Alternative Transportation Options Tax Credit

Tax Expenditure Evaluation • March 2026 • 2026-TE16

Tax Type:	**Income Tax**
Expenditure Type:	**Credit**
Statutory Citation:	**Section 39-22-509, C.R.S.**
Year Enacted:	**2023**
Repeal/Expiration Date:	**January 1, 2027**
Revenue Impact (2023):	**$655,000**

Purpose given in statute or enacting legislation? **Yes**

The Alternative Transportation Options Credit allows employers to claim a refundable income tax credit for a percentage of the amount the employer spends to provide alternative transportation options, such as bus passes, bicycles, and ridesharing, to their employees. The General Assembly created the credit "to increase the use of alternative transportation options by employees in going to and returning from their places of employment by providing an incentive to employers to provide alternative transportation options to employees."

Overall, we found that the credit has not effectively increased employee commute trips via transit for several reasons:

- While some employers are aware of and claiming the credit, and employers report some employee use of transit for commuting, the overall employer and employee participation in the program is very low relative to the overall number of employers in Colorado and the number of employees commuting to work. In Tax Year 2023, 52 employers filed an Alternative Transportation Option Plan (Plan) with the Department of Revenue and reported that about 20,700 employees would be provided a transit benefit. However, only 27 of the employers claimed the tax credit. Stakeholders and employers reported that burdensome administrative processes and confusion over eligible costs have dissuaded many employers from providing transit benefits and applying for the tax credit.

- Research on individual commuting behavior suggests that other factors, such as convenience, reliability, cost, and safety of transit options are more likely to influence employee commute choices than whether their employer provides a transit benefit.

- Research indicates that other investments to reduce individual barriers to using alternative transportation, such as transit infrastructure that provides convenient and reliable options to commuters, are more likely to result in changes in commute modes than the tax credit.

Policy Considerations

We initially reviewed this expenditure in 2023 when the tax credit was set to expire and issued a memo that identified several policy considerations regarding clarifying statutory definitions about qualifying costs and calculating the expenses for the tax credit. In 2024, the General Assembly extended the tax credit and the Department of Revenue issued rules that addressed the memo's policy considerations. In this evaluation we identified the following new policy considerations that the General Assembly could consider in order to meet the statutory purpose of the tax credit:

- Review the effectiveness and ability of the tax credit to increase employee use of transit for commuting compared to other policies, such as employer regulations and/or grant and rebate programs.
- Consider changing the design of the tax credit to increase employer interest in providing transit benefits and to more directly impact employee commuting behavior. For example, the General Assembly could:
  - Appoint a state agency or community organizations to market and administer the tax credit, including reviewing employer Plans, certifying eligibility for the credit, and collecting data on outcomes.
  - Remove or reduce employer application and reporting requirements that create an administrative burden and have created confusion for employers.
  - Revising statutory definitions of qualifying employer plans and expenses to narrow requirements to benefits that are most effective at changing employee commute behavior.
- Amend statute so that the dates for filing requirements for tax-exempt organizations to claim the tax credit align with the dates the tax credit is available.

Alternative Transportation Options Credit

Background

The Alternative Transportation Options Credit allows employers to claim a refundable income tax credit for a percentage of the amount the employer spends to provide alternative transportation options, such as bus passes, bicycles, and ridesharing, to their employees.

The General Assembly created the Alternative Transportation Options Credit for employers in 2022 **"to increase the use of alternative transportation options by employees in going to and returning from their places of employment by providing an incentive to employers to provide alternative transportation options to employees."**

The credit was initially only available for Tax Years 2023 and 2024. Under statute, the OSA is required to publish an evaluation of tax expenditures the year prior to their expiration. Because data on the credit was not available at the time of the evaluation, we provided a memo with policy considerations should the General Assembly choose to extend the credit (Alternative Transportation Options Credit for Employers Memo – 2023-TE20). In 2024, the General Assembly extended the credit (House Bill 24-1036), which is now available through Tax Year 2026. In addition to extending the credit, the General Assembly clarified that tax-exempt organizations are eligible for the credit but must file an informational C-corporation tax return in order to claim the credit.

> Technical Note: Statute defines alternative transportation options as "free or partially subsidized generally accepted transportation demand management strategies provided to employees working in Colorado" such as mass transit passes; provision of ridesharing vans, bicycles, and electric bicycles; and shared micromobility options such as bikesharing and electric scooter sharing programs. This report refers to these options as "transit benefits."

To be eligible for the credit, an employer must have a minimum of three employees and must provide alternative transportation to all of its employees regardless of their job position, whether they are full- or part-time, and whether they are salaried, paid hourly, or tipped.

Statute requires a two-step process for employers to be eligible for and to claim the tax credit. As a pre-requisite to be eligible for the credit, employers must submit the Department of Revenue's (Department) Annual Employer Plan Report (Plan) to the Department before incurring qualifying expenses.

