



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-1196	Date:	May 2, 2024
Prime Sponsors:	Sen. Mullica; Lundeen Rep. deGruy Kennedy; Pugliese	Bill Status:	Senate Finance
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Bill Topic: TABOR REFUND MECHANISMS

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill adjusts the mechanisms used to refund the state TABOR refund obligation starting with the FY 2023-24 surplus by reinstating a temporary state income tax rate cut, and creates a new refund mechanism—a temporary reduction in the state sales and use tax rate—starting with the FY 2024-25 surplus. The bill changes how TABOR refunds are distributed from FY 2024-25 to FY 2034-35, but has no impact on the amount refunded.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$59,443 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 24-228

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-
Expenditures	General Fund	\$59,443	\$7,328
Transfers		-	-
Other Budget Impacts	TABOR Refunds – Six-Tier Mechanism	(\$466.7 million)	(\$706.8 million)
	TABOR Refunds – Income Tax Rate Cut	\$466.7 million	\$484.3 million
	TABOR Refunds – Sales and Use Tax Rate Cut	-	\$222.5 million
	TABOR Refunds – Net Change	\$0	\$0
	General Fund Reserve	\$8,916	\$1,099

Summary of Legislation

The bill adjusts the mechanisms used to refund the state TABOR refund obligation for any state TABOR surplus collected for FY 2023-24 through FY 2033-34 , and creates a new refund mechanism for any state TABOR surplus collected for FY 2024-25 through FY 2033-34.

Temporary income tax rate cut. The bill reactivates the temporary income tax rate reduction as the second TABOR refund mechanism for tax years 2024 through 2034. To refund a portion of the FY 2023-24 surplus, the income tax rate for tax year 2024 is temporarily reduced from 4.40 percent to 4.25 percent. In subsequent years, the amount of the income tax rate reduction that is triggered depends on the amount of the TABOR surplus remaining after reimbursements to local governments for homestead property tax exemptions. The range of reductions is shown in Table 2.

Table 2
Income Tax Rate Reduction in Tax Year 2025 through 2034 Under SB 24-228
Determined by TABOR refund obligations for FY 2024-25 through FY 2033-34,
after accounting for the homestead property tax exemptions

Remaining TABOR surplus	Income tax rate reduction (percentage points)	Effective income tax rate
\$300 million or less	0%	4.40%
Above \$300 million but not greater than \$500 million	0.04%	4.36%
Above \$500 million but not greater than \$600 million	0.07%	4.33%
Above \$600 million but not greater than \$700 million	0.09%	4.31%
Above \$700 million but not greater than \$800 million	0.11%	4.29%
Above \$800 million but not greater than \$1 billion	0.12%	4.28%
Above \$1 billion but not greater than \$1.5 billion	0.13%	4.27%
Above \$1.5 billion	0.15%	4.25%

Temporary sales and use tax rate cut. Starting with the FY 2024-25 TABOR surplus, the bill establishes a fourth refund mechanism, which temporarily reduces the state sales and use tax rates by 0.13 percentage points during the following fiscal year. This mechanism is activated if the TABOR surplus is expected to be at least \$1.5 billion based on the March revenue forecast selected by the Joint Budget Committee for budget balancing during the preceding fiscal year, and if there is sufficient surplus to fully fund the first two refund mechanisms.

Order of TABOR refund mechanisms. The bill specifies the order in which TABOR mechanisms after the homestead exemption reimbursements are to be triggered under the bill, depending on the amount of the TABOR surplus as follows:

- if the remaining TABOR surplus is \$300 million or less, only the sales tax refund mechanism is triggered;
- if the remaining TABOR surplus is above \$300 million but less than \$1.5 billion, refunds are distributed first through the income tax rate reduction, then through the sales tax refund mechanism; and
- if the remaining TABOR surplus is above \$1.5 billion, refunds are distributed first through the income tax rate reduction, then through the sales and use tax rate reduction, and lastly through the sales tax refund mechanism.

Sales tax refund mechanism. The bill increases the amount of the identical refund threshold for the sales tax refund mechanism, from \$15 to the lowest amount listed for Colorado in the most recent table published in the Internal Revenue Service instructions for Schedule A on itemized deductions. The most recent amount, for tax year 2023, is \$197.

