Colorado Legislative Council Staff

HB17-1187

FISCAL NOTE

FISCAL IMPACT: ☒ State ☐ Local ☐ Statutory Public Entity ☒ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-0211	**Date:**	February 16, 2017
Prime Sponsor(s):	Rep. Thurlow Sen. Crowder	**Bill Status:**	House Finance
		Fiscal Analyst:	Greg Sobetski (303-866-4105)

BILL TOPIC: CHANGE EXCESS STATE REVENUES CAP GROWTH FACTOR

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Transfers		
General Fund		($174.6 million)
Highway Users Tax Fund		116.4 million
Capital Construction Fund		58.2 million
State Expenditures	See State Expenditures section.	
TABOR Impact	($132.8 million)	($209.3 million)
Appropriation Required: None.		
Future Year Impacts: Dependent on state TABOR situation; not estimated.		

Summary of Legislation

This bill refers a proposition to voters at the statewide election on November 7, 2017. Conditional on voter approval of the proposition, the bill changes the computation of the excess state revenues cap (Referendum C cap) for FY 2017-18 and all subsequent fiscal years. Under current law, the cap is grown annually by changes in the state's population and the Denver-Boulder-Greeley consumer price index. Beginning in FY 2017-18, the bill instead grows the cap annually by the average rate of annual change in state personal income for the five previous calendar years.

Annual adjustments for debt service changes and the qualification or disqualification of state enterprises are retained under the bill.

Background

The Taxpayer's Bill of Rights (TABOR) in the Colorado Constitution limits the amount of revenue that the state is permitted to retain and spend or save each year. All revenue is subject to this TABOR limit unless specifically exempted. The limit is grown annually from the prior year's limit or revenue, whichever is lower, and adjusted for changes in population, inflation, debt service, qualification or disqualification of enterprises, and voter-approved revenue changes.

In 2005, voters adopted Referendum C, a permanent voter-approved revenue change. For FY 2010-11 and all subsequent fiscal years, Referendum C sets the TABOR limit equal to the amount of revenue that the state collected from TABOR sources in FY 2007-08, adjusted annually for inflation, population, debt service, enterprise status, and voter-approved revenue changes. Because Referendum C is itself a voter-approved revenue change, the Referendum C cap is the TABOR limit for FY 2010-11 and subsequent fiscal years. The cap is grown annually from the prior year's cap irrespective of revenue.

Table 1 presents actual and projected values of the Referendum C cap between FY 2010-11 and FY 2018-19. The cap is grown annually by the sum of the percentage change in Colorado population and Denver-Boulder-Greeley inflation, with additional adjustments applied for the qualification and disqualification of enterprises. Table 1 also compares this growth rate to the personal income growth rate proposed in HB17-1187.

Table 1. Referendum C Cap and Growth Rates, FY 2010-11 to FY 2018-19

Fiscal Year	2011	2012	2013	2014	2015	2016	2017*	2018*	2019*
Change in Inflation and Population	1.2%	2.0%	5.4%	3.3%	4.3%	4.4%	3.1%	4.6%	4.7%
Referendum C Cap - current law (billions)	$10.7	$10.9	$11.5	$11.9	$12.4	$12.9	$13.3	$13.9	$14.6
Change in Personal Income (Average of Previous 5 Years)	3.9%	2.8%	3.1%	3.1%	3.5%	6.1%	6.6%	5.6%	5.2%
Referendum C Cap - HB17-1187 (billions)	-	-	-	-	-	-	-	$14.0	$14.8

Sources: U.S. Census Bureau (population); Bureau of Labor Statistics (inflation); Bureau of Economic Analysis (personal income); and December 2016 Legislative Council Staff forecast.
**Forecast.*

TABOR Impact

Conditional on approval of the ballot measure, the bill is expected to decrease the state's TABOR refund obligation by **$132.8 million in FY 2017-18** and **$209.3 million in FY 2018-19**. Impacts for fiscal years beyond FY 2018-19 are not estimated.

The bill is expected to raise the Referendum C cap more quickly for FY 2017-18 and FY 2018-19 than would otherwise occur under current law because a five-year moving average of personal income is forecast to grow more quickly for these two years than population and inflation combined. Table 2 presents the state's TABOR refund obligation under current law and HB17-1187, as well as the refund mechanisms expected to be used in both cases. Under the bill, the TABOR refund obligation is not expected to be sufficient to trigger a temporary income tax rate reduction from 4.63 percent to 4.50 percent in tax years 2018 and 2019 as expected under current law. Instead, the TABOR surpluses expected for both years would be refunded using the six-tier sales tax refund mechanism.

