2024 TABOR Surplus Dollars
Why they should target low- and middle-income working families

This brief looks at the distributional impacts of returning TABOR surplus revenue through five methods and which method would be most beneficial to low- and middle-income working families for tax year 2024:

1. Cutting the State Sales Tax
2. Six-Tier Sales Tax Mechanism
3. Earned Income Tax Credit
4. Cutting the Income Tax Rate
5. Identical TABOR rebates

Background

The Taxpayer's Bill of Rights (TABOR) is an amendment that says taxes and fees can't grow faster than the combined rate of inflation plus population growth. When Colorado collects more taxes and fees than the cap allows, the revenue above that cap goes back to taxpayers in the form of TABOR rebates. TABOR doesn't specify how the money must go back to taxpayers; there have been nearly two dozen methods of returning TABOR rebates in the past. In the last couple of years, the legislature has made some changes to these mechanisms.

Colorado has been issuing historically large TABOR rebates in the past several years. In Tax Year 2022, the legislature sent the bulk of the TABOR surplus back through identical $750 checks (double for joint filers) that were mailed to tax filers through SB22-233. In addition to those identical checks, the surplus revenue was also used to fund a property tax break for seniors, disabled veterans, and Gold Star spouses through the Homestead Exemption. The remaining surplus ($796 million) was returned to tax filers via the Six-Tier mechanism.

For Tax Year 2023, the legislature passed HB-1311, which made identical rebates contingent upon Proposition HH's passage. When HH failed, the legislature reconvened for a Special Session, which, among other things, reconfigured how some of the surplus was to be returned. The bulk of the surplus was returned through an enhanced Earned Income Tax Credit (EITC) – which increased the credit from 25 percent to 50 percent of the federal amount – and identical rebates of $800 per tax filer. It also funded the Homestead Exemption and additional property tax cuts.

TABOR Rebates in 2024

How TABOR rebates will be sent to Colorado taxpayers for Tax Year 2024 hasn't been decided yet. Current projections[1] show that $1.65 billion will be returned[2]. After the Homestead Exemption is funded out of the TABOR surplus, the remaining surplus is returned by the current method on the books known as the Six-Tier Sales Tax Rebate Mechanism, which divides filers into six categories depending on their income. The chart below shows what refund projections look like depending on a filer's income tier.

Tax Year 2024 Six-Tier Rebate Amounts of $1.65 Billion		
Taxpayer AGI	**Single Filers**	**Joint Filers**
up to $52,000	$290	$580
$52,001 to $107,000	$386	$772
$107,001 to $171,000	$445	$890
$171,001 to $243,000	$529	$1,058
$243,001 to $319,000	$569	$1,138
Above $319,000	$915	$1,830
Source: Colorado Legislative Council's March 2024 Forecast		

The current Six-Tier Sales Tax Rebate Mechanism is a less progressive way to return TABOR revenue than the methods used in the past two years. Identical amounts used in 2022 and 2023 give a higher portion of the TABOR surplus to the bottom 62 percent of tax filers (those making less than about $107,000 annually). For example, giving all tax filers an identical $800 compared to the Six-Tier Sales Tax Rebate Mechanism redistributed $410 million from the top to those making less than $104,000. For someone earning less than $51,000, that $800 rebate would have only been $586 if the Six-Tier Sales Tax Rebate Mechanism was in place for 2023. The identical rebate gave an extra $214 per filers to those earning less than $51,000.

Cutting the Sales Tax Rate

Colorado's state sales tax is 2.9 percent. Cities and special districts add local sales taxes to this base rate to pay for local services. For instance, consumers pay 8.81 percent sales tax on goods in Denver, which is a summation of the state's 2.9 percent, 4.81 percent to Denver, 1 percent to RTD, 0.1 percent to museum/zoo.

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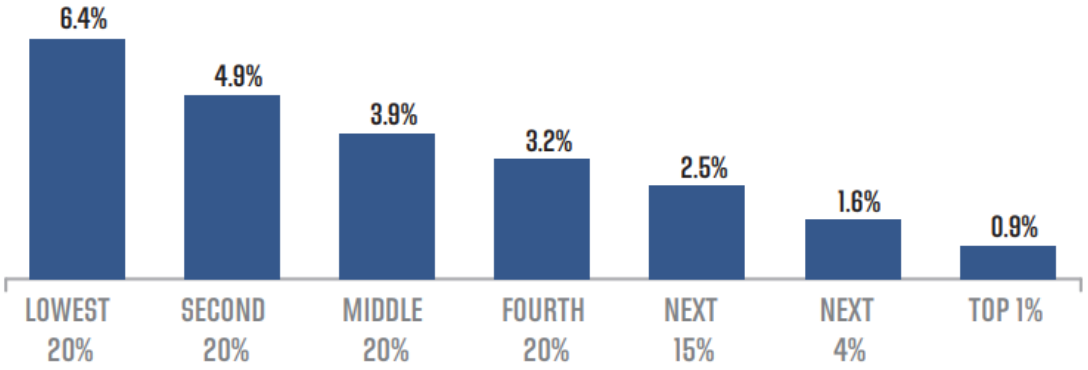
[1] Based on the March 2024 Revenue Forecast prepared by Legislative Council.
[2] After the first $174.8 million TABOR surplus is used to fund the property tax break for seniors and disabled veterans.