Statute requires an employer to identify in the Plan:

- Its plan for notifying employees of the availability of the transit benefits that it offers, and
- The steps it will take to encourage employees to use the alternative transportation option(s).

After the employer has submitted a Plan, in order to claim the credit, statute requires the employer to report to the Department the outcomes of its previously filed Plan when filing their income tax return, including:

- The types of transit benefits offered,
- The number of employees that were offered transit benefits, and
- To the extent feasible, the number of employees actually using an alternative transportation option and the number of trips taken by employees using an alternative transportation option.

Employers only need to submit a Plan to pre-qualify for the tax credit one time, but must submit the outcomes of their Plan with their income tax return each year they intend to claim the tax credit.

Employers may claim an income tax credit for up to 50 percent of the amount spent to provide transit benefits to employees, up to a maximum amount of $125,000 in tax credits. Employers may spend up to $2,000 in transit benefits per employee, per year. This credit is refundable and is also available to tax-exempt entities that can receive the full amount of the credit even though they do not have an income tax liability.

> Technical Note: For federal income taxes, prior to 2018, employers could deduct costs for providing "qualified transportation fringe benefits" to employees from the employer's income as ordinary and necessary business expenses. However, the 2017 Tax Cuts and Jobs Act (TCJA) limited the employer deduction to "costs needed to ensure employee safety;" in 2025 the One Big Beautiful Bill Act (OBBBA) repealed the employer deduction entirely, except for transportation costs for employee safety.
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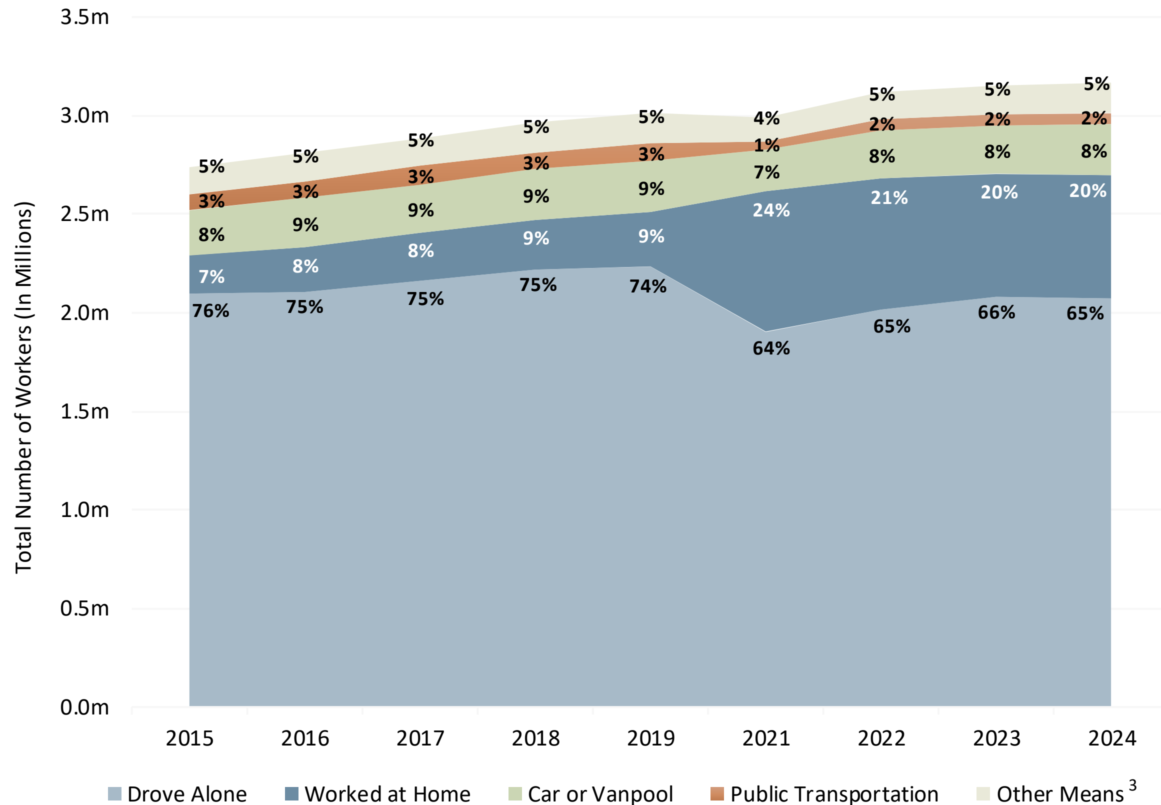
> Federal law also allows employers to provide employees a pre-tax benefit (i.e., an exclusion from the employee's wages) for qualified transportation benefits, including employee parking costs. This exclusion reduces an employee's taxable wages, providing a tax benefit to both the employee and employer. Prior to 2018, this exclusion included bike-commuting benefits, such as cash reimbursements for biking to work; however, the TCJA also suspended the bike exclusion and the OBBBA repealed it entirely.

