HB 24-1311

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 28, 2024)

Drafting Number:	LLS 24-0942	**Date:**	April 17, 2024
Prime Sponsors:	Rep. deGruy Kennedy; Willford Sen. Winter F.; Coleman	**Bill Status:**	House Appropriations
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Bill Topic: **FAMILY AFFORDABILITY TAX CREDIT**

Summary of Fiscal Impact:

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

The bill creates an income tax credit for Coloradoans with children ages 16 and under. It decreases state revenue and increases state expenditures starting in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $178,494 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under HB 24-1311

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($655,000,000)	($695,000,000)
	Total Revenue	**($655,000,000)**	**($695,000,000)**
Expenditures	General Fund	$178,494	$121,433
	Centrally Appropriated	$20,610	$25,612
	Total Expenditures	**$199,104**	**$147,045**
	Total FTE	**1.2 FTE**	**1.5 FTE**
Transfers		-	-
Other Budget Impacts	TABOR Refund	($655,000,000)	($695,000,000)
	General Fund Reserve	$26,774	$18,215

Summary of Legislation

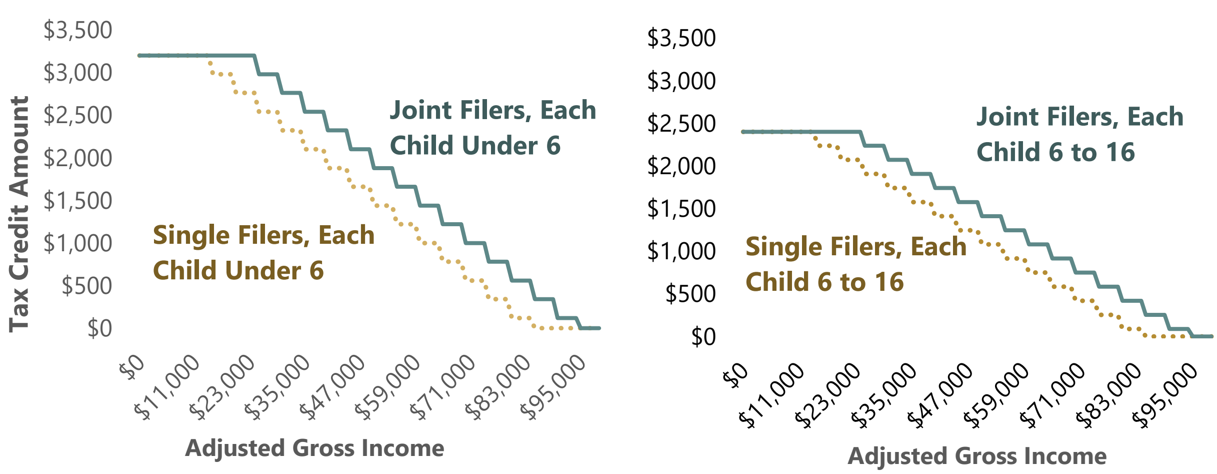
Starting with tax year 2024, the bill creates a family affordability income tax credit for Coloradans with children. The credit is available to single filers with a federal adjusted gross income (AGI) up to $75,000 or joint filers with AGI up to $85,000. The credit is refundable, meaning any amount by which the credit exceeds a taxpayer's tax liability is refunded to the taxpayer.

The amount of the credit is:

- for each child under age 6, $3,200 for single filers with AGI of $15,000 or less, reduced by $220 for every $5,000 of AGI above $15,000; and
- for each child ages 6 to 16, $2,400 for single filers with AGI of $15,000 or less, reduced by $165 for every $5,000 of AGI above $15,000; or
- for each child under age 6, $3,200 for joint filers with AGI of $25,000 or less, reduced by $220 for every $5,000 of AGI above $25,000; and
- for each child ages 6 to 16, $2,400 for joint filers with AGI or $25,000 or less, reduced by $165 for every $5,000 of AGI above $25,000.

Figure 1 shows the amount of credit allowed for taxpayers for each eligible child, depending on their AGI and the child's age. Starting with tax year 2025, AGI amounts are adjusted for inflation and rounded to the nearest one thousand dollars.

Figure 1
HB 24-1311 Tax Credit Amounts by Adjusted Gross Income, Filing Status, and Child's Age
Tax Year 2024



The credit becomes available for a tax year depending on the Legislative Council Staff (LCS) and Office of State Planning and Budgeting (OSPB) September forecasts prepared during the tax year. If either forecast indicates that revenue for the current fiscal year will not exceed the Referendum C cap, or will not exceed the cap by enough to fully fund the homestead exemption reimbursements to local governments, then the credit does not become available for the tax year. If either forecast indicates that revenue for the current fiscal year will exceed the

Referendum C cap by enough to fully fund homestead exemption reimbursements, but not by enough to fully offset the impact of this credit, then the credit amount is reduced proportionally. If both forecasts indicate that revenue for the current fiscal year will exceed the cap by enough to fully fund homestead exemption reimbursements, and fully offset the impact of this credit, then the credit is fully available for the tax year.

