SB 25B-009

Fiscal Note

Legislative Council Staff

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SB 25B-009: INCOME TAX CREDIT ADJUSTMENT

Prime Sponsors:
Sen. Kirkmeyer; Bright
Rep. Garcia Sander

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Bill Outcome: Postponed Indefinitely
Drafting number: LLS 25B-0027

Version: Final Fiscal Note
Date: October 7, 2025

Fiscal note status: The fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate State, Veterans, & Military Affairs Committee on August 21, 2025; therefore, the impacts identified in this analysis do not take effect.

Summary Information

Overview. The bill would have made the Family Affordability Tax Credit nonrefundable, created a process for prorating or eliminating tax credits based on projections for state revenue, and significantly modified three existing income tax credits.

Types of impacts. The bill would have affected the following areas on an ongoing basis:

- State Expenditures
- State Revenue
- State Transfers
- TABOR Refunds

Appropriations. The bill would have required appropriations of $360,193 in FY 2025-26 and $3,746,261 in FY 2026-27.

Table 1
State Fiscal Impacts

Type of Impact	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue (General Fund)	up to $979.0 million	$458.8 million	Not estimated
State Expenditures (General Fund)	$0.4 million	-$210.4 million	$2.3 million
Transferred Funds	$0	$0	$0
Change in TABOR Refunds	up $317.1 million	$458.8 million	Not estimated
Change in State FTE	3.5 FTE	26.0 FTE	26.5 FTE

Summary of Legislation

The bill makes multiple changes to state income tax credits, described below.

Family Affordability Tax Credit

The bill modifies the Family Affordability Tax Credit (FATC) to be nonrefundable beginning in tax year 2025.

Adjust Tax Credits Based on Revenue Forecasts

The bill creates a new process for prorating or making unavailable all income tax credits, except for the affordable housing tax credit, earned income tax credit (EITC), and expanded EITC, depending on forecasts for revenue conditions. The bill requires the Office of State Planning and Budgeting (OSPB) and Legislative Council Staff (LCS) revenue forecasts to include two scenarios for state revenue: one assuming that all income tax credits are available in full, and one assuming that all income tax credits aside from the affordable housing tax credit, EITC, and expanded EITC are not available to be claimed.

If revenue in the current fiscal year is projected to fall below the level that fully funds reimbursements to local governments for the homestead exemption for seniors and veterans, property tax reimbursements to local governments under Senate Bill 24-111, and the income tax rate reduction established in Senate Bill 24-228, then all income tax credits except for the affordable housing tax credit, earned income tax credit (EITC), and expanded EITC are reduced to $0 for the following tax year.

If revenue in the current fiscal year is projected to exceed the level that fully funds reimbursements to local governments for the homestead exemption for seniors and veterans, property tax reimbursements to local governments under SB 24-111, and the income tax rate reduction established in SB 24-228, then all income tax credits except for the affordable housing tax credit, earned income tax credit (EITC), and expanded EITC are prorated such that the aggregate revenue impact of each tax credit may not exceed total excess revenue divided by the number of income tax credits that are impacted by the bill.

The bill directs tax credits to be adjusted based on the most recent June, September, or December quarterly revenue forecasts from LCS and OSPB, or the most recent interim revenue forecast.

Sunset E-Bike, Heat Pump, and Electric Lawn Equipment Tax Credits

The bill ends existing tax credits for electric bicycles, heat pumps and thermal energy technology, and electric lawn equipment after tax year 2025. Under current law, the tax credits for electric bicycles and heat pumps and thermal energy technology are set to expire after tax year 2032, while the tax credit for electric lawn equipment is set to expire after tax year 2026.

Tax Credit Sales for E-Bike, Heat Pump, and Electric Lawn Equipment Retailers

The bill allows retailers of electric bicycles, heat pumps and thermal energy technology, and electric lawn equipment to bid on discounted tax credits in FY 2025-26 that may be claimed beginning in tax year 2030. The new tax credit is unrelated to the number of sales of E-bikes, heat pumps, thermal energy technology, and electric lawn equipment, and does not require that a discount be provided to consumers. Rather, these businesses may elect to purchase the credits at a discount in FY 2025-26 and claim them in a future year.

