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TAX EXPENDITURE MODIFICATIONS, 2019-2022:

GOVERNOR POLIS'S RECORD ON SPECIAL INTEREST TAX BENEFITS

by Ben Murrey, Fiscal Policy Center Director
Independence Institute

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EXECUTIVE SUMMARY

In 2018, Jared Polis campaigned on a tax reform agenda of reducing special interest tax benefits in Colorado's tax code. He also pledged to make these reforms revenue neutral by using new revenues from reduced tax expenditures "to cut taxes for all," specifically by lowering income tax rates.[1] This report assesses Governor Polis's performance on the first part of that agenda through quantitative and qualitative analysis of every bill signed into law by Polis during his first term that created, eliminated, or amended tax expenditures. It found:

- All bills signed into law by Polis during his first term had a net cumulative impact of increasing special interest tax benefits by approximately $640 million over ten years.[*]
- The governor signed a total of 50 bills into law during his first term that created, repealed, or amended special interest tax benefits. Only seven of those bills included any reductions in special interest tax benefits at all; four reduced tax benefits on net. Forty-six increased tax benefits on net.[†]
- Those bills created, eliminated, or amended 76 different tax expenditures. They repealed 15 and reduced the benefits for an additional eight. They created 19 new tax expenditures and increased or extended the benefits for 36. In the case of two tax expenditures, legislation modified them in such ways as to both increase and decrease their benefits for different taxpayers.[‡]
- The 10-year cumulative impact of these policies was to reduce tax benefits by $3.86 billion and increase tax benefits by $4.5 billion for a net increase of about $640 million.
- Approximately $3.69 billion in tax expenditure reductions came from just three bills: HB19-1245, HB21-1311, and HB21-1312.

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* See *Appendix A* to learn the methodology this report uses for arriving at the cumulative impact.
† See *Appendix B* for the full list of bills.
‡ See *Appendix C* for a full list of tax expenditures amended.

- For the five-year period from FY2019-20 through FY2023-24, the 50 bills will increase tax benefits by an estimated $166.8 million on net. These include $1.07 billion in tax expenditure reductions and $1.24 billion in increases.
- Barring future legislation, most of the impact from changes to tax expenditures over the last four legislative sessions is seen in the "out-years" after FY2023-24.
- Policies that increased tax benefits were more likely to include a sunset clause than those that eliminated or decreased them.
- All 50 bills that reduced or increased tax expenditures will cost the state more than $300 million to administer over ten years.
- Because Polis increased rather than decreased special interest tax benefits, his policies generated no new revenue with which to achieve revenue neutral tax reform through income tax rate reductions.
- Legislative Council Staff currently forecasts TABOR refunds for at least four consecutive years, from FY2020-21 through FY2023-24. The increase in tax expenditures over the last four years will reduce TABOR refunds by an estimated $211.59 million over that period.[*]

Despite repealing and reducing some tax benefits, because Polis increased far more tax benefits by a much larger amount in total, this report concludes that he has failed to deliver on his tax reform campaign pledge. On the contrary, his actions mostly contradicted the tax reform platform upon which voters elected him in 2018.

* See *Appendix E.*

INTRODUCTION

Governor Polis has gained national recognition for his politically libertarian and right-leaning ideas as a Democrat, especially on the issues of limited government and tax reform.[2] The right-leaning organization American Legislative Exchange Council (ALEC) named him the fourth best governor in the nation in 2021, in part for his positions on tax policy. The report explains, "Polis exemplifies the importance of placing pro-growth income tax policy over partisanship."[3] Indeed, his rhetoric on the campaign trail and as governor often breaks from the Democratic party-line. During the 9News gubernatorial candidates debate in October 2018, he told Coloradans he wanted to eliminate special interest tax benefits and use the revenue to reduce income tax rates for everyone:

> At the state level, we've looked at going after special interest tax giveaways—about 1.6 billion dollars a year—reigning them in and using the proceeds to reduce people's income tax by 3 to 5 percent, so families aren't paying 4.63 percent. We'd love to get that to 4.3 or 4.2…I'd rather that we have a broader tax base and bring down tax rates for Colorado residents.[4]

Republicans, libertarians, and right-leaning non-governmental political organizations often advocate for this idea of broadening the tax base by cutting special interest tax benefits and using the new revenue from those reforms to lower tax rates for everyone.[5] Indeed, the landing page for ALEC's "Tax Reform" issues page argues, "Low, competitive tax rates on a broad tax base offer a level playing field to all."[6] While the rhetoric from Colorado's governor certainly reflects a conformity to this belief, no study has ever evaluated his actions on the matter. This report therefore assesses the progress Polis made during his first term in accomplishing the first part of his tax reform platform—reducing special interest tax benefits.

Publications by the various offices and agencies of the state of Colorado provide helpful resources explaining the state's tax base and tax benefits available under state law. None of those publications, however, attempts to provide a thorough assessment of Polis's record on tax expenditure reform. State law requires the Office of the State Auditor

(OSA) to publish an evaluation of all state tax expenditures every five years.[7] That office produces produce a public spreadsheet with a list of all tax expenditures in the Colorado tax code and hyperlinks to OSA publications for each expenditure. The Colorado Department of Revenue (DOR) publishes the biennial *Tax Profile and Expenditure Report*, which includes the "Colorado Tax Expenditure Study." The study "reports the estimated reduction in state revenue as a result of tax expenditures."[8] Bill texts and Legislative Council Staff (LCS) fiscal notes also provide information on changes to tax expenditures. None of these reports nor any others published by the state or non-government organizations, however, provides a clear answer to the central question of this report: In his first term, did Governor Polis follow through on his pledge to reduce special interest tax benefits?

To assess the extent to which Polis accomplished this part of his agenda on tax reform—reducing special interest tax benefits—Independence Institute's fiscal policy center conducted research in three parts for this report:

1. The center identified all the bills signed by the governor during his first term that a) repealed existing tax expenditures, b) reduced existing tax expenditures, c) extended or expanded tax expenditures, and d) created new tax expenditures.
2. Using fiscal note estimates for each bill, the center compiled the ten-year revenue impacts of each tax expenditure provision within those bills.
3. The center then calculated the net changes in state revenue over ten years resulting from tax expenditure modifications in every bill to determine whether the governor effected a cumulative net increase or decrease in tax benefits for special interests.

With this approach, the report accomplishes what no other report or state publication has. It parses out only those changes to law approved by Polis's gubernatorial signature that either increased or decreased tax expenditures. It evaluates each of those changes, determining whether each constitutes a policy change in pursuit of or in opposition to the governor's pledge to reduce special interest tax benefits.* Then, using ten-year revenue impacts for each tax expenditure policy change, the report determines the cumulative net result of the governor's policies—whether they increased or decreased special interest tax benefits on net.†

"...the report accomplishes what no other report or state publication has. ...[it] determines the cumulative net result of the governor's policies—whether they increased or decreased special interest tax benefits on net."

Following this introduction, the report begins with important background to contextualize the report. It sets the stage by providing a rundown of the governor's campaign platform for tax reform. It then provides context for Polis's tax reform platform by explaining the meaning and effect of tax expenditures. Though not the focus of the report, it also explains the meaning of revenue neutral tax reform to provide background on the second part of Polis's campaign platform.

* See table 2 under *Appendix B* and table 7 under *Appendix D* for more information on how this report determined whether and how to include the effects of different bills.

† See *Appendix A*.

The report proceeds in the next section with the specific findings of the report, based on the research described under points 1., 2., and 3. in this introduction. The "Findings" section begins with high-level findings and figures on tax expenditures and the bills that promulgated tax expenditure increases and decreases during Polis's first term in office. It then breaks the findings into three sections: "Reductions in Tax Expenditures," "Increases in Tax Expenditures," and "Governor Vetoes." The report concludes by recapping Polis's campaign platform for tax reform and providing an answer to the report's central question of Polis's performance on reducing special interest tax benefits. It finishes by speaking briefly to the second part of Polis's campaign platform for tax reform—reducing state income tax rates. It suggests that and another related topic for future research.

The report relies on a lengthy appendix for supplemental information, which if included in the main text may have distracted readers from the central question and findings of the report but nonetheless provides pertinent information. *Appendix A* justifies the report's findings by explaining its methodology, assumptions, and use of key terms and phrases. *Appendix B* includes two tables. The first lists every bill signed into law by Polis that either expanded or reduced tax expenditures along with the full data set referenced in the "Findings" section. Table 2 serves as a qualitative table for the same list of bills and includes an "Additional Notes" column, which in some cases explains how this report interpreted the effects of a bill. *Appendix C* lists every individual tax expenditure provision repealed, amended, or created by any of the bills listed in *Appendix B*. It also references the section of the tax code for each modified tax expenditure; next to each provision it lists all the bills from *Appendix B* that amended it. *Appendix D* lists bills promulgated in the last four years related to tax expenditures but excluded from the impacts and findings in this report. The appendix explains each exclusion. *Appendix E* explores how changes to tax expenditures and the findings of this report interact with the Taxpayer's Bill of Rights in the Colorado constitution.

This report does not attempt to evaluate the merits of creating, expanding, reducing, or eliminating specific tax expenditures. It aims only to evaluate the changes made to tax expenditures with a view towards Polis's campaign commitment to reduce special interest tax benefits.

BACKGROUND

The Polis Campaign Platform: Tax Reform

On the campaign trail in 2019, now-governor Jared Polis proposed and campaigned on tax reform that would do two things:

1. Reduce special interest tax benefits, especially those that benefit corporate interests, and
2. Use that revenue to lower taxes for all Coloradans, specifically income tax rates, making the reform revenue neutral on net.

In addition to his comments during the 9News gubernatorial debate in October 2018 referenced in the introduction of this report, Polis has continued to articulate a consistent message on tax reform. In a November 13, 2019 interview with Ryan Warner on *Colorado Matters*, Polis said:

> One of our top four goals is a permanent tax cut for Colorado … We're not talking about any tax plan that reduces state funding. To be clear, the tax code has accumulated giveaways to particular groups and lobbyists that have over decades made the tax code very complicated.
>
> There's an interim committee that actually reviewed some of those tax loopholes, bipartisan, (and) recommended some that could be closed. They didn't get through the whole tax code. We have a list. We're open to almost any. We would then want to eliminate those loopholes and use those proceeds to reduce the tax rate for everybody.[9]

In a December 2019 op-ed for the Colorado Sun after taking office, Polis reminded Coloradans of his campaign platform for tax reform: "Last year I called for a revenue neutral tax reform proposal that would have eliminated deductions and loopholes that benefit special interests in order to cut taxes for all."[10]

In his 2020 State of the State address, Polis said, "I am enthusiastic about working to deliver permanent income tax relief, and we should continue down the path of eliminating tax breaks for special interests so that we can lower rates for everyone without reducing state revenue."[11]

While his message has remained consistent, he did not offer many specific policy proposals for reducing special interest tax benefits. When the Denver Post contacted the governor's office for specifics, Polis spokesman Conor Cahill told the post the governor planned to convene a study group on the matter and said:

> At this time it would be premature to discuss what this bipartisan group might look into. However, the Colorado code is riddled with hundreds of credits, exemptions and deductions and the Governor hopes the group will examine those loopholes and the ones that benefit special interests while hardworking people are stuck running the economic treadmill.[12]

Nonetheless, Polis provided some insight into policy prescriptions for achieving his proposed tax reform agenda. On the campaign trail, Polis proposed eliminating $1.6 billion in "corporate tax giveaways."[13] Later, in his 2019 State of the State address, he explicitly named capping the vendor fee as a way to follow through on his campaign pledge: "It's time to cap the vendor fee, which is a giveaway to the largest, most influential and profitable retailers in the nation, and use the savings to lower tax rates to benefit small businesses and millions of working Colorado families."[14]

In terms of the second part of his tax reform platform—in which he promised to make tax expenditure reductions revenue neutral by cutting taxes for all—he specifically advocated for a 3 percent to 5 percent reduction in the state income tax rate.* He stated during the same monologue that he would like to see rates as low as 4.2 percent.[15] His comments during his 2020 State of the State address confirmed that he intended to "deliver permanent income tax relief" with "lower rates" after "eliminating tax breaks for special interests."[16]

"This report evaluates Governor Polis's record on tax reform during his first term, based on statements made by Polis on the campaign trail and since swearing in as Governor. "

This report evaluates Governor Polis's record on tax reform during his first term, based on statements made by Polis on the campaign trail and since swearing in as Governor. Specifically, it evaluates his record on the first part of his platform, described in the first point at the start of this background, by identifying, qualifying, and quantifying the extent to which he increased or decreased tax expenditures during his first term as governor. It does not attempt to evaluate the second part of his tax reform proposal on reducing income tax rates.

What are Tax Expenditures?

The terms "tax loopholes" or "tax benefits" commonly refer to what state budgeters and the Department of Revenue call "tax expenditures." These include tax deductions, tax exemptions, tax credits, and other special tax benefits.[17] Tax deductions allow taxpayers to deduct certain income or expenses from their total taxed income (i.e.

* When Polis took office, the income tax rate in Colorado was 4.63 percent. A 3 percent reduction would put it at approximately 4.49 percent. A 5 percent reduction would put it at 4.40 percent.

"taxable income"). Tax exemptions exempt certain income, expenses, or activities from taxation. Tax credits directly reduce a taxpayer's tax liability. These and other types of tax expenditures result in qualifying taxpayers having a lower effective tax burden than they would have without them.

By creating benefits to certain taxpayers, tax expenditures reduce tax receipts to the state, since the state thereby collects less revenue through taxation. The Colorado tax code defines a tax expenditure as "a tax provision that provides a gross or taxable income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue."[18] Put differently, a tax expenditure creates negative revenue for the state just as a tax generates positive revenue. It reduces revenue by reducing taxes owed. Refundable tax credits—a kind of tax expenditure—can even cause a taxpayer to have zero tax liability and receive a check from the state when they file their tax return. When lawmakers eliminate a tax expenditure from the tax code, state revenues generally increase. Economists commonly refer to this type of policy change as "broadening the tax base," because the amount of money subject to taxation in the economy—or the "tax base"—increases.

"Governor Polis advocated broadening the tax base and eliminating special interest tax deductions and loopholes. Both concepts mean reducing or eliminating tax expenditures that benefit specific taxpayers or reward certain economic activities via the tax code."

Governor Polis advocated broadening the tax base and eliminating special interest tax deductions and loopholes. Both concepts mean reducing or eliminating tax expenditures that benefit specific taxpayers or reward certain economic activities via the tax code.* If not offset by increasing other tax expenditures, reducing tax rates, or eliminating some taxes altogether, broadening the tax base would increase state revenue.

What is Revenue Neutral Tax Reform?

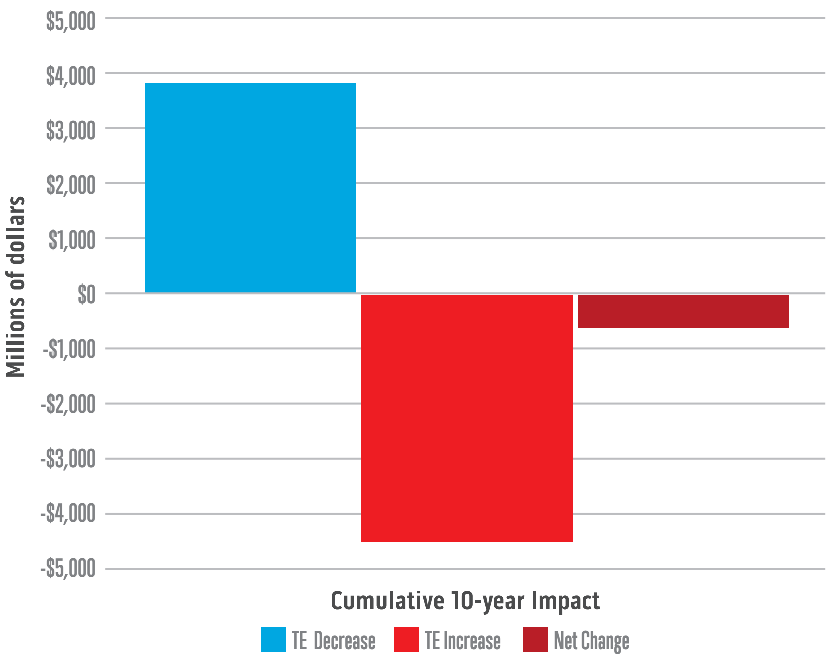
Together with eliminating tax expenditures, Polis called for "revenue neutral tax reform." When lawmakers eliminate tax expenditures, the tax liabilities of those who enjoyed those tax benefits increase, thus increasing state tax receipts. To make those reforms revenue neutral for the state, lawmakers would need to use all the new revenue from eliminating tax benefits to decrease the tax burden elsewhere. To accomplish this, the governor said that after eliminating tax loopholes, he would use the new revenue to "bring down tax rates for Colorado residents" or "cut taxes for all," thus making the reforms revenue neutral on net.[19] During the 2018 9News gubernatorial debate, he specifically suggested cutting personal income taxes.[20] As mentioned in the introduction and the first section of this background, however, this report does not evaluate Polis's record on reducing income tax rates.

* See "Clarification of Terms" under *Appendix A*.

FINDINGS

During his first term in office, 50 of the bills Governor Polis signed into law repealed, amended, or created tax expenditures.* On net, four out of the 50 bills decreased tax expenditures and 46 increased them. Cumulatively, bills signed by Polis during his first term reduced special interest tax benefits by $3.86 billion and increased them by $4.5 billion. On net, Polis increased special interest tax benefits by $639.61 million during his first term.†

Figure 1. Cumulative 10-year Revenue Impact of All Tax Expenditure Bills, 2019-2020



* See table 1 under *Appendix B* for a full list of bills that amended tax expenditures.

