HB 25-1296

Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1296: TAX EXPENDITURE ADJUSTMENT

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Published for: Signed into Law
Drafting number: LLS 25-0888

Version: Final Fiscal Note
Date: August 26, 2025

Fiscal note status: The final fiscal note reflects the enacted bill.

Summary Information

Overview. The bill makes various changes to Colorado tax credits and exemptions.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- State Revenue
- TABOR Refunds
- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Current Year FY 2024-25	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue (General Fund)	-$0.5 million	$5.4 million	$10.7 million	$10.6 million
State Expenditures (General Fund)[1]	$0	$540,000	$66,331	$0
Transferred Funds	$0	$0	$0	$0
Change in TABOR Refunds	-$0.5 million	$5.4 million	$10.7 million	not estimated
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

1 Under the March 2025 OSPB Forecast selected by the Joint Budget Committee for budget balancing purposes, the bill is not projected to require a $540,000 General Fund expenditure in FY 2025-26.

Table 1A
Change in TABOR Refunds[1]

Fund Source	Current Year FY 2024-25	Budget Year FY 2025-26	Out Year FY 2026-27
Prop. Tax Reimbursement to Local Govts.	-$0.5 million	$0	$0
Six-Tier Sales Tax Refunds	$0	$5.4 million	$10.7 million
Net Change in TABOR Refunds	-$0.5 million	**$5.4 million**	**$10.7 million**

[1] Under the March 2025 OSPB Forecast selected by the Joint Budget Committee for budget balancing purposes, the bill would reduce six-tier sales tax refunds by $540,000 in FY 2024-25, and increase them by $5.4 million in FY 2025-26, and $10.7 million in FY 2026-27, with no change to refunds via property tax reimbursements to local governments.

Summary of Legislation

The bill makes various changes to Colorado tax credits and exemptions, as described below:

Enterprise Zone Investment Tax Credit

Under current law, the Enterprise Zone Investment Tax Credit is a state income tax credit for taxpayers that make qualified investments in qualified properties located in an enterprise zone. The amount of the credit is three percent of the qualified investment. Though the amount of the credit a taxpayer can claim for a given tax year is limited to $750,000, the aggregate amount that may be claimed over multiple years is not capped.

The bill limits the aggregate amount of enterprise zone credits that a taxpayer may claim to a total of $2 million beginning in tax year 2026, unless a waiver is granted by the Colorado Economic Development Commission (EDC). In addition, the bill specifies that any taxpayer involved in the extraction of oil and gas or hard rock minerals, aviation, the retail of fuel products, or the construction of wireless telecommunications infrastructure may not claim the credit.

Interstate Telecommunication Services

Under current law, intrastate telecommunication services are included in the state sales tax base while interstate telecommunication services are excluded. Interstate telecommunication services may include phone calls, messages, or video calls, including those made over the internet so long as the communication originates in Colorado and goes elsewhere outside of the state. The federal Mobile Telecommunications Sourcing Act disallows a mobile telecommunication service provided to a customer in one state to be taxed by other states.

The bill makes interstate telecommunication services taxable. In cases where a telecommunication service is taxed by both Colorado and another state, the bill allows the taxpayer to claim a sales and use tax credit equal to the amount of tax imposed by the other state.

Child Care Center Investment Tax Credit

Under current law, a nonrefundable income tax credit is available through tax year 2025 for an owner of a licensed child care center, family child care home, or foster care home or an employer who operates such a facility for their employees. The credit is for up to 20 percent of a taxpayer's annual investment in property and equipment used in the child care facility and may be carried forward for three years. The bill extends the income tax credit for childcare facility investments for three years so that the tax credit is available through tax year 2028.

Business Personal Property Tax Income Tax Credit

Under current law, taxpayers may claim a refundable income tax credit equal to the business personal property tax paid, up to $18,000 of the actual value of the taxpayer's personal property.

The bill repeals the business personal property tax income tax credit beginning in tax year 2026.