The Department of Revenue (DOR) may set a minimum purchase price for the tax credits. If DOR does not set a minimum purchase price, then the minimum purchase price is equal to 75 percent of the value of the tax credit. The aggregate amount of credits issued may not exceed $40 million in tax credit value or $30 million in sale proceeds for each of the three categories of retailers (electric bicycles, heat pumps and thermal energy technology, and electric lawn equipment). Any revenue collected from the sale of tax credits is deposited into the General Fund. The tax credits are nonrefundable, but may be carried forward for up to 20 years.

State Revenue

The bill increases General Fund revenue by up to $979.0 million in FY 2025-26 and by $458.8 million in FY 2026-27. The full revenue impact of the bill is not known after FY 2026-27 because the impact depends on aggregate state revenue conditions, for which a forecast is not available past FY 2026-27. In FY 2029-30 and FY 2030-31, tax credit sales are expected to reduce revenue, but the full revenue impact of the bill is not known for these years. Revenue impacts are shown in Table 2 and described below.

Table 2
State Revenue

Fund Source	Current Year FY 2025-26	Budget Year FY 2026-27	Out Years FY 2029-30 & FY 2030-31
Modify FATC to be nonrefundable	$663.1 million	$0	not estimated
Tax credit adjustments based on revenue forecasts	$214.7 million	$437.6 million	not estimated
Sunset electric bicycle tax credit	$3.1 million	$9.2 million	not estimated
Sunset heat pump & thermal energy tax credit	$2.0 million	$5.9 million	not estimated
Sunset electric lawn equipment tax credit	$6.2 million	$6.2 million	$0
Tax credit sales for e-bike retailers	up to $30.0 million	$0	up to -$20.0 million
Tax credit sales for heat pump and thermal energy retailers	up to $30.0 million	$0	up to -$20.0 million
Tax credit sales for electric lawn equipment retailers	up to $30.0 million	$0	up to -$20.0 million
Total Revenue	**up to $979.0 million**	**$458.8 million**	**not estimated**

The revenue increase in FY 2025-26 is estimated to be between $889 million and 979 million.

Family Affordability Tax Credit

Modifying the FATC to be nonrefundable in tax year 2025 is expected to increase General Fund revenue by $663.1 million, representing the full tax year 2025 impact. This estimate is equal to the amount of family affordability tax credits that were refunded to taxpayers in excess of their tax liability in tax year 2024. This provision is not expected to change state revenue in FY 2026-27 because the FATC is not expected to be available to be claimed in tax years 2026 or 2027 under current law. In future tax years where the FATC is available to claimed, this provision will increase General Fund revenue by approximately $700 million.

Tax Credit Adjustments Based on Revenue Forecasts

Adjusting tax credits based on revenue forecasts is expected to increase General Fund revenue by $214.7 million in FY 2025-26 and $437.6 million in FY 2026-27. Estimates in future years are not available. Based on the July update to the June 2025 LCS revenue forecast, excess state revenue as defined by the bill is expected to be $0 in FY 2025-26 and FY 2026-27. As a result, all income tax credits except for the affordable housing tax credit, earned income tax credit (EITC), and expanded EITC are expected to be reduced to $0 in tax years 2026 and 2027 under the bill.

The fiscal note identified at least 55 income tax credits that would be impacted by this provision, which are shown in Appendix A at the end of the document.

The fiscal note assumes that the tax credit trigger mechanism established in this bill is evaluated after the current law trigger mechanism that determines the availability of the EITC, and that the trigger mechanism in this bill supersedes current law trigger mechanisms that determine the availability of other state income tax credits.

