HB 20-1309

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number:	LLS 20-1015	**Date:**	March 9, 2020
Prime Sponsors:	Rep. Holtorf Sen. Crowder	**Bill Status:**	House Business Affairs
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Bill Topic: **INCOME TAX CREDIT FOR TELECOMMUTING EMPLOYEES**

Summary of Fiscal Impact:

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

This bill creates an income tax credit for employers that allow workers to telecommute. The nonrefundable credit is equal to $1,000 for each employee that is allowed to telework and may be carried forward for up to five years. The bill decreases state revenue beginning in FY 2020-21 and increases state expenditures in FY 2020-21 only.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of $27,790 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 20-1309

		FY 2020-21	FY 2021-22
Revenue	General Fund	($63.0 million)	($126.0 million)
	Total	**($63.0 million)**	**($126.0 million)**
Expenditures	General Fund	$27,790	-
	Total	27,790	-
Transfers		-	-
TABOR Refund	General Fund	($63.0 million)	($126.0 million)

Summary of Legislation

The bill creates an income tax credit for employers equal to $1,000 per employee that is allowed to telecommute at least two-thirds of the time. The credit is not refundable. If taxpayers do not have sufficient tax liability to use the entire credit, they may carry any unused credit forward for up to five years. The credit is available in tax years 2021 through 2031.

State Revenue

This bill will reduce corporate and individual income tax revenue by up to $63.0 million in FY 2020-21 and up to $126.0 million starting in FY 2021-22. Income tax revenue is subject to TABOR.

Assumptions. The U.S. Census Bureau provides detailed survey information about employment status and place of work. Based on the 2018 American Community Survey, an estimated 125,979 Coloradans worked from home for wages. It is assumed that this population qualifies for the credit as they satisfy both the employee-employer relationship and the telecommuting requirements in the bill. Table 2 shows the number of workers in private industries in Colorado covered by the survey and the number that work from home.

Table 2
Number of Employees that Work From Home by Industry

Industry	Total Employment	Work from Home	Percent
Accommodation and Food Services	286,415	4,868	1.7%
Administrative and support and waste management services	140,586	6,943	4.9%
Agriculture, Forestry, Fishing, and Hunting	31,314	1,904	6.1%
Arts, Entertainment, and Recreation	86,687	2,016	2.3%
Construction	209,647	4,790	2.3%
Educational Services	293,341	8,980	3.1%
Finance and Insurance	138,094	12,004	8.7%
Health Care and Social Assistance	372,775	12,841	3.4%
Management of companies and enterprises	4,405	170	3.9%
Manufacturing	210,564	9,554	4.5%
Mining, Quarrying, and Oil and Gas Extraction	38,384	1,021	2.7%
Other Services, Except Public Administration	130,344	5,438	4.2%
Professional, Scientific, and Technical Services	241,685	27,498	11.4%
Real Estate and Rental and Leasing	52,878	3,327	6.3%
Retail Trade	364,717	9,413	2.6%
Transportation and Warehousing	228,097	10,756	4.7%
Wholesale Trade	74,349	4,456	6.0%
Grand Total	**2,904,282**	**125,979**	**4.3%**

Source: U.S. Census Bureau, 2018 American Community Survey, 5-year estimates.

Based on the data in Table 2, allowing for a $1,000 credit per employee results in a $126.0 million annual revenue reduction. The FY 2020-21 impact represents a partial-year impact to account for accrual accounting for six months of the credit claimed starting in 2021. The fiscal note limits the revenue impact to Colorado employees that telecommute, although there are no requirements that the credit be claimed for Colorado employees.

To the extent that more employees work from home because of the bill or because employers choose to offer telecommuting as a benefit, the revenue impact will be higher. To the extent that taxpayers do not have the tax liability to use the full $1,000 credit per worker, the annual revenue impact will be lower.

State Expenditures

Implementing the bill will increase General Fund expenditures to the Department of Revenue by $27,790 in FY 2020-21, $10,284 of this amount will be reappropriated to the Department of Personnel and Administration as shown in Table 3.

Table 3
Expenditures Under HB 20-1309

	FY 2020-21	FY 2021-22
Department of Revenue		
GenTax Programing	4,950	-
Testing and Validation	12,556	-
Form processing, reappropriated to DPA	10,284	-
Total Cost	**$27,790**	**-**

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

Administering the credit. This bill requires expenditures of $17,506 to program, test, and update database fields in the Department of Revenue's GenTax software system. Programming costs are estimated at $4,950, representing 22 hours of contract programming at a rate of $225 per hour. Costs for planning, testing, and implementing the bill at the department are estimated at $12,556, representing 420 hours of contract testing and implementation. The DOR will also require $10,284 to be reappropriated to the Department of Personnel and Administration to process modified tax forms. Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports so that the department can access and document tax statistics related to the new tax policy. These costs are estimated at $1,404 in FY 2022-23.

Compliance costs. The fiscal note does not include any compliance costs for the DOR. As currently written, taxpayers may claim the credit for the number of employees that are allowed to work from home more than two-thirds of the time. The DOR has no way to identify the number of employees that qualify for the credit or have the information needed to disallow the credit.

TABOR refunds. The bill is expected to decrease state General Fund obligations for TABOR refunds by $63.0 million in FY 2020-21 and $126.0 million in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly decrease the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, the bill requires an appropriation of $27,790 from the General Fund to the Department of Revenue, $10,284 of which will be reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology Personnel Revenue