Sales taxes are typically regressive – meaning they eat into a greater share of the earnings of lower income households. For example, a household earning $27,000 a year pays 6.4 percent of their income on average in sales tax compared to a household earning $300,000 who pays 2.5 percent of their income in sales tax.

Portion of Income Paid in Sales Taxes in Colorado by Income Quintile



Source: Institute on Taxation and Economic Policy

Since sales taxes are regressive, it might seem tempting to lower the sales tax as a way to return TABOR surplus to Colorado families – but cutting the sales tax actually gives a large benefit to out-of-staters. Exporting the sales tax payments happens both through visitor purchases (16 percent[3]) and Colorado businesses selling their products to out-of-state purchasers (7 percent[4]). CFI estimates that 23 percent of sales taxes are paid by non-Coloradans. Cutting the state sales tax gives only 77 percent of the benefit to Coloradans, which is not the best use of our almost $2 billion surplus.

Additionally, although they spend more of their income on sales taxes, lower-income earners don't receive a huge benefit from cutting the rate. Cutting the rate from 2.9 percent to 2.7 percent would reduce state revenue by $316 million a year and would save someone making $50,000 a year about $40. If that same $316 million was given back to Colorado tax filers in an identical amount, it would give every filer about $80. Said differently, you need to make over $150,000 a year before the cut to the sales tax to 2.7 percent from 2.9 percent would save you more than $80.

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[3] See Colorado Travel Impacts by State House District, 2022p Prepared for the Colorado Tourism Office Denver, Colorado by Dean Runyan Associates available at https://oedit.colorado.gov/sites/coedit/files/documents/Dean%20Runyan_CO%20House%20District_Economic%20Impact_2022.pdf

[4] See 2021 Minnesota Tax Incidence Study An Analysis of Minnesota's Household and Business Taxes Available at https://www.revenue.state.mn.us/sites/default/files/2023-12/2021-tax-incidence-study-post-pub-revisions-v2.pdf and the Institute of Taxation and Economic Policy's Colorado tax model that estimates 23.8% of sales tax benefits out of staters.

Six-Tier Sales Tax Rebate Mechanism

The current law method distributes TABOR surplus based on the proportions below. For example, the bottom tier captures 35 percent of filers who each split 24 percent of the excess TABOR revenue ran through this mechanism. The method is slightly progressive, because it gives a higher portion of income in rebates to lower income filers. $290 to someone earning $35,000 is 0.83 percent of their income, whereas $569 to someone earning $300,000 is 0.19 percent of income. Though it's not nearly as progressive as the identical TABOR rebate method or the EITC, it has the added benefit of not being taxed at the federal level and it gives the entire rebate amount to Colorado residents.

	Share of Tax Filers	Share of Rebate Amount
up to $52,000	34.98%	24.04%
$52,001 to $107,000	26.95%	24.69%
$107,001 to $171,000	17.43%	18.38%
$171,001 to $243,000	9.09%	11.39%
$243,001 to $319,000	4.35%	5.86%
Above $319,000	7.21%	15.64%

Earned Income Tax Credit

The EITC is a targeted tax credit to those who make less than $57k a year (or about $64k for joint filers). The Colorado EITC is a refundable credit based on the percentage of the federal EITC. The credit depends on a filer's income and number of qualifying children. For example, a single parent with three kids could receive up to $3,715 from Colorado's EITC in 2023.

Qualifying Children	50% EITC Match Max Credit Tax Year 2023 Colorado
0	$300
1	$1,998
2	$3,302
3	$3,715

