Bill 8

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0390	**Date:**	October 27, 2023
Prime Sponsors:		**Bill Status:**	Bill Request
		Fiscal Analyst:	Louis Pino | 303-866-3556 louis.pino@coleg.gov

Bill Topic: **INCOME TAX CREDIT FOR UNREIMBURSED DISASTER LOSSES**

Summary of Fiscal Impact:

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

For tax years 2024 through 2028, the bill creates a refundable state income tax credit for an individual that incurred an unreimbursed casualty loss from a declared disaster. The bill increases state expenditures and reduces state revenue through at least FY 2024-25, and potentially through FY 2028-29.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $384,024 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under Bill 8

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($1.1 million)	($1.1 million)	-
	Total Revenue	**($1.1 million)**	**($1.1 million)**	**-**
Expenditures	General Fund	-	$384,024	-
	Centrally Appropriated	-	$63,787	-
	Total Expenditures	**-**	**$447,811**	**-**
	Total FTE	**-**	**3.3 FTE**	**-**
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	($1.1 million)	($1.1 million)	-
	General Fund Reserve	-	$57,604	-

Summary of Legislation

For tax years 2024 through 2028, this bill creates a refundable state income tax credit to an individual that incurred an unreimbursed casualty loss from a declared disaster. The amount of the credit is equal to the total amount of unreimbursed casualty losses up to $500. The individual may claim the credit for any losses during the income tax year or the three prior years. A declared disaster is defined as an emergency declared by an executive order or proclamation of the Governor or a local disaster declared by the principal executive officer of a political division. Finally, only one credit may be claimed per primary residence even if multiple individuals reside at the residence and file separate income tax returns.

Assumptions

There has been one disaster emergency declared by the Governor since 2021, the Marshall Fire and Straight Line Winds declaration on December 30, 2021. According to data from the Colorado Division of Insurance, 4,684 homeowners' insurance claims have been made as a result of this emergency. This includes claims for a total loss of homes, partial damage claims, smoke damage, damage to an outbuilding, and other losses. Of these, the division estimates only eight percent of homeowners had policies with guaranteed replacement coverage. The fiscal note assumes 4,309 individuals will claim the maximum $500 credit allowed in the bill. The revenue impact of the bill will be higher than estimated if there are more claims than estimated in the bill, or conversely, lower if the number of taxpayers claiming the credit is less. Finally, the fiscal note does not make any assumptions on future declared disasters. If there is a future declared disaster during the period the income tax is available, additional revenue reductions will occur in future years.

State Revenue

The bill is expected to decrease General Fund revenue by $1.1 million in both the current FY 2023-24 and in FY 2024-25, each representing a half-year impact of taxpayers claiming the credit in tax year 2024. As mentioned above, this estimate does not include any potential future declared disasters, which would potentially decrease state revenue in future years through FY 2028-29. 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 $447,810 in FY 2024-25. Expenditures are summarized in Table 2 and detailed below. It is important to note that the expenditures shown in Table 2 are only based on the number of claims expected from the Marshall Fire and Straight Line Winds declared disaster. To the extent there is a declared disaster during the period the credit is available, DOR will have additional costs in the future, potentially through FY 2028-29. Future-year costs in DOR will be addressed through the budget process, as needed, if future declared disasters occur that will result in the credit be used.

Table 2
Expenditures Under Bill 8

	Current Year FY 2023-24	Budget Year FY 2024-25	Out Year[2] FY 2025-26
Department of Revenue			
Personal Services	-	$271,003	-
Operating Expenses	-	$4,224	-
Capital Outlay Costs	-	$26,680	-
GenTax Programming and Testing	-	$73,949	-
Data Reporting	-	$7,392	-
Document Management and Tax Form Changes	-	$776	-
Centrally Appropriated Costs[1]	-	$63,787	-
Total Cost	**-**	**$447,811**	**-**
Total FTE	**-**	**3.3 FTE**	-

[1] Centrally appropriated costs are not included in the bill's appropriation.
[2] Future-year costs may occur through FY 2028-29 in the event of future declared disasters resulting in qualifying losses. These costs have not been estimated.

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 the addition of claims adjusters or appraisers to verify the amount of the tax credit claimed and to conduct a formal assessment of the causality losses sustained in a declared disaster. 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 unreimbursed casualty losses, 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. Finally, personal services are assumed only for the first year.

Computer programming and testing. For FY 2024-25, the bill will require changes to DOR's GenTax software system and testing. In addition, the department will need to develop a GIS interface to determine if the taxpayer's primary residence was in a declared disaster zone. Changes are programmed by a contractor at a cost of $231.75 per hour. Approximately 120 hours of computer programming will be required to implement this bill, totaling $27,810. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $46,139 in expenditures by the department.

Data reporting. For FY 2024-25, the Office of Research and Analysis (ORA) within DOR will require $7,392 to collect and report data on the new tax credit.

Document management and tax form changes. For FY 2024-25, the bill requires changes to one tax form at a cost of $776. These costs also include testing of the scan system. 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 and for FY 2024-25. 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

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 $384,024 to the Department of Revenue, and 3.3 FTE. Of this amount, $776 will be reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology	Local Affairs	Personnel
Revenue		

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: leg.colorado.gov/fiscalnotes.