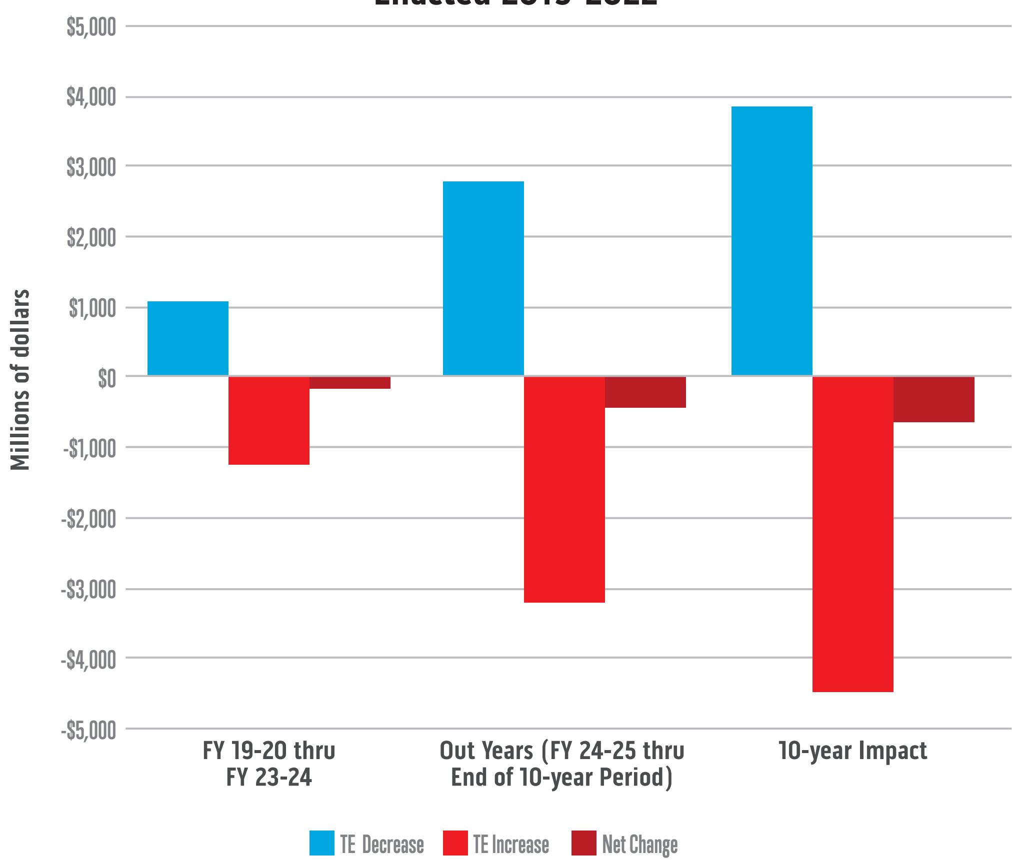
† The methodology used to arrive at the ten-year impact likely produced a conservative estimate, understating the expansion of tax benefits over ten years. See *Appendix A* for more. See *Appendix* for the full table of all bills and data referenced under "Findings."

Legislative Council Staff fiscal notes often provide revenue estimates only for the first one to three years after a bill goes into effect, yet these findings report impacts over a 10-year forecast window. Fiscal notes for most bills passed from 2019 through 2022 often show estimates of revenue impacts from tax expenditure changes only through FY2023-24 or earlier. To determine the 10-year impact of tax expenditure changes, this report projects fiscal note estimates forward when necessary. In figure 2, "out-years" demonstrates this by showing the cumulative impact from FY2024-25 through the end of the ten-year forecast window. The first two sections under *Appendix A* at the end of this report describe in more detail how the report arrives at cumulative impacts of the bills enacted over the last four years and how it handles impacts for bills with a sunset clause versus those without.

Over the five fiscal years from FY2019-20 through FY2023-24, the cumulative effect of legislation enacted and signed into law by Polis was to increase tax benefits on net by approximately $166.8 million. That included $1.07 billion in tax expenditure reductions and $1.24 billion in tax expenditure increases. Most of the impact from changes to tax expenditures over the last four legislative sessions, however, is seen after FY2023-24.

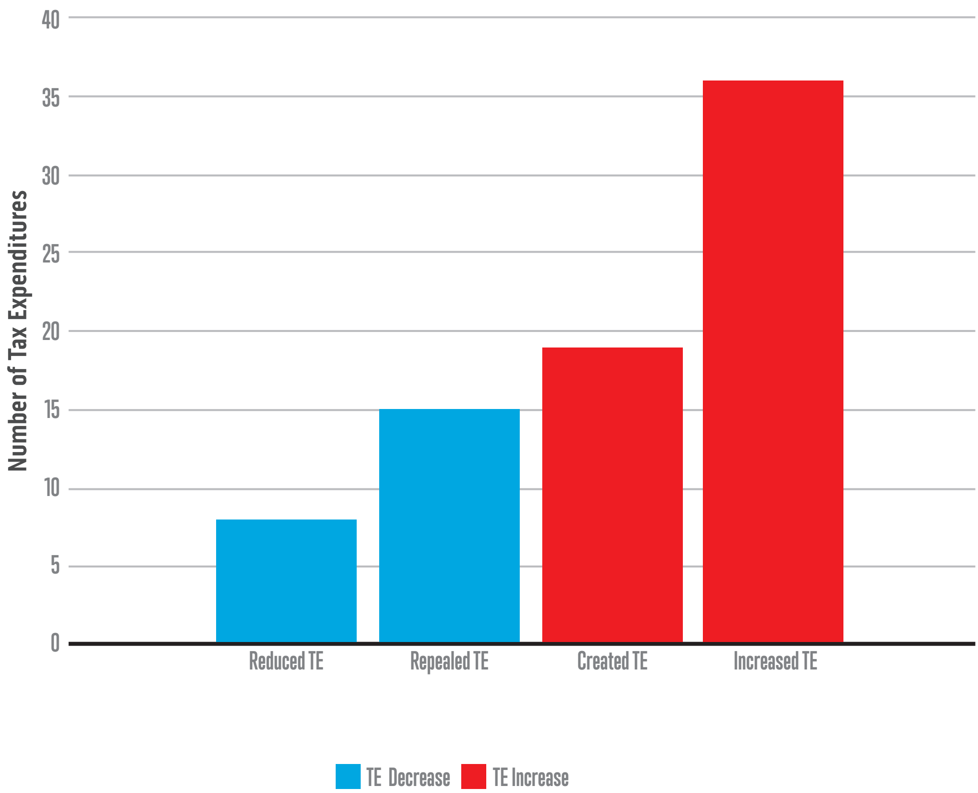
Figure 2 shows the net effect of all tax expenditure changes promulgated during Polis's first term, broken out by revenue impacts over three periods. The first two sets of columns together equal the 10-year impact shown in the third set of columns.

Figure 2. Revenue Impact by Timeframe for All Tax Expenditure Bills Enacted 2019-2022



As explained in the introduction, this report investigates tax expenditure changes primarily by looking at the impact of each individual bill signed by the governor. For the most part, it describes impacts by bill, not by tax expenditure provision. For reference, however, tables 3 through 6 under *Appendix C* list all the individual tax expenditure provisions repealed, amended, or created over the last four years. Through legislation, Polis repealed, amended, or created a total of 76 different tax expenditures. He repealed 15 and reduced the benefits for an additional eight. He also created 19 new tax expenditures and increased or extended the benefits for 36. In the case of two tax expenditures, legislation modified them in such ways as to both increase and decrease their benefits for different taxpayers.

Figure 3. Number of Tax Expenditures by Nature of Change for All Tax Expenditure Bills Enacted 2019-2022



Simply showing the number of expenditures—such as those repealed, reduced, increased, or created—lacks precision and obscures the true impact of tax expenditures changes. For example, of the fifteen tax expenditures repealed over the last four years, nine of them were part of a single bill, HB22-1025, which repealed "infrequently used tax expenditures." Cumulatively, their repeal is expected to increase state revenue by just $400,000 annually. Two others on that list were repealed but then replaced by much larger tax expenditures. Of the fifteen tax expenditures repealed, only four of those repeals made meaningful progress towards reducing the cost of tax expenditures to the state. Tracking revenue impacts of each bill provides a much more useful measure of Polis's record on reducing special interest tax benefits.

The next subsection goes into greater detail on findings related to reductions in tax expenditures. The following subsection does the same for increases in tax expenditures. This section ends with a discussion of governor vetoes of legislatively enacted bills impacting tax expenditures.

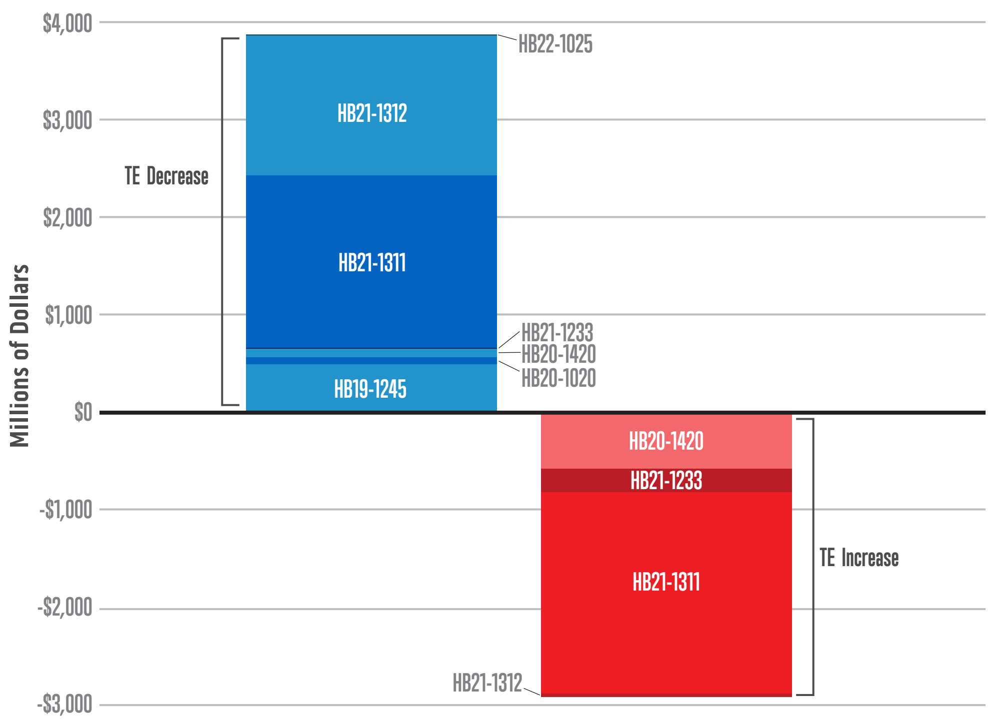
Neither this section nor the report evaluates the governor's performance regarding the second part of his campaign platform for tax reform—to use revenues from eliminating special interest tax benefits to cut taxes for all. First, the question lies outside the scope of the report. Second, the governor's tax reform policies made the question somewhat moot. Because he increased tax benefits and reduced state revenues on net, his policies did not yield increased revenues with which to reduce income tax rates in a revenue neutral manner.

"Of the fifty tax expenditure bills signed into law by Polis over the last four years, only seven included any reductions in special interest tax benefits; only four reduced such benefits on net."

Reductions In Tax Expenditures:

Of the fifty tax expenditure bills signed into law by Polis over the last four years, only seven included any reductions in special interest tax benefits; only four reduced such benefits on net. Together, the seven bills repealed 14 different tax expenditures, partially repealed one, and reduced benefits for seven. The reduction and repeal of these tax expenditures will result in a total reduction of approximately $3.86 billion in tax benefits over 10 years. Because these seven bills also include nearly $3 billion in tax expenditure increases, together—without the 43 bills that exclusively increased tax expenditures—they will decrease tax benefits on net by just under $950 million over 10 years.

Figure 4. Revenue Impact for All Seven Bills with Tax Expenditure Reductions Enacted 2019-2022



Three of the seven bills exclusively reduced special interest tax benefits without any accompanying increases: HB19-1245, HB20-1020, and HB22-1025. Those totaled approximately $568.91 million in cuts to existing tax benefits over 10 years. They constitute three of the four bills passed in the last four years that reduced tax benefits on net. Four bills included both increases and decreases to tax expenditures: HB20-1420, HB21-1311, HB21-1312, and HB21-1233.* HB21-1312 included larger decreases to tax benefits than increases, resulting in a net decrease. The other three, despite including decreases to tax benefits, each resulted in net increases due to provisions that created, expanded, and extended tax expenditures.

> "Of the seven bills that reduced tax expenditures, two showed negligible reductions. That leaves five bills in which Polis accomplished meaningful progress on the first part of his tax reform platform—reducing special interest tax benefits."

Of the seven bills that reduced tax expenditures, two showed negligible reductions. HB21-1233 made various modifications to the conservation easement tax credit. The primary effect of those changes was to increase the tax credit by an estimated $24 million on an ongoing annual basis, or $240 million dollars over ten years. Increased revenue from tax credit transfers reduced the cost of the tax expenditure by $900,000 annually on an ongoing basis. For that reason, this report includes the bill as one of the seven that reduces tax expenditures. The other bill, HB22-1025, repealed eight infrequently used tax expenditures, resulting in an ongoing annual state revenue increase of just $400,000 or $4 million over 10 years.

That leaves five bills in which Polis accomplished meaningful progress on the first part of his tax reform platform—reducing special interest tax benefits:

HB20-1020 - Eliminate Long-term Lodging Sales Tax Exemption

Following an evaluation of Colorado's long-term lodging sales tax exemption by the Office of the State Auditor (OSA), the General Assembly adopted this bill, which limited the use of the exemption to "natural persons" rather than the previous "occupant."[21] When Colorado adopted a sales tax for short-term lodging in 1959, they included an exemption for "any occupant" who stays as a long-term resident of a short-term rental establishment such as a hotel, lodging house, guesthouse, etc. The OSA report found that the wording of the statute allowed the tax exemption to be used beyond its intended purpose. That report was the genesis of this bill.[22]

While the bill resulted in a $7.4 million ongoing annual reduction in tax benefits from the long-term lodging exemption, reducing tax benefits for certain special interests appears not to have been the goal of the bill but rather a peripheral outcome.[23] The bill's legislative declaration section explains, "[I]t is the intent of the general assembly to simplify the collection and administration of taxes for the state of Colorado and to relieve taxpayers' confusion and vendors' administrative burdens by repealing tax expenditures that are not meeting their original purpose."[24]

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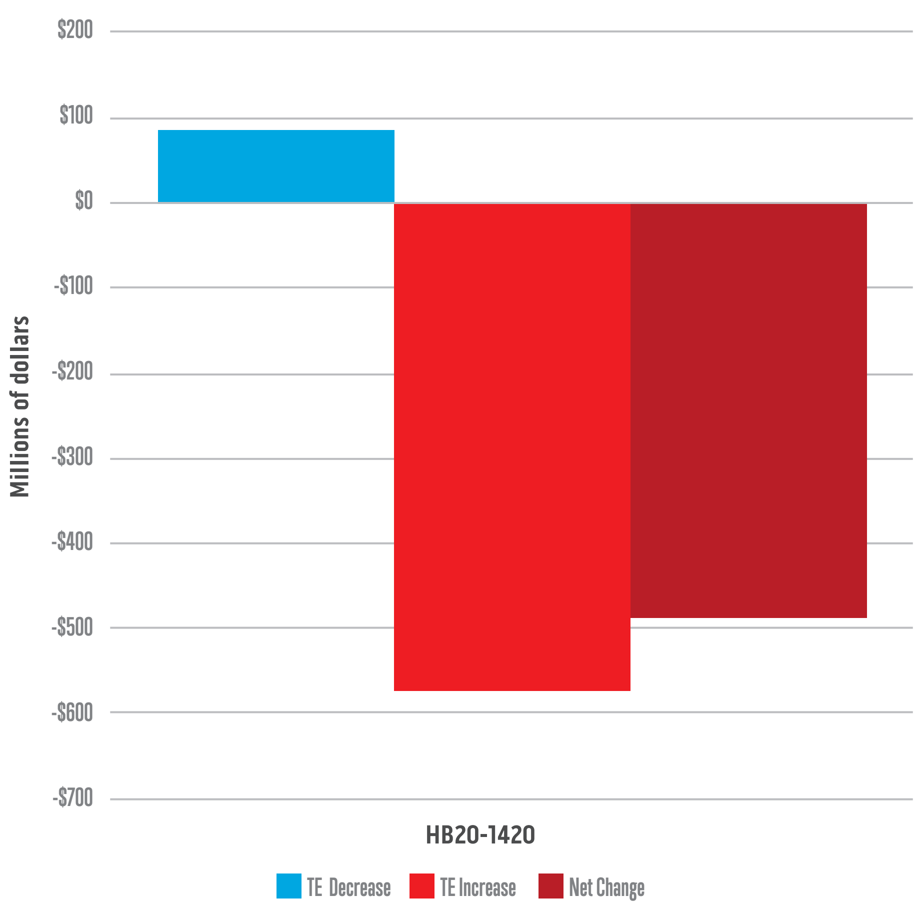
* See "HB20-1420" and "HB21-1311" under *Appendix D.*

This report aims to identify the extent to which Governor Polis followed through on his campaign pledge to reduce special interest tax benefits. It does not attempt to measure or evaluate intent. Though reducing tax benefits was not the express purpose, the governor did so with this bill. This report therefore credits the governor for the reduction in tax benefits. Of these five bills, this one included the smallest total reductions in tax benefits. Of the three that produced a net reduction in tax expenditures, this resulted in the smallest net reduction.

HB20-1420 – Modifications to Income Tax Credits and Deductions

This bill both increased and decreased tax benefits for certain taxpayers. The bill's fiscal note estimates an $86.4 million total decrease in tax expenditures over three years resulting from modifications to the treatment of section 199A qualified business income at the state level. The bill, however, also expands the existing state earned income tax credit (EITC), which the fiscal note estimates will cost $58 million on an ongoing annual basis. The reductions only affect the first three fiscal years while the increases in tax expenditure do not reach their full ongoing impact until year three. As a result, the bill is estimated to produce a net reduction in tax benefits in the first two years but a net increase over 10 years and on an ongoing basis. Despite the tax expenditure reduction, LCS expects these changes to increase tax expenditures by $488.3 million on net over the first 10 years, resulting in the largest net increase in tax benefits of any bill signed into law over the last four years.[25]

Figure 5. Revenue Impact of Tax Expenditures Changes in HB20-1420



The $86.4 million reduction in tax expenditures seen over the first three years results entirely from the state decoupling from federal tax provisions related to section 199A qualified business income. The 2017 federal Tax Cuts and Jobs Act allowed pass-through businesses to deduct 20 percent of their pass-through income from their federal taxable income for tax years 2018 through 2025.[26] The bill requires taxpayers who take this federal deduction to add that income back to their state taxable income, thus increasing tax revenue and reducing tax benefits at the state level.

