Colorado Legislative Council Staff

Bill 1

FISCAL NOTE

FISCAL IMPACT: ☒ State ☐ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number: LLS 16-0340
Prime Sponsor(s):

Date: October 23, 2015
Bill Status: Early Childhood and School Readiness Legislative Commission Bill Request
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BILL TOPIC: START OF THE CHILD TAX CREDIT

Fiscal Impact Summary	**FY 2015-2016** (Current Fiscal Year)	**FY 2016-2017**	**FY 2017-2018**
State Revenue			
Revenue Change			
General Fund	(Up to $22.9 million)	(Up to $46.2 million)	(Up to $46.9 million)
State Transfers			
General Fund			($166.1 million)
Capital Construction Fund			$55.4 million
Highway Users Tax Fund			$110.7 million
State Expenditures		**$243,000**	**$342,762**
General Fund		$209,076	$283,525
Centrally Appropriated Costs		$33,924	$59,237
TABOR Impact		(Up to $46.2 million)	(Up to $46.9 million)
FTE Position Change		2.7 FTE	4.5 FTE
Appropriation Required: $209,076 - Department of Revenue (FY 2016-17)			
Future Year Impacts: Ongoing revenue and expenditure impacts.			

**Numbers in parentheses indicate a decrease.*

Summary of Legislation

This bill, ***requested by the Early Childhood and School Readiness Legislative Commission****,* repeals the contingent start of the refundable Colorado child tax credit, allowing the credit to be claimed beginning in tax year 2016. Under current law, the credit becomes effective beginning with tax year 2016 only if Congress passes the Marketplace Fairness Act (or similar legislation). The Marketplace Fairness Act is federal bill that requires out-of-state retailers to collect and remit sales taxes to states that have met minimum simplification requirements for sales tax administration. To date, Congress has not passed the bill or an alternate measure with similar requirements.

Under this bill, beginning in tax year 2016, qualifying taxpayers may claim a refundable state income tax credit equal to 30 percent, 15 percent or 5 percent of the federal child tax credit depending on their federal adjustable gross income (AGI). The credit is capped for single filers at an AGI of $75,000, and for joint filers at an AGI of $85,000.

Background

Under Section 24 of the Internal Revenue Code (IRC), the federal government allows a non-refundable credit equal to $1,000 per qualifying child age 16 and under. The credit is phased-out for taxpayers with a federal AGI over $75,000 for single filers and $110,000 for joint filers. A refundable child tax credit ("additional credit") is also available for certain taxpayers who get less than the full $1,000 of the child tax credit.

The passage of Senate Bill 13-001 created a refundable credit equal to a percentage of the federal credits claimed under Section 24 of the IRC. The credit can be claimed beginning in tax year 2016, contingent upon the passage of the Marketplace Fairness Act (or similar legislation). To date, Congress has not passed the Marketplace Fairness Act.

Under current law, the Colorado child tax credit is limited to qualifying taxpayers who have a federal AGI at or below $75,000 for single filers and at or below $85,000 for joint filers. The allowable credit is calculated as a percent of the federal credits claimed, and differs based on taxpayer AGI, as summarize in Table 1.

Table 1. Colorado Child Tax Credit Allowed Under Current Law* and LLS 16-0340

Percentage of the Federal Credit	**Federal Adjusted Gross Income (AGI)**	
	Single Filer	Joint Filers
30 percent	Below $25,001	Below $35,001
15 percent	Between $25,001 and $50,000	Between $35,001 and $60,000
5 percent	$50,001 and $75,000	Between $60,001 and $85,000

**Contingent upon the Congress enacting the Market Fairness Act or similar legislation.*

State Revenue

This bill will result in a General Fund revenue reduction of **up to $22.4 million in FY 2015-16 (half-year impact), up to $46.2 million in FY 2016-17, and up to $46.9 million in FY 2017-18.** This revenue impact is ongoing.

Data and assumptions. This fiscal note is based on data obtained from the 2012 Internal Revenue Service (IRS) Statistics of Income for the number of eligible dependents for which the federal child tax credit and additional child tax credit were claimed. Estimates account for the qualifying requirements of this bill, including filing status, federal AGI, and child age (under 6). Revenue estimates assume the maximum $1,000 federal credit per dependent, and were increased annually by the State Demographer's anticipated growth rate for the state population of children under 6. Based on these assumptions, this fiscal note estimates the maximum revenue impact of the bill, and will be revised as additional information becomes available.

TABOR Impact

This bill reduces state General Fund revenue by **up to $22.4 million in FY 2015-16 (half-year impact), up to $46.2 million in FY 2016-17 and up to $46.9 million in FY 2017-18**. This will reduce the state's TABOR surplus and the amount of money required to be refunded to taxpayers. Table 3 shows the projected impact of this bill on the mechanisms used to refund the TABOR surplus under current law.

