterprise zone for at
9 least one year. The references in this subsection (1) to sections 46 (c)(2)
10 and 48 of the internal revenue code mean sections 46 (c)(2) and 48 of the
11 internal revenue code as they existed immediately prior to the enactment
12 of the federal "Revenue Reconciliation Act of 1990".

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

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

23 **44-3-106. Exemptions.** (1) (a) ~~The provisions of this article 3~~
24 ~~shall not apply to the sale or distribution of sacramental wines sold and~~
25 ~~used for religious purposes.~~ EXCEPT AS PROVIDED IN SUBSECTION (1)(b)
26 OF THIS SECTION, THE REQUIREMENTS SET FORTH IN THIS ARTICLE 3 DO
27 NOT APPLY TO ANY RELIGIOUS ORGANIZATION THAT DISTRIBUTES

1 SACRAMENTAL WINES FOR RELIGIOUS PURPOSES.

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

5 **SECTION 13. Act subject to petition - effective date.**

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

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