**Bill 2**

## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 24-0396 | **Date:** | October 25, 2023 |
| **Prime Sponsors:** | | **Bill Status:** | Bill Request |
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**Bill Topic:** **PERA RETIREE REFUNDABLE INCOME TAX CREDIT**

**Summary of Fiscal Impact:**

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

For tax years 2024 and 2025 only, this bill creates a $700 refundable state income tax credit for qualifying public service retirees. The bill increases state expenditures and reduces state revenue through FY 2025-26.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of $172,163 to the Department of Revenue.

**Fiscal Note Status:** The fiscal note reflects the bill draft requested by the Pension Review Commission.

**Table 1**
**State Fiscal Impacts Under Bill 2**

| | | Current Year FY 2023-24 | Budget Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|---|
| **Revenue** | General Fund | ($9.0 million) | ($18.3 million) | ($9.3 million) |
| | **Total Revenue** | **($9.0 million)** | **($18.3 million)** | **($9.3 million)** |
| **Expenditures** | General Fund | - | $172,163 | $65,879 |
| | Centrally Appropriated | - | $23,535 | $15,095 |
| | **Total Expenditures** | **-** | **$195,698** | **$80,974** |
| | **Total FTE** | **-** | **1.4 FTE** | **0.9 FTE** |
| **Transfers** | | - | - | - |
| **Other Budget Impacts** | TABOR Refund | ($9.0 million) | ($18.3 million) | ($9.3 million) |
| | General Fund Reserve | - | $25, 824 | $9,882 |

## Summary of Legislation

For tax years 2024 and 2025 only, this bill creates a $700 refundable state income tax credit for qualifying public employees' retirement association retiree. A qualifying public employees' retirement association retiree is:

- 65 years old or older at the close of the income tax year for which the credit is claimed; and
- has an annual gross income of no more than $38,000 if filing as a single filer or $76,000 if filing as a joint filer

The tax credit is refundable, meaning if the amount exceeds the taxpayer's state income tax liability, the balance is refunded to the taxpayer.

## Assumptions

According to the Department of Revenue (DOR), 22,374 taxpayers would have qualified for the income tax credit in 2020, the latest data available. The fiscal note utilizes the 2020 DOR estimate as a starting point and grows the number of qualified public service retirees by the State Demography Office's population estimates for those 65 years old or older. The fiscal note assumes that 25,691 public service retirees will qualify in tax year 2024 and 26,577 will qualify in tax year 2025. Finally, it is assumed that the fully refundable credit will incentivize all eligible retirees to claim the full $700 tax credit in the bill. The revenue impact of the bill will be higher than estimated if there are more qualified public service retirees than estimated in the bill, or conversely, lower if the number of retirees claiming the credit is less.

## State Revenue

The bill is expected to decrease General Fund revenue by $9.0 million in the current FY 2023-24 (half-year impact), $18.3 million in FY 2024-25, and $9.3 million in FY 2025-26 (half-year impact). The income tax credit is only available for only tax years 2024 and 2025. The bill reduces individual income tax revenue, which is subject to TABOR.

## State Expenditures

The bill will increase General Fund expenditures in the Department of Revenue by $195,698 in FY 2023-24 and $80,974 in FY 2024-25, when the credit is set to expire.  Expenditures are summarized in Table 2 and detailed below.

**Table 2**
**Expenditures Under Bill 2**

| | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|---|---|---|
| **Department of Revenue** | | | |
| Personal Services | - | $77,414 | $49,393 |
| Operating Expenses | - | $1,792 | $1,152 |
| Capital Outlay Costs | - | $6,670 | $6,670 |
| GenTax Programming and Testing | - | $77,603 | - |
| Data Reporting | - | $7,392 | $7,328 |
| Document Management and Tax Form Changes | - | $1,292 | $1,336 |
| Centrally Appropriated Costs[1] | - | $23,535 | $15,095 |
| FTE – Personal Services | - | 1.4 FTE | 0.9 FTE |
| **Total Cost** | **-** | **$195,698** | **$80,974** |
| **Total FTE** | **-** | **1.4 FTE** | **0.9 FTE** |

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

**Personal services.** The Department of Revenue will require resources to process income tax credits claimed under the bill. The majority of the personal services expenditure increase is for 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. In general, refundable income tax credits have a higher rate of fraud and require additional documentation and review. Since there is not a third-party verification process to certify if the taxpayer qualifies as a qualifying public service retiree, expenditures assume that 100 percent of claimed credits will be reviewed, consistent with current department policy. Standard operating and capital outlay costs are included for new staff. For FY 2024-25, estimated personnel costs assume an October 1, 2024, start date to administer tax credits claimed on 2024 tax forms and are prorated for the General Fund pay date shift.

**Computer programming and testing.** For FY 2024-25 only, the bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of $231.75 per hour. Approximately 150 hours of computer programming will be required to implement this bill, totaling $34,763. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $42,840 in expenditures by the department.

**Data reporting.** Beginning in FY 2024-24, the Office of Research and Analysis (ORA) within DOR will expend $7,392 to collect and report data on the new tax credit. ORA will also require $7,328 in FY 2025-26.

**Document management and tax form changes.** For FY 2024-25, the bill requires changes to one tax form at a cost of $1,292. These costs also include testing of the scan system. For FY 2025-26, Expenditures for form changes occur in the Department of Personnel and Administration using reappropriated funds.

**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 shown in Table 2.

## 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 for the current FY 2023-24, FY 2024-25, and FY 2025-26. This estimate assumes the September 2023 LCS revenue forecast. 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 beginning in FY 2024-25. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase the amount of General Fund available for other purposes.

## Technical Note

Under the current bill request, the tax credit is available beginning in tax year 2023. If the credit is allowed in 2023, most qualified taxpayers will have filed their 2023 tax returns by the time the bill takes effect, which will require them to file an amended return and significantly increase expenditures for the DOR. The fiscal note assumes the income tax credit will be available for tax years 2024 and 2025. If the bill is not amended, expenditures to the DOR will increase and utilization of the credit in the first year will be less than estimated.

## Effective Date

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

## State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $172,163 to the Department of Revenue, and 1.4 FTE. Of this amount, $1,292 should be reappropriated to the Department of Personnel and Administration.

## State and Local Government Contacts

| | | |
|---|---|---|
| Counties | Information Technology | Municipalities |
| PERA | Personnel | Revenue |