Sunset E-Bike, Heat Pump, and Electric Lawn Equipment Tax Credits

The bill increases General Fund revenue by $11.2 million in FY 2025-26 and $21.2 million in FY 2026-27 by ending the tax credits for electric bicycles, heat pumps and thermal energy technology, and electric lawn equipment after tax year 2025. FY 2025-26 represents a half-year impact from eliminating the tax credits in tax year 2026. For the electric lawn equipment tax credit, FY 2026-27 also represents a half-year impact from tax year 2026, because the credit was set to expire for tax year 2027 under current law.

Additionally, the values of electric bicycle and heat pump and thermal energy technology tax credits are expected to be reduced by 50 percent in tax year 2026 and return to their full amount in tax year 2027 under current law, resulting in a larger revenue impact from this bill in tax year 2027 compared to tax year 2026. Because the value of these tax credits is dependent on aggregate revenue conditions, a forecast for these tax credits is not available beyond FY 2027-28.

Tax Credit Sales for E-Bike, Heat Pump, and Electric Lawn Equipment Retailers

Tax credit sales are expected to increase revenue by up to $90 million in FY 2025-26 only, representing a $30 million maximum for each of the three types of retailers. These credits are expected to reduce revenue beginning in FY 2029-30 as the credits are allowed to be claimed beginning in tax year 2030. The fiscal note expects revenue to decrease by up to $20 million in FY 2029-30 and FY 2030-31 representing a half-year impact in each fiscal year, although the exact timing of when retailers will claim the credits is not known.

State Expenditures

The bill increases state expenditures by about $0.4 million in FY 2025-26, reduces state expenditures by $210.4 million in FY 2026-27, and increases expenditures by $2.3 million in FY 2027-28 and ongoing, paid from the General Fund.

Property Tax Reimbursements to Local Governments

For FY 2026-27 only, the bill reduces General Fund expenditures by $214.1 million as a result of increased revenue subject to TABOR in FY 2025-26. Under the July update to the June 2025 LCS revenue forecast, the FY 2025-26 TABOR surplus is not expected to be able to be used to fund reimbursements to local governments for the homestead exemption for seniors, veterans, and Gold Star Spouses, and property tax reimbursements to local governments under SB 24-111. Under this bill, the FY 2025-26 TABOR surplus would be large enough to fully fund these reimbursement requirements, therefore eliminating the FY 2026-27 General Fund obligation for these reimbursements. No change in appropriations is required because the amount for reimbursements always appears in the Long Bill, regardless of whether reimbursements are paid from General Fund revenue or the TABOR refund obligation.

Department of Revenue

DOR will have costs to administer the sale of tax credits and make changes to existing tax credits. These expenditures are discussed below and summarized in Table 3.

Table 3
Department of Revenue Expenditures

Cost Component	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	$221,212	$1,744,305	$1,744,305
Operating Expenses	$3,840	$33,920	$33,920
Capital Outlay Costs	$26,680	$153,410	$0
Employee Insurance and Supplemental Retirement	$64,080	$546,525	$546,525
GenTax Programming	$19,535	$1,123,274	$0
ISD Software Testing	$16,564	$78,966	$0
User Acceptance Testing	$8,282	$39,483	$0
Document Management	$0	$26,378	$0
Total Costs	**$360,193**	**$3,746,261**	**$2,324,750**
Total FTE	**3.0 FTE**	**26.5 FTE**	**26.5 FTE**

Tax Credit Administration

The DOR will have staffing costs beginning in FY 2025-26 to implement the bill. In FY 2025-26 only, DOR requires four policy advisors to administer the sale of tax credits to retailers by setting a minimum price based on market conditions, evaluating bids, and issuing tax credit certificates. Expenditures for FY 2025-26 are prorated reflecting an October 2025 start date.

Beginning in FY 2026-27, DOR requires 26.5 FTE, including 2 statistical analysts, 4 policy advisors, 2 tax conferees, 2 analysts, and 16.5 tax examiners, to adjust every income tax credit based on revenue conditions. Additional staff are required to build and run tax credit models for every credit to develop a system to prorate them, modify tax credit guidance throughout the year as tax credits change, provide additional support to taxpayers, and respond to an increase in errors and adjustments in tax returns. Because there is more than 20 FTE, pursuant to Joint Budget Committee and fiscal note policy, costs for employee insurance and supplemental retirement payments are included in the bill’s appropriation, rather than centrally appropriated through the annual budget process.