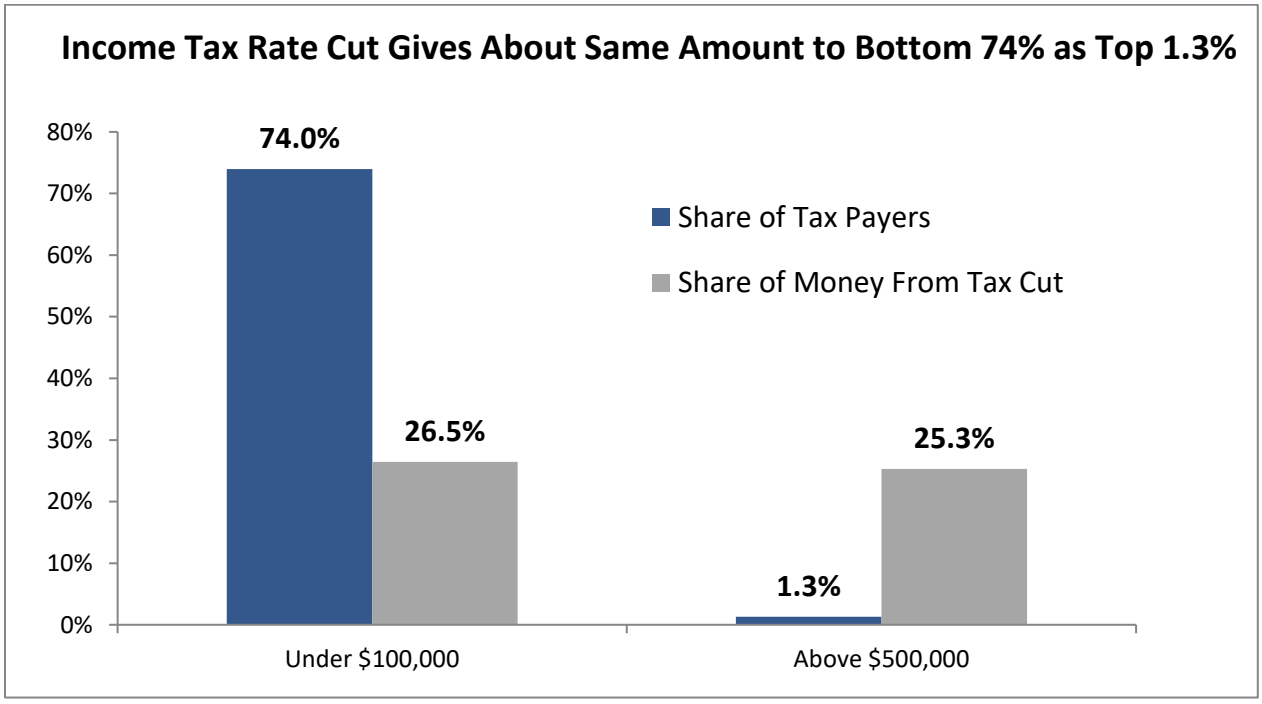
The EITC is not considered taxable income for IRS purposes. The 2023 Special Session increased this credit to 50 percent of the federal credit and used TABOR surplus revenue to pay for it for a single year. That expansion used $183 million from the FY 2022-23 surplus.

An additional bill would need to be passed to make the 50 percent EITC permanent.

Cutting the Income Tax Rate

The current income tax rate is a flat 4.4 percent, which gets applied to taxable income when you file your income taxes each year. Broad based income tax rate cuts give a substantial amount of the tax benefit to the highest income earners since they own a substantial amount of taxable income. Said another way, the top 1.3 percent would see the amount they pay in taxes fall by nearly the same dollar amount of the reduction for the bottom 3 quarters of taxpayers if the income tax rate was cut[5].

In addition, about a quarter of tax filers, including many older Coloradans with retirement income, would not get a single penny from an income tax rate cut because they have no income tax liability. Also, an income tax rate cut gives 10 percent of the benefit to corporations, who would pay the lower rate on corporate profits.



Identical TABOR Rebates

If $1.65 billion is returned via the identical method, it would give $422 to every tax filer. That would give more of the TABOR surplus to those earning less than $107,000. Identical rebate amounts give more to the bottom 62 percent of tax filers in Colorado than the Six-Tier Sales Tax Rebate Mechanism.

[5] CFI analysis of IRS Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2020

Identical Rebates vs Six-Tier Tax Year 2024 of $1.65 Billion		
AGI	**Six-Tier Amount**	**Identical Amount**
up to $52,000	$290	$422
$52,001 to $107,000	$386	$422
$107,001 to $171,000	$445	$422
$171,001 to $243,000	$529	$422
$243,001 to $319,000	$569	$422
Above $319,000	$915	$422
Source: Colorado Legislative Council's March 2024 Forecast		

Though there was debate about whether the identical checks would be taxed at the federal level, the $750 checks mailed out in 2022 were not. It's still possible in the future that the IRS could tax the identical refunds. If that happens, then less than 100 percent of this TABOR rebate method would be injected into Colorado.

