Bill 5

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0126	**Date:**	September 20, 2022
		Bill Status:	Bill Request
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Bill Topic: **CREDIT FOR CHILD CARE FACILITIES**

Summary of Fiscal Impact:

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

The bill modifies the child care contribution tax credit so that it may only be claimed for contributions to a nonprofit organization. The bill will increase state revenue beginning in FY 2022-23 and increase state expenditures in FY 2023-24 only.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $86,337 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the draft bill requested by the Legislative Oversight Committee Concerning Tax Policy.

Table 1
State Fiscal Impacts Under Bill 5

		Current Year FY 2022-23	Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	$3.8 million	$7.8 million	$8.0 million
	Total Revenue	**$3.8 million**	**$7.8 million**	**$8.0 million**
Expenditures	General Fund	-	$86,337	-
	Centrally Appropriated	-	$4,671	-
	Total Expenditures	-	**$91,008**	-
	Total FTE	-	**0.3 FTE**	-
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	$3.8 million	$7.8 million	$8.0 million
	GF Reserve	-	$12,951	-

Summary of Legislation

Under current law, taxpayers may claim an income tax credit for monetary contributions to promote child care in Colorado, known as the Child Care Contribution Credit. Currently, qualifying contributions may be made to both nonprofit and for profit organizations. Beginning in calendar year 2023, this bill would restrict qualifying contributions to only those made to nonprofit organizations.

Background

The Child Care Contribution Credit provides an income tax credit to individual and corporate taxpayers for monetary contributions to support child care in Colorado. Qualifying contributions must be made for an eligible child care purpose and must be made to a licensed child care facility, an approved facility school, or a registered child care program. The tax credit is equal to 50 percent of the qualifying contribution, with a maximum credit of $100,000 per taxpayer, per tax year.

Assumptions

The Department of Revenue does not currently record the for profit or nonprofit status of organizations that receive contributions under this tax credit. As such, there is no data available regarding the current distribution of contributions to for profit or nonprofit organizations. However, according to data from the Department of Human Services, approximately 1,200 of Colorado's 5,000 licensed child care facilities operate as for profit entities, or about 24 percent. As such, this fiscal note assumes that 24 percent of current contributions associated with this tax credit are directed to for profit child care organizations.

State Revenue

The bill is estimated to increase state income tax revenue by $3.8 million in FY 2022-23 (a half-year impact), $7.8 million in FY 2023-24, and by $8.0 million in FY 2024-25. The bill increases state income tax revenue, which is subject to TABOR. Due to a lack of data, as discussed in the Assumptions section, there is significant uncertainty regarding these revenue estimates and the actual revenue increase could differ significantly depending on the distribution of contributions between for profit and nonprofit organizations.

By limiting this tax credit to contributions made to nonprofit child care organizations only beginning in calendar year 2023, the bill is expected to reduce the total amount of this tax credit claimed by 24 percent, and to therefore increase state income tax revenue. Under current law, the total tax credit amount claimed in tax year 2023 is estimated to be about $32.0 million. Under this bill, the total tax credit amount claimed is estimated to be about $24.3 million in 2023. As such the bill is estimated to decrease the total value of the tax credit, and therefore increase income tax revenue, by about $7.7 million in tax year 2023.

To the extent that for-profit child care organizations receive a smaller (greater) proportion of contributions than their share of all child care organizations, the increase in General Fund revenue under the bill will be lower (higher). In addition, to the extent that donors shift their contributions from for-profit to nonprofit organizations in response to the bill, the revenue increase will be lower than estimated.

State Expenditures

The bill increases General Fund expenditures in the Department of Revenue by $91,008 in FY 2023-24 only. Expenditures are presented in Table 2 and discussed below.

Table 2
Expenditures Under Bill 5

	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	$14,593	-
GenTax Programming	$27,000	-
Computer and User Acceptance Testing	$44,744	-
Centrally Appropriated Costs[1]	$4,671	-
Total Cost	**$91,008**	-
Total FTE	**0.3 FTE**	-

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

Personal services. The Department of Revenue (DOR) will require an additional 0.3 FTE tax examiner to implement this bill. There are approximately 3,225 different organizations eligible for this tax credit under current law, according to DOR. DOR will need to review these organizations to determine whether they remain eligible under this bill's modified eligibility criteria. The fiscal note assumes that it will take on average 10 minutes per organization to determine the for profit or nonprofit status of these organizations.

Computer programing. For FY 2023-24 only, this bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of $225 per hour. Approximately 120 hours of computer programming will be required to implement this bill, totaling $27,000. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $44,744 in expenditure by the department.

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 increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund 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 $12,951 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Effective Date

The bill takes effect upon signature of the Governor or upon becoming law without his signature. It applies to monetary contributions to promote child care made on or after January 1, 2023.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of $86,337 and 0.3 FTE to the Department of Revenue.

Departmental Difference

DOR estimates the bill requires General Fund expenditures of $174,280 and 1.4 FTE in FY 2023-24 on the assumption that on average it will take 1 hour to review the for profit or nonprofit status of each child care organization for this tax credit. This fiscal note assumes that it will instead take on average 10 minutes to review each organization.

State and Local Government Contacts

Information Technology	Personnel	Revenue