Based on U.S. Census Bureau data, over the past decade, Colorado employee commuting via transit has either remained flat or fallen. The largest impact to commuting behavior has been a 15 percent increase in working from home following the COVID-19 pandemic. Exhibit 1 shows the U.S. Census Bureau's estimated commuting methods in Colorado from 2015 to 2024 as a percentage of

the total state workforce, based on a person's reported commute method that represents their longest commute to work.

Exhibit 1

Workforce Commuting Patterns in Colorado[1], U.S. Census Bureau 1-Year Estimates for 2015 through 2024[2]



Source: U.S. Census Bureau, American Community Survey 1-Year Estimates of Commuting in Colorado for Workers 16-years and older.

[1] Respondents were asked "How did this person usually get to work LAST WEEK? Mark (X) ONE box for the method of transportation used for most of the distance." Therefore, respondents are listed in only one commute category.

[2] Data for the 2020 ACS 1-Year Estimates is not available due to the COVID-19 pandemic impacts on data collection.

[3] Other Means includes walking, taxicabs or rideshares, bicycles, and motorcycles.

In general, the U.S. Census Bureau data shows that while the percentage of workers driving alone to work has decreased following the COVID-19 pandemic, so has the percentage of workers using public transit and car or vanpools. Telework has seen the most significant increase in recent years and is an effective option to reduce commute traffic and congestion; however, telework expenses do not qualify for the tax credit.

Statute provides the following performance measures to evaluate whether this credit is meeting its purpose:

- The types of transit benefits offered.
- The number of employees using transit benefits.
- The number of trips using alternative transportation.

In addition to the statutory performance measures, to evaluate whether the credit is meeting its purpose, we evaluated:

- The effectiveness of the credit at incentivizing employers to provide transit benefits to their employees, and
- The effectiveness of transportation benefits to incentivize employees to increase their use of transit when commuting.

Evaluation Results

The credit has not effectively increased employee commute trips via transit. While some employers are aware of and claiming the credit, and employers report some employee use of transit for commuting, the overall employer and employee participation in the program is very low relative to the overall number of employers in Colorado and the number of employees commuting to work. Research indicates that other investments to reduce individual barriers to using alternative transportation are more likely to result in changes in commute modes than the tax credit.

The credit has not incentivized many employers to offer alternative transportation option benefits to employees. For Tax Years 2023 and 2024, a total of 73 employers submitted a Plan to the Department. Because many employers submitted Plans in both tax years, there was a total of 52 employers that submitted Plans in Tax Year 2023 and 57 employers in Tax Year 2024. While statute does not specify the number of employers that legislators intended to incentivize, 73 employers is overall a small fraction of total employers in Colorado. According to U.S. Census Bureau data from 2023, Colorado had nearly 183,000 employers.

Additionally, the use of the credit is significantly lower than the General Assembly originally estimated. The enacting bill's [House Bill 22-1026] fiscal note estimated that the revenue impact for Tax Year 2023 would be nearly $22 million, based on a total of about 38,000 employees receiving employer alternative transportation benefits. However, based on Department data on credits claimed for Tax Year 2023, which is the most recent data available, 52 employers submitted a Plan that year but only 27 employers claimed the tax credit, resulting in a state revenue impact of about $655,000, with an average benefit of about $24,200 per employer. Due to data limitations with identifying which employers claimed the tax credit, we could not determine the number of

employees at these 27 employers who were provided an alternative transportation benefit in Tax Year 2023. However, based on the Plans that employers submitted for Tax Year 2023, these 52 employers reported in total that they would offer approximately 20,700 employees a transit benefit, which is slightly more than half the number of employees that were estimated to receive a transit benefit in the fiscal note.

Furthermore, it is not clear how many of the 73 employers that submitted Plans during Tax Years 2023 and 2024 were offering their employees alternative transportation benefits prior to the tax credit becoming available. We sent employer surveys to all 73 employers, and received responses from 7 of the employers. Of the 7 employers that responded to our survey, 4 reported that they were already offering alternative transportation benefits to their employees prior to the credit being available, though it was not clear whether the employer was covering the full cost of the benefits. When asked how much the credit influenced the employers' decision to offer benefits employer responses varied; 2 of the 7 employers said it had no impact on their decision, 2 said it caused them to increase the benefits they offered, and 2 said they would not have offered any benefits without the credit. The respondent for 1 employer was unsure about the impact of the credit on the employer's decision to provide transit benefits to employees.