Table 2. Impact of HB17-1187 on TABOR Refund Mechanisms		
	FY 2017-18 Surplus FY 2018-19 Refund Tax Year 2018	**FY 2018-19 Surplus FY 2019-20 Refund Tax Year 2019**
Current Law		
TABOR Refund Obligation	$279.4 million	$287.2 million
Income Tax Rate Reduction	*229.0 million*	*242.7 million*
Sales Tax Refund	*50.4 million*	*44.5 million*
House Bill 17-1187		
TABOR Refund Obligation	$146.6 million	$77.9 million
Income Tax Rate Reduction		
Sales Tax Refund	*146.6 million*	*77.9 million*
Change from Current Law		
TABOR Refund Obligation	($132.8 million)	($209.3 million)
Income Tax Rate Reduction	*(229.0 million)*	*(242.7 million)*
Sales Tax Refund	*96.2 million*	*33.4 million*

State Revenue

The bill is not expected to affect state revenue. However, because the bill is expected to reduce TABOR refund obligations for FY 2017-18 and FY 2018-19, it affects current law state transfers as described below.

State transfers. Conditional on approval of the ballot measure, the bill is expected to increase General Fund transfers to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF) by $116.4 million and $58.2 million, respectively, for FY 2018-19.

Under current law (Senate Bill 09-228), a portion of the General Fund is obligated for transfers to the HUTF and the CCF through FY 2019-20. The amounts of these transfers depend on the state's TABOR refund obligation. Beginning in FY 2017-18, transfers to the HUTF and the CCF equal 2.0 percent and 1.0 percent of General Fund revenue, respectively, for years when the TABOR refund obligation is less than 1.0 percent of General Fund revenue. If the TABOR refund obligation is greater than 1.0 percent of General Fund revenue, transfers are cut in half; if it is greater than 3.0 percent, transfers are not made.

Under current law, halved transfers are expected for both FY 2017-18 and FY 2018-19 because the TABOR refund obligation is expected to equal 2.5 percent of General Fund revenue in both years. The bill is expected to increase the TABOR limit, reducing the refund obligation to 1.3 percent of General Fund revenue in FY 2017-18 and 0.7 percent of General Fund revenue in FY 2018-19. Because the refund obligation is expected to be reduced below the 1.0 percent threshold, full transfers are expected in FY 2018-19, doubling the reduced transfers expected under current law. Information on transfers under current law and HB17-1187 is summarized in Table 3.

Table 3. SB09-228 Transfers under Current Law and HB17-1187		
	FY 2017-18	**FY 2018-19**
Current Law		
TABOR Refund as Percentage of GF Revenue	2.5 percent	2.5 percent
Disposition of Transfers	HALF	HALF
Transfers from General Fund	($165.1 million)	($174.6 million)
Transfers to Highway Users Tax Fund	110.1 million	116.4 million
Transfers to Capital Construction Fund	55.0 million	58.2 million
House Bill 17-1187		
TABOR Refund as Percentage of GF Revenue	1.3 percent	0.7 percent
Disposition of Transfers	HALF	FULL
Transfers from General Fund	($165.1 million)	($349.3 million)
Transfers to Highway Users Tax Fund	110.1 million	232.8 million
Transfers to Capital Construction Fund	55.0 million	116.4 million
Difference from Current Law		
Transfers from General Fund	$0	($174.6 million)
Transfers to Highway Users Tax Fund		116.4 million
Transfers to Capital Construction Fund		58.2 million

State Expenditures

TABOR refunds. Through FY 2018-19, the bill is not expected to change the frequency of TABOR refunds. However, changing the computation of the Referendum C cap is likely to eliminate a refund or create a new refund at some point in the future. The Department of Revenue handles additional caseload for taxpayer services during years when refunds are issued; thus, the bill has an indeterminate effect on department workload for refunds at some future date.

Election expenditure impact (existing appropriations). This bill includes a referred measure that will appear before voters at the November 2017 general election. Although no additional appropriation is required in this bill, 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. 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 (Blue Book) mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund. Table 4 estimates the costs for a single ballot measure in 2017. These costs will increase by approximately $100,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Table 4. Projected Costs of a Single Statewide Ballot Measure Election in 2017	
Cost Component	**Amount**
County Reimbursement for Statewide Ballot Measures	$2,700,000
Ballot Information Booklet (Blue Book) & Newspaper Publication	$700,000
TOTAL	**$3,400,000**

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. If approved at the November 7, 2017, election, the referred portion of the bill takes effect January 1, 2018.

State and Local Government Contacts

Information Technology
Personnel and Administration
Legislative Council Staff Economics Section