Computer Programming and Testing

This bill requires $44,381 in the current FY 2025-26 and $1.2 million in FY 2026-27 to program, test, and update database fields in the DOR's GenTax software system.

In FY 2025-26, programming and testing is required to make the FATC nonrefundable. Programming costs are estimated at $19,535, representing 80 hours of contract programming at a rate of $244.19 per hour. Costs for testing at the department include $16,564 for 404 hours of innovation, strategy, and delivery programming support at a rate of $41 per hour, and $8,282 for 202 hours of user acceptance testing at a rate of $41 per hour.

In FY 2026-27, programming costs are estimated at $1,123,274, representing 4,600 hours of contract programming at a rate of $244.19 per hour. Costs for testing at the department include $78,966 for 1,926 hours of innovation, strategy, and delivery programming support at a rate of $41 per hour, and $39,483 for 963 hours of user acceptance testing at a rate of $41 per hour.

Under the current forecast, income tax credits are expected to be unavailable for both tax year 2026 and tax year 2027. This means that additional programming would not be required for FY 2027-28 to make changes for tax year 2027. If tax changes are needed for tax year 2027 as a result of subsequent forecasts, additional programming costs may be addressed through the annual budget process.

Document Management and Tax Form Changes

For FY 2026-27 only, the bill requires one change to tax forms at a cost of $26,378. Expenditures for form changes occur in the Department of Personnel and Administration using reappropriated funds.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by between $227.1 million and $317.1 million in FY 2025-26. The July update to the June 2025 LCS revenue forecast anticipated that state revenue subject to TABOR would fall below the Referendum C cap by $661.8 million. Because this bill increases revenue subject to TABOR by between $889.0 million and $979.0 million, the bill results in a TABOR refund obligation for FY 2025-26.

The bill is also expected to increase the amount of state revenue required to be refunded to taxpayers by $458.8 million in FY 2026-27. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund available to spend or save in FY 2026-27 and any future years when the state is over its revenue limit.

This estimate assumes the July update to the June 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27.

Technical Note

The bill’s provision to adjust state income tax credits based on revenue forecasts may not be implementable as drafted due to incompatibility with the structure of existing tax credits and the short timeline in which changes would need to be made to existing tax credits. Imposing a limit on the amount by which each tax credit may reduce revenue is not compatible with all current tax credits, and it is unclear how tax credit claims would be prioritized in the event that more credits are claimed than is allowed under the bill. It is unclear how tax credits may be prorated in the case of credits that have very little or no data associated with them. Some tax credits, such as the conservation easement tax credit, are reserved in advance by making a donation or an investment in a prior year. These credits may become less popular if they can become unavailable with little notice.

The bill directs tax credits to be prorated relative to multiple forecasts, but does not articulate what should be done when forecasts conflict. Even with additional resources, DOR may not be able to make changes to every income tax credit on such a short timeline, due to limitations on the number of programmers that can work on the same software code simultaneously.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

The bill requires a General Fund appropriation to the Department of Revenue of $360,193 and 3.0 FTE in FY 2025-26 and $3,746,261 and 26.5 FTE in FY 2026-27.

