HB 24-1134

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 22, 2024)

Drafting Number:	LLS 24-0733	**Date:**	May 1, 2024
Prime Sponsors:	Rep. Weissman; Rutinel Sen. Hinrichsen	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Elizabeth Ramey | 303-866-3522 elizabeth.ramey@coleg.gov

Bill Topic: **ADJUSTMENTS TO TAX EXPENDITURES TO REDUCE BURDEN**

Summary of Fiscal Impact:

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

The bill expands the state earned income tax credit, expands and modifies the state child care expenses tax credit, and modifies requirements for corporations filing a combined tax return. The bill decreases revenue starting in the current FY 2023-24 and increases state expenditures starting in FY 2026-27.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 24-1134

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue	General Fund	($44 mil.)	(up to $136 mil.)	(up to $207 mil.)	(up to $230 mil.)
Expenditures	General Fund	-	-	-	$19,058
Transfers		-	-	-	-
Other Budget Impacts	TABOR Refunds	($44 mil.)	(up to $136 mil.)	(up to $207 mil.)	not estimated
	GF Reserve	-	-	-	$2,859

Summary of Legislation

The bill expands the state earned income tax credit, modifies state income tax credits for child and dependent care expenses, and makes changes concerning corporate income tax combined reporting, as discussed below.

Earned income tax credit. The Colorado earned income tax credit (EITC) is available to taxpayers who claim the federal EITC, and to taxpayers who would otherwise be able to claim the federal EITC but who are ineligible because they do not have a valid social security number. The Colorado EITC is a refundable credit calculated as a percentage of the federal EITC. In tax year 2023, the state EITC is 50 percent of the federal credit.

The bill expands the state EITC to a larger percentage of the federal EITC in 2024 and all future years. The percentages for 2025 and later years depend on projections of state revenue in the December forecast each year.

Unconditional increase. Regardless of future revenue forecasts, the bill expands the state EITC as follows:

- From 38 percent to 50 percent of the federal credit in tax year 2024;
- From 25 percent to 35 percent of the federal credit in tax year 2025; and
- From 20 percent to 30 percent of the federal credit in tax years 2026 and beyond.

Conditional additional increase. After tax year 2024, the amount of the credit may be increased further, depending on an adjustment factor, calculated as the forecasted compound annual growth of state revenue subject to TABOR in any fiscal year in relation to FY 2024-25. The adjustment factor is calculated using the December update of the quarterly forecast selected by the Joint Budget Committee for preparation of the state budget in the preceding March. The credit amount for the tax year immediately following the December forecast is determined by the adjustment factor for the fiscal year that begins during that tax year.

In tax year 2025, the bill expands the state EITC to 50 percent of the federal credit if the adjustment factor estimated in the December 2024 forecast for FY 2025-26 is estimated to be at least 2 percent. For tax year 2026 and beyond, the bill expands the state EITC, depending on the adjustment factor, as follows:

- From 30 percent to 50 percent of the federal credit, if the adjustment factor is at least 3.75 percent;
- From 30 percent to 45 percent of the federal credit, if the adjustment factor is at least 3.5 percent but less than 3.75 percent
- From 30 percent to 40 percent of the federal credit, if the adjustment factor is at least 3.25 percent but less than 3.5 percent;
- From 30 percent to 35 percent of the federal credit, if the adjustment factor is at least 3.0 percent but less than 3.25 percent.

Child and dependent care expenses tax credits. Colorado offers two child care expenses income tax credits. The first credit is a refundable tax credit based on the federal child and dependent care tax credit, and is 50 percent of the federal credit, for taxpayers with federal adjusted grow income of less than $60,000. The federal child and dependent care tax credit is nonrefundable. The second credit, commonly referred to as the low-income child care expenses tax credit, is available to taxpayers with adjusted gross income up to $25,000, for expenses related to the care of dependent children under the age of 13, and who do not have sufficient income tax liability to qualify for the federal child and dependent care tax credit. The credit is equal to 25 percent of the taxpayer's child care expenses and is capped at $500 for a single dependent or $1,000 for two or more dependents.

Beginning in tax year 2026, the bill merges the two child care expenses credits into one tax credit, the child and dependent care tax credit (CDCTC), with an adjusted gross income cap of $60,000. The bill expands the scope of qualified dependents to match the federal definition, which includes dependents other than children under the age of 13. The amount of the state CDCTC is increased to 70 percent of the federal credit and is calculated as if the federal child and dependent care credit were fully refundable so that it is available to taxpayers who lack sufficient tax liability to qualify for the federal credit. Starting with tax year 2027, the adjusted gross income cap is adjusted for inflation. The CDCTC has no expiration date.

Corporate income tax modifications. The bill makes changes to requirements for corporations with multiple affiliates to file a combined tax return, starting in tax year 2026, consistent with the Multistate Tax Commission's standard. Under current law, a combined group of individual corporations is treated as a single taxpayer, and a combined report is required to include only those affiliates that meet certain conditions. The bill eliminates those conditions and requires that all affiliates be included in the tax return of a combined group, or "unitary business." It modifies the way in which the income or loss of affiliates is combined in the unitary business and apportioned to Colorado accordingly.

