HB 24-1144

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0827	**Date:**	May 13, 2024
Prime Sponsors:	Rep. Bockenfeld; Pugliese	**Bill Status:**	Postponed Indefinitely
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Bill Topic: **INCOME TAX CREDIT FOR MORTGAGE RATE BUY DOWNS**

Summary of Fiscal Impact:

☒ State Revenue ☐ State Transfer ☐ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

For 2024 and 2025 only, the bill would have created a state income tax credit for a home seller who buys down the buyer's mortgage interest rate at closing. It would have reduced state revenue and increased state expenditures through FY 2025-26.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of $463,244 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was postponed indefinitely by the House Finance Committee on February 29, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1144

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($29.4 million)	($110.5 million)	($81.1 million)
	Total Revenue	**($29.4 million)**	**($110.5 million)**	**($81.1 million)**
Expenditures	General Fund	-	$463,244	$1,006,074
	Centrally Appropriated	-	$98,929	$273,074
	Total Expenditures	**-**	**$562,173**	**$1,279,148**
	Total FTE	**-**	**5.8 FTE**	**16.0 FTE**
Transfers		-	-	-
Other Budget Impacts	TABOR Refunds	($29.4 million)	($110.5 million)	($81.1 million)
	General Fund Reserve	-	$69,487	$150,911

Summary of Legislation

For tax years 2024 and 2025 only, the bill creates a state income tax credit for a seller of a residential property who buys down a portion of the buyer's mortgage interest rate at closing. The tax credit is equal to 50 percent of the amount paid to buy down the interest rate. To claim the credit, a taxpayer is required to submit information to the Department of Revenue (DOR) as determined by the department. The credit is refundable, so that any amount that exceeds the seller's tax liability is refunded to the taxpayer. Alternatively, the bill allows a taxpayer to transfer the credit to another taxpayer, who may then claim the credit.

Assumptions

Eligible population. The fiscal note estimates that there will be about 38,500 Colorado home sales in 2024 where the seller will make concessions to the buyer at closing, representing about 60 percent of sales. This amount is estimated to grow to 41,500 in 2025 when lower interest rates motivate more real estate transactions. The share of sales with concessions reflects January and February 2024 statistics from the Colorado Association of Realtors (CAR).

It is assumed that about 15 percent of sales with concessions under current law include interest rate buy downs. The fiscal note assumes that the bill will not change the number of sales with concessions, but will cause 100 percent of sales with concessions to include interest rate buy downs. Based on these assumptions, it is estimated that about 16,700 sales in 2024 and 41,500 sales in 2025 will be eligible for the tax credit.

Utilization rate. State income tax credits have shown widely differing "utilization rates," the share of eligible taxpayers who claim the credit. The fiscal note assumes a 75 percent utilization rate for the credit after the bill becomes law. The fiscal note also assumes that 50 percent of sellers who buy down interest rates in 2024 before the bill's effective date will claim the tax credit when filing their 2024 returns. Based on these assumptions, it is estimated that 11,600 taxpayers will claim the credit for 2024 and 31,100 taxpayers will claim the credit for 2025.

Credit amount. Data from the CAR indicate that sellers who made buy downs at closing paid $9,866 on average in early 2024. The fiscal note grows this amount for inflation. Taxpayers are estimated to claim average credits of $5,080 for 2024 and $5,210 for 2025, representing 50 percent of buy down payment amounts. Taxpayers are expected to choose to have the entire amount refunded to themselves, rather than transferring the credit.

State Revenue

Based on the assumptions above, the bill is expected to decrease General Fund revenue by:

- $29.4 million in the current FY 2023-24, a half-year impact for tax year 2024 on an accrual accounting basis;
- $110.5 million in FY 2024-25, a full-year impact; and

- $81.1 million in FY 2025-26, a final half-year impact for tax year 2025 on an accrual accounting basis.

The bill decreases income tax revenue, which is subject to TABOR. If the eligible population, utilization rate, or credit amount differs from the assumptions stated above, the revenue impact will differ correspondingly.

State Expenditures

The bill increases General Fund expenditures for the Department of Revenue by about $560,000 and 5.8 FTE in FY 2024-25 and by about $1.3 million and 16.0 FTE in FY 2025-26. The bill does not affect state expenditures for FY 2026-27 or later years. Expenditures are summarized in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1144

	FY 2024-25	FY 2025-26
Department of Revenue		
Personal Services	$336,336	$929,592
Operating Expenses	$7,424	$20,480
Capital Outlay Costs	$53,360	$53,360
Software Programming and Testing	$55,009	-
Data Management and Reporting	$7,392	-
Document Management	$3,723	$2,642
Centrally Appropriated Costs[1]	$98,929	$273,074
Total Cost	**$562,173**	**$1,279,148**
Total FTE	**5.8 FTE**	**16.0 FTE**

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

Department of Revenue. The bill requires DOR staff to review tax credit claims and communicate with taxpayers. It also requires software updates, data analysis, and document management costs, as follows.

- **Staff.** The Taxpayer Services section will require an additional 5.8 FTE staff in FY 2024-25 and 16.0 FTE staff in FY 2025-26. Additional staff are for tax examiners and managers to review tax credits claimed on 2024 and 2025 income tax returns. Tax examiners will review eligibility documentation to determine which taxpayers qualify, and communicate with taxpayers who have submitted insufficient documentation or who do not qualify. The fiscal note anticipates a 100 percent review rate, consistent with current department practice for refundable tax credits.

- **Software programming and testing.** This bill requires expenditures of $55,009 to program, test, and update database fields in the department's GenTax software system. Programming costs are estimated at $27,810, representing 120 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $18,655 for 533 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $8,544 for 267 hours of user acceptance testing at a rate of $32 per hour.

- **Data management and reporting.** Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports so that the department can access and document tax statistics related to the new tax policy. These costs are estimated at $7,392, representing 231 hours for data management and reporting at $32 per hour.

- **Document management.** Costs to update optical scanners to read paper tax forms, and to process paper returns, occur in the Department of Personnel and are paid using reappropriated DOR funds. These costs are estimated at $3,723 in FY 2024-25 and $2,642 in FY 2025-26.

- **Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. 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. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $463,244 to the Department of Revenue, and 5.8 FTE. Of this amount, $3,723 is reappropriated to the Department of Personnel.

State and Local Government Contacts

Information Technology	Office of Economic Development	Personnel
Revenue		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.