HB 23-1121

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0122	**Date:**	August 8, 2023
Prime Sponsors:	Rep. Bird Sen. Hansen; Liston	**Bill Status:**	Signed into Law
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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, individual and corporate income tax, and severance tax. It minimally increases state revenue on an ongoing basis beginning in FY 2023-24, and increases state workload in FY 2023-24 only.

Appropriation Summary: No appropriation is required or included.

Fiscal Note Status: The fiscal note reflects the enacted bill, which was initially recommended by the Legislative Oversight Committee Concerning Tax Policy.

Summary of Legislation

The bill eliminates a number of tax expenditures, effective January 1, 2024, including:

- the insurance premium tax exemption for mutual protective associations that write only crop hail insurance;
- the insurance premium tax deduction for policies issued prior to 1959 by insurance companies making investments in Colorado;
- the income tax deduction for corporate capital gains from involuntary conversion;
- the income tax deduction for depletion of oil shale in addition to the federal depletion amount;
- the corporate income tax credit for providing assistance in solving the local government impacts of new mining or milling operations;
- the severance tax deduction for oil shale equipment and machinery;
- the severance tax deduction for oil shale processing and royalty costs;
- the severance tax rate reductions for oil shale producers;
- the severance tax exemption for oil shale or shale oil severed at non-commercial production rates; and
- the severance tax credit providing assistance in solving the local government impacts of new mineral or mineral fuel severance operations.

Background

Each of the tax expenditures repealed by this bill are presented in the Office of the State Auditor's (OSA's) Tax Expenditure Evaluation Reports, available at:
http://coga.prod.acquia-sites.com/sites/default/files/html-attachments/fc5b50813ca248908725889c005f1635__hearing_summary/Attachment%20D.pdf.

For each tax expenditure repealed by the bill, OSA's evaluations found that the tax expenditures were rarely claimed by a small number of taxpayers or not claimed at all.

State Revenue

The bill minimally increases state revenue beginning in FY 2023-24.

Changes with no fiscal impact. Six of the ten tax expenditures being repealed are not being used because no one is eligible to claim them. Because they are not being used, the elimination of the following expenditures is assessed as having no revenue impact:

- the crop hail insurance premium tax exemption;
- the mining and milling impact assistance corporate income tax credit;
- the oil shale equipment and machinery severance tax deduction;
- the oil shale processing severance tax deduction;
- the oil shale severance tax rate reductions; and
- the mineral and mineral fuels impact assistance severance tax credit.

Changes with minimal revenue impact. Repealing the remaining four tax expenditures likely has no revenue impact, but may result in a minimal increase in state revenue. Some of these expenditures may not be being used at all, but there was insufficient data to confirm this. As such, the elimination of the following tax expenditures is assessed as increasing state revenue by a minimal amount:

- the in-state investment pre-1959 insurance premium tax deduction;
- the corporate condemnation capital gains income tax deduction;
- the oil shale excess percentage depletion income tax deduction; and
- the oil shale non-commercial production severance tax exemption.

Revenue from income taxes and insurance premium taxes is deposited in the General Fund, while revenue from severance taxes is deposited in equal shares in the Severance Tax Trust Fund in the Department of Natural Resources and the Local Government Severance Tax Fund in the Department of Local Affairs. Revenue from all of these taxes is subject to TABOR.

State Expenditures

This bill will minimally increase workload for the Department of Revenue in FY 2023-24 to update software and data reporting processes. Because the tax expenditures are so infrequently used, this workload can be accomplished within existing appropriations.

Effective Date

The bill was signed into law by the Governor on March 23, 2023 and takes effect on January 1, 2024, assuming no referendum petition is filed.

State and Local Government Contacts

Revenue State Auditor