SB 24-152

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0792	**Date:**	August 8, 2024
Prime Sponsors:	Sen. Simpson; Roberts Rep. McCormick; Soper	**Bill Status:**	Deemed Lost
		Fiscal Analyst:	Amanda Liddle | 303-866-5834 amanda.liddle@coleg.gov

Bill Topic: **REGENERATIVE AGRICULTURE TAX CREDIT**

Summary of Fiscal Impact:

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

The bill would have created a refundable state income tax credit for food and beverage retailers buying from local producers practicing regenerative agriculture in tax years 2026 through 2030. The bill would have increased state expenditures and decreased state revenue through FY 2030-31.

Appropriation Summary: No appropriation would have been required.

Fiscal Note Status: The final fiscal note reflects the reengrossed bill, as amended by the House Agriculture, Water, and Natural Resources Committee and the House Finance Committee. The bill was deemed lost in the House Appropriations Committee on May 9, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 24-152

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue	General Fund	-	($0.6 million)	($1.25 million)
	Total Revenue	**-**	**($0.6 million)**	**($1.25 million)**
Expenditures	General Fund	-	$154,639	$198,162
	Centrally Appropriated	-	$22,287	$25,584
	Total Expenditures	**-**	**$176,926**	**$223,746**
	Total FTE	**-**	**1.4 FTE**	**1.5 FTE**
Transfers		-	-	-
Other Budget Impacts	TABOR Refunds	-	($0.6 million)	not estimated
	General Fund Reserve	-	$23,196	$29,724

Summary of Legislation

For tax years 2026 through 2030, the bill creates a refundable state income tax credit for qualified food and beverage retailers, including catering companies, who purchase agricultural commodities from Colorado-based agricultural producers practicing regenerative agriculture.

Regenerative agriculture. Regenerative agriculture is defined as a conservation and rehabilitation approach to food and farming systems focused on:

- topsoil regeneration;
- increasing biodiversity;
- improving the water cycle;
- enhancing ecosystem services;
- supporting biosequestration;
- increasing resilience to climate change; and
- strengthening the health and vitality of farm soil.

The application and certification process is managed by the Department of Agriculture (CDA). Qualifying retailers are allowed an income tax credit equal to 25 percent of the total amount paid for all purchases from a qualifying producer in the income tax year. In 2025 through 2029, if the June revenue forecast projects less than 4 percent growth in state revenues for the following fiscal year, then the tax credit amount per qualifying retailer is halved, such that 12.5 percent of qualified expenditures may be credited. In calculating revenue growth for the purpose of this bill, state revenues do not include revenue above the Referendum C cap that must be refunded to taxpayers. In aggregate, CDA may issue up to $2.5 million in tax credits per year. A qualifying retailer is allowed to receive one tax credit certificate per income tax year. CDA must issue tax credit certificates to qualifying retailers in the order that the applications are received. If the amount of issuances exceeds the $2.5 million annual limit, the bill directs CDA to put subsequent applicants, up to $1 million in applications, on a waitlist to be prioritized for the tax credit in the following year.

Assumptions

Qualified producers. According to CDA, many of Colorado's 38,900 farms and ranches employ at least some practices that satisfy the definition of regenerative agriculture in the bill. For example, USDA estimates that nearly 87 percent of farmland uses a form of conservation tillage, which increases soil health, improves water and nutrient cycling, builds organic matter, and increases resilience to difficult growing conditions. This fiscal note assumes that CDA will determine producer eligibility by utilizing its existing agricultural producer certifications, potentially including the Soil Health Program, the Saving Tomorrow's Agricultural Resources (STAR) framework, the Soil Carbon Initiative, Regenerative Organic Certified producers, and others that are determined to have appropriate verification standards. The actual list of qualifications will be established by CDA in rule.

Qualified retailers. The number of restaurants, bars, and catering companies that purchase from Colorado farms and ranches practicing regenerative agriculture is unknown. It is assumed that the number of qualifying retailers who purchase from a qualified producer is comparable to the number of Colorado producers certified under the programs listed above. Producers can be certified under more than one program. CDA currently has over 250 producers enrolled in the STAR program with a goal of 450 by 2025. Correspondingly, the fiscal note estimates CDA will issue tax credits to up to 300 qualified retailers per year.

Credit amount. Extrapolating from Colorado retail sales data, it is estimated that about $10 million in food and beverage retailer expenditures would be from commodities purchased from qualifying producers practicing regenerative agriculture. As qualified retailers are allowed a tax credit equal to 25 percent of the total amount paid to qualifying producers, it is assumed that the maximum aggregate tax credit amount of $2.5 million per year will be reached for fiscal years where revenue growth is above 4 percent, once the program is fully ramped up. In years where the revenue growth is less than 4 percent, 12.5 percent of $10 million in expenditures is expected to be awarded in tax credits, amounting to an impact of $1.25 million per year.