Care Worker Tax Credit

Under current law, the existing child care worker tax credit may be claimed by any resident individual earning $75,000 or less ($100,000 or less for joint filers) who is an informal family, friend, or neighbor child care worker (FFN care worker) that provided at least 720 hours of care in the relevant tax year to children who are five years old or younger and is registered in the Department of Early Childhood's (CDEC) Colorado Shines Professional Development Information System (PDIS), among other types of care workers. The tax credit is equal to $1,200, or $2,400 for joint filers where both individuals meet the criteria. Additionally, for taxpayers who were part-year residents, the credit amount is prorated based on the portion of their adjusted gross income that was earned while residing in Colorado in the relevant tax year. The tax credit is fully refundable.

The bill expands an existing income tax credit for FFN care workers by allowing the credit to be claimed by FFN care workers who provide care outside of their own home.

Information Sharing

The bill gives the Department of Revenue authority to share taxpayer information with the Department of Early Childhood, which manages the credentials for early childhood educators and the registration of child care providers which are required to claim the care worker tax credit or the early childhood educator.

Sales and Use Tax Exemption for Fertilizer and Spray Adjuvants

Under current law, fertilizer and spray adjuvants used for certain agricultural commodities are exempt from the state sales and use tax. Fertilizer and spray adjuvants used for marijuana cultivation are not currently exempt from the state sales and use tax.

The bill exempts from the state sales and use tax fertilizer and spray adjuvants used for marijuana cultivation beginning July 1, 2025.

Medical Marijuana Sales Tax Exemption for Indigent Patients

Under current law, medical marijuana patients with an income less than 185 percent of the federal poverty line qualify for a sales tax exemption for medical marijuana. To claim the exemption, qualifying patients must demonstrate that they meet the income requirement by submitting their Colorado tax return to the Medical Marijuana Registry within CDPHE. An evaluation of this tax expenditure by the Office of the State Auditor found that less than 1 percent of eligible patients claimed the exemption.

The bill modifies the documentation required to claim an existing sales tax exemption on medical marijuana for low income patients. The bill allows patients to present an Electronic Benefits Transfer (EBT) card or another form of identification used to receive state or federal government benefits to claim the exemption rather than submitting their most recent tax return.

Medical Marijuana Registry Card Fee Waiver

When patients apply to the medical marijuana program within the Colorado Department for Public Health, they are required to pay a fee to the department to cover administrative costs. Under current law, that fee is waived for applicants whose income is less than 185 percent of the federal poverty line if they provide a state tax return certified by the Department of Revenue. The bill allows applicants to provide a federal tax return, which does not need to be certified, in order to have the fee waived.

Preservation of Historic Structures Tax Credit

Under current law, property owners who rehabilitate or preserve a residential or commercial certified historic structure in Colorado are eligible for the state preservation of historic structures tax credit. The credit is calculated as a percentage of qualified rehabilitation expenditures. Preserving historic commercial structures qualifies for a base credit of 25 percent for structures with less than $2 million in qualified expenditures and 20 percent for structures with over $2 million in qualified expenditures. The base percent is increased by 5 percentage points for commercial structures in a declared disaster area and 10 percent for structures in a rural area.

The bill amends the preservation of historic structures tax credit to disallow projects in disaster areas from having an additional 5 percent of their expenditures reimbursed.

Alternative Transportation Options Credit

The bill expands the definition of local government to include counties for the purpose of the alternative transportation options tax credit.

Income Tax Addition for Overtime Pay

The bill creates a state income tax addition, which requires taxpayers to add the amount of any overtime compensation excluded from their federal income tax revenue to their Colorado taxable income. Overtime compensation is not excluded from federal income tax revenue under current federal law.

Withholding Tax

The bill allows the Department of Revenue to require employers making payments of compensation other that wages to deduct and withhold payment by an amount determined by the department.

Insurance Provider Reporting of Exempt Entities

The bill requires insurance companies to identify the total amount of premiums received by entities that are exempt from taxation.

State Revenue and Assumptions

The bill is expected to decrease state revenue by $540,000 in the current FY 2024-25. After that, the bill is expected to increase state revenue on net by $5.4 million in FY 2025-26, $10.7 million in FY 2026-27, and by $10.6 million in FY 2027-28. The bill impacts various tax revenue streams, all of which are subject to TABOR. Revenue impacts are presented in Table 2 and discussed below.