This change certainly qualifies as a reduction in special interest tax benefits, as it reduced tax benefits for certain types of businesses. On the question of business tax benefits specifically, however, candidate Polis specifically suggested eliminating $1.6 billion in "corporate tax giveaways."[27] Pass-through businesses include sole proprietorships, partnerships, and S-corporations. They can be both small and large businesses. They do not, however, include C-corporations.[28]

The bill also prevented a reduction of $102.9 million in state revenue by decoupling from federal tax expenditure provisions enacted as part of the CARES Act.[29] This impacted state revenues from FY2020-21 through FY2022-23, with no ongoing effects thereafter. These CARES Act tax provisions, however, were not in effect when Polis took office. Because the General Assembly adopted HB20-1420 and decoupled from the provisions just three months after Congress adopted them, they never impacted the state tax code or state revenues. Repealing them simply maintained the status quo of existing law during the 2018 campaign season; therefore, the report does not view the action as progress towards fulfilling the campaign pledge. This report does not credit this reduction to Polis as a reduction in tax expenditures and therefore excludes this amount from the topline numbers at the beginning of this subsection, under "Findings" and in table 1 of *Appendix B*.* It also excludes the changes to these CARES Act provisions at the state level from *Appendix C*.

"Colorado Democrats branded two bills, HB21-1311 and HB21-1312, the "tax fairness package" during the 2021 legislative session. These two bills include by far the largest 10-year reductions in special interest tax benefits of any bills Polis signed into law during his first term."

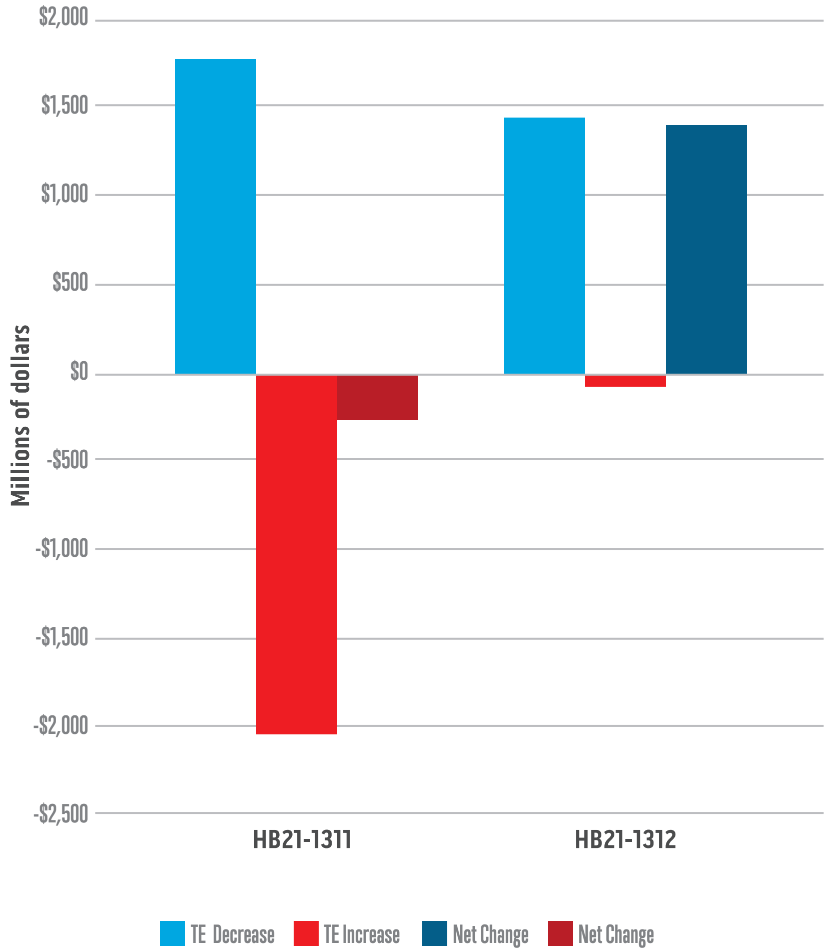
The increases in tax expenditures included in this bill are discussed in more detail under the next subsection of this report, "Increases in Tax Expenditures."

HB21-1311 and HB21-1312 – "Tax Fairness Package"

Colorado Democrats branded two bills, HB21-1311 and HB21-1312, the "tax fairness package" during the 2021 legislative session.[30] These two bills include by far the largest 10-year reductions in special interest tax benefits of any bills Polis signed into law during his first term; however, HB21-1311 includes larger increases than decreases.

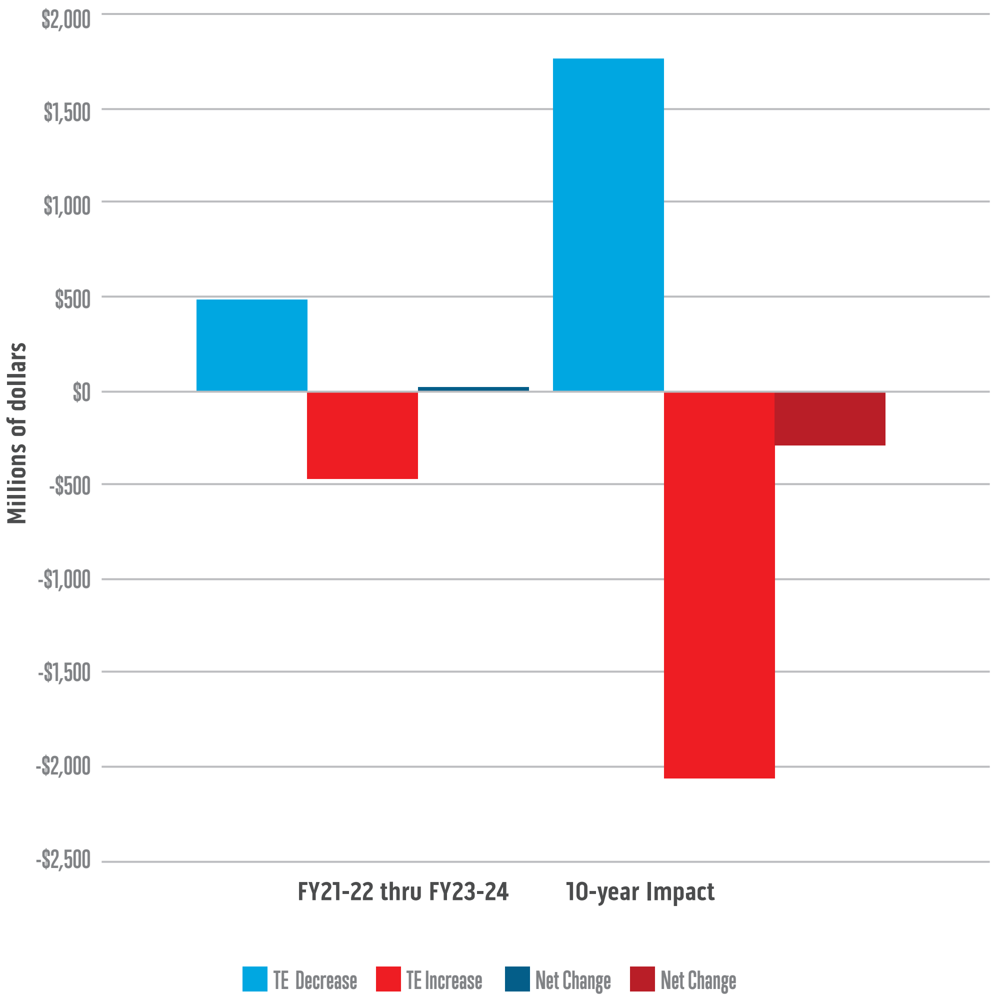
* See "HB20-1420" under *Appendix D* for more information on this exclusion.

Figure 6. Revenue Impact of Tax Expenditures Changes in HB21-1311 and HB21-1312



HB21-1311 accounts for both the largest decreases and the largest increases in tax expenditures promulgated via a single bill during Polis's first term. Despite reducing tax benefits on net over the first three fiscal years, it is expected to result in a net increase in tax benefits over the long term. Within the fiscal note's forecast window (FY2021-22 through FY2023-24), HB21-1311 reduces tax expenditures by $491.3 million and increases them by $477.6 million, resulting in a net decrease in tax expenditures of $13.7 million over the first three years. Because some of the tax expenditure reductions sunset while all the tax expenditure increases are permanent, however, the bill increases tax expenditures on net over 10 years. Over that period, the bill decreases tax expenditures by an estimated $1.76 billion and increases others by approximately $2.06 billion. The bill is expected to produce a net increase of $299.56 million in special interest tax benefits over 10 years.[31]

Figure 7. Revenue Impact of Tax Expenditure Changes in HB21-1311, FY2021-22 through FY2023-24 Only Versus Full 10-year Impact



HB21-1311 partially repealed one existing tax deduction, reduced three deductions, expanded one credit and one deduction, and created two new credits. The bill repeals the capital gains deduction at the state level with an exception for qualifying agricultural property. It also limits at the state level three federal deductions generally claimed by higher earners: the itemized deduction, the deduction for section 199A qualified business income, and the deduction for contributions to section 529 education savings accounts. On the campaign trail, Polis explicitly said he wanted to eliminate "corporate tax giveaways."[32] The section 199A deduction applies exclusively to businesses, including S-corporations. By partially repealing it, he acted on this pledge. While the other limitations to tax deduction included under this bill did not "*eliminate* deductions and loopholes that benefit special interests," as Polis promised, they certainly made progress in that direction.[33]

The bill also requires businesses to add back a portion of federal deductions when calculating state income tax liability. For 2022 only, state filers must add back a portion of the business meals deduction allowed under federal law. In addition, the bill extends from 2022 to 2025 the add-back requirement for qualified business income enacted under HB20-1420. Because this provision decouples from federal CARES Act provisions, however, this report excludes it for the same reason it excludes changes related to the CARES Act from HB20-1420.* The figures in this report therefore do not include the $7 million impact from this provision.[34]

Despite including the largest reductions in tax expenditures of any bill enacted over the last four years, this bill did not contribute to Polis's campaign promise on net because it included even larger increases to other tax expenditures. Rather than reducing special interest tax benefits, this bill effectively shifted tax benefits from one group of special interests to another. The next subsection of this report describes in more detail where those benefits went.

"The next bill in the "tax fairness package," HB21-1312, included the next largest set of reductions in tax benefits from a single bill enacted in Polis's first term. More than any other bill enacted in the last four years, this bill follows through on the clearest interpretation of Polis's tax reform platform."

The next bill in the "tax fairness package," HB21-1312, included the next largest set of reductions in tax benefits from a single bill enacted in Polis's first term.† It is expected to reduce tax benefits by $1.44 billion over 10 years. While it also expanded one tax benefit, the bill will reduce tax benefits by an estimated $1.4 billion on net over 10 years, the largest net decrease seen in any bill. Moreover, because most of the changes eliminate or permanently reduce tax expenditures, the bill will reduce tax benefits by $144.4 million annually on an ongoing basis. More than any other bill enacted in the last four years, this bill follows through on the clearest interpretation of Polis's tax reform platform.

The first two provisions in the bill modified the tax code in a way that effectively increased taxes on insurance companies operating in Colorado. State law applies a lower tax rate to insurance premiums for insurance companies with a regional office in Colorado. The first provision of the bill added a new requirement for receiving the lower rate. This report treats this lower rate as a tax benefit and credits the governor for reducing the benefit. The second provision reduced an existing tax exemption for premiums from policies issued in connection with an annuity plan, thus reducing the number of plans that qualify for the exemption and increasing state revenue on an ongoing basis.[35]

In addition, the bill increases sales and use tax revenues by removing the exemption from the tax for mainframe computer access, photocopying, and packaging and crating. It limited the deduction taxpayers may take when calculating the oil and gas severance tax liability. It also reduced tax exemptions and credits enjoyed by the coal industry, phasing them out entirely by 2026. The

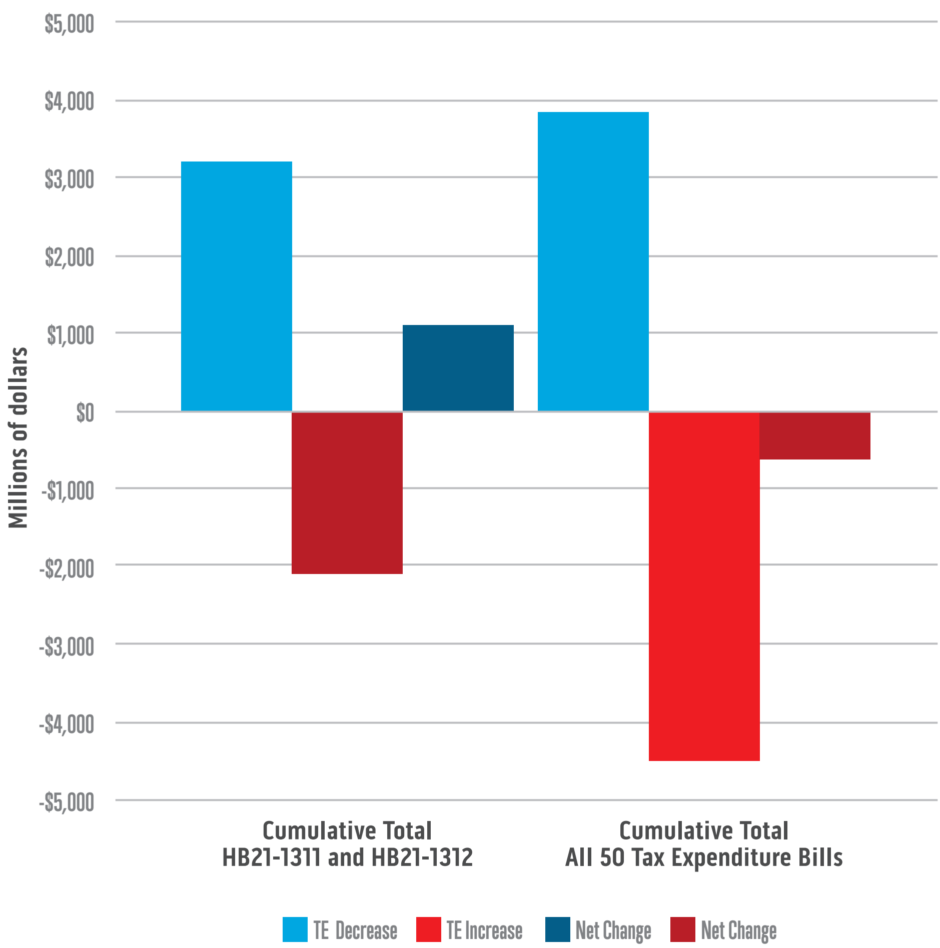
* See "HB21-1311" under *Appendix D* for more information on this exclusion

† See table 1 under *Appendix B*.

vendor fee changes in this bill are discussed in the next section. Only one tax expenditure change in this bill increased tax benefits. The bill created a $37.9 million increase in the business personal property tax exemption over tax years 2021 and 2022.

In terms of their revenue impact, these two bills alone constitute over 80 percent of all reductions in tax expenditures and nearly half of all increases. Together they reduced tax expenditures on net, though not by enough to offset the net increase in tax expenditures from the other 48 bills, as seen in figure 8.

Figure 8. Cumulative Revenue Impact of Tax Expenditures Changes for HB21-1311 and HB21-1312 Versus Cumulative Revenue Impact for All Tax Expenditures Changes Enacted 2019-2022



B19-1245 and HB21-1312 – Vendor Fees

When Polis campaigned in 2018 to "eliminate deductions and loopholes that benefit special interests in order to cut taxes for all," he provided few specific details on which benefits he would cut.[36] In his 2019 State of the State address, however, he explicitly named capping the vendor fee—or what OSA calls the "sales tax vendor allowance"—as a way to follow through on his campaign pledge: "It's time to cap the vendor fee, which is a giveaway to the largest, most influential and profitable retailers in the nation, and use the savings to lower tax rates to benefit small businesses and millions of working Colorado families."[37] He accomplished this with two separate bills over the last four years.

> "In his 2019 State of the State address, [Polis said] "It's time to cap the vendor fee, which is a giveaway to the largest, most influential and profitable retailers in the nation,... He accomplished this with two separate bills over the last four years."

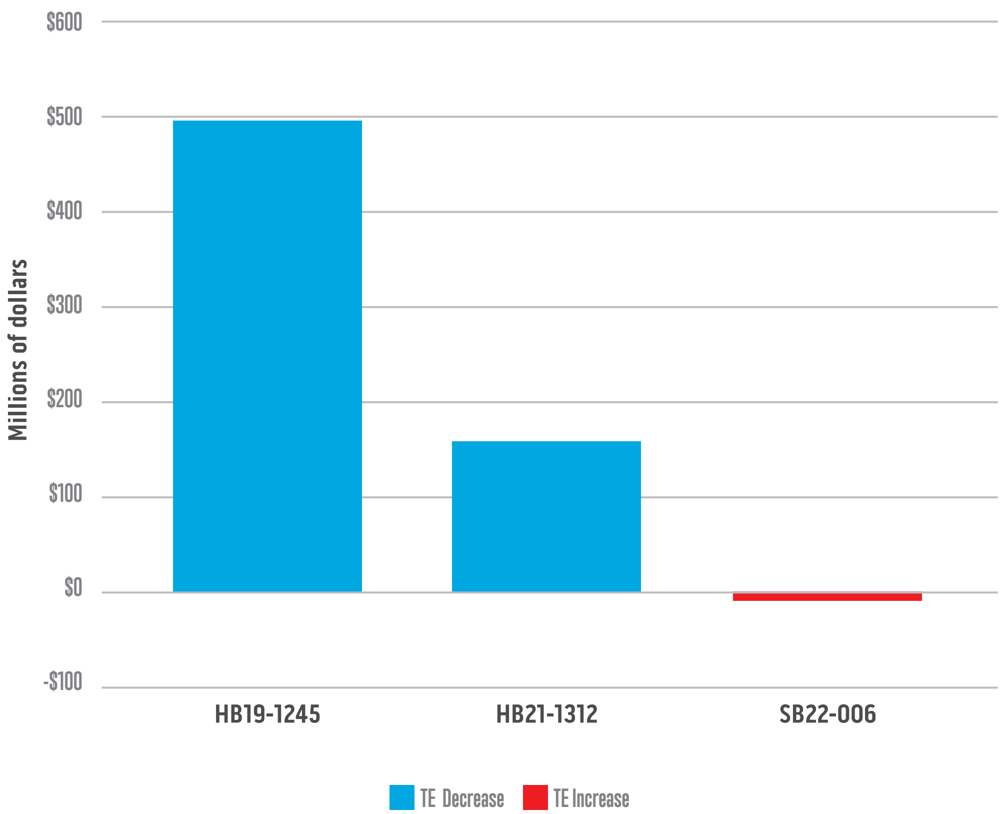
HB19-1245 capped the state vendor fee at $1,000 per vendor per filing period. It also increased the vendor fee allowance from 3.33 percent to 4.00 percent of sales tax collections. This effectively reduced the tax benefit for large retailers and increased it for smaller retailers while decreasing the tax expenditure on net. The change reduced state tax expenditures on net by $49.4 million on an ongoing basis starting in 2020.[38]

Because businesses act as de facto sales tax collectors for state and local government, the state allows retailers to retain a "vendor fee," a percent of the sales tax they collect and remit to the state. Prior to the passage of HB19-1245, Colorado law permitted all vendors in the state to retain 3.33 percent of all the tax they collected and remitted. Because a vendor fee directly reduces sales tax receipts, this report treats them as a tax expenditure. By capping the vendor fee through increasing the percent of tax collection a vendor can retain below the cap, Governor Polis and the general assembly effectively reduced this tax benefit for larger companies and expanded it for small businesses.