Based on stakeholder interviews, Department information, and employer feedback, there have been several reasons why the uptake of the credit is much lower than anticipated. First, even though the credit became available in Tax Year 2023, the Department was not able to finalize the tax credit rules until January 2025, due in part to the complexity of interpreting and understanding the "alternative transportation options" concept in statute and working with stakeholders, as well as an increased workload due to a significant number of tax policy bills during the 2024 Legislative Session. According to stakeholders and the Department, employers may have been hesitant to apply for the tax credit because of uncertainty about what expenses are eligible, confusion over requirements for submitting Plans and providing "substantially equivalent" options to all employees in the state, and technical tax guidance such as calculating the per employee spending limit or claiming expenses for investments in depreciable assets, such as a van for shared commuting. While the Department believes that many of the initial employer and stakeholder concerns have been addressed through the rulemaking process, stakeholders report that many employers still have concerns about how to apply for the tax credit and what expenses are eligible.

Despite the potential monetary benefit of the tax credit, administrative barriers may reduce employer interest in the tax credit. For example, while statute requires employers to submit an initial Plan to the Department before incurring expenses, the Department does not approve the submitted Plans or certify that an employer has met the requirements to claim the tax credit when the initial Plan is submitted. According to the Department, certifying Plans as a tax administration agency without expertise in "generally accepted" transportation demand management strategies would create a conflict of interest if the Department approved an employer Plan and then later identified errors or non-qualified expenses and had to deny the credit. According to stakeholders and employers that responded to our survey, the pre-qualification process without explicit certification is "confusing," "opaque," and "overly complicated." Hesitancy amongst employers to invest in transit benefits

without more assurance that they would qualify for the tax credit might be one reason why few employers have submitted Plans, and even fewer have claimed the tax credit.

> Technical Note: While statute requires employers to file their Plan prior to making expenditures and claiming the tax credit, the Department waived this requirement while the rulemaking process regarding when and how to file Plans was in progress. Starting in January 2025, employers are now required to file their Plan prior to incurring qualified expenses for the credit, though Department rules allow employers to file their Plan up to 3 months after the start of their tax year to allow time for employers to report the outcomes from the previous year and file their Plan for the upcoming year.

Stakeholders representing the State's Transportation Management Organizations/Associations (TMOs or TMAs, see technical note below) also reported that they conduct extensive outreach to employers to help employers develop employee transit benefits programs in addition to marketing the credit. These stakeholders reported that despite initial interest from employer benefits departments, such as human resources functions, or sustainability departments, many employers' accounting and finance division staff are concerned about the risk of investing in transit benefits without a guarantee that their business would be able to claim the tax credit.

> Technical Note: TMOs or TMAs are public-private partnership organizations that are responsible for the implementation of transportation demand management (TDM) programs and services in a community. TDM-related activities are intended to help travelers use transportation systems in a more efficient and sustainable way through mobility services, technology, transportation infrastructure, public policies, employer programs, parking management, and education and outreach campaigns.
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> TMOs/TMAs work to decrease the number of people driving alone on the roadway system to reduce traffic congestion and greenhouse gas emissions and to increase affordable, safe, and reliable transportation options for all travelers. They are generally established by local governments, states, or local organizations such as chambers of commerce and cover specific local regions. In Colorado, there are currently eight TMOs/TMAs that provide direct services (e.g., Guaranteed Ride Home, carpool and schoolpool matching, discounted vanpools) and employer transportation planning assistance generally covering the front-range metro areas. While the State does not specifically fund TMOs/TMAs, the Colorado Department of Transportation (CDOT) manages both state and federal grant funds that can assist communities with creating a TMO or TMA, addressing state transportation strategies such as improving local pedestrian or bike infrastructure, increasing transit ridership through education and outreach, and providing employers with no or low cost transit planning and managed transit benefit programs.