Background

TABOR refund mechanisms. Article X, Section 20, of the Colorado Constitution (TABOR) requires revenue collected in excess of an annual limit (TABOR limit) to be refunded to taxpayers, unless voters approve a measure allowing the state to retain the excess. TABOR allows the state to use “any reasonable method” for refunds. Since the enactment of TABOR, the state has created over 20 different refund mechanisms, most of which have been repealed. There are three permanent refund mechanisms in current law: the homestead exemptions for seniors, veterans with a disability, and Gold Star spouses, for which reimbursements are paid to local governments; a temporary income tax rate reduction; and the six-tier sales tax refund mechanism.

Income tax rate reduction mechanism. The income tax rate reduction mechanism, which temporarily reduces the individual income tax rate to 4.5 percent, is the second of the TABOR refund mechanisms in current law, should excess revenues be sufficient to fund it after the homestead exemption reimbursements to local governments. However, this second refund mechanism is inactive under current law because the state income tax rate is 4.40 percent.

Sales tax refund mechanism. Under current law, any TABOR refund obligation remaining after refunds are paid via other mechanisms is refunded via the sales tax refund mechanism, which is either flat or tiered depending on the amount of the surplus. This mechanism distributes TABOR refunds to full-year Colorado resident individual income taxpayers who file a state income tax return. Taxpayers receive an identical refund amount if the amount is not greater than \$15, the current law identical refund threshold. Otherwise, refunds are distributed to taxpayers in six adjusted gross income tiers following the distribution of refunds in tax year 1999. Tier thresholds and refund amounts are set by the Department of Revenue (DOR) each September after the State Controller certifies the amount of the refund obligation, in order to approximate the 1999 distribution as closely as possible. The refund is called a “sales tax refund” because it refunds revenue collected from the general state sales tax. However, refunds are paid to income taxpayers via the state income tax form.

State Expenditures

The bill increases General Fund expenditures in the DOR by \$59,443 in FY 2024-25, by \$7,328 in FY 2025-26, and by similar amounts in future years. These costs are shown in Table 3 and detailed below.

Table 3
Expenditures Under HB 24-1052

	FY 2024-25	FY 2025-26
Computer Programming and Testing	\$52,051	-
Research and Analysis	\$7,392	\$7,328
Total Costs	\$59,443	\$7,328

Department of Revenue. The DOR will have increased expenditures to implement the reinstated tax credit and to process and review returns claiming the tax credit as follows:

- **Computer programming and testing.** For FY 2024-25 only, the DOR will have one-time costs of \$52,051 for computer programming and testing. Programming costs are estimated at \$27,810 representing 120 hours of contract programming at a rate of \$231.75 per hour. Costs for testing to ensure that programming changes are functioning properly are estimated at \$24,241, representing 475 hours for the Innovation, Strategy, and Delivery section in the Executive Director’s Office at \$35 per hour and 238 hours of user acceptance testing at a rate of \$32 per hour.
- **Research and Analysis.** Expenditures in the Office of Research and Analysis are required for changes in 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, or 231 hours for data management and reporting at a rate of \$32 per hour for FY 2025-26 and ongoing.

Other Budget Impacts

TABOR refunds. The bill has no impact on the amount required to be refunded under TABOR; however, it changes the mechanisms used to refund the TABOR obligations for FY 2023-24 and future years. Refunds of given fiscal year surplus are paid in the following fiscal year using the income tax return.

Current law. The March 2024 Legislative Council Staff forecast estimates that the state will be required to refund:

- \$1.82 billion for FY 2023-24, paid in FY 2024-25;
- \$1.91 billion for FY 2024-25, paid in FY 2025-26; and
- \$2.29 billion for FY 2025-26, paid in FY 2026-27.

Under current law, the following methods will be used to issue refunds:

- *Homestead exemption reimbursements to local governments* will be used to refund \$174.8 million for FY 2023-24, \$180.6 million for FY 2024-25, and \$186.6 million for FY 2025-26.
- The *six-tier sales tax refund mechanism* will be used to refund \$1.65 billion for FY 2023-24, \$1.73 billion for FY 2024-25, and \$2.10 billion for FY 2025-26.

Under SB 24-228. This bill will result in the amounts listed above for the six-tier sales tax refund mechanism being reduced, and instead being refunded via the temporary income tax rate reduction and the temporary sales and use tax refund mechanism, with the remainder refunded via the sales tax refund mechanism. The TABOR surplus is expected to be sufficient to trigger the full 0.15 percent income tax rate cut.

- *The temporary income tax rate reduction* will be used to refund \$466.7 million for FY 2023-24, \$484.3 million for FY 2024-25, and \$421.6 for FY 2025-26.
- *The temporary sales and use tax rate reduction* will be used to refund \$223.6 million for FY 2024-25 and \$234.3 million for FY 2025-26.
- *The six-tier sales tax refund mechanism* will be used to refund the remaining \$1.18 billion for FY 2023-24, \$1.02 billion for FY 2024-25, and 1.59 billion for FY 2025-26.