HB21-1312 further reduced tax expenditures from vendor fees by barring retailers with taxable sales greater than $1 million each month from retaining any vendor fees. Like the changes in HB19-1245, this reduced the tax benefit for large retailers and increased it for smaller retailers. The changes reduced tax expenditures from vendor fees on net by an additional $15.6 million on an ongoing basis starting in 2022.[39]

For retailers who still qualify for the sales tax vendor allowance after the changes from HB19-1245 and HB21-1312, SB22-006 expanded the benefit by increasing the percentage of sales tax collections retailers could retain from 4 percent to 5.3 percent in 2023 only. Small businesses will benefit from the expansion in this tax expenditure, which will reduce state revenue by an estimated $2.5 million in FY2022-23 and $2.8 million in FY2023-24.[40]

Figure 9. Comparison of Revenue Impact from Bills that Modified the Vendor Fee



Changes to vendor fees during Polis's first term both decreased and increased special interest tax benefits, but the reductions far eclipsed the increases. Furthermore, the reduction in vendor fees reduced tax benefits for large companies, while the expansions benefited smaller retailers. On net, reforms to vendor fees represent a direct follow-through on Polis's campaign promise regarding tax expenditure reform and on his proposals regarding vendor fees specifically. The three bills named in this section reduce tax benefits for large retailers by approximately $370 million through FY2029-30 or by about $65 million annually on an ongoing basis.*

> "Only three bills signed by Polis during his first term made significant progress on net towards fulfilling his pledge to reduce special interest tax benefits: HB19-1245, HB20-1020, and HB21-1312."

Only three bills signed by Polis during his first term made significant progress on net towards fulfilling his pledge to reduce special interest tax benefits: HB19-1245, HB20-1020, and HB21-1312. Of the five bills that did the most to reduce special interest tax benefits, two increased tax expenditures more than they reduced preexisting ones. HB20-1420 and HB21-1311 both used the revenues gained by eliminating certain tax expenditures to create new tax benefits for a different set of special interests rather than using them to "cut taxes for all," as Polis proposed on the campaign trail. Nonetheless, had Polis only signed these five bills into law and vetoed all the others that modified tax expenditures, he could say he decreased

* Totals based on estimates from LCS fiscal notes for each bill: HB19-1245, HB21-1312, and SB22-006.

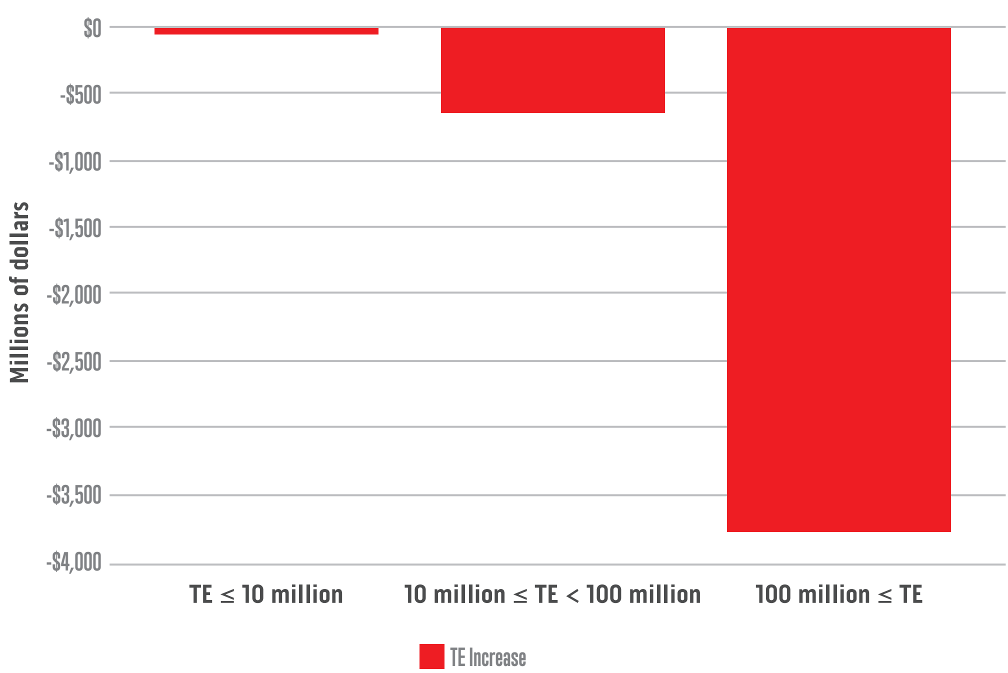
special interest tax benefits by about $1.22 billion on net and claim success on the first part of his campaign promise. Forty-four bills signed by Polis during his first term, however, exclusively increased tax benefits without any offsetting reduction in such benefits. The next section briefly reviews these bills and some of the special interest tax benefits they created, expanded, or extended.

Increases in Tax Expenditures:

Out of the 50 bills that modified tax expenditures over the last four years, 46 increased them on net. These bills created, extended, or expanded 55 different tax expenditures. Starting from when each change takes effect, these changes are expected to increase tax benefits by $4.5 billion over 10-years. Nineteen of these are new tax benefits that did not exist prior to Polis's first term in office. Twenty-six bills increased tax benefits by at least $10 million on net over 10 years; eight of those increased them by at least $100 million. The bills that produced a net increase in tax expenditures included average increases of $106 million; they averaged a net increase of about $60 million. Excepting HB21-1312, every bill that included any increase in tax expenditures also showed a net increase, even if the bill also included decreases in other tax expenditures.

> "Out of the 50 bills that modified tax expenditures over the last four years, 46 increased them on net."

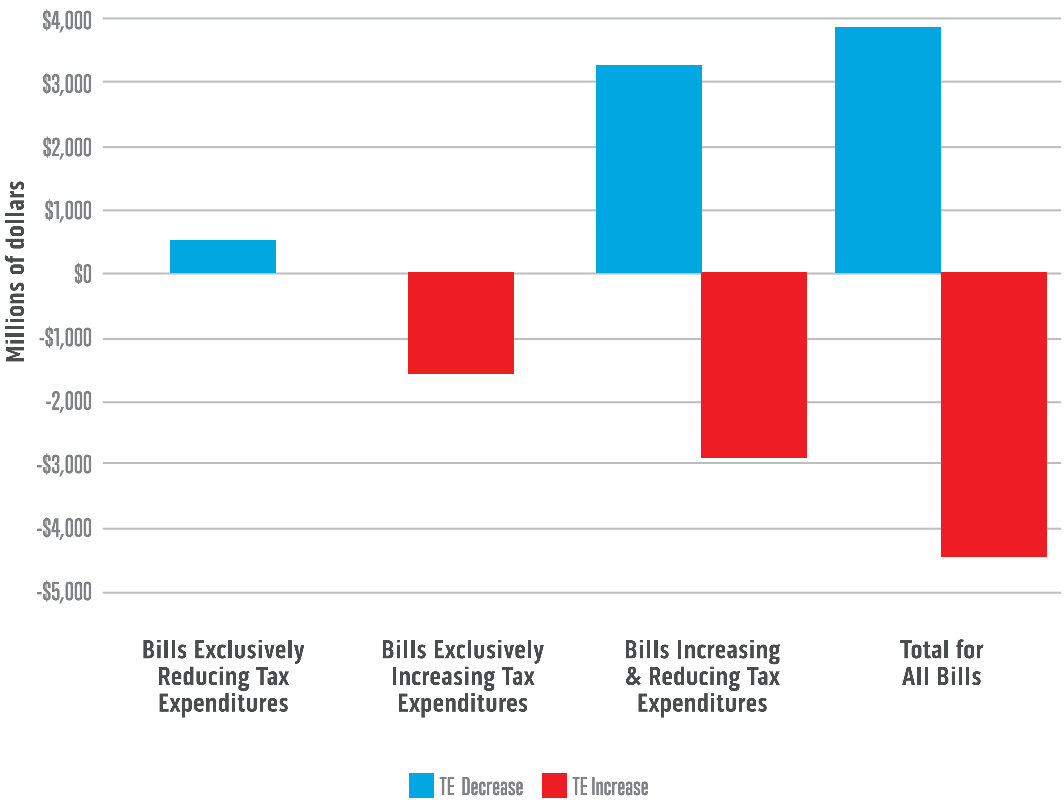
Figure 10. Cumulative Revenue Impact of Bills that Modified Tax Expenditures from 2019-2022, Categorized by Size of Revenue Impacts



Of the 50 bills that increased tax expenditures, 43 included only tax expenditure increases with no offsetting decreases. Together, these totaled $1.59 billion in increased tax benefits.* As stated in the first paragraph under "Findings" earlier in this report, the tax expenditure changes made during Polis's first term in office had a cumulative net impact of increasing special interest tax benefits by just under $640 million over ten years.† Figure 11 shows the revenue impact of all bills broken out into four categories:

1. The cumulative revenue impact of the three bills that exclusively reduced tax expenditures;
2. The cumulative revenue impact of the 43 bills that exclusively increased tax expenditures;
3. The cumulative revenue impact of the four bills that included provisions both reducing and increasing tax expenditures; and
4. The total cumulative revenue impact of all 50 bills that amended tax expenditures from 2019 through 2022.

Figure 11. Cumulative Revenue Impacts of Bills that Reduced or Increased Tax Expenditures, or Both



* The fiscal notes for four of these bills did not include a cost estimate, either because the impact was small or because LCS could not produce an estimate. For this reason, the $1.59 billion estimate does not include any possible impacts from those four bills: HB19-1264, HB22-1017, HB22-1024, and HB22-1242.

† See *Appendix A*.

The following bills include the largest increases in tax expenditures promulgated over the last four years:

HB21-1311

By far the largest expansion of special interest tax benefits came with HB21-1311, also included in the previous subsection and part of Colorado Democrats' "tax fairness package." The bill increased special interest tax benefits by more than $2 billion over ten years, the largest of any single bill. Because it also included $1.76 billion in reductions to tax benefits, however, it produced only the third largest net increase at about $300 million.[41]

The bill expanded two existing tax benefits and created two new ones. Colorado law allows taxpayers over the age of 55 to take a "pension or annuity deduction" but caps the deduction amount. Starting in 2022, HB21-1311 eliminated the cap only for social security income and only for taxpayers 65-years-old and older. The change will result in $5.4 million in increased tax expenditures annually on an ongoing basis.[42] The bill also increases the state EITC from 15 percent to 20 percent of the federal EITC starting in 2022, increases it to 25 percent for 2023-2025, and returns it to 20 percent ongoing starting in 2026. The provision increases tax expenditures on an ongoing basis by just under $100 million annually. The bill also creates a child tax credit available to single filers with an adjusted gross income (AGI) under $75,000 per year and joint filers with an AGI under $85,000. It is expected to increase the tax expenditure by a little over $100 million annually on an ongoing basis. Finally, the bill creates a temporary income tax credit to help offset the cost for a business to convert to one of several types of worker-owned businesses such as a worker-owned cooperative. The credit is expected to reduce state revenue by about $600,000 over three years.

> "By far the largest expansion of special interest tax benefits came with HB21-1311, also included in the previous subsection and part of Colorado Democrats' "tax fairness package." The bill increased special interest tax benefits by more than $2 billion over ten years, the largest of any single bill."

HB20-1420

With about $574.7 million in increased tax benefits over the first 10 years or $58 million annually on an ongoing basis once fully implemented, HB20-1420 comes in a distant second for bills with the largest tax expenditure increases. After accounting for the reduction in allowable deductions for section 199A qualified business income described in the previous subsection, the bill produced the largest net increase in tax benefits of any bill signed into law over the last four years. It is expected to produce a $488.3 million net increase in tax benefits over the 10-year forecast period.[43]

Two provisions of the bill expanded the same existing state tax credit, the earned income tax credit (EITC). The first provision expanded eligibility for the credit to those who do not qualify for the federal EITC for lack of a social security number, allowing undocumented immigrants to take advantage of the credit. That change will cost the state $15.7 million per year in lost revenue on an ongoing basis.* The other provision increased the amount of the credit from 10 percent of the federal EITC to 15 percent. This change will reduce state revenues by $58 million annually on an ongoing basis.

"The second largest net increase came from HB22-1051. Without including any offsetting reductions, the bill is expected to increase tax expenditures by a total of $420 million from tax credits. It extends the affordable housing tax credit for 7 years past its previous 2024 expiration date."

The governor may argue that expanding the EITC serves as an execution of his promise to cut taxes for all. This report, however, views the EITC as a special interest tax benefit; only a specific and defined group of taxpayers may take advantage of it. Expanding the EITC, therefore, amounts to a tax policy change in direct conflict with the promise to cut special interest tax benefits. Furthermore, it fulfills neither his promise "to cut taxes for all," as it reduces the tax burden only for a defined group, nor his promise "to reduce people's income tax by 3 to 5 percent, so families aren't paying 4.63 percent," as the change does not reduce income tax rates.[44]

HB22-1051

The second largest net increase came from HB22-1051. Without including any offsetting reductions, the bill is expected to increase tax expenditures by a total of $420 million from tax credits. It extends the affordable housing tax credit for 7 years past its previous 2024 expiration date. The bill representing the fifth largest net increase in tax benefits earned its spot with an expansion of the affordable housing tax credit two years prior in 2019. HB19-1228 increased the allocation of affordable housing credits by $150 million over five years.[45] The affordable housing tax credit saw the largest increase of any single tax benefit over the four-year period, reducing state revenues by at least $570 million.†

HB21-1233

The fourth largest increase came with the expansion of the conservation easement tax credit in HB21-1233—also discussed briefly in the previous subsection, "Reductions in Tax Expenditures," for its inclusion of a small reduction in the credit. The bill expanded the credit by $24 million on an ongoing basis, or by $240 million over its first ten years. The bill also increased revenue from tax credit transfers, which reduced the cost of the tax expenditure by $900,000 annually on an ongoing basis.

Exemption for Sale of Alcoholic Beverages

House bills 20B-1004, 21-1265, and 22-1406 created, expanded, and extended a tax deduction for retailers in the food services industry, allowing them to deduct a certain amount of taxable sales of alcoholic beverages on their state sales tax returns. Together, these bills constitute one of the largest increases in a single special interest tax benefit promulgated during Polis's first term. They are expected to increase tax expenditures by an estimated $137.2 million over three years, from FY2020-21 through FY2022-23.

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* The following year, HB21-1002 moved the effective date forward one year for the EITC eligibility changes made in HB20-1420. The change reduced state revenues and expanded the tax benefit by an estimated $11 million for FY2020-21 only.

† See the "Additional Notes" column in the "HB19-1228" row of table 2 under *Appendix B.*

Additional Bills

Other notable large increases to tax expenditures include the following:

- HB22-1205 created a new senior housing refundable income tax credit in 2022 only and will cost approximately $100 million.[46]
- In an effort to reduce emissions, SB22-051 exempted various high-efficiency heat pumps, energy storage systems, and building materials from sales tax and created a refundable tax credit for the same. It will reduce state revenue by an estimated $69.3 million from FY2022-23 through FY2033-34.[47]
- HB19-1159 extended the state income tax credit for purchases and leases of electric plug-in hybrid electric and hydrogen vehicles through 2025 and will cost approximately $61.1 million. Notably, this credit benefits higher earners most.[48]
- HB22-1055 created a new tax exemption for "essential hygiene products," reducing state revenue by $11 million on an ongoing basis, or $109.7 million over ten years.[49]
- HB22-1391 modified and expanded an existing credit against oil and gas severance taxes and will cost between $3.1 million and $14.7 million annually on an ongoing basis, or up to $132.3 million over ten years.[50]

This section does not go into detail on all 46 bills that increased tax expenditures. The main purpose of this report is to identify the extent to which Polis carried out his 2018 campaign pledge to cut special interest tax benefits, not to explain in detail every case in which his policies contradicted his campaign platform. A full list of bills included in this report can be found under *Appendix B*. A full list of tax expenditures modified via legislation between 2019 and 2022 can be found under *Appendix C*.

"...[Polis's] tax reform policies effectively shuffled tax benefits around, transferring them from certain groups of special interests to others. ...however, the net effect of bills passed during his first term was to increase special interest tax benefits."

Because Polis used every dollar saved by reducing tax expenditures to increase other tax expenditures, his tax reform policies effectively shuffled tax benefits around, transferring them from certain groups of special interests to others. As stated earlier in this section and in the first paragraph under "Findings," however, the net effect of bills passed during his first term was to increase special interest tax benefits.

Governor Vetoes:

In his first term, Polis vetoed one bill that would have made changes to tax expenditures: HB21-1024. Had the governor signed the bill, it would have increased tax expenditures and reduced revenue by an estimated $438,063 by exempting "private transfers of OHVs from state and local sales tax if the transfer occurred between July 1, 2014, and July 1, 2023."[51] Vetoing this bill aligned with his campaign promise.

CONCLUSION

Jared Polis won Coloradans' votes for governor, in part, by proposing to eliminate special interest tax loopholes and use the resulting revenue increases to lower income tax rates. In 2018, he campaigned on tax reform that would do two things: 1) Reduce special interest tax benefits, especially those benefiting corporate interests, and 2) use new revenue from those reductions to lower taxes for all Coloradans, particularly by reducing income tax rates, making the reform revenue neutral on net. Polis signed numerous bills into law that both increased and reduced tax benefits during his first term as governor.

"Despite this progress, bills signed into law by Polis caused a net increase rather than decrease in the amount of money the state will spend on special interest tax benefits. For that reason, this report concludes that the governor has failed to deliver on the first part of his tax reform campaign pledge. On the contrary, his actions mostly contradicted the tax reform platform upon which voters elected him in 2018."