Table 2
State Revenue
Dollars in Millions

	Current Year FY 2024-25	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Enterprise Zone Investment Tax Credit	$0.0	$5.3	$10.5	$10.5
Interstate Telecommunication Services	$0.0	$2.3	$2.4	$2.5
Child Care Investment Tax Credit	$0.0	$0.2	$0.2	$0.1
Business Personal Property Tax Income Tax Credit	$0.0	$0.1	$0.2	$0.2
Care Worker Tax Credit	-$0.5	-$1.3	-$1.5	-$1.6
Sales and Use Tax Exemption for Fertilizer and Spray Adjuvants	$0.0	-$0.6	-$0.5	-$0.5
Medical Marijuana Sales Exemption for Indigent Patients	-$0.0	-$0.7	-$0.6	-$0.5
Total State Revenue Impact	**-$0.5**	**$5.4**	**$10.7**	**$10.6**

Enterprise Zone Investment Tax Credit

By limiting the amount that a taxpayer may claim for the Enterprise Zone ITC to a total of $2 million, state General Fund will increase by $5.3 million in FY 2025-26, $10.5 million in FY 2026-27, $10.5 million in FY 2027-28, and by similar amounts in future tax years. These estimates are based on the following assumptions.

For a taxpayer to generate a $2 million Enterprise Zone ITC, the total qualified investment must be at least $67 million. From 2015 to 2024, on average, about 3 projects generated an ITC greater than $2 million dollars each year. The average ITC amount for these projects was $7.3 million dollars. Beginning in tax year 2026, the fiscal note assumes at least 2 projects will generate an ITC credit greater than $2 million. The average ITC credit would have been approximately $7.3 million without the $2 million cap. To the extent the amount of foregone ITC credits is greater, state savings will be higher. Finally, the fiscal note does not assume the EDC will waive the $2 million cap for any of the qualified projects. If so, the amount of state savings will be less.

Interstate Telecommunication Services

The inclusion of interstate telecommunication services in the state sales tax base is expected to increase General Fund revenue by $2.3 million in FY 2025-26 and $2.4 million in FY 2026-27 with comparable amounts in future years. This estimate is based on very limited information and the amount of the revenue increase may be significantly greater or less than estimated.

New Mexico administers a 4.25 percent tax on interstate telecommunication services, which generated $1.2 million in FY 2023-24. Revenue is estimated based on revenue generated by the New Mexico tax, adjusted for Colorado's population size and sales tax rate, and grown by population and inflation estimates from the LCS March 2025 forecast.

It is assumed that the sales and use tax credit created by this bill will have minimal claimants and will not significantly impact state revenue.

Child Care Center Investment Tax Credit

By extending the child care center investment tax credit for an additional three years, the bill is estimated to decrease General Fund revenue by $100,000 in FY 2025-26 (a half-year impact), by $200,000 in FY 2026-27 and FY 2027-28, and by $100,000 in FY 2028-29 (a final half-year impact).

Data from the Office of the State Auditor (OSA) indicates that an estimated $114,458 to $267,164 in child care center investment tax credits were claimed in tax year 2018, with a most likely amount of $190,811. The OSA report is available online here: https://leg.colorado.gov/sites/default/files/te8_child_care_facility_investment_credits.pdf. Based on OSA data, the extension of the tax credit for tax years 2026 through 2028 is estimated to reduce revenue by $200,000 per tax year. The bill decreases income tax revenue, which is subject to TABOR.

Business Personal Property Tax Income Tax Credit

Repealing the business personal property tax income tax credit will increase General Fund revenue by an estimated $89,600 in FY 2026-27 (half-year), $178,600 in FY 2027-28, and by similar amounts in future tax years. The analysis assumes an average value of the credit of about $440, and about 410 credit claims each year.

Care Worker Tax Credit

The bill is expected to reduce revenue by $540,000 in the current FY 2024-25, $1.3 million in FY 2025-26, and $1.6 million in FY 2026 27. The fiscal note assumes that the bill increases the number of care workers eligible for the credit by 900 people in tax year 2025, 1,233 in tax year 2026, and 1,357 in tax year 2027. This represents a 25 percent increase in FFN care workers who would be eligible for the credit.

Sales and Use Tax Exemption for Fertilizer and Spray Adjuvants

The expansion of the sales and use tax exemption for fertilizer and spray adjuvants is expected to decrease General Fund revenue by $0.6 million in FY 2025-26 and $0.5 million in FY 2026-27 with comparable amounts in future years.