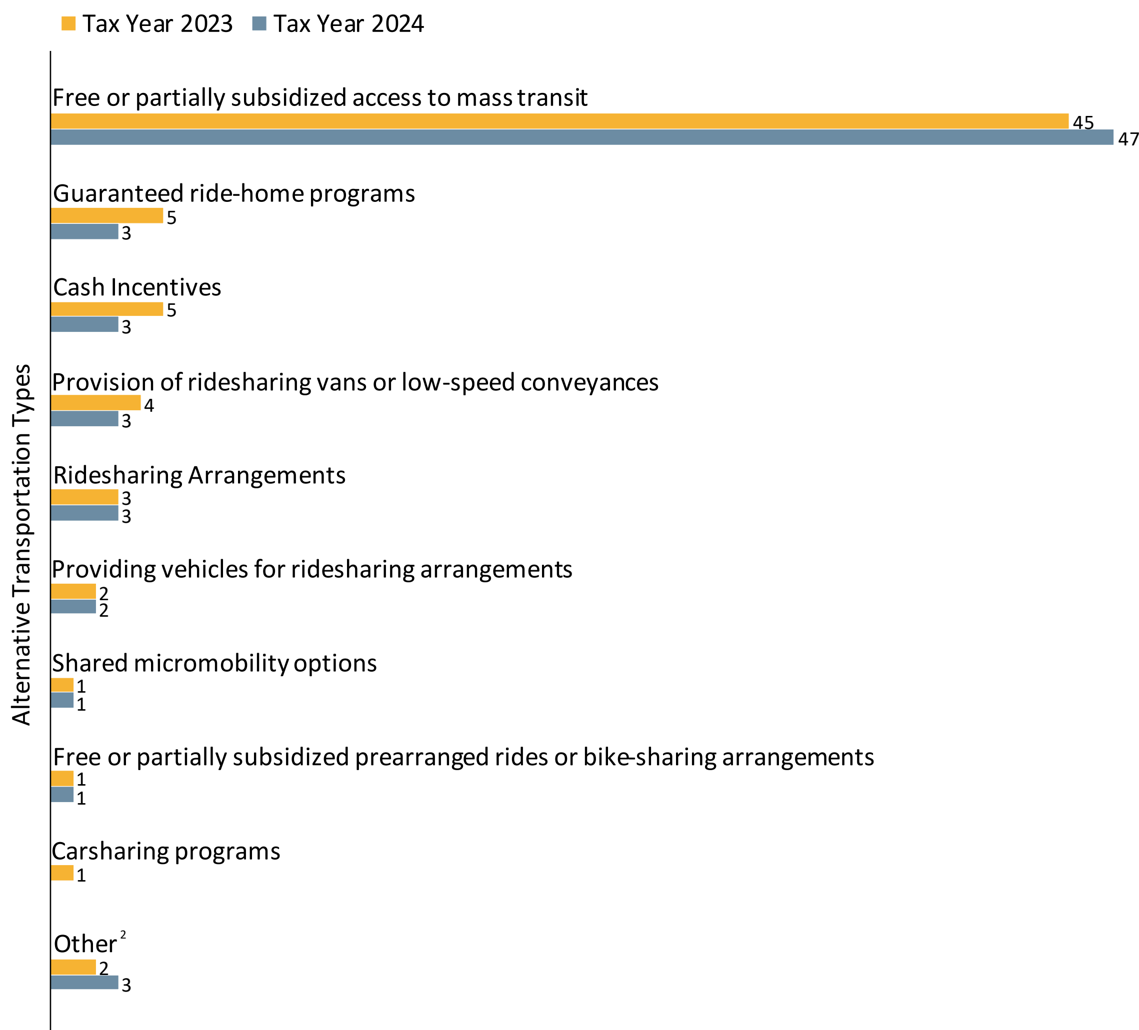
Stakeholders from TMOs/TMAs also reported that many smaller employers do not have the staff time and resources to develop and manage a transportation plan or track expenses and apply for a tax credit. While administrative costs related to managing a transit program are considered "eligible expenses" for the tax credit, smaller employers may not have the budget to invest in the benefits up

front and then apply for the tax credit the following year. None of the TMOs/TMAs we spoke with were aware of any employers in their regions that submitted a Plan to the Department and claimed a tax credit.

Employers offering transit benefits does not necessarily incentivize employees to use transit, which is the statutory purpose of the credit. Exhibit 2 shows the number of employers that submitted Plans in Tax Years 2023 and 2024 offering each type of alternative transportation option. Almost all employers that submitted plans offered free or reduced cost mass transit passes (i.e., the Regional Transportation District (RTD) EcoPass).

Exhibit 2

Number of Employers Providing Benefits, by Alternative Transportation Type for Tax Year 2023 and 2024 Employer Plans[1]



Source: Office of the State Auditor analysis of Department records of Employer Alternative Transportation Option Plans (form DR 1323) for Tax Years 2023 and 2024.
[1] Some employers provided multiple transportation options and are counted in each transportation category.
[2] Employers did not specify the transportation options they provided within Other.

In both Tax Years 2023 and 2024, on average, employers reported that less than half of the employees offered a benefit ended up using the benefit. Exhibit 3 provides information that employers reported on their Plans regarding employees offered benefits and employees using benefits for Tax Years 2023 and 2024.

Exhibit 3
Employer Reported Data on Employees Offered Benefits and Employees Using Benefits Tax Years 2023 and 2024

Year	Employees Offered Benefits	Employees Using Benefits	Percentage of Employees Using Benefits
Tax Year 2023	20,735	8,734	42%
Tax Year 2024	27,085	10,685	39%

Source: Office of the State Auditor analysis of Department records of Employer Alternative Transportation Option Plans (form DR 1323) for Tax Years 2023 and 2024.

