



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SCR 18-002

FINAL FISCAL NOTE

Drafting Number: LLS 18-1128 Date: May 25, 2018
Prime Sponsors: Sen. Gardner Bill Status: Lost in Senate
Rep. Landgraf Fiscal Analyst: Kerry White | 303-866-3469
Kerry.White@state.co.us

Bill Topic: NO BAIL ILLEGAL ALIENS COMMITTING SERIOUS CRIMES

Summary of Fiscal Impact: State Revenue (conditional potential), State Expenditure (conditional potential), State Transfer, TABOR Refund, Local Government (conditional potential), Statutory Public Entity

This concurrent resolution refers a question to the voters that, if approved, would deny bail for a person charged with certain serious criminal offenses when that person has entered or remained in the United States illegally. It increases state and local government expenditures and may reduce state and local government revenue.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This concurrent resolution refers a question to voters at the election held on November 6, 2018, that if approved would amend the Colorado Constitution to deny bail for a person charged with certain offenses and who has entered or remained in the United States illegally. When proof is evident or presumption is great, the affected offenses include:

- serious felony offenses, as specified by law; or
serious offenses involving driving under the influence of alcohol or drugs (DUI).

State Revenue

If approved by voters, this concurrent resolution expands what may be considered a non-bailable offense, which could reduce the number of posted bonds. Under current law, when a person violates the term of his or her bond, it may be forfeited. As a result, this concurrent resolution has the potential to reduce cash fund revenue to the Judicial Department. As of this writing, it is unknown how many defendants meet the conditions of SCR 18-002.

## **TABOR Refund**

If approved by voters, this concurrent resolution reduces state revenue from forfeited bonds, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the concurrent resolution reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## **State Expenditures**

If approved by voters, this concurrent resolution will increase workload and costs for agencies within the Judicial Department, as described below. As of this writing, it is unknown how many defendants meet the conditions of SCR 18-002.

**Judicial Department.** To the extent that this concurrent resolution results in more or longer bail hearings to determine whether a defendant meets the conditions required in SCR18-002, workload will increase for the trial courts. This impact is anticipated to be minimal and does not currently require an increase in appropriations for the Judicial Department.

**Agencies providing representation to indigent persons.** Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will increase under the concurrent resolution to prepare for additional hearings. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process if needed.

**Election expenditure impact — existing appropriations.** This concurrent resolution includes a referred measure that will appear before voters at the November 2018 general election. While no additional appropriation is required in this concurrent resolution, 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 2018-19. 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 \$2.1 million in FY 2018-19. Publication costs will increase by approximately \$115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

## **Local Government**

If approved by voters, this concurrent resolution increases costs and workload for district attorneys and county jails, and may decrease revenue for the Denver County Court. Any decision to deny bond would require a hearing, which increases workload for district attorneys. This impact is assumed to be minimal.

To the extent that fewer bonds are posted, defendants will remain in jail. The impact of this provision may vary widely depending on the number of defendants in a particular jurisdiction and their average length of stay. Estimated costs to house a defendant awaiting trial in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

Finally, and similar to the state, for any DUI-related cases heard in Denver County Court, revenue will be reduced by a minimal amount if fewer bond forfeitures result from the concurrent resolution.

**Effective Date**

The bill was lost on third reading in the Senate on April 27, 2018.

**State and Local Government Contacts**

District Attorneys      Judicial      Sheriffs