The cannabis plant nutrients market size was roughly $256.9 million nationwide in 2024. Of that amount, about 8.1 percent of those sales are assumed to occur in Colorado based on market data. Future estimates are grown based on the March 2025 LCS forecast for marijuana tax revenue.

Medical Marijuana Sales Exemption for Indigent Patients

The bill is expected to reduce sales tax revenue from medical marijuana by $657,000 in FY 2025-26, $568,000 in FY 2026-27, and $516,000 in FY 2027-28. The fiscal note expects that more people will claim the medical marijuana sales tax exemption as a result of a less cumbersome process required to claim it. The fiscal note assumes that about one third of Coloradans have an identification for a state or federal benefit, such as SNAP, Medicaid, or Medicare, that would allow them to qualify for the sales tax exemption. The fiscal note assumes that 75 percent of eligible purchases will claim the exemption. Revenue from sales tax on medical marijuana is deposited in the Marijuana Tax Cash Fund.

Preservation of Historic Structures Tax Credit

The bill is not expected to impact state revenue through the preservation of historic structures tax credit. The aggregate maximum credit amount is expected to be reached under current law and under this bill. Over the most recent five years for which data are available, the disaster allowance accounted for an additional $4.6 million in tax credit reservations, resulting in an additional $920,000 in credits per year awarded to projects in disaster areas. The removal of the disaster allowance will decrease total reservations for projects in disaster areas by an estimated $920,000 per year, which will result in $920,000 per year available for additional projects to receive a tax credit reservation, and no net impact on income tax revenue.

Assessed Value Reduction for Qualifying Seniors

The bill corrects a technical error in statute related to the assessed value reduction for qualifying seniors.

Alternative Transportation Options Credit

The fiscal note assesses the state revenue impact of expanding the definition of local government to include counties for purposes of the alternative transportation options credit to be minimal.

Medical Marijuana Registry Card Fee Waiver

By allowing applicants to submit uncertified federal tax returns, the bill is expected to increase the number of applicants who will qualify to have their application waived, therefore reducing the number of applicants who will pay the application fee. The department is expected to raise the fee to make up for lost revenue, such that any revenue impact will be minimal.

State Expenditures

The bill increases state expenditures by $540,000 in FY 2025-26 and $66,331 in FY 2026-27. These costs will be incurred for property tax reimbursements and in the Department of Revenue and OEDIT for tax form changes and processing, and for computer programming requirements. Costs are paid from the General Fund.

Property Tax Reimbursements

For FY 2025-26, the bill increases General Fund expenditures by $540,000 as a result of reduced revenue subject to TABOR in FY 2024-25. Under the March 2025 LCS forecast, the FY 2024-25 TABOR surplus is not expected to be large enough to fully fund reimbursements to local governments for constitutional homestead property tax exemptions. The fiscal note assumes that General Fund expenditures will be required to fully fund the reimbursements. Therefore, reducing revenue subject to TABOR by $540,000 in FY 2024-25 results in a corresponding increase in General Fund expenditures for FY 2025-26 to fund property tax reimbursements. Under the March 2025 OSPB forecast selected by the Joint Budget Committee for budget balancing, the bill would not require these expenditures.

Department of Revenue

Tax Administration Workload

The bill has a bidirectional impact on DOR workload. The bill eliminates some state income tax credits and exemptions, but also bill increases the number of care workers eligible for the care worker tax credit. Workload to the DOR will increase to administer the tax credit but is expected to be minimal. In addition, the fiscal note assumes OEDIT will be responsible for verifying that taxpayers fall under the $2 million cap for the Enterprise Zone ITC and will provide the DOR with the taxpayer information to determine if they are eligible for credit, as under current practice.

Computer Programming and Testing

For FY 2026-27 only, this bill requires expenditures of $14,976 to remove the business property tax exemption from the GenTax software system. Programming costs are estimated at $6,953, representing 30 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $5,495 for 157 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $2,528 for 79 hours of user acceptance testing at a rate of $32 per hour.

Tax Form Changes and Processing

For FY 2026-27, the bill will require $51,355 to remove the business property tax exemption from the state personal property declaration schedule form. Expenditures for form changes and tax return processing occur in the Department of Personnel and Administration using reappropriated funds.

