HB 24-1138

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 13, 2024)

Drafting Number:	LLS 24-0748	**Date:**	March 1, 2024
Prime Sponsors:	Rep. Catlin; Lukens Sen. Marchman	**Bill Status:**	House Finance
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Bill Topic: **TAX CREDIT FOR TRANSFER OF AGRICULTURAL ASSET**

Summary of Fiscal Impact:

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

For tax years 2026 through 2030, the bill establishes a state income tax credit for the sale or lease of land, crops, livestock and livestock facilities, farm equipment and machinery, grain storage, irrigation equipment, or water used for agriculture to certain agricultural producers. The bill increases state expenditures and reduces state revenue through FY 2030-31.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Agriculture, Water, and Natural Resources Committee.

Table 1
State Fiscal Impacts Under HB 24-1138

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue	General Fund	($600,000)	($1,350,000)	($1,500,000)
	Total Revenue	**($600,000)**	**($1,350,000)**	**($1,500,000)**
Expenditures	General Fund	-	$49,153	$82,702
	Centrally Appropriated	-	$5,341	$5,341
	Total Expenditures	**-**	**$54,494**	**$88,043**
	Total FTE	**-**	**0.3 FTE**	**0.3 FTE**
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	($600,000)	($1,350,000)	($1,500,000)
	General Fund Reserve	-	$7,373	$12,405

Summary of Legislation

For tax years 2026 through 2030, the bill establishes a state income tax credit for the sale or lease of land, crops, livestock and livestock facilities, farm equipment and machinery, grain storage, irrigation equipment, or water used for agriculture to certain agricultural producers.

In all cases, sales or leases must be made to a beginning farmer or rancher with less than 10 years of farming or ranching experience, or to a socially disadvantaged farmer or rancher, defined as someone who is a member of a group whose members have been subjected to racial or ethnic prejudice ("qualifying farmer"). Credit amounts are the sum of:

- 10 percent of the sale price or fair market value of an agricultural asset sold to a qualifying farmer up to a maximum credit of $50,000 for one income tax year; plus
- 15 percent of the aggregate lease payments made for the lease of an agricultural asset to a qualifying farmer during the first, second, and third years of the rental agreement, up to a maximum credit of $10,000 for one income tax year; plus
- 5 percent of the aggregate lease payments made for the lease of an agricultural asset to a qualifying farmer during subsequent years of the lease, up to a maximum amount of $5,000 per income tax year.

The credit is refundable and may not be carried forward. A refundable tax credit is a credit allowed as a refund even if the credit amount exceeds the amount of tax owed.

To claim the credit, a qualified taxpayer must apply to the Colorado Agricultural Value-Added Development Board for a credit certificate. The board will evaluate the application and issue a certificate if the taxpayer qualifies for the credit. If a certificate is issued, the qualified taxpayer must attach it to the taxpayer's income tax return and submit it to the Department of Revenue to claim the credit. The board may issue rules to administer the credit.

The aggregate amount of credits issued in one calendar year cannot exceed $1.5 million. After certificates have been issued for credits that exceed an aggregate of $1.5 million for all qualified taxpayers during a calendar year, any claims that exceed the amount allowed are placed on a wait list in the order submitted and a certificate is issued for use of the credit in the next income tax year. No more than $1.5 million in claims shall be placed on the wait list in any given calendar year.

Background

At least six states (Nebraska, Iowa, Minnesota, Pennsylvania, Kentucky, and Ohio) offer state income tax credits for leases to beginning farmers and ranchers. Credit claims range from 55 per year in Nebraska to 1,003 per year in Iowa, though data on the average number of claims are unavailable for three of the six states. Colorado has never offered a credit of this type, but did allow a state income tax deduction for leases to beginning farmers and ranchers. The Colorado deduction was created in House Bill 16-1194 and was allowed in tax years 2017 through 2019, but was not claimed.