State and Local Government Contacts

Revenue

Personnel

Colorado Energy Office

Information Technology

Appendix A
Revenue Impacts from Tax Credit Adjustments Based on Revenue Forecasts

Tax Credit	FY 2025-26	FY 2026-27
Child Tax Credit	$46,741,016	$85,503,802
Qualified care worker credit	$21,450,000	$44,400,000
Qualifying student tuition and fee credit	$18,350,000	$37,800,000
Child Care Contribution Credit	$15,939,579	$29,158,428
Enterprise Zone Investment Tax Credit	$15,433,654	$28,232,935
Gross Conservation Easement Credit	$12,814,012	$23,440,799
Alternative Transportation Options Credit	$11,750,000	$23,500,000
Innovative Motor Vehicle Credits	$7,958,124	$29,115,749
Apprenticeship Credit	$7,500,000	$15,000,000
Workforce Shortage Credit	$7,500,000	$7,500,000
Enterprise Zone Contribution Credit	$5,315,496	$9,723,690
Colorado Job Growth Incentive Credit	$4,926,572	$9,012,226
Colorado Homeless Contribution Tax Credit	$4,200,000	$8,400,000
Clean Hydrogen Credit	$3,000,000	$6,000,000
Enterprise Zone Business Facility New Employee Credit	$2,868,405	$5,247,202
Community Revitalization Credit	$2,500,000	$1,000,000
Film Incentive Credit	$2,500,000	$5,000,000
Disability Assistance Credit	$2,434,250	$9,868,500
Colorado Minimum Tax Credit	$2,270,880	$4,154,142
Enterprise Zone Employee Health Insurance Credit	$2,131,289	$3,898,788
Military Retirement Benefit Subtraction	$2,127,366	$3,891,611
Quantum Facility Investment Credit & Quantum Business Loan Loss	$1,900,000	$7,700,000
Preservation of Historic Structures Credit	$1,822,053	$3,333,099
Agricultural Stewardship Credit	$1,500,000	$3,000,000
Enterprise Zone Job Training Investment Tax Credit	$1,089,273	$1,992,618
Remediation of Contaminated Land Credit	$1,022,707	$1,870,848
Sustainable Aviation Fuel Production Credit	$1,000,000	$2,000,000
Long-term Care Insurance Credit	$935,066	$1,710,525
Freight Rail Use Credit	$700,000	$5,400,000
New Railroad Operator Credit	$700,000	$5,400,000
Enterprise Zone Research and Experimental Activities Credit	$640,362	$1,171,421
Affordable Housing in Transit-Oriented Communities Credit	$500,000	$4,100,000

Appendix A (Cont.)
Revenue Impacts from Tax Credit Adjustments Based on Revenue Forecasts

Tax Credit	FY 2025-26	FY 2026-27
New Employee-Owned Business Credit	$500,000	$2,000,000
Employer Contribution for Employee Home Purchase Credit	$437,000	$978,000
Advanced Industry Investment Credit	$293,590	$537,067
Child Care Center Investment Credit	$261,339	$478,070
Wildfire Mitigation Measures Credit	$260,000	$520,000
Enterprise Zone Enhanced Rural New Employee Credit	$222,209	$406,490
Credit for Conversion Costs to an employee-owned Business Model	$218,385	$399,493
Employer Contribution to Employee 529 Plan Credit	$202,919	$371,202
Middle-Income Housing Credit	$200,000	$3,300,000
Food Accessibility Credit	$150,000	$300,000
Enterprise Zone Vacant Commercial Building Rehabilitation Credit	$135,585	$248,026
Rural Jump-Start Zone New Business Credit	$97,041	$177,518
Business Personal Property Credit	$83,505	$152,756
Rural and Frontier Health Care Preceptor Credit	$44,103	$80,679
Enterprise Zone Commercial Vehicle Investment Tax Credit	$30,498	$55,789
Retrofitting a Residence to Increase Residence's Visitability Credit	$16,940	$30,989
Colorado Works Program Credit	$9,595	$17,552
Aircraft Modificatin for Unleaded Fuel Credit	$8,900	$17,800
Enterprise Zone Agricultural Processing New Employee Credit	$8,867	$16,221
Enterprise Zone Renewable Energy Investment Tax Credit	$8,366	$15,304
Enterprise Zone Enhanced Rural Agricultural Processing New Employee Credit	$3,189	$5,833
Employer Paid Leave of Absence for Live Organ Donation Credit	$0	$0
Family Affordability Tax Credit	$0	$0
Total Revenue Impact	**$214,712,134**	**$437,635,173**