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HCR 20-1003

**FINAL
FISCAL NOTE**

Drafting Number: LLS 20-1312
Prime Sponsors: Rep. Saine; Soper
Sen. Marble

Date: September 14, 2020
Bill Status: Postponed Indefinitely
Fiscal Analyst: Louis Pino | 303-866-3556
louis.pino@state.co.us

Bill Topic: **AT-HOME INSTRUCTION TAX CREDIT**

Summary of Fiscal Impact:

- State Revenue *(conditional)*
- State Expenditure *(conditional)*
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This concurrent resolution would have referred a measure to the voters to create an income tax credit for taxpayers participating in at-home instruction. Conditional upon approval, the bill would have decreased state revenue and increase state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required. See State Appropriations section.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HCR 20-1003**

| | | FY 2019-20 <i>(current year)</i> | FY 2020-21 | FY 2021-22 |
|---------------------|------------------------|-------------------------------------|--------------------------|-------------------------|
| Revenue | General Fund | (\$270.5 million) | (\$351.7 million) | (\$94.4 million) |
| | Total | (\$270.5 million) | (\$351.7 million) | (\$94.4 million) |
| Expenditures | General Fund | - | \$644,873 | \$1,052,857 |
| | Centrally Appropriated | - | \$118,611 | \$251,420 |
| | Total | - | \$763,484 | \$1,304,277 |
| | Total FTE | - | 8.4 FTE | 17.8 FTE |
| Transfers | | - | - | - |
| TABOR Refund | | - | - | - |

Summary of Legislation

This concurrent resolution refers a measure to voters in the November 2020 election. If approved, the measure creates a state income tax credit for taxpayers who participate in the at-home instruction of a child that either receives at-home instruction through a homeschool program or is enrolled in a school district, a school operated by a board of cooperative services, a charter school, an institute charter school, a private school, or the Colorado School for the Deaf and the Blind and receives remote instruction from the school district, board of cooperative services, charter school, institute charter school, private school, or the Colorado School for the Deaf and the Blind.

The amount of the credit per tax year, per child is either:

- \$500 for children receiving at-home instruction for more than 80 but less than 160 days; or
- \$1,000 for children receiving at-home instruction for at least 160 days.

The credit may be carried forward for three years, but may not be refunded.

Assumptions

In the 2020 school year, approximately 963,000 students attended a public, private, or homeschool in Colorado. In early March, most of Colorado's schools closed due to the COVID-19 pandemic spread. The fiscal note assumes approximately 90 percent of these students will qualify for the \$500 credit and 10 percent will qualify for the \$1,000 credit in tax year 2020. In tax year 2021, the fiscal note assumes 30 percent of students will qualify for the \$500 credit and 3 percent for the \$1,000 credit.

State Revenue

Conditional upon voter approval, this bill is preliminary expected to decrease state General Fund revenue by \$270.5 million in the current FY 2019-20, \$351.7 million in FY 2020-21, and \$94.4 million in FY 2021-22 on an accrual accounting basis. These estimates are based on the assumptions discussed above. The estimate for FY 2019-20 represents a half-year impact for tax year 2020. Full-year revenue impacts begin in FY 2020-21 and are ongoing. In future years without pandemic-related remote learning, the General Fund revenue decrease will be lower, as the credit will primarily be claimed by a relatively small number of families with students who are homeschooled or attend an online school.

State Expenditures

Conditional upon voter approval, this bill will increase state General Fund expenditures in the Department of Revenue by \$763,484 and 8.4 FTE in FY 2020-21, \$1.3 million and 17.8 FTE in FY 2021-22, and \$1.7 million and 21.5 FTE in FY 2022-23 to administer the income tax credit. In addition, the bill will impact election expenditures, as discussed below. Expenditures are summarized in Table 2 and detailed below.

**Table 2
Expenditures Under HCR 20-1003**

| | FY 2020-21 | FY 2021-22 |
|----------------------------------|-------------------|--------------------|
| Department of Revenue | | |
| Personal Services | \$422,991 | \$897,211 |
| Operating Expenses | \$13,635 | \$24,030 |
| Capital Outlay Costs | \$124,000 | - |
| Computer Programming and Testing | \$24,360 | \$1,600 |
| Document Management and Postage | \$5,767 | \$7,256 |
| Leased Space | \$54,120 | \$122,760 |
| Centrally Appropriated Costs* | \$118,611 | \$251,420 |
| Total Cost | \$763,484 | \$1,304,277 |
| Total FTE | 8.4 FTE | 17.8 FTE |

* Centrally appropriated costs are not included in the bill's appropriation.

Tax administration. The Department of Revenue will require resources to process income tax credits claimed under the bill. Since there is not a third-party verification process to certify if the qualified child meets the criteria in the bill, expenditures assume that 100 percent of claimed credits will be reviewed, consistent with current department policy. All expenditures for FY 2021-22 are for ongoing tax credit administration. The majority of the expenditure increase is attributable to staffing in the Taxpayer Service Division to review tax credits claimed, identify and address taxpayer errors, and manage call and correspondence volume associated with the new tax credit. For FY 2020-21, estimated personnel costs assume a January 1, 2021, start date to administer tax credits claimed on 2020 tax forms and are prorated for the General Fund payday shift. Future year expenditures will be lower once remote learning returned to normal level following the pandemic.

Computer programming. This bill requires changes to the department's GenTax software system. Changes are programmed by a contractor at a rate of \$225 per hour. The changes will increase General Fund expenditures by \$9,000, representing 40 hours of programming. All GenTax programming changes are tested by the department. Testing will require contract personnel totaling \$15,360, representing 640 hours at a rate of \$24 per hour.

Document management and postage. For FY 2020-21 only, the bill requires changes to two tax forms at a cost of \$1,200 per form. Expenditures for form changes occur in the Department of Personnel and Administration using reappropriated Department of Revenue funds. The department will also incur ongoing postage costs, as shown in Table 2.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2020 general election. While no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at \$3.2 million in FY 2020-21. Second, the text and title of the measure must be

published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost approximately \$2.1 million in FY 2020-21. Publication costs increase by approximately \$115,000 per measure beyond this base amount for each additional referred or initiated measures placed on the ballot.

TABOR refunds. Under the May 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

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 estimated to be \$118,611 in FY 2020-21 and \$251,420 in FY 2021-22.

Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on June 13, 2020.

State Appropriations

No appropriation is required. If the measure is approved by voters, funding will be addressed through the annual budget process.

State and Local Government Contacts

N/A