The bill authorizes and encourages the Department of Revenue (DOR) to develop a way to distribute the credits in 12 monthly payments, rather than once annually, but does not require distributions on this schedule.

State Revenue

The bill decreases General Fund revenue by an estimated $655 million in FY 2024-25, $695 million in FY 2025-26, and larger amounts in later years. The bill reduces individual income tax revenue, which is subject to TABOR.

Forecast trigger. The current (March 2024) forecasts from both LCS and OSPB anticipate sufficient revenue in both FY 2024-25 and FY 2025-26 to satisfy the trigger, and the fiscal note assumes that the credit will be available for both tax years 2024 and 2025. If the September forecasts anticipate less revenue than the current forecasts, the credit amount may be reduced, or the credit may not become available, and the bill would reduce revenue by less than estimated.

Because the forecast that determines the trigger will be published in the fiscal year when taxes are paid, it will be too late for adjustments to be made to accrue any of the credit's revenue impact to the fiscal year that ended during the fiscal year. Accordingly, the fiscal note expects the entire revenue impact for each tax year to occur in the fiscal year that begins during the tax year. For example, the entire tax year 2024 impact is expected to affect state revenue in FY 2024-25, and so on.

Source data. Based on data reported by the Department of Revenue, there were 370,333 tax returns remitted for tax year 2019 that would have qualified for the tax credit based on their adjusted gross income and number of dependents. If all of these returns had claimed the credit in 2019, the total credit amount would have been about $900 million.

Utilization. The fiscal note adjusts the 2019 amount for the Colorado population of children 16 and under, which has decreased by about 3 percent since 2019. It assumes 75 percent utilization for the credit in tax year 2024, growing to 80 percent in 2025 and 85 percent in 2026. The utilization rate will have a significant effect on the amount refunded under the bill. If 100 percent of eligible taxpayers claim the credit, the credit in the bill would be estimated to reduce state revenue by about $870 million annually.

State Expenditures

The bill increases expenditures for the Department of Revenue by about $200,000 in FY 2024-25 and by about $150,000 in FY 2025-26 and later years. Expenditures are summarized in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1311

		FY 2024-25	FY 2025-26
Department of Revenue			
Personal Services		$71,100	$87,268
Operating Expenses		$1,536	$1,920
Capital Outlay Costs		$6,670	-
Software Programming and Testing		$65,801	-
Data Analysis and Reporting		$7,392	$7,328
Form Changes and Document Management		$25,995	$24,917
Centrally Appropriated Costs[1]		$20,610	$25,612
	Total Cost	**$199,104**	**$147,045**
	Total FTE	**1.2 FTE**	**1.5 FTE**

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

Department of Revenue. The tax credit in the bill increases costs in the DOR as discussed below.

- **Tax personnel.** The bill requires 1.5 FTE tax examiners to review tax credit claims and staff the call center to assist taxpayers with questions. Relative to other tax credits with similar populations, the personnel expenditures in this fiscal note are lower, as eligibility for the credit can be automatically identified using other information on a taxpayer's return, and because most department support for these taxpayers can operate similarly to support provided to taxpayers claiming the state child tax credit. Costs for FY 2024-25 are prorated to reflect an October 2024 start date and standard operating and capital outlay costs are included.

- **Software programming and testing.** This bill requires expenditures of $65,801 to program, test, and update database fields in DOR's GenTax software system. Programming costs are estimated at $33,604, representing 145 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $22,085 for 631 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $10,112 for 316 hours of user acceptance testing at a rate of $32 per hour.

  In future years, if the credit becomes available or unavailable based on the trigger mechanism in the bill, similar programming expenses of about $65,000 will be required to adjust the GenTax system accordingly.

- **Data analysis and reporting.** Expenditures in the Office of Research and Analysis 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.

- **Form changes and document management.** The bill is estimated to require $25,995 in FY 2024-25 and $24,917 in FY 2025-26 to update tax forms and process paper returns, based on the taxpayer population estimated in the fiscal note. These costs occur in the Department of Personnel and Administration and are paid using reappropriated DOR 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. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. 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. 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.

Technical Note

The Office of the State Auditor (OSA) is required to conduct recurring evaluations of each state tax expenditure according to metrics established when the tax expenditure is created or extended. The bill includes metrics to evaluate the performance of the tax expenditure; however, data may not be available in the future to evaluate the performance of this expenditure using these metrics. If data are unavailable, the OSA will evaluate the performance of the tax expenditure based on data available at the time.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $178,494 to the Department of Revenue, and 1.2 FTE. Of this amount, $25,995 is reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

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.