SB15-033

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 15-0500	**Date:**	January 30, 2015
Prime Sponsor(s):	Sen. Kerr	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Josh Abram (303-866-3561)

BILL TOPIC: INCREASING FUNDING FOR PUBLIC PRE-K-12 EDUCATION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
General Fund - conditional**	$6.9 million	$59.9 million
State Transfers		
General Fund - conditional**	($128.3 million)	($280.3 million)
SB 228 transfers to CCF - conditional**	$25.7 million	$56.1 million
SB 228 transfers to HUTF - conditional**	$102.6 million	$224.2 million
State Expenditures		
General Fund	$34.4 million	$34.4 million
General Fund - conditional**	up to $116.7 million	up to $620.4 million
TABOR Set Aside - conditional**	(120.3 million)***	($620.4 million)
FTE Position Change		
Appropriation Required: $34,423,500 General Fund - Colorado Department of Education. (FY 2015-16)		

* *This summary shows changes from current law under the bill for each fiscal year.*
** *These impacts are conditional, dependent on a vote of the electorate to retain and spend revenue in excess of constitutional limits.*
*** *$3.6 million is added to the TABOR set aside in FY 2015-16 to correct for previous under-refunds.*

Summary of Legislation

Under current law, students who are enrolled in kindergarten are counted as half-day students for purposes of school finance, and each school district receives an additional .08 of a full-day student for each enrolled kindergarten student, for a total factor of 0.58. Beginning with FY 2015-16, this bill increases the factor from 0.58 to 0.65.

The bill states the intent of the General Assembly to increase funding for full day kindergarten (full day K) by specific dollar amounts annually from FY 2016-17 through FY 2020-21.

Subject to a vote of the people, the bill refers a measure to the state ballot authorizing the state to retain and spend all additional excess revenue over the constitutionally allowed limit. If the voters approve, the General Assembly is required to appropriate the additional revenue first to pay for full day K, and second to fund school district total program under the School Finance Act.

Legislative Council is required to prepare an annual report concerning how the retained revenue was spent in each year.

Background

According to data collected by the Colorado Department of Education (CDE), 170 out of 178 school districts currently offer full-day K, but pay for the program in different ways. Some districts use operating revenue from either total program funding or a general mill levy override; some districts have a fee-based program; and two districts (Brush and Summit) have a dedicated mill levy for full-day K.

State Revenue

General Fund revenue - conditional impact. **Should voters approve this measure, General Fund revenue will increase by $6.9 million in FY 2015-16 and $59.9 million in FY 2016-17.** A TABOR surplus triggers statutory changes to the earned income tax credit and the conservation easement tax credit. These changes are expected under current law and would not occur if the state is permitted to retain and spend revenue in excess of its constitutional revenue limit.

State law converts the *earned income tax credit* (EITC) from a refund mechanism to a permanent tax credit the year after it is first used as a refund mechanism, making it available every year regardless of the state's TABOR situation.[1] Under current law and expectations, the credit will become permanent in tax year 2017. Should the state not collect a TABOR surplus, the EITC would not be used as a TABOR refund mechanism and would not become a permanent tax credit. Without a TABOR surplus, this provision will increase General Fund revenue by an estimated $94.9 million in tax year 2017; or $47.5 million in FY 2016-17 on an accrual accounting basis.

State law allows a portion of the *gross conservation easement tax credit* to be refundable when the state incurs a TABOR surplus.[2] In practice, this allows the credit to be partially refundable for tax years during which a TABOR surplus is refunded. Because the credit is transferable and state law caps the amount that can be refunded during any tax year to $50,000[3], the impact of this is expected to be $13.8 million and $10.9 million in tax years 2016 and 2017, respectively, or $6.9 million in FY 2015-16 and $12.4 million in FY 2016-17 on an accrual accounting basis.

State Transfers

SB09-228 Transfers - conditional impact. Senate Bill 09-228 requires a five-year block of transfers to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF) once Colorado personal income increases by at least five percent. Under current law, these transfers are expected to begin in FY 2015-16. However, when the TABOR surplus is between 1.0 percent and 3.0 percent of general fund revenue, the SB 09-228 transfers are halved; when the TABOR surplus exceeds 3.0 percent the SB 09-228 transfers are suspended. Conditional upon voter approval, this bill will eliminate the TABOR surplus, restoring the transfers in full. This will increase

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[1] Sections 39-22-123 (6) and 39-22-123.5 (3), C.R.S.

[2] Section 39-22-522 (5) (b), C.R.S.

[3] Section 29-22-522 (5) (iii), C.R.S.

the amount of money transferred to the Capital Construction Fund by $25.7 million and $56.1 million and to the Highway Users Tax Fund by $102.6 million and $224.2 million, respectively, in FYs 2015-16 and 2016-17.

TABOR Impact

TABOR Refunds — conditional impact. **Should voters approve this measure, refunds of money in excess of the TABOR Limit will not occur beginning in FY 2015-16.** TABOR requires revenue collected in excess of the TABOR limit to be refunded to taxpayers.[4] Under current law, TABOR refunds of $120.3 million and $620.4 million are expected to occur in tax years 2016 and 2017, respectively, to refund excess revenue collected in FYs 2015-16 and 2016-17.[5] Table 1 shows how this money is expected to be returned to taxpayers under current law.