Employers do not report changes in employee commuting via transit, such as whether employees substituted driving alone with taking a bus, carpooling, biking, or another form of transit. Without baseline data on individual commute methods prior to the transit benefit and after the transit benefit, we could not conclude whether the credit increased the number of employees using transit to commute. All seven employers that responded to our survey indicated that their employees did increase their use of transit, but there is not reliable data to verify this or quantify the impact.

Furthermore, based on employer Plans, employers are not consistent in how they report data on employees using the transit benefit. Specifically, statute requires employers to report "to the extent feasible" the number of transit trips that occurred and does not provide guidance on how to track and report the number of transit trips or require employers to submit documentation of transit use when filing for the credit. About one quarter of employers did not report the number of trips taken and the employers that did report employee transit trips inconsistently reported the data. For example, some employers provided an estimate of the number of trips, but did not provide how they calculated the estimate, while others reported a general estimate of "two trips per day." Only a few employers included documentation showing how exact data was tracked and reported. Therefore, we could not rely on the employer-provided data to determine whether employees actually increased their use of transit.

Research on individual commuting behavior suggests that other factors, such as convenience, reliability, cost, and safety of transit options are more likely to influence employee commute choices than whether their employer provides a transit benefit. For example, the benefit of a free bus pass does not outweigh the convenience or flexibility of driving alone, unless the bus pass also helps the employee avoid parking costs, reduces their overall time in traffic or reduces commute time, and the transit is reliable and convenient. Several employers that responded to our survey reported that

public transportation reliability issues, such as light rail service disruption and reduced bus schedule options, are barriers to their employees using their transit passes. Research also shows that monetary benefits for employees, such as cash or a reimbursement per transit commute trip, can provide additional incentives for an employee to choose to commute via transit, even if the transit option is less convenient or takes longer than driving. While statute does allow employers to claim the tax credit for cash incentives, administering incentive or reward programs requires more employer time and resources; several stakeholders reported that many employers do not have the time to administer these types of programs, or are hesitant to provide cash incentives because statute does not provide clear guidance on the type of transit incentive programs that would be eligible for the credit, or guidance on reasonable amounts for cash incentives for employees biking or walking to work.

Colorado's broader investments in alternative transportation infrastructure to reduce individual barriers to using alternative transportation are more likely to result in changes in commute modes than the tax credit. In addition to the credit, Colorado has several other efforts aimed at increasing the use of alternative transportation to reduce road congestion, pollution, and greenhouse gas emissions. These efforts are aimed at addressing several of the underlying barriers that individuals face when using transit, such as convenience, reliability, and safety. Colorado's investments in transit have used state and federal funding for infrastructure projects, and included statutory requirements and regulations to address local housing and transit planning. For example, in 2021, the Transportation Commission of Colorado approved new transportation planning standards that require local transportation planners to build and provide travel options that reduce greenhouse gas emissions. These standards included the Colorado Department of Transportation (CDOT) adding five Bus Rapid Transit corridors in the Denver Metro area with the goal of having high-capacity, efficient bus services operating in all five corridors by 2030. Additionally, state funding has been allocated to support CDOT's statewide transit systems, such as interregional transit services like the Bustang that provide long distance bus service on the I-70 and I-25 corridors. In addition to investing in mass transit infrastructure, the Governor's 2024 Colorado Greenhouse Gas Pollution Roadmap cites several other strategies to address convenience, reliability, and safety for alternative transportation, including:

- Encouraging land use policies that support walkable neighborhoods and increase transit access. The Department of Local Affairs (DOLA) manages implementation of several of the State's 2024 Land Use Laws to encourage local governments to zone for denser housing, mixed use developments, and reforming parking minimum requirements to encourage density near transit systems.

- Planning and building pedestrian and bicycle infrastructure such as sidewalks, protected bike lanes, and bike facilities, with a focus on increasing pedestrian and bicyclist safety on major arterial roadways. CDOT administers the State's Revitalizing Main Streets grant program, which provided statewide grant funding for projects that develop and improve the community's access to central business areas via walkways and bike paths.

- Investing in electric transit infrastructure, such as tax credits for electric vehicles and electric bikes, and grant programs to build electric charging infrastructure along major roadways and densely populated areas. For example, the Colorado Energy Office (CEO) has administered several programs that have provided incentives for local governments to increase bikeshare infrastructure and incentives for individuals to purchase e-bikes.

Other state approaches to reduce drive-alone commutes may be more impactful than an employer tax credit. We identified one other state, Maryland, that provides a tax credit to employers to provide broad employee transit benefits in order to increase employee commuting via transit. We also identified two other states that provided more limited credits – Minnesota, which provides a tax credit for employers providing transit passes to employees, and Massachusetts, which provides a corporate excise tax credit for employers' costs for purchasing or leasing a company shuttle van for employee ridesharing to and from work. A 2024 Maryland Department of Transportation report on overall outcomes of the state's various commuting strategies reported that 32 employers submitted applications for the tax credit in 2024. We did not identify any current research on Minnesota or Massachusetts' more narrow tax incentives.