State Revenue

The bill will reduce General Fund revenue by $0.6 million in FY 2025-26 and $1.25 million per year beginning in FY 2026-27. Impacts will continue until a final half-year impact in FY 2030-31. The bill reduces income tax revenue, which is subject to TABOR. The TABOR growth rate in the Legislative Council Staff (LCS) March 2024 forecast is estimated at 3.6 percent in FY 2025-26 and is assumed to be comparable in FY 2026-27. Because this growth rate is less than 4 percent, the fiscal note estimates that tax credit certificate amounts will be half of what they would be if the growth rate were over 4 percent. Whether or not tax credit certificate amounts are actually halved will be determined by future June revenue forecasts.

State Expenditures

The bill increases state General Fund expenditures by about $177,000 in FY 2025-26, $224,000 in FY 2026-27, and $178,000 in FY 2027-28 and subsequent years.

Table 2
Expenditures Under SB 24-152

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Agriculture			
Personal Services	-	$125,008	$142,835
Operating Expenses	-	$1,664	$1,920
Capital Outlay Costs	-	$10,005	-
Lodging and Mileage	-	$2,600	$2,600
Legal Services	-	$15,362	-
Centrally Appropriated Costs[1]	-	$22,287	$25,584
FTE – Personal Services	-	1.3 FTE	1.5 FTE
FTE – Legal Services	-	0.1 FTE	-
CDA Total	**-**	**$176,926**	**$172,939**

Table 2
Expenditures Under SB 24-152 (Cont.)

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Revenue			
GenTax Programming and Testing	-	-	$40,821
Office of Research and Analysis	-	-	$7,392
Document Management (paid to DPA)	-	-	$2,594
DOR Total	**-**	**-**	**$50,807**
Total Cost	**-**	**$176,926**	**$223,746**
Total FTE	**-**	**1.4 FTE**	**1.5 FTE**

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

Department of Agriculture (CDA). Beginning in FY 2025-26, CDA will require additional personnel, travel, and legal services expenses to implement the tax credit. Legal expenditures are one-time impacts in FY 2025-26. Personnel and lodging resources are ongoing costs.

- **Staffing.** Beginning in July 2025, CDA will require 1.0 FTE administrator to develop the application process; review and approve applications; correspond with applicants; issue tax credit certificates; and conduct reporting. Starting in January 2026, CDA will require 0.5 FTE accountant personnel to audit and review applications and certifications; validate documents provided in applications and eligibility; reconcile documentation to tax credit amounts; and provide financial tracking of approved credits.

- **Lodging and mileage.** CDA will have costs for 10 days of per diem and 5 overnight lodging for random audit of tax credit recipients and other meetings in the state as needed in order to report to the General Assembly, DOR, state auditors, and others on the effectiveness of the credit. Fleet needs will be minimal and utilize pool vehicles, mileage included.

- **Legal services.** It is estimated that 120 hours of legal services will be needed for rulemaking in FY 2025-26. Ongoing legal costs will be less than 100 hours and are considered absorbable.

Department of Revenue (DOR). Beginning in FY 2026-27, DOR will require resources for GenTax programming and development, paper form changes, and reporting done by the Office of Research and Analysis (ORA) within DOR. Programming and form changes are one-time expenditures in FY 2026-27, while ORA expenditures are ongoing.

- **GenTax programming and testing.** For FY 2026-27, the bill will require changes to DOR's GenTax software system. This includes $23,175 in GenTax programming costs, $12,110 in development and testing in support of the GenTax programming, and $5,536 in business and user acceptance testing following the GenTax programming. In future years, if the credit becomes available or unavailable based on the trigger mechanism in the bill, similar programming expenses of about $40,000 will be required to adjust the GenTax system accordingly and would be requested through the annual budget process.

- **Office of Research and Analysis.** The Office of Research and Analysis within the Department of Revenue will perform 231 hours of work at a rate of $32 per hour in FY 2026-27, and 229 hours of work in future years, to update database fields and conduct ongoing reporting.

- **Document management.** For FY 2026-27, DOR will incur $2,594 in document management costs. This includes updates to five tax return forms. These expenditures will occur in the Department of Personnel and Administration (DPA) using reappropriated DOR funds. The population workload impact is expected to be minimal and absorbable.

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. For FY 2025-26, the bill decreases the amount of state revenue required to be refunded to taxpayers by the amount shown in the State Revenue section above. This fiscal note assumes the LCS March 2024 forecast; a forecast of state revenue subject to TABOR is not available beyond FY 2025-26. TABOR refunds are paid from the General Fund; therefore, 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 for years where revenue collected is above the Referendum C cap.

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. The tax credit may be claimed for tax years 2026 through 2030.

State and Local Government Contacts

Agriculture	Information Technology	Local Affairs
OEDIT	Personnel	Revenue
State Auditor		