Expected TABOR refund mechanisms under current law and SB 24-238 are shown in Figures 1 and 2.

Figure 1
Expected TABOR Refunds and Refund Mechanisms Under Current Law
 Dollars in Millions

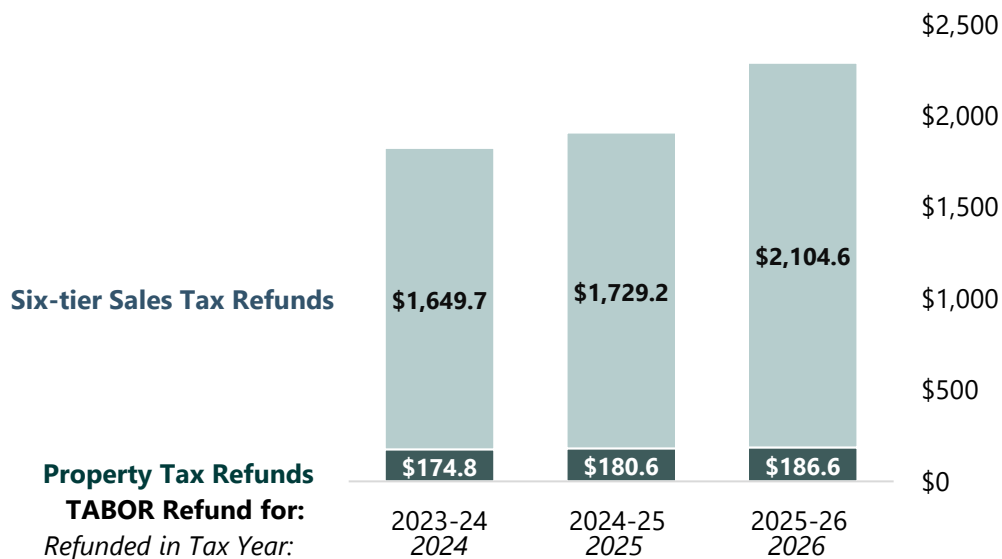
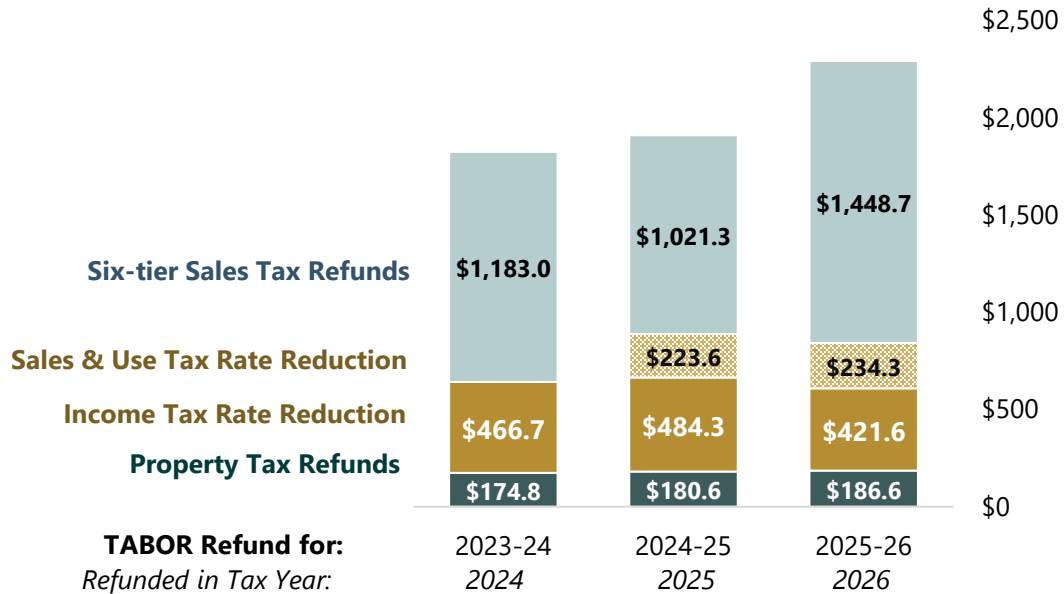


Figure 2
Expected TABOR Refunds and Refund Mechanisms Under SB 24-228
 Dollars in Millions



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 upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$59,443 to the Department of Revenue.

State and Local Government Contacts

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](#).