# HB 24-1036

## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 24-0383 | **Date:** | January 31, 2024 |
| **Prime Sponsors:** | Rep. Weissman; Frizell<br>Sen. Hansen; Kolker | **Bill Status:** | House Finance |
| | | **Fiscal Analyst:** | Emily Dohrman \| 303-866-3687<br>emily.dohrman@coleg.gov |

**Bill Topic:** **ADJUSTING CERTAIN TAX EXPENDITURES**

**Summary of Fiscal Impact:**

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

The bill expands, modifies, and/or eliminates various tax expenditures. It decreases state revenue on an ongoing basis beginning in FY 2024-25, and increases state workload in FY 2024-25 and FY 2025-26 only.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill, which was requested by the Legislative Oversight Committee Concerning Tax Policy.

**Table 1**
**State Fiscal Impacts Under HB 24-1036**

| | | Current Year FY 2023-24 | Budget Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|---|
| **Revenue** | General Fund | ($140,000) | ($875,000) | ($1,195,000) |
| **Expenditures** | | - | - | - |
| **Transfers** | | - | - | - |
| **Other Budget Impacts** | TABOR Refund | ($140,000) | ($875,000) | ($1,195,000) |

## Summary of Legislation

The bill expands and modifies multiple tax expenditures. Specifically, the bill:

- exempts the sale, storage, usage, or consumption of modular homes from state sales and use taxes;
- expands the rural and frontier healthcare preceptor credit by increasing the maximum credit from $1,000 to $2,000 and allowing credits to be claimed per preceptorship for a maximum of 3 preceptorships (a maximum of $6,000 per taxpayer);
- expands the wildfire hazard mitigation expenses tax credit by changing the credit amount from 50 percent of expenses up to $2,500 to 100 percent of expenses up to $1,000 beginning in tax year 2025;
- changes certain filing requirements for local governments and nonprofit organizations that claim the alternative transportation options tax credit;
- removes certain filing requirements for enterprise zone tax credits;
- requires local governments file an information-only tax return to claim the conservation easement tax credit and the credit for environmental remediation of contaminated land;
- adds statements of purpose for the Colorado tuition program deduction and the components for renewable energy exemption; and
- removes the requirement that the Department of Revenue present the biannual tax profile and expenditure report to the Joint Finance Committee.

The bill also eliminates sixteen infrequently used tax expenditures, including:

- the insurance premium tax deduction for catastrophic health insurance;
- the income tax subtraction for non-resident disaster relief workers;
- the income tax deductions for medical savings account contributions;
- the income tax credit for childcare facility investments;
- the income tax credit for school-to-career expenses;
- the income tax credit for Colorado Works Program employers;
- the income tax credit for purchase of uniquely valuable motor vehicle registration numbers;
- the sales and use tax exemptions for low-emitting vehicles and commercial vehicles used in interstate commerce;
- the sales and use tax refund for biotechnology;
- the sales tax refund for rural broadband equipment;
- the income tax deduction for first-time homebuyer savings accounts;
- the sales and use tax exemption for tangible personal property affixed to aircraft;
- the sales and use tax exemption for non-resident aircraft sales and aircraft parts;
- the aircraft gasoline tax exemption;
- structural excise tax expenditures for cigarettes and other tobacco products; and
- the income tax deduction for wildfire mitigation costs.

## Background

Many of the tax expenditures modified by this bill are presented in the Office of the State Auditor's (OSA's) Tax Expenditure Evaluations for Review by the Legislative Oversight Committee Concerning Tax Policy, available online here:
https://leg.colorado.gov/sites/default/files/images/committees/osa_tax_expenditure_reports_for_review_by_the_2023_legislative_oversight_committee_concerning_tax_policy.pdf.

For each tax expenditure repealed by the bill, the OSA found that the tax expenditure was rarely claimed by a small number of taxpayers or not claimed at all.

## Assumptions

This fiscal note assumes that 48 percent of the initial purchase price of all modular homes is exempt from sales tax under current law, and that modular homes are exempt from use tax after the use tax has been paid once.[1] The fiscal note also assumes that the taxation of panelized homes is not impacted by the change in taxation of modular homes. If panelized homes are determined to be treated like modular homes for the purpose of sales and use taxation, the bill will reduce revenue by more than what is reported in this fiscal note.