Assumptions

The National Agricultural Statistics Survey for 2022 indicates that there are between 1,100 and 1,200 Colorado tenant farmers and ranchers who meet the eligibility criteria in the bill. Based on the number of credits claimed in Iowa, which had the highest utilization rate of states with available data, it is assumed that credits will be allowed for leases to about 18 percent of eligible Colorado farmers and ranchers after a three-year ramp-up period. It is assumed that each credit will be for about $8,700, based on actual credits claimed in Nebraska and Iowa and adjusted to account for the credit percentages in the bill. If the number and value of credits differ from these assumptions, the bill's fiscal impact will differ from the estimates in this fiscal note.

Based on these assumptions, the credit is estimated to reduce state revenue by the maximum aggregate amount per the bill, $1.5 million, after the expected ramp-up period.

State Revenue

The bill is expected to decrease General Fund revenue by approximately $600,000 in FY 2024-25 (half-year impact), $1.35 million in FY 2025-26, $1.5 million in FY 2026-27 and subsequent years through FY 2029-30. Since the tax credit is available through tax year 2030, FY 2030-31 will have a final half-year impact, a revenue decrease of $750,000. This estimate is based on the assumptions described above. The bill decreases corporate and individual income taxes, which are subject to TABOR.

State Expenditures

The bill increases state expenditures by $54,494 in FY 2025-26, $100,599 in FY 2026-27, and by similar amounts through FY 2030-31. The costs, paid from the General Fund, are incurred in the Department of Agriculture (CDA) and Department of Revenue (DOR). Costs are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1138

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Agriculture (CDA)			
Personal Services	-	$30,958	$30,958
Legal Services	-	$15,362	-
Centrally Appropriated Costs[1]	-	$5,341	$5,341
FTE – Personal Services	-	0.3 FTE	0.3 FTE
CDA Subtotal	**-**	**$51,661**	**$36,299**

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Table 2
Expenditures Under HB 24-1138 (Cont.)

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Revenue (DOR)			
Computer Programming (GenTax)	-		$23,175
Computer Testing	-	-	$20,773
Data Reporting			$7,392
Document Management	-	$2,833	$404
DOR Subtotal	**-**	**$2,833**	**$51,744**
Total Costs	**-**	**$54,494**	**$88,043**
Total FTE	**-**	**0.3 FTE**	**0.3 FTE**

Centrally appropriated costs are not included in the bill's appropriation.

Department of Agriculture. Beginning in FY 2025-26, expenditures will increase in CDA to determine if the applicant qualifies to participate in the program. The CDA is also responsible for verifying, approving, and issuing tax credits and accounting to ensure that the number of credits does not exceed the $2 million allowable amount each year.

- **Personal services.** The CDA will require 0.3 FTE in FY 2025-26 through FY 2030-31 to administer, monitor, verify and provide oversight for the income tax credit. This includes application development, rulemaking, coordination with DOR and legal services.

- **Legal services.** For FY 2025-26, the CDA will require 120 hours of legal guidance regarding the tax credits. Legal services are provided at an hourly rate of $128.02 by the Department of Law.

Department of Revenue (DOR). Beginning in FY 2025-26, expenditures will increase in DOR to administer the income tax credit, update and test GenTax computer programming, provide data reporting, and make changes to state income tax forms.

- **Computer programming and testing.** For FY 2026-27 only, this bill requires expenditures of $51,744 to program, test, and update database fields in the DOR's GenTax software system. Programming costs are estimated at $23,175, representing 100 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $14,245 for 840 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $6,528 for 204 hours of user acceptance testing at a rate of $32 per hour.

- **Data reporting.** Beginning in FY 2026-27, expenditures in the Office of Research and Analysis in the DOR 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 and are ongoing through FY 2030-31.

- **Document management and tax form changes.** For FY 2025-26, the bill requires changes to five tax forms at a cost of $2,833. These costs also include testing of the scan system. For FY 2025-26, expenditures for form changes occur in the Department of Personnel and Administration using reappropriated funds.

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 for the current FY 2025-26. This estimate assumes the December 2023 LCS revenue forecast. No estimates are available after FY 2025-26. Also, 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 beginning in FY 2024-25. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase 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 and Local Government Contacts

Agriculture	Information Technology	Personnel
Revenue	State Auditor	

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.