Investigating the last four years' session laws found that Polis indeed signed legislation that reduced certain special interest tax benefits. While only four out of 50 bills will generate a net decrease in tax benefits over 10 years, the decreases were substantial. Two of those bills alone will generate an estimated $3.2 billion in tax benefit reductions over ten years. Nearly all the reductions in tax benefits from those two bills increase revenue indefinitely, for an average ongoing increase in state revenue of nearly $150 million annually. While campaigning and as governor, Polis did not name many specific tax benefits he hoped to reduce or eliminate. Nonetheless, he managed to reduce two types of tax expenditures that he named specifically as targets for cuts: the vendor fee and corporate tax benefits. The governor made progress on both of those fronts.

Despite this progress, bills signed into law by Polis caused a net increase rather than decrease in the amount of money the state will spend on special interest tax benefits. For that reason, this report concludes that the governor has failed to deliver on the first part of his tax reform campaign pledge. On the contrary, his actions mostly contradicted the tax reform platform upon which voters elected him in 2018. Because Polis used every dollar saved by reducing tax expenditures to increase other tax expenditures, his tax reform policies effectively shuffled tax benefits around, transferring them from certain groups of special interests to others, and increasing them overall.

It is possible and even likely that Polis could have accomplished more in terms of reducing special interest tax benefits had he possessed the power to enact legislation unilaterally. It is likewise possible that Polis felt compelled by legislators, particularly those within his own party, to compromise on his tax reform platform for the sake of accomplishing other priorities.[52] Again, had he held sole lawmaking power in the state, many bills increasing tax expenditures may not have become law. On at least one occasion, the governor threatened to veto a major tax expenditure package—HB21-1311 and HB21-1312—ultimately forcing legislators to compromise.[53] Because countless powerful special interests benefit from tax expenditures, the politics of tax expenditure reform can prove exceedingly challenging. This report does not attempt to navigate the politics of accomplishing the reforms and speculate on hypotheticals; it rather assesses what policy reforms the governor achieved.

Speaking to the second part of Polis's tax reform platform—though it falls outside the scope of this report—apart from rhetorical support for lower income tax rates, Polis personally took almost no decisive action to reduce income tax rates. He remained silent while his Democratic colleagues in the legislature killed five separate bills to reduce the income tax rate during his first term.[54] When citizens put an income tax reduction on the ballot in 2020 with Proposition 116, he neither explicitly endorsed it nor opposed it. When the Colorado Springs Gazette asked if he would support the measure, he replied, "Sure! [A]n income tax cut is broad-based relief and not only helps families get by in a challenging time but also helps our economy grow."[55] The rate reduction ultimately passed, reducing the state income tax rate from 4.63 to 4.55 percent. Furthermore, he campaigned in 2019 to eliminate TABOR refunds entirely with Proposition CC, an effective tax increase on nearly all Coloradans. He increased the overall burden of taxes and fees on Coloradans by several billions of dollars over the course of his first term.[56] Investigating the second part of Polis's campaign platform by measuring the extent to which he reduced or increased taxes and fees on Coloradans could serve as an informative follow-up report to this one.

APPENDICES

APPENDIX A: METHODOLOGY, ASSUMPTIONS, AND TERMS

This report aims to determine whether in his first term Polis followed through on his pledge to reduce special interest tax benefits. That question sounds rather simple and straightforward but requires certain discretions and assumptions. First, to determine the impact of tax expenditure changes, it must rely on a consistent data source where no perfect source exists. Subsection A.1 of this appendix explains how and where this report retrieved data on tax expenditures. To conclude whether Polis carried out his pledge, it must also determine whether the whole of his first-term policies increased or decreased tax benefits on net. This report must therefore decide upon a reasonable timeframe in which to measure outcomes for the purpose of determining net impacts. Subsection A.2 explains how this report calculated total or cumulative impacts. Some policies affected only a few months of time, while others contain effects that will continue indefinitely if not altered in future legislative sessions. Deciding how to measure such policies presents a particularly challenging problem. Subsection A.3 of his appendix explains and justifies how the report handles policies with ongoing effects. Subsection A.4 explains why the report includes some local impacts in addition to impacts on state revenues. Finally, and perhaps most importantly, subsection A.5 explains how this report interprets Polis's campaign promises on tax reform.

A.1. Source of Data

For each bill, the report looks to the bill's fiscal note estimates provided by LCS to determine its impact. Where LCS does not provide complete estimates—either through the expiration date of bills that sunset or for the entire ten-year window for those with ongoing effect—the report assumes a static continuation of the figures from the last fiscal year for which LCS provided estimates. For cases in which a bill's fiscal note provides a range of estimated effects, this report assumes the top of the range for purposes of calculating cumulative figures. The report uses the amount of lost or increased state or local revenue estimated in fiscal notes to determine the increase or decrease in tax benefits in dollars.[*] Fiscal notes reflect that a tax expenditure decrease creates an equal revenue increase, and a tax expenditure increase creates an equal revenue decrease; this report reflects that also.

* The exception to this is HB22-1007. The bill's fiscal note does not estimate the cost of extending the assistance landowner wildfire mitigation tax deduction. This report estimates the cost using the 2020 Colorado Tax Profile and Expenditure Report published by the Colorado Department of Revenues. See also the "Local Government Impacts" subsection under this appendix.

Other state publications such as the DOR's *Tax Profile and Expenditure Report*, OSA's tax expenditure evaluations, and the *Annual Comprehensive Financial Report* published by the Office of the State Controller provide more reliable and accurate data on the actual effects of tax expenditures on state revenues than LCS fiscal notes. Because these provide backward-looking information and data published at least one to two years after new tax expenditure changes became law, this report could not rely on them for consistent up-to-date information for all tax expenditure bills signed into law during Polis's first term. The report instead references legislative bill texts and LCS fiscal notes for the timeliest information and fiscal impact estimates on newly enacted changes to tax expenditures. For bills passed in 2019 and 2020, other state publications may provide actual backward-looking revenue impacts. For consistency's sake, however, this report relies exclusively on fiscal notes for estimates of revenue impacts, even where more up-to-date or accurate data exists in other state publications. Moreover, other publications do not parse out the amount of revenue gained or lost due to a tax expenditure change from a particular bill. They do not include the revenue gained from repealing or reducing a tax expenditure either. The choice to rely on fiscal notes for data solves these problems and provides data uniformity, but it necessarily sacrifices accuracy.

A.2. How this Report Calculates Total or Cumulative Impacts

Where this report provides "total" or "cumulative" impacts from one or more bills or tax expenditure changes, that number represents the ten-year impact of every provision included in the bill or series of bills, starting when each policy change takes effect. The ten-year impact may begin on different years for different tax expenditure changes, depending on when each change takes effect and when its impact begins. When the report refers to the ten-year impact of a bill or provision of law, the reader should understand that as the impact over ten fiscal years. Because bills set some tax expenditure changes to sunset or expire and others to continue their impact indefinitely, this report handles these two cases differently when generating ten-year impacts for each change.

As mentioned in the previous paragraph, because this report uses the ten-year impact of changes to tax expenditures, impacts start and end at different points for different tax expenditure provisions. For example, HB19-1329 expands a tax deduction beginning in FY2019-20. This report shows the cumulative net effect of the tax expenditure provision in that bill as increasing the expenditure by $7,925,000 over ten years, starting in FY2019-20 and ending in FY2028-29.[57] Conversely, HB22-1391 expands a tax credit beginning in tax year 2025, so its ten-year impact will span a different ten-year period.

Some bills with a sunset clause impact revenue for less than ten years. In such cases, the report provides the total impact through expiration and assumes lawmakers do not extend provisions in the bills. For example, HB20B-1004 creates a tax deduction, which reduces revenue for FY2020-21 only. Its one-year impact constitutes the entire ten-year impact for the bill. The tax deduction created by the bill was extended in 2021 and again in 2022; each of those effects are accounted for under the bills that extended the deduction, as explained in more detail in subsection A.3 of this appendix. Such temporary effects could last up to a decade, as in HB20-1109 and HB22-1005, or as few as one year, as in HB20B-1004.

This report must sometimes project forward fiscal note estimates to estimate the full impact of a bill. HB19-1013, for example, extended an existing tax credit for childcare expenses and sunsetted the credit after tax year 2028. Because the credit was previously set to expire at the end of 2020, its fiscal note shows a half-year impact of $1.7 million for FY2020-21. The fiscal note provides an estimate of $3.4 million in decreased general fund revenue for FY2021-22, the first full-year impact. It estimates a $3.6 million impact for FY2022-23 and "similar amounts each year through FY2027-28."[58] The report thus assumes a $3.6 million impact each year for FY2023-24 through FY2027-28, as estimates for those years are not provided in the fiscal note. Because the bill sunsets in 2028, it will have another half-year impact for FY2028-29. The bill extends the credit for eight tax years; the revenue impact spans nine fiscal years; and the 10-year impact represents seven full fiscal years plus two halves of fiscal years for a total of eight years. This report assumes the same half-year impact of $1.7 million from FY2020-21, bringing the total impact to $28.4 million in reduced general fund revenue, or the same increase in tax expenditures.[59]

For bills without a sunset date (i.e., those with ongoing effects), the report projects the impact out over its first 10 fiscal years in effect. The report uses this timeframe for various reasons explained in more detail in subsection A.3 of this appendix. (Ten years is also the longest effect seen for any provision that includes a sunset except HB19-1228.[*]) For example, HB19-1329, expanded a sales tax exemption to include fertilizer and spray adjuvants used for agricultural products, but the changes do not sunset. The bill's fiscal note estimates a loss of $792,500 in general fund revenue from the increased tax exemption for FY2019-20 and the same for FY2020-21. This report assumes a continuation of that impact for another eight years for a total $7,925,000 reduction in state revenue over ten years.[60]

When a bill impacts half of a fiscal year in the first fiscal year, the ten-year impact might span eleven fiscal years, showing half-year impacts for the first and last fiscal years. For example, HB22-1391, mentioned in paragraph two of this subsection, includes an ongoing impact starting in FY2024-25. Because the provision takes effect at the start of tax year 2025, the report shows a half-year impact in the first fiscal year. This report shows the ongoing effect through ten fiscal years by including another half-year impact at the end of the ten-year period in FY2034-35.

For bills with changes to multiple tax expenditure provisions, including some that expire and others that do not, the report uses both methods described in this section as appropriate. This applies, for example, to HB21-1311.

A.3. How this Report Treats Bills with Ongoing Effects

During Polis's first term, some of the changes made to tax expenditures included sunset clauses and some did not. If a particular provision or legislative change in a bill takes effect for only a limited period before expiring, this report refers to this as the bill having a "sunset" or an "expiration." If a provision or effect of a bill on tax expenditures does not sunset, this report, like fiscal notes, says the bill has "ongoing effects." It may also

* Only one bill that sunsets, HB19-1228, shows revenue impacts over more than ten fiscal years. This bill expands a tax credit for only five years, but the fiscal note predicts that it could impact state revenue over a total of twelve fiscal years. This report and Table 1 include the bill's entire impact as part of its ten-year impacts.

refer to such a bill as not having a sunset or not expiring. In addition to showing the ten-year impact of ongoing bills, this report shows effects of such bills on an annual ongoing basis.[*] In this report—as explained in subsection A.2. and in more detail in this subsection—"total" or "cumulative" effects represent a 10-year impact for bills with ongoing effects.

Using 10-year impacts, this report finds that tax expenditure increases are set to outweigh decreases, as explained in the "Findings" section of this report. Were the report to measure a longer time horizon for impacts, however, the ongoing effect of bills without a sunset clause could create a scenario in which tax expenditure decreases eventually outweigh increases. Most of the tax expenditure increases included in this report are set to expire or sunset in the 2020s or early 2030s. Together, all bills without a sunset clause—without factoring in those with codified expiration dates—equate to a net $30 million reduction in tax expenditure obligations annually on an ongoing basis.[†] If lawmakers were not to increase tax expenditures from now until around 2050, the effect of tax expenditure decreases that do not sunset would offset the effect of the legislature frontloading tax expenditure increases that expire in the 2020s and 2030s.[‡]

This is a very unlikely scenario. It would be foolhardy to assume lawmakers will not create, expand, or extend tax expenditures many times before the $30 million per year in ongoing tax expenditure reductions offsets the $640 million net increase in tax expenditures promulgated in the last four years. As explained in the previous section of this appendix, for tax expenditures with an expiration date, this report shows the known impact of the tax code changes within ten years. It cannot predict whether lawmakers will extend or expand the tax benefit beyond its current expiration date in a later part of that 10-year period. If history is any guide, however, lawmakers will almost certainly extend tax expenditures currently set to expire before the end of the 10-year forecast window. Legislation from the last four years illustrates how this has played out in the past. Of the 55 tax expenditures created or increased over the last four years, more than half included sunset dates. In fact, 25 of those were extensions of existing tax expenditures previously set to expire. In contrast, only once did lawmakers put a sunset date on a policy reducing a tax expenditure. The next year they made the reduction permanent.[§]

Lawmakers more often prefer to put an expiration date on provisions that increase tax expenditures than those that decrease them. Though lawmakers often renew or extend tax benefits before they expire, including sunset clauses provides them with several benefits. First, including a sunset encourages special interests to continue voting for the politicians or political party that gave them the tax benefits in hopes of having them renewed in the future. Second, allowing tax benefits to expire can provide an easier and

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* See Table 1 in *Appendix B*.

† See table under *Appendix B*.

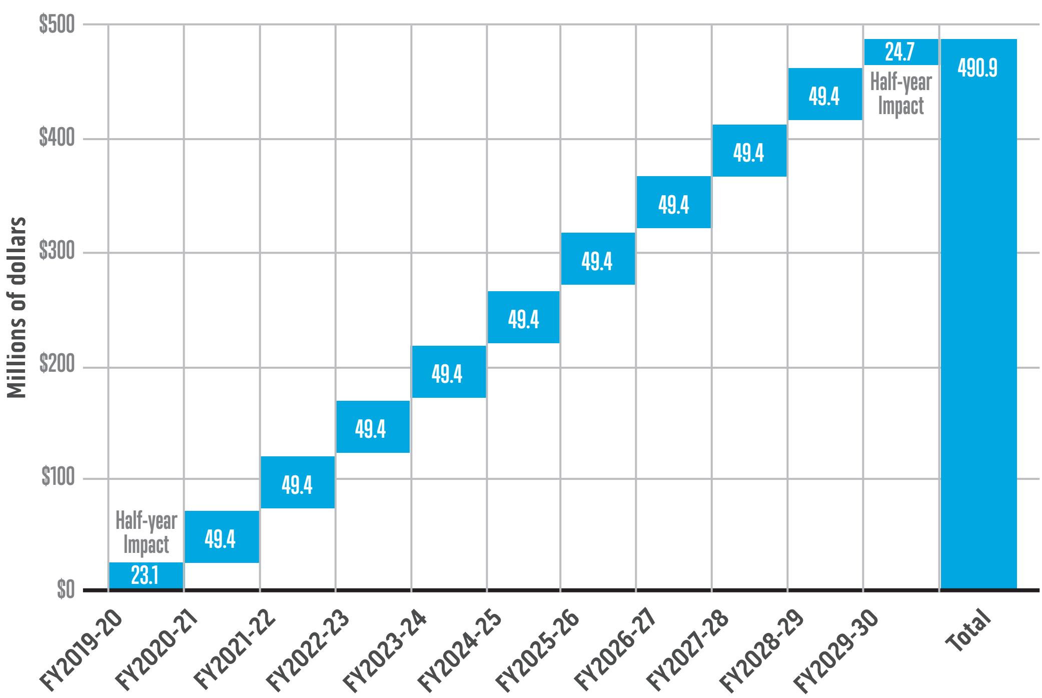
‡ The ten-year impact for most provisions carries into the early- to mid-2030s. That means the bills passed in the last four years result in a net increase of approximately $640 million in increased tax expenditures through the early-to-mid-2030s. Only at that point, assuming no other changes are made to tax expenditures, would the $30 million in ongoing reduction in tax expenditures begin to chip away at the initial $640 million increase. To fully offset that increase would take 20 years ($640 million divided by $30 million), or until about the early 2050s.

§ HB20-1420 required taxpayers to add-back the federal qualified business income deduction to their state taxes for 2021 and 2022. The next year, HB21-1311 extended that add-back until the federal deduction expires in 2025, effectively making it permanent.

less politically costly way to raise future revenue than repealing or reducing permanent tax benefits. When reducing tax expenditures, in contrast, lawmakers stand to benefit more by making those reductions permanent. Because reducing or eliminating tax expenditures increases state revenue, if lawmakers make such changes permanent, they can always use the revenue in future years to renew or increase the same tax benefits again or to hand out new favors to special interests via other tax expenditures. It is therefore unsurprising that tax expenditure increases from the last four years, though larger on net, are more likely to come with an expiration date, whereas decreases are generally made permanent unless reversed by future legislation. An illustration can help to explain this dynamic.

Shortly after taking office in 2019, Governor Polis signed HB19-1245 into law, reducing the vendor fee allowance for certain larger retailers and making the change permanent. It reduced the tax benefit by an estimated $49.4 million annually on an ongoing basis. This report thus shows the ten-year impact for the bill as reducing tax benefits by just over $490 million over ten years.[61] Had he stopped there, the change would have exemplified a true fulfillment of his campaign pledge. All new revenue from that tax benefit reduction, however, went to create or increase tax benefits for other special interests via other legislation.

Figure 12. Revenue Impact of Tax Expenditures Changes in HB19-1245 Broken Down by Fiscal Year



For illustrative purposes, assume the $50 million increase in revenue from HB19-1245 paid for the new tax benefit created the following year under HB20B-1004. That bill allowed bars and restaurants to deduct from their sales taxes a portion of their alcoholic beverage sales made from November 2020 through February 2021. Because the bill included an expiration date, this report counts that four-month impact as the bill's ten-year impact. The fiscal note projected it would reduce state revenue by up to $52.8 million during one fiscal year only.[62] The next year, however, HB21-1265 expanded the same tax credit created (and set to expire) under HB20B-1004 and extended it for an additional three months. The extension and expansion cost an additional $45.1 million.[63] Again in 2022 lawmakers expanded the tax benefit with HB22-1406, costing the state another $39.3 million.[64] In total, three bills increased the cost of the same tax expenditure. Each time, the creation or extension of the provision increased the tax benefit for one year. Each year, the annual ongoing reduction in vendor fee allowances under HB19-1245 approximately offset the cost of creating, expanding, and extending the tax deduction on the sale of alcoholic beverages. As of this report's publication, however, that alcoholic beverage sales tax deduction will only impact three tax years. That means that for the remaining seven years of the ten-year window, this report shows no additional increase in tax benefits for this deduction, whereas it shows another seven years of $50 million annual reductions in vendor fee benefits from HB19-1245.