Assumptions

The fiscal note assumes current law, which includes the scheduled expiration of Tax Cuts and Jobs Act (TCJA) provisions impacting standard deductions and personal exemptions for individual income tax. These provisions are set to expire December 31, 2025, after which deductions and exemptions will revert to pre-TCJA levels and then be adjusted for inflation to tax year 2026. Utilization rates for the state tax credits impacted by the bill are assumed to be consistent with recent history.

State Revenue

The bill is expected to decrease state revenue by $44.2 million in FY 2023-24, a half-year impact, by up to $136.3 million in FY 2024-25, by up to $206.8 million in FY 2025-26, and up to $229.6 million in FY 2026-27, the first full year in which the bill's changes to both the EITC and the CDCTC are in effect, and by similar amounts in future years. The bill decreases revenue from income taxes, which are subject to TABOR. If the bill causes a greater share of eligible taxpayers to claim the credits than anticipated under current law, the revenue decreases will be greater than estimated.

Table 2
Revenue Under HB 24-1134
Dollars in Millions

	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
Earned Income Tax Credit	($44.2)	(up to $136.3)	(up to $202.8)	(up to $221.6)
Child and Dependent Care Credit	-	-	($4.0)	($8.0)
Corporate Combined Reporting	-	Indeterminate	Indeterminate	Indeterminate
Net Revenue Impact	**($44.2)**	**(up to $136.3)**	**(up to $206.8)**	**(up to $229.6)**

Earned income tax credit. Increasing the EITC is expected to decrease state revenue by $44.2 million in FY 2023-24, a half-year impact. The bill has full-year impacts on revenue beginning in FY 2024-25; however, these impacts grow through FY 2026-27, assuming the full credit increase is triggered, because the 50 percent credit in the bill replaces percentages that are scheduled to become progressively smaller through tax year 2026 under current law. By FY 2026-27, the expanded EITC is expected to reduce state revenue by up to $221.6 million annually. Estimates are based on actual EITC claims, adjusted for expected increases in the eligible population and for the impact of increasing the value of the state credit. The estimate does not incorporate an adjustment to utilization rates. If the bill causes a greater share of eligible taxpayers to claim the credit than anticipated under current law, the revenue decrease will be greater than estimated.

Forecast trigger. The current (March 2024) Office of State Planning and Budgeting forecast, which was selected to balance the FY 2024-25 budget, anticipates sufficient revenue growth from FY 2024-25 to FY 2025-26 to trigger the full credit amount in tax year 2025. While a forecast of state revenue is not available beyond tax year 2025, the fiscal note assumes the full credit increase is triggered in subsequent tax years. If the applicable December forecast anticipates less revenue than the current forecast, the credit amount may be reduced, and the bill would reduce revenue by less than estimated.

Child care expenses tax credit. Increasing the scope and changing the structure of the CDCTC is expected to decrease state revenue on net by $4.0 million in FY 2025-26, by $8.0 million in FY 2026-27, and by similar amounts in future years. Taxpayers with other dependents and adjusted gross incomes of $25,000 or less are expected to be newly eligible to claim the credit under the bill, while those who currently qualify for the state credit are expected to qualify for increased credit amounts under the bill.

Corporate income tax modifications. The bill is expected to have an indeterminate impact on corporate income tax revenue. It is expected that an unknown number of out-of-state affiliates of Colorado corporations which are not now required to be included in combined tax returns or to file a separate corporate tax return will now be required to be included in state combined tax returns. However, these affiliates may have either net profits, which would result in an increase in state corporate income tax revenue, or net losses, which would result in a decrease in this revenue. The overall impact cannot be estimated with available data.

State Expenditures

The bill increases General Fund expenditures for the Department of Revenue by $26,386 in FY 2026-27. These costs are to implement the changes to corporate income taxes and to the CDCTC, as well as to process and review returns claiming the tax credit as shown in Table 3 and described below.

Table 3
Expenditures Under HB 24-1134

	FY 2024-25	FY 2025-26	FY 2026-27
Computer Programming and Testing	-	-	$10,634
Research and Analysis	-	-	$7,392
Document Management	-	-	$1,032
Total Costs	**-**	**-**	**$19,058**

Computer programming and testing. The DOR will have one-time costs for computer programming and testing of $10,634 for FY 2026-27. This represents 26 hours of contract programming at a rate of $231.75 per hour, or $6,026, and 144 hours of testing to ensure that programming changes are functioning properly, at a rate of $32 per hour, or $4,608.

In future years, if the additional credit becomes available based on the trigger mechanism in the bill, programming expenses of about $51,000 will be required to adjust the GenTax system accordingly.

Research and analysis. Beginning in FY 2026-27, the Office of Research and Analysis within DOR will expend $7,392 and similar amounts thereafter to collect and report data on the new tax credit.

Tax form changes. For FY 2026-27 only, the bill requires $1,032 in expenditures to implement tax form changes and document management. These expenditures will take place in the Department of Personnel and Administration using reappropriated funds from the DOR.

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.

Effective Date

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

State and Local Government Contacts

Information Technology	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.