HB10-1002

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 10-0233	**Date:**	January 13, 2010
Prime Sponsor(s):	Rep. Kefalas Sen. Sandoval	**Bill Status:**	House Finance
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TITLE: CONCERNING AN INCREASE IN THE THRESHOLD NECESSARY TO TRIGGER A TEMPORARY INCOME TAX RATE REDUCTION AS A METHOD TO REFUND EXCESS STATE REVENUES BY AN AMOUNT EQUAL TO THE THRESHOLD NECESSARY TO TRIGGER THE EARNED INCOME TAX CREDIT REFUND.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue	$0	$0
State Expenditures	$0	$0
FTE Position Change		
Effective Date: The bill is effective upon the signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill increases the threshold necessary to trigger the Temporary Income Tax Rate Reduction TABOR refund mechanism so that the refund only applies if there is also enough surplus revenue to trigger the Earned Income Tax Credit (EITC) refund. Therefore, this bill reorders the TABOR refund mechanisms, where the EITC refund would precede the Temporary Income Tax Rate Reduction mechanism (and all other mechanisms) when the TABOR surplus is large enough.

Background

TABOR Refund Mechanisms. Article X, Section 20 of the Colorado Constitution requires that revenue in excess of the Taxpayer Bill of Rights (TABOR) limit be refunded to taxpayers. The General Assembly may statutorily determine how this "surplus" revenue is refunded. Under current law there are a total of 15 refund mechanisms.

TABOR Surplus. The December Legislative Council Staff forecast indicates that a TABOR revenue surplus is not expected through FY 2011-12. Thus, no TABOR refunds are anticipated until after FY 2011-12.

Temporary Income Tax Rate Reduction. House Bill 05-1194 created a new TABOR refund mechanism where, starting with income tax year 2011, the state income tax rate will be temporarily reduced from the rate of 4.63 percent to 4.50 percent when the state experiences a revenue surplus large enough to support the rate reduction. Under current law this refund mechanism is set to precede all other mechanisms when revenue is large enough to support the rate reduction.

Earned Income Tax Credit (EITC). The Colorado EITC "piggybacks" off of the federal EITC, which provides a tax credit to individuals who work but do not earn high incomes. Qualifying Colorado taxpayers may receive up to 10 percent of the federal credit amount in TABOR surplus years. Colorado taxpayers who claim the federal credit may claim the state credit. In tax year 2008, the federal credit could be claimed by certain taxpayers with modified federal adjusted gross incomes less than:

- $38,646 ($41,646 if married filing jointly) with two or more qualifying children;
- $33,995 ($36,995 if married filing jointly) with one qualifying child; and
- $12,880 ($15,880 if married filing jointly) with no qualifying children.

State Fiscal Impact

Change in TABOR Refund Distribution. This bill impacts the state distribution of the TABOR refund, changing how much of the TABOR surplus the state refunds to certain Coloradans. This bill is therefore assessed at having a state fiscal impact due to this change in distribution.

Under current law, the temporary income tax rate reduction reduces the refund amount available for other refund mechanisms, where all other refund mechanisms will only be triggered if a TABOR surplus is sufficient enough to meet threshold amounts after the income tax rate reduction is fully funded. For example, under current law the earned income tax credit (EITC) would only be triggered if the FY 2010-11 TABOR surplus exceeds $217.2 million ($133.7 million to fund the temporary income tax rate reduction plus the $83.4 million EITC threshold).[1] This bill would allow the temporary income tax rate reduction only if the surplus is large enough to support the income tax rate reduction *and also* fund the EITC refund mechanism.

This bill is not expected to impact state revenue or expenditures. Implementing a change in the order of TABOR refund mechanisms would require only minimal IT programming that would not create a state expenditure impact.

State Appropriations

This bill does not require an appropriation because it does not have a state expenditure impact.

Departments Contacted

[1]Estimates based on the December 2009 Legislative Council Staff forecast.

Revenue