Figure 13. 10-year Revenue Impact of HB12-1245 Vendor Fee Reduction vs. Alcoholic Beverage Sales Tax Exemption

A reader might sensibly conclude that after renewing the alcoholic beverage sales tax exemption for three consecutive years, lawmakers will likely continue to extend it within the ten-year window. If they were to renew it for the next seven years with a similar cost each year, the cost of that tax expenditure would approximately offset the reduction in vendor fee benefits from HB19-1245. Because it assumes a continuation of current law moving forward, this report instead shows a cumulative net decrease of about $350 million in tax expenditures over ten years from HB19-1245 and the alcoholic beverages sales tax exemption provisions.

It is possible—but very unlikely—that by limiting the cumulative impact of legislation to the ten-year impact this report overstates the amount by which lawmakers expanded tax benefits during Polis's first term. It is, instead, most probable that doing so grossly understates the expansion of tax expenditures Colorado will experience over the ten-year forecast window. This report, however, only captures what has been done. It does not and cannot predict future legislation. Using 10-year impacts thus provides a conservative but fair picture of Polis's record on reducing special interest tax benefits.

A.4. How this Report Treats Bills with Local Government Impacts

This report aims to evaluate Polis's record on reducing or eliminating tax benefits. To do so, it includes both state and local impacts. In some cases, state law may increase or reduce tax benefits at the local level. When such a change does not impact state revenues, LCS excludes the revenue impact from the "Revenue" section of the bill's fiscal note. They generally include the impact under the "Local Government" section of the fiscal note instead. In such cases, this report includes the local government impact. The figures in this report include five bills whose tax expenditure changes impacted local revenue. Fiscal notes for three of them (HB22-1024, HB22-1242, and HB22-1392) do not provide estimates for local government impact. The two for which the fiscal notes include estimated impacts on local government, HB22-1006 and HB22-1223, are estimated to decrease local revenues by $24 million and $17.78 million, respectively.[*]

A.5. Clarification of Terms – "Tax Benefits"

Because Polis articulated his position on tax reform during his campaign using broad terms and provided few details about what exactly he meant, he left his position somewhat up for interpretation. When he proposed a "broader tax base" for Colorado, that captured the same concept that he repeated using various phraseologies on different occasions. [65] On the campaign trail and during his first term in office, he advocated for cutting, reducing, or eliminating—

- "special interest tax giveaways,"[66]
- "giveaways to particular groups and lobbyists,"[67]
- "deductions and loopholes that benefit special interests,"[68]
- "tax breaks for special interests," and[69]
- "corporate tax giveaway."[70]

This report condenses all these expressions into one concept: tax expenditures. The section "What are Tax Expenditures?" under "Background" earlier in this report explains in more detail what tax expenditures are. They generally include provisions in the tax code that reduce state revenue by extending tax benefits to qualifying taxpayers or groups of taxpayers. The most common of these are tax credits, tax deductions, and tax

* See table 1 under *Appendix B*.

exemptions. This report identifies the concept Polis conveyed through the expressions in the list preceding this paragraph using both his terminology and terms such as "tax expenditures," "tax benefits," and "special interest tax benefits." These should all be understood to convey the same concept. The report therefore evaluates Polis's campaign platform of "eliminating tax breaks for special interests" by evaluating the extent to which he eliminated or reduced tax expenditures.

APPENDIX B: DATA TABLES, ALL TAX EXPENDITURE BILLS, 2019-2022

The two tables in this appendix provide detailed quantitative and qualitative information on all 50 bills cited in this report as having created, eliminated, or modified tax expenditures during Polis's first term.

Table 1 shows revenue increases, decreases, and the net change due to changes in tax expenditures for each bill included in this report. It shows the cumulative impacts for each bill in the third column group, "Cumulative 10-Year Revenue Impacts," and totals for each individual column at the bottom. All figures under the three column groups showing ten-year revenue impacts arrive at their numbers using the methodology described under *Appendix A*. The table shows separately the impact of tax expenditure provisions that do and do not expire.

The column "Ongoing Annual Impacts of Tax Expenditure Changes that do not Sunset" shows only the ongoing annual impacts from tax expenditure modifications in each bill that are not currently set to expire. These figures are not included in the ten-year impacts.

Table 2 lists the same 50 bills as table 1 but provides qualitative rather than quantitative information. Bill topics and summaries are provided by LCS. The column "Type of Tax Expenditure" lists the types of tax expenditures in each bill; the next column describes the nature of the change made. These two columns correspond with one another. Where there are multiple descriptors, the first descriptor in the "Type of Tax Expenditure" column corresponds with the first descriptor in the "Nature of Change" column, and so on. The final column provides additional notes on each bill, sometime explaining how table 1 handled questions of interpreting data in fiscal notes.

Table 1. Revenue Impact of All Tax Expenditure Bills Signed by Gov. Polis from 2019-2022

	10-year Revenue Impact of Tax Expenditure Changes that Sunset			10-Year Revenue Impact of Tax Expenditure Changes that do not Sunset			Cumulative 10-Year Revenue Impact of Tax Expenditure Changes that do and do not Sunset			Ongoing Annual Impacts[a] of Tax Expenditure Changes that do not Sunset		
Bill Number	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact
HB19-1013	28,400,000		28,400,000				28,400,000		28,400,000			
HB19-1088	148,000		148,000				148,000		148,000			
HB19-1159	61,100,000		61,100,000				61,100,000		61,100,000			
HB19-1162				781,200		781,200	781,200		781,200	80,000		80,000
HB19-1228	150,000,000		150,000,000				150,000,000		150,000,000			
HB19-1245					490,900,000	490,900,000		490,900,000	490,900,000		49,400,000	49,400,000
HB19-1264												
HB19-1280				3,000,000		3,000,000	3,000,000		3,000,000	300,000		300,000
HB19-1323				350,400		350,400	350,400		350,400	35,000		35,000
HB19-1329				7,925,000		7,925,000	7,925,000		7,925,000	792,500		792,500
SB19-142	10,948,375		10,948,375				10,948,375		10,948,375			
HB20-1003				50,000		50,000	50,000		50,000	5,000		5,000
HB20-1020					74,000,000	74,000,000		74,000,000	74,000,000		7,400,000	7,400,000
HB20-1109	1,247,580		1,247,580				1,247,580		1,247,580			
HB20-1413	16,500,000		16,500,000				16,500,000		16,500,000			
HB20-1420		86,400,000	86,400,000	574,700,000		574,700,000	574,700,000	86,400,000	488,300,000	58,000,000		58,000,000
HB20B-1004	52,800,000		52,800,000				52,800,000		52,800,000			
HB21-1002	11,000,000		11,000,000				11,000,000		11,000,000			
HB21-1233				240,000,000	9,500,000	230,500,000	240,000,000	9,500,000	230,500,000	24,000,000	900,000	23,100,000
HB21-1261	2,141,860		2,141,860				2,141,860		2,141,860			
HB21-1265	45,100,000		45,100,000				45,100,000		45,100,000			
HB21-1311	1,260,000	231,900,000	230,640,000	2,061,000,000	1,530,800,000	530,200,000	2,062,260,000	1,762,700,000	299,560,000	211,200,000	154,000,000	57,200,000
HB21-1312	37,900,000	2,880,000	35,020,000		1,434,250,000	1,434,250,000	37,900,000	1,437,130,000	1,399,230,000		144,400,000	144,400,000
SB21-229	4,736,790		4,736,790				4,736,790		4,736,790			
SB21-257				1,161,216		1,161,216	1,161,216		1,161,216	110,592		110,592
HB22-1005	3,150,000		3,150,000				3,150,000		3,150,000			
HB22-1006				33,061,600		33,061,600	33,061,600		33,061,600	3,004,200		3,004,200
HB22-1007	450,000		450,000				450,000		450,000	300,000		300,000
HB22-1010	54,633,674		54,633,674				54,633,674		54,633,674			
HB22-1017										Not Estimated		
HB22-1024										Not Estimated		

Table 1. continued...

	10-year Revenue Impact Tax Expenditure Changes that Sunset			10-Year Revenue Impact Tax Expenditure Changes that do not Sunset			Total 10-Year Revenue Impact Tax Expenditure Changes that do and do not Sunset			Ongoing Annual Impacts[a] of Tax Expenditure Changes that do not Sunset		
Bill Number	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact	Tax Expenditure Increases	Tax Expenditure Decreases	Net Revenue Impact
HB22-1025					4,006,249	4,006,249		4,006,249	4,006,249		400,842	400,842
HB22-1026	47,000,000	Not Estimated	47,000,000				47,000,000		47,000,000			
HB22-1051	420,000,000		420,000,000				420,000,000		420,000,000			
HB22-1055				109,700,000		109,700,000	109,700,000		109,700,000	11,000,000		11,000,000
HB22-1083	49,300,000		49,300,000				49,300,000		49,300,000			
HB22-1149	11,200,000		11,200,000				11,200,000		11,200,000			
HB22-1205	100,000,000		100,000,000				100,000,000		100,000,000			
HB22-1223				19,752,480		19,752,480	19,752,480		19,752,480	1,975,248		1,975,248
HB22-1242										Not Estimated		
HB22-1310				1,870,574		1,870,574	1,870,574		1,870,574	200,000		200,000
HB22-1320				4,213,355		4,213,355	4,213,355		4,213,355	500,000		500,000
HB22-1328	7,000,000		7,000,000				7,000,000		7,000,000			
HB22-1391				132,300,000		132,300,000	132,300,000		132,300,000	14,700,000		14,700,000
HB22-1392	9,460,000		9,460,000				9,460,000		9,460,000			
HB22-1406	39,300,000		39,300,000				39,300,000		39,300,000			
HB22-1418	40,000,000		40,000,000				40,000,000		40,000,000			
SB22-006	5,300,000		5,300,000				5,300,000		5,300,000			
SB22-051	69,300,000		69,300,000				69,300,000		69,300,000			
SB22-081	35,000,000		35,000,000				35,000,000		35,000,000			
TOTALS:	-1,314,376,279	321,180,000	-993,196,279	-3,189,865,825	3,543,456,249	353,590,424	-4,504,242,104	3,864,636,249	-639,605,855	-326,202,540	356,500,842	30,298,302

SOURCE: LEGISLATIVE COUNCIL STAFF FISCAL NOTES

a Not included as part of "Cumulative 10-year Revenue Impact" in this table. See "How this Report Treats Bills with Ongoing Effects" under *Appendix A - Methodology, Assumptions, and Terms.*

Table 2. Qualitative List of All Tax Expenditure Bills Signed by Gov. Polis from 2019-2022

Bill Number	Bill Topic	Type of Tax Expenditure	Nature of Change	Bill Summaries	Additional Notes
HB19-1013	Child Care Expenses Tax Credit Low-income Families	Tax Credit	Extension	Extends the existing tax credit for child care expenses made by low-income through tax year 2028	
HB19-1088	Modify Income Tax Credit Health Care Preceptors	Tax Credit	Extension	Extends the income tax credit for health care preceptors working in health care professional shortage areas through 2022	
HB19-1159	Modify Innovative Motor Vehicle Income Tax Credits	Tax Credit	Extension	Extends the state income tax credit for purchases and leases of electric plug-in hybrid electric, and hydrogen vehicles through 2025	
HB19-1162	Expand Farm Equipment Sales & Use Tax Exemption	Tax Exemption	Expansion	Beginning on September 1, 2019, ear tags and ear tag scanners used to identify or track animals raised by farm operators for food or in the production of food will be exempt from state sales and use tax.	Table 1 assumes an ongoing annual impact of $80,000 in reduced General Fund revenue.
HB19-1228	Increase Tax Credit Allocation Affordable Housing	Tax Credit	Expansion	For tax years 2020 through 2024, this bill increases the amount of state affordable housing tax credits that the Colorado Housing and Finance Authority (CHFA) may allocate each year	HB22-1051 later extended the credit for an additional seven years.
HB19-1245	Affordable Housing Funding From Vendor Fee Changes	Vendor Fee	Reduction and Expansion	Increases the state vendor fee from 3.33 percent to 4.0 percent and caps the vendor fee allowance at $1,000 per account per filing period	HB21-1312 further increased state revenue by reducing eligibility for the vendor fee. SB22-006 later increased the vendor fee allowance for certain businesses, reducing state revenue.
HB19-1264	Conservation Easement Tax Credit Modifications	Tax Credit	Expansion	Extends the Conservation Easement Oversight Commission and the conservation easement certification program in the Department of Regulatory Agencies until 2026	HB22-1233 later made addional changes to the conservation easement tax credit, which resulted in an expansion of the credit.
HB19-1280	Child College Savings Accounts	Tax Deduction	Expansion	Creates a college kickstarter program in CollegeInvest, allowing parents of children born or adopted in Colorado to claim $100 when they create a college savings account	This bill includes a provision that LCS expects will increase the amount of money parents deposit into eduction savings accounts under section 529 of the federal tax code. Deposit into such an account can be deducted from federal and state income taxes. This report considers this a tax expenditure expansion, because it has the effect of increasing state tax expenditures and reducing state revenue.
HB19-1323	Occasional Sales By Charitable Organizations	Tax Exemption	Expansion	Increases the amount of sales by charitable organizations that are exempt from sales tax to $45,000 per year. It also removes the requirement that occasional sales take place no more than 12 days per year.	
HB19-1329	Wholesale Sales Agricultural Fertilizer Tax Exempt	Tax Exemption	Expansion	Includes the sale of fertilizer and spray adjuvants for use in agricultural and livestock production as wholesale sale products, which exempts them from state sales and use tax.	
SB19-142	Hard Cider Exemption Wine Industry Development Act	Tax Exemption	Creation	Exempts produce used to make hard cider from the excise tax on produce used to make wine, and exempts hard cider from the Wine Industry Development Act	

Table 2. continued...

Bill Number	Bill Topic	Type of Tax Expenditure	Nature of Change	Bill Summaries	Additional Notes
HB20-1003	Rural Jump-start Zone Act Modifications	Tax Credit, Tax Refund	Extension	Makes modifications to the Rural Jump-Start program and extends the program for an additional five years, with an option for EDC to extend the tax benefits for an additional four years	The bill grants the Colorado Economic Development Commission the power to extend the tax benefits for an additional four years. This report calculates the total cost of the tax expenditures as if EDC grants the extension, as the purpose of the report is to capture the amount of tax expenditures approved by Governor Polis. By passing the authority to the EDC to grant the extension, the governor already gave his seal of approval. The report assumes the cost of the extension would be approximately $200,000 per year. The bill makes very small reductions to two tax expenditures and much larger increases to another tax expenditure. The fiscal note, however, does not break out the impact of each tax expenditure change by fiscal year. For that reason, Table one shows only the net impact for this bill.
HB20-1020	Long-term Lodging Sales Tax Exemption	Tax Exemption	Elimination	Limits the state sales tax exemption for long-term lodging to natural persons and maintains the sales tax exemption for local governments unless they explicitly subject long-term lodging to their sales and use tax	
HB20-1109	Tax Credit Employer Contributions To Employee 529s	Tax Credit	Extension	Extends the state income tax credit for employers who contribute to an employee's 529 qualified state tuition program through tax year 2031	
HB20-1413	Small Business Recovery Loan Program Premium Tax Credits	Tax Credit	Creation	Establishes a state and private investor funded small business recovery loan program	The tax expenditure figures for this bill listed in Table 1 subtract the revenue from sale of tax credit certificates from the sum of the "reduced insurance premium tax revenue" to come up with the tax expendeiture cost. It divides those costs out over the years of lost revenue.
HB20-1420	Adjust Tax Expenditures For State Education Fund	Tax Deductions, Tax Credits	Reductions, Expansions	Makes various changes to state income tax deductions and credits	Within the fiscal note's forecast window (through FY2023-24), the bill reduces tax expenditures by a greater amount than it increases them, resulting in a net positive revenue outcome in the first four years. Because the tax expenditure reductions sunset in the first two to three years while all of the tax expenditure increases are permanent, the bill actually increases tax expenditures on net over the long term. Estimates beyond the budget window were made by continueing estimates from FY2023-24 in the fiscal note. Tax expenditures modified in this bill were later modified in HB21-1311 and HB21-1002. See also "HB20-1420" under Appendix D.
HB20B-1004	Qualified Retailer Retain Sales Tax For Assistance	Tax Deduction	Creation	Allows qualified retailers to deduct up to $70,000 in net taxable sales on their state sales tax returns each month for four months and for up to five locations	The bill's fiscal note provides a range of possible revenue loss from the tax deduction, from $39.3 million to $52.8 million. This report assumes the upper-bound of that range.
HB21-1002	Reductions Certain Taxpayers' Income Tax Liability	Tax Credit, Tax Deduction	Expansion, Creation	Creates a state income tax deduction, allowing taxpayers who carry back federal income tax deductions as allowed under the federal CARES Act to access corresponding state income tax benefits in 2021 and future tax years	The bill modifies tax expenditures that were also modified by HB20-1420 and HB21-1311.

Table 2. continued...