Distributional Impacts[6]

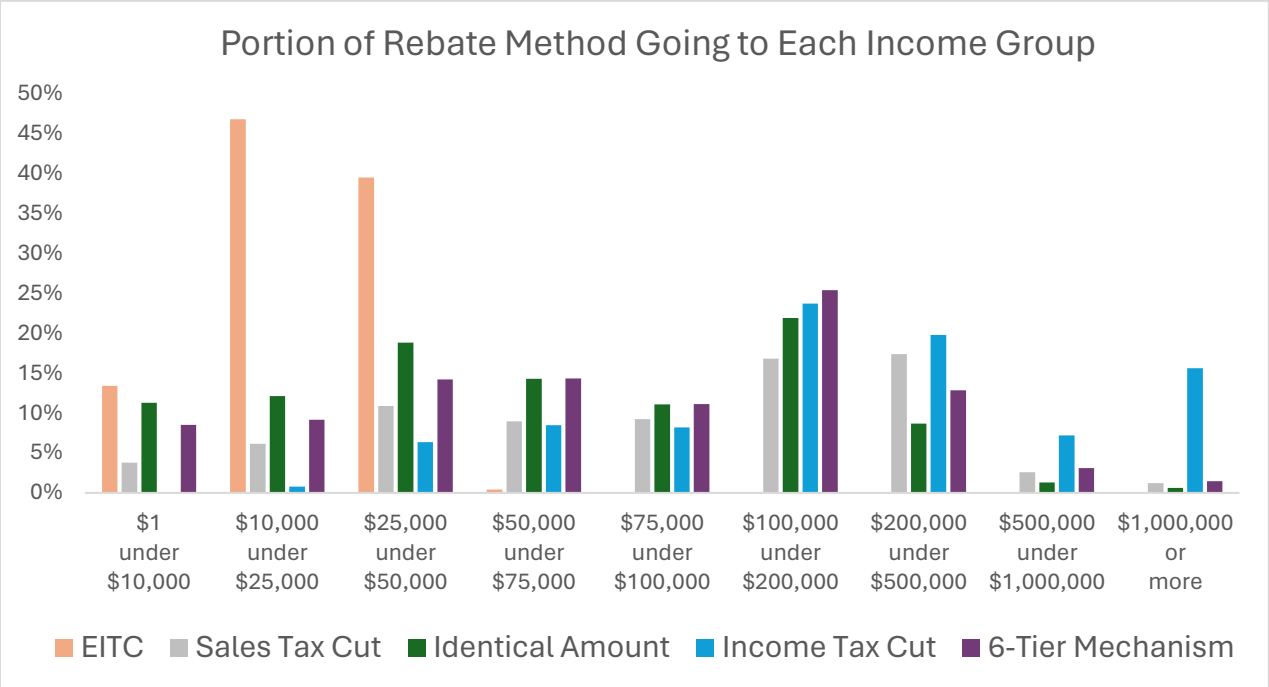
The TABOR rebate options discussed in this brief give different amounts to tax filers at different income levels. The analysis below assumes the exact dollar amount would be run through each of the methods. We believe that TABOR surplus should be better targeted to low- and middle-income working families. The EITC and the identical rebate mechanism give a bigger benefit to that group.

If you make less than $57,000 and have kids, you'd likely get the biggest rebate amount from an expansion of the EITC. Tax filers who make more than $200,000 would get more from an income tax cut as they would from any of the other methods. The identical rebate would be the top method for filers earning between $50,000 and $100,000.

Cutting the state sales tax wouldn't be a top choice for anyone because 23 percent of the benefit leaks out of Colorado. The current law Six-Tier Sales Tax Rebate Mechanism would be the top choice for joint-filers making between $107,000 and $243,000.

[6]CFI analysis of IRS Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2020 and Effective Sales Tax Rates data from BLS's Consumer Expenditure Survey and the Colorado Department of Revenue's 2022 Tax Profile and Expenditure Report.

Share of TABOR Surplus Going to Those Earning Less than $50,000 and $75,000		
	Less than $50,000	**Less than $75,000**
EITC	99.6%	100%
Sales Tax Cut	20.8%	29.7%
Identical Rebate Amount	42.2%	56.4%
Income Tax Cut	7.2%	15.6%
Six-Tier Sales Tax Mechanism	31.8%	46.1%



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Conclusion

Since Colorado has recently cut the income tax rate several times, delivering a disproportionate amount of the tax cuts to higher income earners, we believe TABOR surplus dollars should target low- and middle-income working families. Our top recommendation would be to continue funding the state EITC at 50 percent of the federal (using TABOR surplus of $44.2 million in FY 2023-24, a half-year impact, $136.3 million in FY 2024-25, and $203 million in FY 2025-26) and making the identical TABOR rebate method permanent.

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[7] The income tax method sums to 90% to account for the 10% that goes to corporations. The sales tax method sums to 77% to account for the fact that 23% of the benefit goes to out-of-staters.