## State Revenue

On net, the bill decreases General Fund revenue on an ongoing basis. The bill affects revenue from income, sales, use, and aviation fuel taxes, all of which are subject to TABOR. Expanding the rural and frontier healthcare preceptor credit and the wildfire hazard mitigation expenses credit, as well as exempting modular homes from sales and use taxes, will decrease state revenue. Repealing the wildfire mitigation deduction early will increase state revenue in tax year 2025. Repealing other tax expenditures minimally increases General Fund and Highway Users Tax Fund revenue beginning in FY 2024-25. Some tax expenditures being repealed have not been used because no one is eligible to claim them, and therefore their repeal has no fiscal impact. The revenue impacts are shown in Table 2.

[1] Sections 39-26-721 (1) and 39-26-721 (2), C.R.S.

**Table 2**
**General Fund Revenue Impacts**

| | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|---|---|---|
| Rural and frontier healthcare preceptor credit | ($140,000) | ($280,000) | ($280,000) |
| Wildfire hazard mitigation expenses credit | $0 | ($260,000) | ($520,000) |
| Wildfire mitigation deduction | $0 | $75,000 | $75,000 |
| Modular home sales tax exemption | $0 | ($410,000) | ($470,000) |
| **Total** | **($140,000)** | **($875,000)** | **($1,195,000)** |

**Rural and frontier healthcare preceptor credit**. The bill increases the amount of the credit from $1,000 to $2,000 and allows each preceptor to claim the credit per preceptorship, up to a maximum of three. This fiscal note assumes that half of preceptors will have two preceptorships and one fourth will have three preceptorships. The revenue loss in FY 2023-24 represents a partial year impact.

**Wildfire hazard mitigation expenses credit**. The bill increases the credit amount from 25 percent of expenses up to $2,500 to 100 percent of expenses up to $1,000. The fiscal note assumes that the average credit amount under current law would be $300 and the average credit amount under this bill would be $800, an average difference of $500 for approximately 1,000 claimants. The revenue loss in FY 2024-25 represents a half-year impact.

**Wildfire mitigation deduction**. Repealing the wildfire mitigation deduction one year early is expected to increase revenue by $150,000 in tax year 2025, which results in a $75,000 increase in each of FY 2024-25 and FY 2025-26.

**Modular home sales tax exemption**. Modular homes are assumed to qualify for a sales tax exemption of 48 percent of the purchase price of the property. The fiscal note estimates that approximately 200 new modular homes will be sold each year with an average price of about $100 per square foot, increasing by 3 percent per year. This would result in $410,000 lost revenue in FY 2024-25.

**Changes with minimal revenue impact**. Repealing the following tax expenditures may result in a minimal increase in state revenue. Some of these expenditures may not be in use at all, but there was insufficient data to confirm this. As such, the elimination of the following tax expenditures is assessed as increasing state revenue by a minimal amount:

- the income tax subtraction for non-resident disaster relief workers;
- the income tax deductions for medical savings accounts;
- the income tax credit for childcare facility investment;
- the income tax credit for school-to-career expenses;
- the income tax credit for Colorado Works Program employers;
- the income tax credit for purchase of uniquely valuable motor vehicle registration numbers;

- the sales and use tax exemptions for low-emitting vehicles and commercial vehicles used in interstate commerce;
- the sales and use tax refund for biotechnology;
- the income tax deduction for first-time homebuyer savings accounts;
- the sales and use tax exemption for tangible personal property affixed to aircraft;
- the aircraft gasoline tax exemption; and
- structural excise tax expenditures for cigarettes and other tobacco products.

Most of the tax expenditures affect revenue collected in the General Fund from income taxes, insurance premium taxes, cigarette and tobacco excise taxes, and sales and use taxes. The aircraft gasoline tax exemption affects revenue collected in the Highway Users Tax Fund from the motor fuel tax. Revenue from all of these taxes is subject to TABOR.

## State Expenditures

The bill increases workload for the Department of Revenue in FY 2024-25 and FY 2025-26 to update software and data reporting processes. The increased workload can be accomplished within existing appropriations. The bill also minimally decreases workload on an ongoing basis by removing the requirement that a report be presented to the Joint Finance Committee of the General Assembly.

## 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.

## Local Government

The bill will increase workload for some local governments that must file an information-only tax return to claim the conservation easement tax credit and the credit for environmental remediation of contaminated land. This impact is expected to be minimal.

The bill specifies that the sales and use tax exemption for modular homes is not extended by default to local governments that use the state sales tax base, unless those governments take action to apply the exemption in their jurisdiction. Sales and use tax revenue will decrease for local governments that choose to extend the exemption.

## Effective Date

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

## State and Local Government Contacts

Counties
Higher Education
Information Technology
Municipalities
Office of Economic Development
Personnel
Revenue
Regional Transportation District
Special District Association
State Auditor