Bill Number	Bill Topic	Type of Tax Expenditure	Nature of Change	Bill Summaries	Additional Notes
HB22-1006	Child Care Center Property Tax Exemption	Tax Exemption	Expansion	Expands an existing property tax exemption to include property that is rented or leased and used as an integral part of a childcare center.	The tax exemption under this bill reduces local, not state, revenue. The effect on TABOR refunds depends on whether the voters have repealed the TABOR limit at the local district level.
HB22-1007	Assistance Landowner Wildfire Mitigation	Tax Deduction, Tax Credit	Extension, Creation	Extends the current law state income tax deduction for wildfire mitigation expenses from 2024 to 2025; creates a state income tax credit starting in 2023 for wildfire mitigation expenses	The fiscal note does not provide an estimate for the cost of extending the tax deduction. This report estimates the cost based on the 2020 Colorado Tax Profile and Expenditure Report.
HB22-1010	Early Childhood Educator Income Tax Credit	Tax Credit	Creation	Creates a tax credit for early childhood educators who are the head of household and have incomes below a certain threshhold	
HB22-1017	Increase Alcohol Beverage Excise Tax Exemption	Tax Exemption	Expansion	Expands the current excise tax exemption for alcohol brought by air passengers into the state from a foreign country to alcohol brought into the state by any means, and increases the exempt quantities.	The fiscal note does not provide cost estimates for this bill, because the Department of Revenue does not collect data on the revenue lost from this tax exemption.
HB22-1024	Sales And Use Tax Exemption Municipal Public School Construction	Tax Exemption	Expansion	Requires home rule municipalities to exempt sales of construction and building materials used in public school construction from sales and use tax.	The tax exemption under this bill reduces local, not state, revenue. The effect on TABOR refunds depends on whether the voters have repealed the TABOR limit at the local district level.
HB22-1025	Repeal Of Infrequently Used Tax Expenditures	Tax Credit, Tax Exemption, Tax Deduction	Elimination	Eliminates several tax expenditures from the state's insurance premium tax, income tax, sales and use tax, and liquor excise tax.	The figures in Table 1 do not account for any possible impacts beyond what's estimated in the bill's fiscal note.
HB22-1026	Alternative Transportation Options Tax Credit	Tax Deduction, Tax Credit	Elimination, Creation	Replaces an income tax deduction for expenses related to providing alternative transportation options for employees with a refundable tax credit for similar expenses available to employers.	"The current state corporate income tax deduction for alternative means of transportation is not widely used," according to the fiscal note. Table 1 and total impacts listed in this report do not include the amount of tax expenditure reduction from eliminating the deduction, as the impact is small and the fiscal note does not provide an estimate. Most of the revenue impact came from the creation of the new tax credit.
HB22-1051	Extend Affordable Housing Tax Credit for 7 years past previous 2024 expiration	Tax Credit	Extension	Extends the Colorado affordable housing tax credit for an additional 7 years	HB19-1228 previously expanded the credit.
HB22-1055	Sales Tax Exemption Essential Hygiene Products	Tax Exemption	Creation	Exempts incontinence products, diapers and period products from sales and use taxes	
HB22-1083	Colorado Homeless Contribution Income Tax Credit	Tax Credit	Expansion	Replaces and expands a state income tax credit for contributions to projects meant to adress homelessnes	The bill replaces a tax credit with an expanded credit serving essentially the same purpose. This report counts the changes as a simple expansion of a tax expenditure, rather than a reduction and an expansion.
HB22-1149	Advanced Industry Investment Tax Credit	Tax Credit	Extension	Extends the Advanced Industry Investment Income Tax Credit Program for five income tax years	
HB22-1205	Senior Housing Income Tax Credit	Tax Credit	Creation	Creates a refundable income tax credit for senior taxpayers with adjusted gross income up to $75,000 who have not claimed a homestead property tax exemption	
HB22-1223	Mobile Home Property Tax Sale Notice And Exemption	Tax Exemption	Creation	Beginning in 2022, this bill provides a property tax exemption for certain mobile and manufactured homes, reducing the assessed value for property taxes manufactured homes, reducing the assessed value for property taxes.	The tax exemption under this bill reduces local, not state, revenue. The effect on TABOR refunds depends on whether the voters have repealed the TABOR limit at the local district level.

Table 2. continued...

Bill Number	Bill Topic	Type of Tax Expenditure	Nature of Change	Bill Summaries	Additional Notes
HB22-1242	Regulate Tiny Homes Manufacture Sale and Install	Tax Exemption	Expansion	This bill expands the authority of the State Board of Housing in the Department of Local Affairs to set standards for tiny homes	The bill could change local district property tax revenue, but the fiscal note does not estimate the impact.
HB22-1310	529 Account Apprenticeship Expense	Tax Deduction	Expansion	Defines expenditures from a 529 account for fees, books, supplies, and equipment required for certain apprenticeship programs as a qualified distribution, and therefore not subject to tax recapture.	The fiscal note says the cost of the tax expenditures increase on an ongoing bases beyond FY2023-24. This report and. Table 1 assume the bill will cost $200,000 on an ongoing basis after FY2023-24.
HB22-1320	Achieving A Better Life Experience Savings Accounts	Tax Deduction	Creation	Modifies the administration and operation of accounts under the Achieving a Better Life Experience savings program Better Life Experience savings program	The fiscal note says the cost of the tax expenditures increase on an ongoing bases beyond FY2023-24. This report and Table 1 assume the bill will cost $500,000 on an ongoing basis after FY2023-24.
HB22-1328	Modify Main Street Business Recovery Loan Program	Tax Credit	Expansion	Makes multiple changes to the Colorado Loans for Increasing Main Street Business Economic Recovery Act created under House Bill 20-1413 in the Office of the State Treasurer	Table 1 arrives at this bill's impact by subracting the revenue from the sale of tax credit certificates from the sum of the "reduced insurance premium tax revenue." It then divides those costs out over the years of lost revenue. The bill amends HB20-1413, also included in this report.
HB22-1391	Modifications To Severance Tax	Tax Credit	Expansion	Modifies the ad valorem tax credit beginning in 2025 and creates a working group to develop an implementation plan for further changes to the severance tax	The fiscal note says, "There is significant uncertainty regarding the bill's impact on severance tax revenue." This report uses the upper bound of their estimate and continues the FY2024-25 estimate for future years, though the fiscal note suggests it will likely increase by about 2 percent per year with inflation.
HB22-1392	Contaminated Land Income Tax and Property Tax Exemption	Tax Credix, Tax Exemption	Extension and Expansion, Extension	Extends and expands the state income tax credit for environmental remediation of contaminated land, and extends property tax exemptions for certain low-income housing developments.	According to the fiscal note, "Because data on this exemption are not tracked separately from those for other exemptions, the amount of the revenue impact is assessed as indeterminate. The impact on each local government will depend on the amount of exempt property located in the taxing jurisdiction."
HB22-1406	Qualified Retailer Retain Sales Tax	Tax Deduction	Extension	Renews a temporary net taxable sales deduction for businesses operating in the food and drinking services sector, including hotel-operated food and drinking services	The bill further extends a tax deduction first created by HB20B-1004 and previously expanded and extended by HB21-1265.
HB22-1418	Extention of Certain Unused Tax Credits	Tax Credit	Extension	Extends the carry-forward period for unused state job growth incentive and enterprise zone credits income tax credits set to expire in tax years 2021 through 2025. The bill continues to impact revenue through FY2026-27.	
SB22-006	Sales Tax Assistance for Small Businesses	Vendor Fee	Reduction and Expansion	Allows retailers with sales under $100,000/year to retain a 5.3% vendor fee in 2023, up from 4%.	HB19-1245 and HB21-1312 previously increased revenue by reducing the amount sales tax revenue going to vendors via the vendor fee.
SB22-051	Policies To Reduce Emissions From Built Environment	Tax Exemption, Tax Credit	Creation, Creation	Exempts air-source heat pumps, ground-source heat pumps, heat pump water heaters, residential energy storage systems, and certain building materials from sales and use taxes.	
SB22-081	Health Exchange Education Campaign Health-care Services	Tax Credit	Expansion	Expands an existing health insurance premium tax credit for insurers	

Bill topics and summaries were derived in some cases directly or indirectly from LCS fiscal notes and in other cases are original to this report.

APPENDIX C: ALL MODIFIED TAX EXPENDITURES, 2019-2022

This section serves as a reference list of all individual tax expenditure provisions that were modified during Polis's first term such that they produced an increase or decrease in state or local revenue. In other words, rather than listing all the tax expenditure bills signed into law by Polis and reviewed in this report as in table 1 and table 2, it lists the individual tax expenditure provisions that those bills modified, categorized into four tables:

- ➤ Table 3. Existing Tax Expenditures Repealed, 2019-2022
- ➤ Table 4. Existing Tax Expenditures Reduced, 2019-2022
- ➤ Table 5. Existing Tax Expenditures Extended or Expanded, 2019-2022
- ➤ Table 6. New Tax Expenditures Created, 2019-2022

The first three headings include only tax expenditures that existed prior to Polis taking office in 2019. The fourth list includes only those that did not exist until created during Polis's tenure. Tax expenditures are listed in the following preferential order:

1. Within each table, each tax expenditure provision is listed chronologically by year of the first bill that modified it.
2. If two tax expenditures were modified in the same year by different bills, they continue in ascending order by bill number. Senate Bills come before House Bills.
3. If two tax expenditures were modified in the same year by the same bill, the list continues based on the next modified bill—first by year, then by bill number. In such cases, tax expenditures modified by fewer bills come first.
4. In cases where the first four conditions do not provide order, the list proceeds alphabetically by tax expenditure title.

Each table lists the titles of relevant tax expenditure provisions in the left-hand column. For ease of reference, the tables cite the statute in which to find the tax expenditure under each title. In two cases, the federal tax code is referenced instead of state statute. Most titles include a reference that provides additional information on the tax expenditure. It always references the latest OSA tax expenditure evaluation, if available, otherwise it references another state or federal public document or resource. In the electronic version of this report, the reference is hyperlinked in the title. To the right of each title is a list of every bill signed into law over the last four years that impacted the respective tax expenditure in such a way as to increase or decrease state revenue. In the electronic version, bills are hyperlinked to their text, which is maintained by the general assembly at leg.colorado.gov.

Two tax expenditures underwent changes that both increased and decreased state revenue: the state vendor allowance (i.e., vendor fee) and the section 529 income tax deduction. These are listed under each applicable heading with the relevant bills and changes for that heading. The Capital Gains Deduction is listed under Table 3 as a repealed provision, though it excepted qualified agricultural property from the repeal. Two tax expenditures were repealed and then replaced with similar tax benefits. For the two repealed provisions in Table 3, it is noted in parenthesis next to the title that they were replaced. The tax expenditures that replaced them are listed under Table 6 as newly created tax expenditures.

Table 3. Existing Tax Expenditures Repealed, 2019-2022

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Coal Severance Tax Tonnage Exemption Colo. Rev. Stat. § 39-29-106(2)(b)	HB21-1312	phases out the exemption.
Coal Severance Tax Credit for Coal Mined Underground Colo. Rev. Stat. § 39-29-106(3)	HB21-1312	phases out the credit.
Coal Severance Tax Credit for Lignitic Coal Production Colo. Rev. Stat. § 39-29-106(3)	HB21-1312	phases out the credit.
Alternative Income Tax Colo. Rev. Stat. § 39-22-104(5)	HB22-1025	repeals the tax expenditure.
Crop and Livestock Contribution Corporate Income Tax Credit Colo. Rev. Stat. § 39-22-301(3)	HB22-1025	repeals the credit.
Educational and Scientific Institutional Life Insurance Exemption Colo. Rev. Stat. § 10-3-910(3)	HB22-1025	repeals the exemption.
Marketing Property to Out-of-state Vendees Exemption Colo. Rev. Stat. § 39-26-713	HB22-1025	repeals the exemption.
New Plastic Recycling Technology Investment Tax Credit Colo. Rev. Stat. § 39-22-114.5	HB22-1025	repeals the credit.
Old Investment Tax Credit Colo. Rev. Stat. § 39-22-507.5	HB22-1025	eliminates the credit.
Previously Taxed Income or Gain Deduction for C-Corporations Colo. Rev. Stat. § 39-22-304	HB22-1025	eliminates the deduction.
New Investment Tax Credit Colo. Rev. Stat. § 39-22-507.6	HB22-1025	eliminates the credit.
State-employed Chaplain Housing Allowance Colo. Rev. Stat. § 39-22-510	HB22-1025	repeals this section.
Capital Gain Deductions (partial repeal) Colo. Rev. Stat. § 39-22-518(2)	HB21-1311	eliminates the capital gain deductions for Colorado property and tangible personal property, except for qualified agricultural property.

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Mass Transit and Ridesharing Expenses Deduction (replaced) Colo. Rev. Stat. § 39-22-509	HB22-1026	replaces the Mass Transit and Ridesharing Expenses Deduction with a refundable tax credit for similar expenses available to employers.
Enterprise Zone Contribution Credit (replaced) Colo. Rev. Stat. § 39-30-103.5	HB22-1083	replaces and expands the credit with a new statewide credit for contributions to projects meant to address homelessness.

Table 4. Existing Tax Expenditures Reduced, 2019-2022

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Sales Tax Vendor Allowance Colo. Rev. Stat. § 39-26-105(1)	HB19-1245	caps the state vendor fee at $1,000 per vendor per filing period, thus reducing the tax benefit and increasing state revenue.
	HB21-1312	reduces tax expenditures from vendor fees by barring retailers with taxable sales greater than $1 million each month from retaining any vendor fees.
	SB22-006	increases the state vendor fee in 2023 from 4.0 percent to 5.3 percent for retailers with less than $100,000 in taxable sales per filing period.
Long-term Lodging Exemption Colo. Rev. Stat. § 39-26-704(3)	HB20-1020	restricts the long-term lodging tax exemption to natural persons.
Qualified Business Income (Section 199A) Deduction Colo. Rev. Stat. § 39-22-104(3)(o)	HB20-1420	requires some pass-through businesses to add back to state income, income deducted under 26 U.S.C.S. § 199A for income tax years 2021 and 2022.
	HB21-1311	extends the changes made in HB20-1420 through 2025.
Colorado Tuition Program (Section 529) Deduction Colo. Rev. Stat. § 39-22-104(4)(i)	HB21-1311	limits the allowable deduction under 26 U.S.C.S. § 529 when filing state taxes.
Federal Itemized Deduction Limit Colo. Rev. Stat. § 39-22-104	HB21-1311	limits how much certain taxpayers who itemize can deduct from their state income taxes.
Annuities Exemption Colo. Rev. Stat. § 10-3-209	HB21-1312	reduces the exemption.

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Tangible Personal Property Sales Tax Colo. Rev. Stat. § 39-26-102(15)(b.5)	HB21-1312	clarifies the definition of "digital goods" to fall under "tangible personal property" and that sales and purchases of tangible personal property includes amounts charged for mainframe computer access, photocopying, and packing and crating. The changes result in increased tax revenue.
Regional Home Office Insurance Premium Tax Rate Reduction Colo. Rev. Stat. § 10-3-209	HB21-1312	reduces the exemption.

Table 5. Existing Tax Expenditures Extended or Expanded, 2019-2022

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Child Care Expense Credit Colo. Rev. Stat. § 39-22-119.5	HB19-1013	extends the existing credit from January 1, 2018 to January 1, 2029.
Rural and Frontier Healthcare Preceptor Credit Colo. Rev. Stat. § 39-22-538	HB19-1088 HB22-1005	extends the existing credit through 2022. extends the existing credit through 2032.
Innovative Motor Vehicle Credit Colo. Rev. Stat. § 39-22-516.7	HB19-1159	extends the existing credit through 2022.
Innovative Truck Tax Credit Colo. Rev. Stat. § 39-22-516.8	HB19-1159	extends the existing credit through 2022.
Farm Equipment and Parts Exemption Colo. Rev. Stat. § 39-26-716	HB19-1162	extends the existing exemption by broadening the definition of farm equipment (Colo. Rev. Stat. § 29-2-105).
Affordable Housing Tax Credit Colo. Rev. Stat. § 39-22-2102	HB19-1228 HB22-1051	increases the annual aggregate cap to $10 million for 2020 through 2024. extends the credit through 2031.
Sales Tax Vendor Allowance Colo. Rev. Stat. § 39-26-105(1)	HB19-1245 SB22-006	increases vendor fee starting in 2020 to 4 percent, thus expanding the tax benefit and reducing state revenue. The bill also makes changes that increase the vendor fee by a small amount, reducing state revenue.

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Conservation Easement Credit Colo. Rev. Stat. § 39-22-522	HB19-1264	raises the credit limit from $1.5 million to $5 million per donation and extends the conservation easement certification program until 2026.
	HB21-1233	expands the credit.
Section 529 Deduction 26 U.S.C.S. § 529	HB19-1280	creates a college kickstarter program in CollegeInvest and encouraged increased contributions to 529 accounts, thus increasing this tax expenditure at the state level.
	HB22-1310	allows expenses for fees, books, supplies, and equipment required for the participation of a designated beneficiary in certain apprenticeship programs to be treated as a qualified distribution from a 529 account for the purpose of determining state taxable income, thus increasing state tax expenditures (Colo. Rev. Stat. § 23-3.1-302).
Parent Teacher Association and Organization Exemption Colo. Rev. Stat. § 39-26-718	HB19-1323	increases the amount of sales by charitable organizations that are exempt from sales tax to $45,000 per year. It also removes the requirement that occasional sales take place no more than 12 days per year.
Agricultural Compounds Exemption Colo. Rev. Stat. § 39-26-102(19)	HB19-1329	expands the exemption by adding fertilizers.
Rural Jump-start Business Sales Tax Refund Colo. Rev. Stat. § 39-30.5-105(3)	HB20-1003	gives the Colorado Economic Development Commission the authority to extend Rural Jump-start tax benefits.
	SB21-229	increases all three Rural Jump-start tax expenditures.
Rural Jump-start New Business Income Tax Credit Colo. Rev. Stat. § 39-30.5-105(1)	HB20-1003	gives the Colorado Economic Development Commission the authority to extend Rural Jump-start tax benefits.
	SB21-229	increases all three Rural Jump-start tax expenditures.
Rural Jump-start New Hire Income Tax Credit Colo. Rev. Stat. § 39-30.5-105(2)	HB20-1003	gives the Colorado Economic Development Commission the authority to extend Rural Jump-start tax benefits.
	SB21-229	increases all three Rural Jump-start tax expenditures.

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Income Tax Credit for Employer 529 Contributions Colo. Rev. Stat. § 39-22-539(3)	HB20-1109	extends the income tax credit for employer contributions to employee 529 qualified state tuition programs for an additional 10 years.
Colorado Earned Income Tax Credit Colo. Rev. Stat. § 39-22-123.5	HB20-1420	increases the credit from 10 percent to 15 percent of the federal EITC starting in 2022. It also expands eligibility for the credit to those who do not qualify for the federal EITC for lack of a social security number.
	HB21-1002	moves forward one year the expansion in eligibility enacted in HB20-1420, thus increasing the tax expenditure one year sooner.
	HB21-1311	increases the credit to 20 percent of the federal EITC starting 2022, increases it to 25 percent for 2023-2025, and returns it to 20 percent ongoing starting in 2026.
Wood from Trees Killed Or Infested by Certain Beetles Sales Tax Exemption Colo. Rev. Stat. § 39-26-723(1)	HB21-1261	extends the exemption to June 2026.
Pension or Annuity Deduction Colo. Rev. Stat. § 39-22-104(4)(f)	HB21-1311	increases the deduction.
Business Personal Property Tax Exemption Colo. Rev. Stat. § 39-3-119.5	HB21-1312	increases the amount of the exemption. It also broadly defines "fee simple estate" and adds small technical changes for determining actual value (Colo. Rev. Stat. § 39-1-102 and 103).
Property Tax Exemption for Religious Worship, Schools, and Charitable Purposes[71] Colo. Const. Art. X, § 5	HB22-1006	expands the exemption within the constitutional authority, allowing more child care centers to claim the exemption (Colo. Rev. Stat. § 39-3-110; Colo. Rev. Stat. § 39-3-116).
Wildfire Mitigation Deduction Colo. Rev. Stat. § 39-22-104(4)(n.5)	HB22-1007	extends tax the deduction through 2025.
Excise Tax Exemption for Alcoholic Beverages Originating Outside the U.S. Colo. Rev. Stat. § 44-3-106(4)	HB22-1017	expands the current exemption.
Construction and Building Materials Exemption (extends mandate to local government) Colo. Rev. Stat. § 39-26-708	HB22-1024	requires home rule municipalities to exempt sales of construction and building materials used in public school construction from sales and use tax.