In addition, we found that states and localities have implemented regulations and requirements for both employers and individuals to reduce congestion and pollution. We spoke with several stakeholders and reviewed research on effective strategies for changing commuting behavior that other states and cities have implemented. We provide two examples of regulatory approaches that are often cited as effective transit policy to reduce employee drive-alone commutes.

First, the State of Washington's Commute Trip Reduction Law, passed in 1991, requires employers with 100 or more employees that commute to work between high traffic periods to develop a Commute Trip Reduction Plan for employees, appoint an employee as the Transportation Coordinator to administer the program, and conduct employee surveys every 2 years to measure commute patterns. Local jurisdictions (cities and counties) implement ordinances to define how the law applies to worksites in their area, and are required to provide training and technical assistance for employers. While employees still receive the benefit of free or subsidized transit or options to telework, having statewide employer requirements coupled with employer training improves the adoption of employer-supported commute reduction plans across the state. The law requires more active participation and investment from employers, who are then more likely to adopt a culture of commuting and actively work to engage employees in using transit. 2024 U.S. Census Bureau data on commuting for Washington state, which has a similar number of workers as Colorado, shows that approximately 65 percent of workers drove alone to work, similar to Colorado's reported workers driving alone, while 4 percent used public transportation, which is higher than Colorado's estimated 2 percent. A review of the program in Seattle found evidence that worksites that removed incentives to driving alone, such as free or reimbursed parking, had fewer employee drive-alone trips compared to worksites that provided transit benefits and parking benefits. The report noted that reducing incentives for parking is one of the most impactful strategies for reducing drive-alone trips.

The Washington D.C. Metro area also requires certain employers to provide employees with benefits to encourage using transit. D.C. employers that offer free or subsidized parking benefits and have 20

or more employees who work at least 50 percent of their time in D.C. are required to provide a Clean Air Transportation Fringe Benefit (i.e., parking cashout) to employees that choose to forgo parking benefits, develop a transportation plan to reduce employee car commute trips, or pay a monthly fee for employees that are offered parking benefits. Employers who do not offer or have stopped offering free, subsidized, or reimbursed parking benefits are exempt from the requirement. Parking cashouts allow employees to choose the value of the parking benefit the employer provides as a cash benefit or transit benefit if they forgo the employer's parking benefit and choose not to drive to work. Program compliance and reporting is administered through a single portal that also provides employers with comprehensive information on the program, information on vendors that can help manage transportation plans and processes, training, and free transportation incentive programs such as carpool ride-matching. Prior to the law going into effect, 2022 U.S. Census Bureau data on commuting for the Washington D.C. Metro area showed about 19 percent of workers commuting via public transportation and about 28 percent driving alone. The most recent 2024 data shows that approximately 27 percent of workers commuted via public transportation, while driving alone remained relatively steady at 29 percent of workers.

Policy Considerations

In our 2023 memo that evaluated the initial implementation of the credit, we identified four policy considerations related to qualifying expenses, calculations of per employee maximum spending, and employer responsibilities to provide all employees with an alternative transportation option or a 'substantially equivalent' option. Since the credit became available in 2023, the Department has engaged in several rulemaking sessions with stakeholders to clarify several of the issues raised in these previous policy considerations. Updated rules for the credit now include:

- Clarification that transportation expenses for employees do not include transportation expenses for volunteers of an organization.

- Guidelines for claiming expenses on employer purchases of capital assets, such as a van purchased to drive multiple employees to work or electric bikes for employees to use for commuting. Employers must claim the amount of depreciation expense recorded for the asset annually, and not claim the full initial cash expense for the asset.

- Guidelines that the per employee cap of $2,000 should be calculated by including both the direct costs for each individual employee (i.e., individual bus passes, cash incentives) plus any apportionable costs per employee for shared services (i.e., the total cost of providing carshares, vanpools, electric bikes, etc., divided by the total number of eligible employees).

- Clarification that the statutory requirement that an employer offer "substantially equivalent" transportation options to employees that are not able to be offered the benefit provided in the Plan only applies if it is feasible. While the definition of substantially equivalent offerings has not been clarified in statute and there may still be employer confusion regarding what qualifies as a substantially equivalent option, the Department believes that allowing employers to claim the credit so long as they provide information on why providing a substantially equivalent option is

not feasible will alleviate some employer concerns about whether they can qualify if employees in other areas of the state are not offered transit benefits.

The current evaluation identified the following new policy considerations for the General Assembly to consider.