Based on the September 2015 Legislative Council Staff forecast, the individual income tax rate reduction is expected to be available as a TABOR refund mechanism in FY 2016-17 and FY 2017-18. In FY 2016-17, this bill could reduce the TABOR surplus below the $216.1 million threshold required to trigger the individual income tax rate reduction. If this were to occur, the entire TABOR surplus will be refunded through the Six Tier Sales Tax Refund.

Table 2. Impact of LLS 16-0340 on Current Refund Mechanisms
Millions of Dollars

	FY 2016-17 Surplus FY 2017-18 Refund Tax Year 2017	FY 2017-18 Surplus FY 2018-19 Refund Tax Year 2018
Current Law		
Revenue above the TABOR limit	$252.2 million	$352.0 million
Income Tax Rate Reduction	$216.1 million	$228.1 million
Sales Tax Refund	$36.1 million	$123.9 million
LLS 16-0340		
Revenue above the TABOR limit	$206.6 million	$305.1 million
Income Tax Rate Reduction	$0.0	$228.1 million
Sales Tax Refund	$206.6 million	$77.0 million
Change from Current Law		
Revenue above the TABOR limit	($46.2 million)	($46.9 million)
Income Tax Rate Reduction	($216.1 million)	$0.0
Sales Tax Refund	$169.9 million	($46.9 million)
Total Change from Current Law	($46.2 million)	($46.9 million)

Source: Legislative Council Staff Forecast, September 2015.

Senate Bill 09-228 Transfers. When the TABOR surplus is between 1.0 percent and 3.0 percent of General Fund revenue, the Senate Bill 09-228 transfers are halved; when the TABOR surplus exceeds 3.0 percent the Senate Bill 09-228 transfers are suspended. This bill could reduce the TABOR surplus in FY 2017-18 to below 1.0 percent of General Fund revenue, which will increase the amount of money transferred to the Capital Construction Fund by $55.4 million and the Highway Users Tax Fund by $110.7 million in FY 2017-18.

State Expenditures

This bill will increase General Fund expenditures for the Department of Revenue by **$209,076 and 2.7 FTE in FY 2016-17 and $283,525 and 4.5 FTE in FY 2017-18.** Costs include personal services, operating expenses, document management, and programming and forms change costs, as summarized in Table 3.

Table 3. Expenditures Under LLS 16-0340		
Cost Components	**FY 2016-17**	**FY 2017-18**
Personal Services - Auditing and Review	$79,581	$185,688
FTE	1.2	2.8
Personal Services - Call Center	$63,880	$72,398
FTE	1.5	1.7
Operating Expenses and Capital Outlay Costs	$15,263	$25,439
Programming Costs	$50,352	
Centrally Appropriated Costs*	$33,924	$59,237
TOTAL	**$243,000**	**$342,762**

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

Taxpayer Service Division. This bill requires new FTE in the Department of Revenue for auditing and reviewing returns. An estimated 173,396 households will claim the child tax credit in tax year 2016. This fiscal note assumes that 10 percent of this amount, or 17,340 returns, will be reviewed before authorizing the credits.

Call Center. The call center will require additional FTE beginning FY 2016-17. It is expected that the Taxpayer Services Call Center will need to respond to 17,500 additional calls each year related to the child tax credit (10 percent of the returns filed).

Programming costs. The department will incur a one-time programming cost for contract work required to modify the tax accounting system program (GenTax) at a hourly rate of $219 for 208 hours. Additionally, Fairfax programming to modify four different state income tax forms (104CR, 112CR, DR 105, and 106CR) will be required.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 4.

Table 4. Centrally Appropriated Costs Under LLS 16-0340		
Cost Components	**FY 2016-17**	**FY 2017-18**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$21,648	$36,111
Supplemental Employee Retirement Payments	$12,276	$23,126
TOTAL	**$33,924**	**$59,237**

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

Departmental Differences

The IRS has documented that federal refundable tax credits are subject to higher rates of fraud than non-refundable tax credits. The Department of Revenue has indicated that adequate verification and auditing to reduce fraudulent claims of the Colorado child tax credit would require General Fund expenditures of $3.0 million and 37.7 FTE in FY 2016-17 and $2.5 million and 34.2 FTE in FY 2017-18. These amounts include the state expenditures and FTE estimates already included in this fiscal note. This fiscal note assumes a 10 percent review rate, consistent with historical review rates for most returns. Estimates provided by the department assume higher review and protest rates and greater document management demands.

State Appropriations

The Department of Revenue will require a General Fund appropriation of $209,076 and 2.7FTE in FY2016-17.

State and Local Government Contacts

Legislative Council Staff Revenue