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Revised Fiscal Note

(replaces fiscal note dated January 13, 2022)

Drafting Number: LLS 22-0162 Date: February 10, 2022
Prime Sponsors: Rep. Benavidez, Sen. Kolker Bill Status: House Appropriations
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Bill Topic: REPEAL OF INFREQUENTLY USED TAX EXPENDITURES

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill eliminates several tax expenditures from the state's insurance premium tax, income tax, sales and use tax, and liquor excise tax. The bill will increase state revenue and expenditures on an ongoing basis beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$30,750 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill as amended by the House Finance Committee. The bill was recommended by the Legislative Oversight Committee Concerning Tax Policy

Table 1 State Fiscal Impacts Under HB 22-1025

Table with 4 columns: Category, Fund, Budget Year FY 2022-23, Out Year FY 2023-24. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

## **Summary of Legislation**

The bill eliminates a number of tax expenditures, including:

1. the exemption from the insurance premium tax for educational and scientific institution life insurance effective upon passage of the bill;
2. the alternative minimum income tax based on annual gross receipts from sales in or into the state beginning January 1, 2023;
3. the income tax credit for investment in technologies for recycling plastics beginning January 1, 2023;
4. the income tax credit for crop or livestock contributions to a charitable organization beginning January 1, 2023;
5. the income tax deduction for income or gain for a C corporation that was taxed prior to 1965 beginning January 1, 2023;
6. the income tax credits for qualifying investments beginning January 1, 2023;
7. the sales and use tax exemption for the transfer of complimentary promotional materials to an out-of-state vendee beginning January 1, 2023; and
8. the requirement that a portion of a state-employed chaplain's salary is designated as a rental allowance effective upon passage of the bill.

## **Background**

Each of the tax expenditures affected by this bill are presented in the Office of the State Auditor's (OSA's) Tax Expenditure Evaluation Reports (<https://leg.colorado.gov/node/1147256>). For each tax expenditure impacted by the bill, OSA's evaluations found that the tax expenditures were rarely claimed by a small number of taxpayers, and in some instances, not claimed at all.

## **Assumptions**

This fiscal note revenue estimates are based on the Office of the State Auditor's Tax Expenditure Evaluation Reports and data from the Department of Revenue. Many of these estimates are based on revenue data from 2017, 2018, or 2019, depending on data availability. As such, the revenue estimates presented in this fiscal note have been adjusted for inflation based on the Denver-Aurora-Lakewood Consumer Price Index, consistent with the December 2021 Legislative Council Staff forecast. Additionally, this fiscal note assumes that the bill will go into effect July 1, 2022; if the bill takes effect prior to this date, the bill will increase revenue beginning in the current FY 2021-22.

## **State Revenue**

The bill will increase General Fund revenue by \$198,250 in FY 2022-23 and by \$400,842 in FY 2023-24 and future years. The bill increases revenue from income, sales and use, liquor excise, and premium insurance taxes, each of which are subject to TABOR. Revenue impacts for each tax expenditure to be repealed are presented in Table 2 below.

**Table 2  
Revenue Under HB 22-1025**

	FY 2022-23	FY 2023-24
Exemption from the insurance premium tax for educational and scientific institution life insurance <sup>1</sup>	-	-
Alternative minimum income tax based on annual gross receipts from sales in or into the state <sup>2</sup>	\$5,670	\$11,470
Income tax credit for investment in technologies for recycling plastics <sup>2</sup>	\$2,835	\$5,735
Income tax credit for crop or livestock contributions to a charitable organization <sup>2</sup>	-	-
Income tax deduction for income or gain for a C corporation that was taxed prior to 1965 <sup>2</sup>	-	-
Income tax credits for qualifying investments <sup>2</sup>	\$189,527	\$383,414
Sales and use tax exemption for the transfer of complimentary promotional materials to an out-of-state vendee <sup>2</sup>	-	-
Requirement that a portion of a state-employed chaplain's salary is designated as a rental allowance <sup>1</sup>	\$218	\$223
<b>Total Revenue</b>	<b>\$198,250</b>	<b>\$400,842</b>

<sup>1</sup> Repealed upon passage of the bill.

<sup>2</sup> Repealed by the bill after December 31, 2022.

## State Expenditures

The bill is expected to increase General Fund expenditures by \$30,750 in FY 2022-23 and by \$6,400 in FY 2023-24. Expenditures are presented in Table 3 and discussed below.

**Table 3  
Expenditures Under HB 22-1025**

	FY 2022-23	FY 2023-24
<b>Department of Revenue</b>		
GenTax Programming	\$6,750	-
Computer and User Acceptance Testing	\$24,000	-
Data Reporting	-	\$6,400
<b>Total Cost</b>	<b>\$30,750</b>	<b>\$6,400</b>

**Department of Revenue (DOR).** The department will have one-time costs of \$30,750 in FY 2022-23 and \$6,400 in FY 2023-24 to implement this bill. The bill will require changes to the department's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of \$225 per hour. Approximately 30 hours of computer programming will be required to implement this bill, totaling \$6,750. Additional computer and user acceptance testing are required to ensure programming changes function properly, resulting in additional costs of \$24,000.

In FY 2023-24, the Office of Research and Analysis within DOR will have costs of \$6,400 to update reporting processes, SQL code, worksheets, report templates, and GenTax database testing. Additionally, the department anticipates increased workload associated with queries about the impact of the eliminated tax expenditures.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2021 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$4,613 in FY 2022-23 and \$960 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except for sections 8, 10, and 11 of the bill, which take effect January 1, 2023.

## State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$30,750 to the Department of Revenue.

## State and Local Government Contacts

Information Technology  
Regulatory Agencies

Personnel  
Revenue