Table 1. Current Law Refunds of Money in Excess of the TABOR Limit
Voter Approval of This Measure Would Eliminate These Refunds
Millions of Dollars

	FY 2015-16 Surplus FY 2016-17 Refund Tax Year 2016	**FY 2016-17 Surplus FY 2017-18 Refund Tax Year 2017**
Revenue above the TABOR limit	$116.7 million	$620.4 million
Earned Income Tax Credit	*$89.3 million*	permanent*
Income Tax Rate Reduction		*$229.7 million*
Sales Tax Refund	*$31.0 million***	*$390.7 million*
Total Refund	**$120.3 million**	**$620.4 million**

Source: Legislative Council Staff Forecast, December 2014.
* *The EITC becomes permanent beginning in the first tax year following the tax year when it is used as a TABOR refund mechanism. Under current law, the EITC is expected to become permanent beginning in tax year 2017. Should the state retain the TABOR surplus, the EITC will not become available. The impact of this for tax year 2017 is included in the revenue impact for FY 2016-17.*
** *$3.6 million is added to the sales tax refund in FY 2015-16 to correct for previous under-refunds*.

In *tax year 2016*, an estimated $89.3 million will be refunded under current law through the earned income tax credit, with the remaining $31.0 million refunded through the sales tax refund. A $31.0 million sales tax refund will be distributed as rebates on the 2016 individual income tax form in an equal amount of $10 per taxpayer. Households filing a joint return will receive $20.

In *tax year 2017*, the refund is expected to be provided through a temporary reduction in the income tax rate from 4.63 percent to 4.50 percent and another sales tax refund under current law. The temporary reduction in the tax rate is expected to refund $229.7 million, leaving $390.7 million for the sales tax refund. As shown in Table 2, the sales tax refund will be distributed among six income tiers; the lowest income tier is expected to receive $79 per taxpayer, while the highest income tier will receive $251 per taxpayer. Households filing a joint return will receive twice these amounts.

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[4] Colo. Const. art. X, § 20 (7) (d).

[5] In addition to the $116.7 million TABOR surplus expected in FY 2015-16, $3.6 million will be refunded to correct for previous under-refunds.

Table 2. Expected Distribution of Sales Tax Refund Under Current Law Households Filing a Joint Return Will Receive Twice These Amounts		
Adjusted Gross Income Tier	**Tax Year 2016**	**Tax Year 2017****
First 35% of Taxpayers	$10 per taxpayer*	$79 per taxpayer
Next 27% of Taxpayers		$106 per taxpayer
Next 17% of Taxpayers		$122 per taxpayer
Next 9% of Taxpayers		$145 per taxpayer
Next 4% of Taxpayers		$156 per taxpayer
Last 7% of Taxpayers		$251 per taxpayer

** The six-tier formula is not used in 2016 because the sales tax refund is not large enough to pay each taxpayer at least $15.*
*** These amounts have been revised from those reported in the December 2014 for new information.*

State Expenditures

For FY 2015-16 and subsequent years, this bill increases expenditures for school finance by $34. 4 million. For FY 2016-17, and only if approved by voters, this referred measure increases state expenditures for school finance by up to an additional $620.4 million.

Increase kindergarten factor in school finance — state fiscal impact. By raising the factor by which school districts count their kindergarten students from .58 to .65, the cost of school finance will increase by about $34.4 million for FY 2015-16.

Retain and spend revenue over the TABOR limit — conditional fiscal impact. The bill refers a measure to the state ballot to request voter approval for the state to retain revenue in excess of its constitutional revenue limit, otherwise known as the "Taxpayer's Bill of Rights Limit" or the TABOR Limit.[6] For FY 2015-16, the TABOR surplus is estimated at $116.7 million. For FY 2016-17, the TABOR surplus is estimated at $620.4 million. If approved by voters, the General Assembly is required to use the retained revenue to pay for full-day K. The surplus amount after paying for full-day K must be appropriated to fund school district total program under the School Finance Act. Since this expense is only required if the voters approve the referred measure, this and the following portion of the fiscal impact are conditional.

Election expenditure impact (existing appropriations). The bill includes a referred measure that will appear before voters at the November 2015 general election. Although no additional appropriation is required in this bill to cover election costs associated with this ballot measure, certain election costs to the state are appropriated as part of the regular budget process. First, state law requires that the state reimburse counties for costs incurred conducting a ballot measure election paid from the Department of State Cash Fund. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure

[6] Colo. Const. art. X, § 20.

must be included in the Ballot Information Booklet (Blue Book) mailed to all registered voter households prior to the election paid from the Ballot Analysis Revolving Fund. Table 3 identifies the anticipated costs for a single statewide ballot measure election in 2015.

Table 3. Projected Costs of a Single Statewide Ballot Measure Election in 2015

Cost Component	Amount
County Reimbursement for Statewide Ballot Measures	$2,400,000
Ballot Information Booklet (Blue Book) & Newspaper Publication	$670,000
TOTAL	**$3,070,000**

School District Impact

In addition to providing more per-pupil revenue for kindergarten students, school districts will have increased expenses to provide full-day K, especially those not currently offering a full-day program. In addition to increased program costs (teachers, aides, transportation, etc.), these few school districts will have capital costs to expand their classroom capacity allowing them to expand the program. Generally, for districts without sufficient classroom space, the bill will increase capital expenses.

For information purposes, one large metro district reports that adding full-day K classroom space in 2011 was roughly $500,000 per classroom added; however, construction costs have increased since 2011 so those estimates are now higher. Another large metro school district reports that current expenses to expand classroom facilities is roughly $300 - $600 per square foot of new construction, and a kindergarten classroom of 1,200 square feet will cost approximately $360,000 to $720,000.

Pursuant to Section 22-32-143, C.R.S., school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: http://www.colorado.gov/lcs

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2015-16, this bill requires a General Fund appropriation of $34,423,500 to the Colorado Department of Education.

State and Local Government Contacts

Education	Legislative Council Staff