Office of Economic Development and International Trade

For FY 2026-27 only, computer programming is required to administer the tax credit, estimated at a cost of $24,000. This assumes 107 hours of development time and 53 hours of ongoing maintenance. In addition, OEDIT will need to review, audit and verify that the $2 million cap for the Enterprise Zone ITC is met. This workload can be accomplished within existing resources.

Assessed Value Reductions for Qualifying Seniors

The bill corrects a technical error that was added to state law in Senate Bill 24-233 and clarifies that assessed value reductions for qualifying seniors passed in Senate Bill 24-111 are not contingent on there being sufficient excess state revenue. Under current law, it is unclear whether the reductions would be available if excess state revenue is insufficient. The March 2025 Office of State Planning and Budgeting (OSPB) forecast selected by the Joint Budget Committee for balancing anticipates sufficient excess state revenue for FY 2024-25 to fully fund reimbursements for the property tax year 2025 reduction, and the FY 2025-26 budget passed by the General Assembly funds the reimbursements. Current revenue forecasts from both OSPB and Legislative Council Staff anticipate sufficient state revenue for FY 2025-26 to fully fund reimbursements for the property tax year 2026 reduction.

Office of the State Auditor

The OSA performs an evaluation of all tax expenditures. It can accomplish these tax credits within its existing evaluation appropriations.

TABOR Refunds

For FY 2024-25, the bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will decrease the TABOR refund obligation, but result in no net change to the amount of General Fund available to spend or save in FY 2024-25.

For FY 2025-26 and future years, the bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond 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.

Local Government

On net, the bill is expected to increase local government revenue by the amounts shown in Table 3 below. Impacts by tax expenditure are described in the following sections.

Table 3
Local Government Impacts

Local Government	FY 2025-26	FY 2026-27
Regional Transportation District	$363,500	$383,926
Science and Cultural Facilities District	$36,453	$38,501
Total Local Government Revenue	**$399,952**	**$422,426**

Sales and Use Tax Exemption for Fertilizer and Spray Adjuvants

The bill will decrease sales and use tax revenue for the state-collected local governments that incorporate the exemption and conform to the state tax base. Special districts and state-collected city and county governments are allowed to modify the exemption in their sales tax base, but are not required to do so.

The Regional Transportation District (RTD) and Scientific and Cultural Facilities District (SCFD) are the two special districts that use the state's sales tax base in all instances, and the exemption modifications in the bill would apply to those districts. Therefore, the bill will decrease revenue for RTD and SCFD. Based on the amount of sales and use tax revenue collected in these special districts compared to that for the state, decreased revenue is estimated as follows:

- RTD – The bill will decrease revenue to RTD by an estimated $113,000 in FY 2025-26, and $110,000 in FY 2026-27 with comparable amounts in subsequent years.
- SCFD – The bill will decrease revenue to SCFD by an estimated $11,000 in FY 2025-26 and future years.

Interstate Telecommunication Services

The bill will increase revenue for RTD and SCFD. Based on the amount of sales and use tax revenue collected in these special districts compared to that for the state, increased revenue is estimated as follows:

- RTD – The bill will increase revenue to RTD by an estimated $477,000 in FY 2025-26, and $494,000 in FY 2026-27 with comparable amounts in subsequent years.
- SCFD – The bill will increase revenue to SCFD by an estimated $48,000 in FY 2025-26, and $50,000 in FY 2026-27, with comparable amounts in subsequent years.

Technical Note

Taxes on Tips and Overtime

Under current federal law, tips and overtime wages are included in federal taxable income. If in the future, these sources of income become exempt from being included in federal taxable income, the bill requires these sources of income to be added back to Colorado taxable income. As a result, the DOR estimates the bill will require at least $500,000 for GenTax programming, tax administration, and other workload necessities. It is assumed if this occurs, it will be addressed during the normal budget process.

Effective Date

This bill was signed into law by the Governor and took effect on May 16, 2025.

State and Local Government Contacts

Early Childhood
Governor
Human Services
Information Technology
Office of Economic Development
Personnel
Public Health and Environment
Regulatory Agencies
Revenue
State Auditor
Transportation
Treasury