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Child Care Center Investment Tax Credit Colo. Rev. Stat. § 39-22-517(1) and (2)	HB22-1025	makes changes resulting in an expansion of the tax credit.
Advanced Industry Investment Credit Colo. Rev. Stat. § 39-22-532	HB22-1149	allows tax credits to be allocated among partners, shareholders, members, or other constituent qualified investor and extends it for five income tax years (Colo. Rev. Stat. § 24-48.5-112)
Fabricated Homes Exemptions Colo. Rev. Stat. § 39-26-721	HB22-1242	extends the existing exemption to tiny homes and defines "tiny home."
Achieving a Better Life Experience (ABLE) Savings Program Deduction 26 U.S.C.S. § 529A	HB22-1320	allows individuals who were declared disabled, as defined under federal law, before reaching 26 years of age are eligible to open an ABLE savings account, thus increasing the expenditure at the state level (Colo. Rev. Stat. § 23-3.1-306).
Oil and Gas Severance Tax Ad Valorem Credit Colo. Rev. Stat. § 39-29-105	HB22-1391	increases the tax credit beginning in 2025.
Affordable Housing Property Tax Exemption Colo. Rev. Stat. § 39-3-112	HB22-1392	extends the property tax exemption for affordable housing projects to receive the Colorado state property tax exemptions for an extended period of 15 years.
Contaminated Land Redevelopment Credit Colo. Rev. Stat. § 39-22-526	HB22-1392	extends current tax credit through 2024 and expands the definition of "qualified entity."
Enterprise Zone Agricultural Processing Employee Tax Credit Colo. Rev. Stat. § 39-30-105.1	HB22-1418	extends the carry-forward period.
Enterprise Zone Employee Health Insurance Tax Credit Colo. Rev. Stat. § 39-30-105.1	HB22-1418	extends the carry-forward period.
Enterprise Zone New Business Facility Employee Tax Credit Colo. Rev. Stat. § 39-30-105.1	HB22-1418	extends the carry-forward period.
Enterprise Zone Renewable Energy Tax Credit Colo. Rev. Stat. § 39-30-105.1	HB22-1418	extends the carry-forward period.
Enterprise Zone Vacant Commercial Building Rehabilitation Credit Colo. Rev. Stat. § 39-30-105.6	HB22-1418	extends the carry-forward period.
Job Growth Incentive Tax Credit Colo. Rev. Stat. § 39-22-531	HB22-1418	extends the carry-forward period.

Table 6. New Tax Expenditures Created, 2019-2022

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Hard Cider Excise Tax Exemption Colo. Rev. Stat. § 44-3-503(1)(d)(II)	SB19-142	Removes hard cider from the Colorado Wine Industry Development Act, exempting produce used in the production of hard cider from the excise tax deposited in the Colorado wine industry development fund.
Income tax credit for small business recovery loan program Colo. Rev. Stat. § 24-36-206 to 208	HB20-1413	establishes a state and private investor funded small business recovery loan program by selling tax credits, which will increase state tax expenditures when the credits are claimed.
	HB22-1328	expands the tax expenditure created in HB20-1413 by issuing more credits for sale, which taxpayers will claim in future years.
Sales Tax Exemption for Sale of Alcoholic Beverages Colo. Rev. Stat. § 39-26-105	HB20B-1004	allows qualified retailers to deduct up to $70,000 in net taxable sales on their state sales tax returns each month for four months and for up to five locations. It removes certain penalties and sets a repeal date for December 31, 2026 (Colo. Rev. Stat. § 39-26-112; Colo. Rev. Stat. § 39-26-118). The bill removes these sections from applying to the sales reduction and sets a repeal date for December 31, 2026 (Colo. Rev. Stat. § 39-21-116.5; Colo. Rev. Stat. § 39-21-118).
	HB21-1265	renews the deduction and expands the definition of qualifying retailers in several industries.
	HB22-1406	renews the deduction.
Mobile machinery registration fee exemption Colo. Rev. Stat. § 42-3-104	SB21-257	exempts owners of special mobile machinery from the fee.
Worked-Owned Business Conversion Credit Colo. Rev. Stat. § 39-22-542	HB21-1311	creates a temporary income tax credit for a business.
Child Tax Credit Colo. Rev. Stat. § 39-22-129	HB21-1311	creates the state child tax credit starting in 2022.
Decarbonizing Materials in Building Materials Sales and Use Tax Exemption Colo. Rev. Stat. § 39-26-731	SB22-051	exempts “eligible decarbonizing materials” used in the construction of buildings from sales and use tax (Colo. Rev. Stat. § 24-92-117; Colo. Rev. Stat. § 39-22-601;).

TAX EXPENDITURE TITLE	BILL	DESCRIPTION
Heat Pump Systems Income Tax Credit Colo. Rev. Stat. § 39-22-545	SB22-051	creates a refundable income tax credit air-source heat pumps, ground-source heat pumps, and heat pump water heaters.
Heat Pump Systems Sales and Use Tax Exemption Colo. Rev. Stat. § 39-26-732	SB22-051	exempts air-source heat pumps, ground-source heat pumps, and heat pump water heaters from sales and use tax.
Residential Energy Storage Systems Income Tax Credit Colo. Rev. Stat. § 39-22-546	SB22-051	creates a refundable income tax credit for the purchase of residential energy storage systems.
Residential Energy Storage Systems Sales and Use Tax Exemption Colo. Rev. Stat. § 39-26-733	SB22-051	exempts certain residential energy storage systems from sales and use tax.
Colorado Health Benefit Exchange Contribution Credit Colo. Rev. Stat. § 10-22-110	SB22-081	increase the credit by $10 million.
Wildfire Mitigation Credit Colo. Rev. Stat. § 39-22-543	HB22-1007	creates a state income tax credit to reimburse a landowner for the costs incurred in performing wildfire mitigation measures on the landowner's property.
Early Childhood Educator Income Tax Credit Colo. Rev. Stat. § 39-22-547	HB22-1010	creates a refundable income tax credit for eligible early childhood educators.
Alternative Transportation Income Tax Credit Colo. Rev. Stat. § 39-22-509	HB22-1026	replaces the Mass Transit and Ridesharing Expenses Deduction with a refundable tax credit for similar expenses available to employers.
Personal Hygiene Product Exemption Colo. Rev. Stat. § 39-26-717	HB22-1055	creates a state sales tax exemption for all sales, storage, use, and consumption of period products and incontinence products.
Homeless Contribution Tax Credit Colo. Rev. Stat. § 39-22-548	HB22-1083	replaces the Enterprise Zone Contribution with an expanded credit for contributions to projects meant to address homelessness across the entire state.
Senior Housing Refundable Income Tax Credit Colo. Rev. Stat. § 39-22-544	HB22-1205	creates a refundable income tax credit starting in 2022 for seniors not eligible for the senior homestead exemption.
Mobile and Manufactured Home Property Tax Exemption Colo. Rev. Stat. § 39-3-126.5	HB22-1223	creates a property tax exemption for qualifying mobile and manufactured homes.

APPENDIX D: NOTABLE EXCLUSIONS

HB19-1005
This bill included nearly $29 million in early childhood educator tax credits. Governor Polis signed it, and it became law. The credits, however, were contingent on voters adopting tax increases via the ballot. Because voters did not approve the tax credits, the credits never went into effect. This report, therefore, excludes the bill. In 2022, HB22-1010 created about $55 million in early childhood educator income tax credits. Unlike HB19-1005, the General Assembly did not send this bill to the ballot for voter approval. It became law with Governor Polis's signature on June 8, 2022.[72]

HB20-1024
This bill limits taxpayer's ability to carry forward the deduction to 20 years rather than indefinitely. It minimally reduces tax expenditures starting in 2035 but is not included in this report.[73]

HB20-1146
This bill made changes to Conservation Easement tax credit, but since the fiscal note shows no revenue impact, the bill is excluded from this report.[74]

HB20-1182
This bill repealed the sales tax exemption for sales to residents of bordering states without a retail sales tax. All states bordering Colorado currently have retail sales tax, therefore, this bill has no present effect. This report omits the bill.[75]

HB20-1418
This bill requires local governments to issue tax credits, and HB21-1164 phases out those credits. Because the two bills simply negate one another, neither bill is included in this report.[76]

HB20-1420
This bill includes several modifications to various tax expenditures. This report includes some of those changes but excludes others. Specifically, the bill decouples the state tax code from three provisions of the federal CARES Act. With the provisions, Congress temporarily expanded certain tax deductions to provide pandemic relief to businesses forced to shut down or limit their business operations by Governor Polis and other governors and legislatures across the nation.

Because the report aims to capture the extent to which Governor Polis carried out his 2018 campaign pledge to cut special interest tax benefits, it omits the effects of decoupling from these federal tax provisions. These CARES Act tax provisions were not in effect when Governor Polis took office. Because the General Assembly adopted HB20-1420 and decoupled from the provisions just three months after Congress adopted them, they never impacted the state tax code. Repealing them simply maintained the status quo of existing law in during the 2018 campaign season, therefore the report does not view the action as progress towards fulfilling the campaign pledge.

The report does include the reduction of the qualified business income deduction and the expansions to the Earned Income Tax Credit included in HB20-1420. Notably, Governor Polis and Colorado Democrats count this bill as part of their "Tax Fairness" effort, and Democrat lawmakers cite the provision therein that decouple from CARES Act provisions as examples of stopping "corporate tax giveaways." The changes prevented an estimated $102.9 million increase in tax benefits for Colorado businesses. Had the report included this figure, the tax expenditure increases in this bill still would have more than offset its tax expenditure decreases. With or without the inclusion of this figure, Colorado would have seen a net increase in special interest tax benefits during Governor Polis's first term in office.[77]

Note that the report also excludes the effect of reallowing a limited amount of CARES Act deductions under HB21-1002.[*]

HB20-1427
This bill referred a tax increase on cigarette, tobacco, and nicotine products to the ballot. Governor Polis signed the bill and voters approved it, making it law. It included "a tax credit equal to the amount of tax paid when the products were brought into the state," according to the fiscal note.[78] The fiscal note does not provide the impact from this tax credit, which appears to be minimal, and it is the only tax expenditure in the referred measure. This report excludes it.

HB20B-1006
This bill makes modifications to when taxpayers may claim certain tax credits, but it does not impact tax revenues or tax expenditures.[79] The bill was excluded from this report.

HB21-1002
This report excludes the effect of reallowing a limited amount of CARES Act deductions under HB21-1002 for the same reason it excludes the effect of Decoupling from CARES Act decoupling provisions under HB20-1420.[†] Simply put, the report excludes the effect of decoupling from CARES Act provisions in HB20-1420 because the effect of those provisions of the bills was to maintain the status quo. According to the fiscal note for HB21-1002, the same is true for this bill: "[HB21-1002] has the impact of allowing taxpayers to apply these deductions at the state level in future tax years, similar to what would have been allowed had the CARES Act not become law."[80]

HB21-1311
The same logic explained in this Appendix under HB20-1420 was applied to the Business Meals Deduction Add-Back in HB21-1311. The figures in this report exclude the $7 million impact from that provision. The impact was negligible, and its exclusion had no meaningful impact on this report's findings and conclusions.[81]

SB21-072
This bill could incidentally result in some taxpayers losing their conservation easement tax credit. Because the effect is only incidental and the fiscal note did not include a revenue impact estimate, this report omits the bill.[82]

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* See "HB21-1002" under this appendix.

† See "HB20-1420" under this appendix.

SB21-130
This bill clarified local governments' constitutional authority to exempt business personal property from property taxes. While the bill makes changes effecting local tax expenditures, it has no direct fiscal impact and is excluded from this report.[83]

SB21-281
This bill pushes some of the cost of property tax credits on oil and gas severance taxes from the state to new metropolitan districts. It does not eliminate the credits and the revenue impact, if any, is not estimated in the bill's fiscal note.[84] This report omits the bill.

APPENDIX E: TAX EXPENDITURES AND TABOR

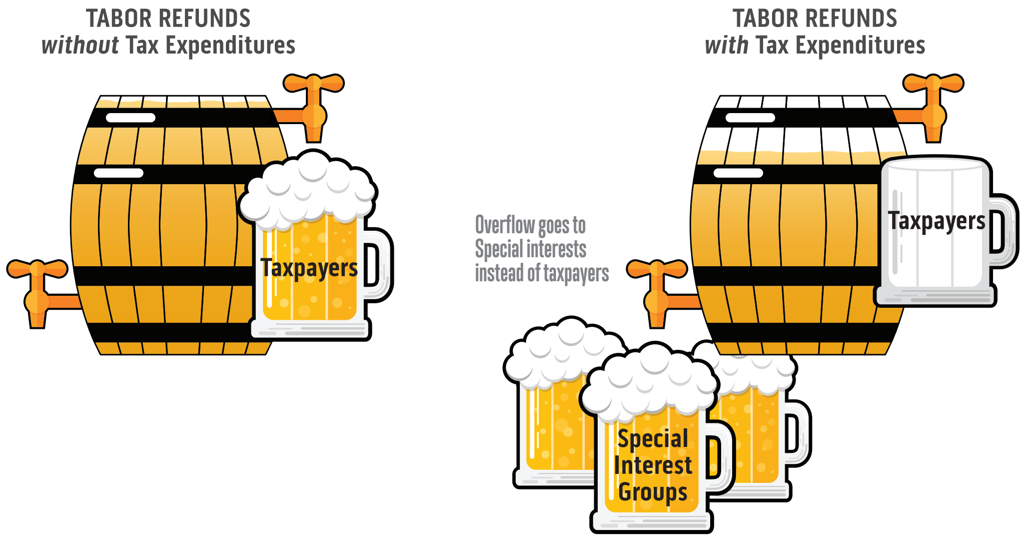
The Taxpayer's Bill of Rights (TABOR) in the Colorado Constitution sets a limit on the growth of certain revenue—known as "fiscal year spending"—to population growth plus inflation, adjusted for voter-approved revenue changes. It then requires excess revenue to be refunded to taxpayers unless voters allow the state to keep the excess. The constitutional amendment reads, "If revenue from sources not excluded from fiscal year spending exceeds these limits in dollars for that fiscal year, the excess shall be refunded in the next fiscal year unless voters approve a revenue change as an offset."[85]

When the state reduces state revenues by creating or expanding tax expenditures, the loss of revenue typically reduces the amount of state revenue subject to the TABOR limit.* That means during years in which the state experiences a TABOR surplus, TABOR refunds are reduced by the amount of lost revenue from tax expenditures. If revenues were projected to exceed the TABOR limit by $500 million in a particular year, for example, taxpayers could expect that the state would return that amount to them via TABOR refunds. If the state created a tax credit that reduced state revenues by $100 million in the same year, however, TABOR refunds would go down to $400 million.

For illustration, imagine a whisky barrel where the whisky represents TABOR revenue, and the size or volume of the barrel represents how much revenue the state may keep. As Coloradans pay taxes and tax receipts come in to the state, the whisky barrel fills. If that whisky begins to overfill the barrel, the excess whisky flows back to taxpayers. Imagine now that lawmakers put a tap at the bottom of the whisky barrel. They allow certain special interests to hold their cups under the tap as lawmakers open the spicket, causing some of the whisky to flow into the cups of selected special interest groups. The state does not retain any more revenue whether the whisky flows over the top of the barrel or is released out of the tap. The difference manifests in who benefits from excess revenue: all taxpayers or selected special interests. If lawmakers do nothing, the excess whisk will flow out of the top of the barrel and go back to all taxpayers. By creating or expanding tax expenditures, lawmakers effectively choose where the excess flows by handing out tax benefits to politically favored special interests.

* This is not true in cases where a tax expenditure reduces revenue that is not subject to the TABOR limit.

Figure 14. Effect of Tax Expenditures on TABOR Refunds



Based on the most recent state economic forecast by Legislative Council Staff (LCS), state revenues will exceed the TABOR cap at least through FY2023-24. Their June 2022 economic forecast projects a TABOR refund in excess of approximately $3.56 billion for FY2021-22, $3.04 billion for FY2022-23, and $1.57 billion for FY2023-24.[86] Any reduction of state revenues via tax expenditures during these years equates to a corresponding reduction in taxpayer refunds. For years in which taxpayers are projected to receive TABOR refunds, the creation or expansion of tax expenditures does not save taxpayers any money on net. Instead, such policy changes simply shift the tax savings from all taxpayers who would have received larger refunds to government-selected special interests who will benefit from the tax expenditures. For the four years from FY2020-21 through FY2023-24 in which taxpayers have received or are currently projected to receive TABOR refunds, the increase in tax expenditures over the last four years will reduce refunds by an estimated $211.59 million. This amount differs from the total expansion in tax expenditures over that period, as some bills impacted local rather than state revenue.

LCS currently provides no economic forecasting after FY2023-24. While it is currently unknown whether revenues will exceed the TABOR limit in future years, large increases in tax expenditures past FY2023-24 may reduce future TABOR refunds. This may come to pass even in years without projected TABOR refunds, as a large revenue loss from tax expenditures may cause revenues not to exceed the TABOR limit in future years.

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JON CALDARA is President of the Independence Institute.

DAVID KOPEL is Research Director of the Independence Institute.

BEN MURREY is Director of the Fiscal Policy Center.

STEPAN MYSKO is an alumnus of Independence Institute's Future Leaders Program; he assisted with research and data visualization for this report.

JORDAN READY is a student at University of Denver's Sturm College of Law; she provided background and legal citations for Appendix C.

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