**HB05-1232**

# JBC STAFF FISCAL ANALYSIS
# HOUSE APPROPRIATIONS COMMITTEE

CONCERNING THE EARNED INCOME TAX CREDIT.

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|---|---|---|---|
| Prime Sponsors: | Representative Boyd<br>Senator Kester | JBC Analyst:<br>Phone:<br>Date Prepared: | James McCoy<br>303-866-2061<br>April 12, 2005 |

## Summary of Amendments Made to the Bill After the 02/13/05 Legislative Council Staff Fiscal Note was Prepared (Amended by the House Finance Committee 02/17/05)

The House Finance Committee amendment adds a repeal date for the proposed legislation effective January 1, 2015. This change does not affect the fiscal impact of the bill as delineated in the Legislative Council Staff Fiscal Note dated February 13, 2005.

## JBC Staff Concurrence with Legislative Council Staff Fiscal Note

[ ] **Concurs** [ ] **Does Not Concur** [XXX] **Updated Analysis**

## Reason for Non-Concurrence / Updated Analysis

The Legislative Council Staff (LCS) Fiscal Note dated February 13, 2005, is based on the LCS December 2004 revenue forecast and does not reflect the adoption of H.B. 05-1310. This legislation created the term 'over-refund' to account for instances where the amount of state revenues actually refunded during any given fiscal year exceeds the amount of state revenues in excess of an applicable spending limitation (specifically TABOR). Pursuant to said definition, this legislation authorizes a carry-forward of any over-refunds made since FY 2001-02.

Due to the application of carry-forwards per H.B. 05-1310, the LCS March 2004 revenue forecast reduced the State's TABOR surplus to zero. Since the income tax credit is extended beginning with income tax years commencing on or after January 1, 2005, the most recent revenue forecast indicates that a critical six-month General Fund revenue reduction of $31.7 million is accrued to FY 2004-05. The following table summarizes the new fiscal impact of the bill.

| Fiscal Impact Summary | FY 2004/2005 | FY 2005/2006 | FY 2006/2007 |
|---|---|---|---|
| **State Revenues** | | | |
| General Fund | ($31,694,467) | ($31,694,467) | |
| **State Expenditures** | | | |
| General Fund | | | |
| **Impact on TABOR Refund Mechanisms:** | | | |
| Increase in Earned Income Tax Credit | | | $41,060,707 |
| Reduction in Six-Tier Sales Tax Refund | | | ($41,060,707) |

Pursuant to the LCS March 2005 revenue forecast as described on the previous page, the proposed legislation is projected to reduce General Fund revenues by $31.7 million in FY 2004-05. The Joint Budget Committee has submitted a balanced budget package. Since there is no TABOR surplus in FY 2004-05 and all revenues for this fiscal year have been appropriated to cover program expenditures, this bill would require $31.7 million of General Fund reductions to the budget in FY 2004-05.

## Amendments/Appropriation Status

This bill does not contain, nor does it require, an appropriations clause in FY 2005-06.

## Sponsor Amendments

Sponsor amendment **L.005** maintains the Earned Income Tax Credit (EITC) at ten percent of the federal credit amount claimed on an applicable part-year or full-year resident individual's federal tax return. It also eliminates the increase to twenty percent beginning on January 1, 2006, contained in the introduced bill. This amendment eliminates the fiscal impact related to TABOR refund mechanisms delineated in the Legislative Council Staff Fiscal Note dated February 13, 2005. It also changes the revenue impact discussed previously under 'Reason for Non-concurrence/Updated Analysis' as reflected in the following table.

| Fiscal Impact Summary | FY 2004/2005 | FY 2005/2006 | FY 2006/2007 |
|---|---|---|---|
| **State Revenues** | | | |
| General Fund | ($21,129,644) | ($21,129,644) | |
| **State Expenditures** | | | |
| General Fund | | | |
| **Impact on TABOR Refund Mechanisms:** | | | |
| Increase in Earned Income Tax Credit | | | |
| Reduction in Six-Tier Sales Tax Refund | | | |

The revised fiscal impact of the sponsor amendment is based on the data contained in the table on page 2 of the Legislative Council Staff Fiscal Note dated February 13, 2005. Though the effect of H.B. 05-1310 is not eliminated, **L.005** would reduce General Fund revenue by $21.1 million in both FY 2004-05 and FY 2005-06 rather than $31.7 million as previously discussed. However, the impact to the State's TABOR refund mechanisms is eliminated because the Earned Income Tax Credit is maintained at the current level of ten percent.

**Points to Consider**

1. The proposed bill would grant an earned income tax credit in years in which a TABOR surplus does not exist. In such cases, the TABOR base is 'ratcheting' down. An earned income tax credit for those fiscal years would 'ratchet' revenue down even further. This legislation - with or without sponsor amendment **L.005** - would eliminate the threshold (trigger) for the earned income tax credit refund method under current law. For example, in a year in which excess TABOR revenue totaled $10 million, the full amount of the earned income tax credit would still be required. This could create a cash flow issue for the state during that fiscal year.

2. As previously indicated in the 'Reason for Non-Concurrence/Updated Analysis' section, this legislation is projected to reduce General Fund revenues by $31.7 million in FY 2004-05. The Joint Budget Committee has submitted a balanced budget package. Since there is no TABOR surplus in FY 2004-05 and all revenues for this fiscal year have been appropriated to cover program expenditures, this bill would require $31.7 million of General Fund reductions to the budget in FY 2004-05.