Review the effectiveness and ability of the tax credit to increase employee use of transit for commuting compared to other policies. As previously discussed, Colorado is one of four states that offers employers an incentive to provide employees with an alternative transportation option. However, research from other states has shown that regulations paired with employer training and education, can encourage employers to actively promote the use of transit benefits and choose benefits that are more tailored to their employees' needs.

Other policy options include funding grant or rebate programs that require employers to implement specific employee commute plans. Because grant or rebate programs award funds to applicants that qualify and generally provide funds as costs are incurred rather than only after tax returns are filed, a grant or rebate program can address employer concerns about whether their program and costs qualify and better guarantee that the employer will receive a reimbursement for their costs.

If the General Assembly chooses to extend the tax credit, it could consider changes to the design of the credit to increase employer interest and more directly impact employee commuting behavior. There are several ways the General Assembly could amend the design of the tax credit to better achieve its legislative purpose.

First, to reduce employer hesitancy and increase the amount of employers offering employee transit benefits, the General Assembly could consider having a state agency with expertise in transportation demand management or TMOs/TMAs review employer alternative transportation option plans and reported outcomes, provide a certification for approved plans, and provide technical expert assistance on transportation demand management options for employers, similar to how several other tax credits operate. For example, the Office of Economic Development and International Trade (OEDIT) and designated local economic development organizations administer the Enterprise Zone Contribution Tax Credit. OEDIT is charged with developing specific rules and requirements for program administration, and the local economic development organizations review and certify taxpayer contributions to designated projects and submit relevant data to OEDIT. This process increases oversight of qualified contributions before the taxpayer files their taxes, provides taxpayers with greater assurance that they will be able to claim the tax credit, and allows for more accurate data collection and reporting on the impact of the credit. While having a State agency or other transportation demand management organizations approve employer Plans and certify tax credits requires additional funding for administration, this type of oversight can provide employers with more assurance that they will qualify for the credit, leading to more interest and participation in the program. Several of Colorado's agency-administered tax incentives have application fees that pay for program administration or caps on the amount of tax credits that can be claimed annually in order to offset the State's administrative costs. Having an agency or other organization(s) administer the tax credit could also improve the reliability of employer-reported data because the agency could

require employers to provide evidence of changes in employee commuting patterns or number of trips and promote consistent reporting standards among all employers.

Alternatively, the General Assembly could consider removing employer requirements to submit a Plan to the Department to reduce administrative burdens for employers and the Department. If the General Assembly chooses to remove employer reporting requirements, it should consider that employer information on Plans, including employee use of the transit benefits would likely no longer be available. Additionally, having fewer administrative steps for employers increases the risk of taxpayer errors or fraudulent claims. In order to balance reduced administrative oversight with increased cost risks, the General Assembly could consider reducing the value of the credit and/or removing the refundable allowance for employers that are not tax-exempt.

In addition, to increase the tax credit's impact on employee commuting choices, the General Assembly could consider narrowing the statutory definition of eligible employer plans to only the activities that are most impactful to increasing employee use of transit benefits. This could include statutory requirements that employers either (1) provide a benefit beyond free or subsidized transportation options, such as cash benefits for walking, biking, car-pooling, etc., or (2) that remove some of the convenience of driving alone to work, such as requiring employers claiming the credit to reduce subsidies for on-site parking for employees who drive to work alone, or requiring employers to provide a parking cashout for employees that choose not to use parking benefits. However, these additional requirements may create more confusion for employers and reduce employer interest in the tax credit if new requirements are not clear and specific, or require employers to eliminate benefits that they think are more valuable to their employees than transit benefits, such as free onsite parking. While other states, such as Minnesota, have a narrower definition of eligible costs (i.e., purchasing transit passes or the cost of a vanpool) which likely reduces employer confusion and agency administrative costs, many workers in Colorado do not have access to mass transit options and stakeholders reported that vanpool costs are one of the most expensive transportation options for employers and that smaller employers are likely not able to afford vanpool costs. Additionally, the General Assembly should consider that the tax credit for employers cannot address systemic barriers that influence individual commuting behavior, such as proximity to transit infrastructure, convenience, and reliability of transit options.

Finally, the General Assembly may want to clarify the statutory dates for tax-exempt organizations to file an informational corporate tax return. As noted in the background, in 2024, the General Assembly added a requirement that tax-exempt organizations must file an informational corporate tax return in order to claim the credit. The bill specified that the requirement was for Tax Year 2024, however the same bill also extended the tax credit through Tax Year 2026. Currently the dates regarding tax-exempt organization filing requirements do not cover the dates when the credit is available. While the Department believes that the statutory language regarding when the tax credit is available allows tax-exempt organizations to continue to claim the tax credit by filing an informational return, the General Assembly may want to consider revising or removing the specific date references for tax-exempt organizations to clarify that tax-exempt organizations are eligible for the credit through the credit's the expiration date.

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