



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 805** HLS 15RS 1694
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 15, 2015 6:07 PM **Author:** ADAMS
Dept./Agy.: Revenue **Analyst:** Greg Albrecht
Subject: Convert Certain Refundable Credits to Nonrefundable

TAX CREDITS EN +\$129,000,000 GF RV See Note Page 1 of 2
 Provides for the carry forward rather than the refund of the tax credits for ad valorem taxes paid to local governments

The bill modifies the statutory provisions specific to two refundable tax credits by deleting language that provides for the refund of credit amounts in excess of tax liabilities, and allowing 75% of the excess of credit over tax liabilities to be refunded, from current collections of the income and franchise tax, while the 25% balance is allowed to be carried forward as a credit against subsequent tax year liabilities for up to five years. Affected credits are: local property taxes paid on inventory and natural gas used in storage facilities. Credits are applied against the income tax and the corporate franchise tax. These changes are not applicable to taxpayers whose affected ad valorem taxes paid are less than \$10,000.

The bill also converts the three components of the research and development tax credit from a refundable credit to a nonrefundable credit with two of the components allowed a five year carry-forward of credit amounts in excess of tax liability.
Continued on Page 2

EXPENDITURES	2015-16	2016-17	2017-18	2018-19	2019-20	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2015-16	2016-17	2017-18	2018-19	2019-20	5 -YEAR TOTAL
State Gen. Fd.	\$129,000,000	\$138,000,000	\$146,000,000	\$156,000,000	\$166,000,000	\$735,000,000
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$129,000,000	\$138,000,000	\$146,000,000	\$156,000,000	\$166,000,000	\$735,000,000

EXPENDITURE EXPLANATION

The Department of Revenue (LDR) will incur costs for computer system modification and testing, tax form redesign, and tax payer inquiries. These costs are typically small for individual tax law changes and are typically absorbed within existing resources until cumulative changes necessitate additional resources be provided. This bill is changing a variety of credits and will likely incur higher than typical costs to implement.

REVENUE EXPLANATION

Other than tax filers with less than \$10,000 of affected ad valorem taxes paid, the bill modifies the refundable provisions of the inventory and natural gas tax credits by allowing 75% of the amount of credit in excess of tax liabilities to be refunded (rather than 100% of that excess), and by allowing the 25% balance of the excess to be carried forward and applied against tax liabilities for up to five subsequent years.

Each credit has its own pattern with respect to total claims and amounts offsetting tax liabilities, ultimately determining the balance refunded in excess of tax liabilities. But in each case, material amounts of the total credit available are refunded each year (sufficient tax liabilities are not available to exhaust the credits each year). Thus, while allowing a portion of excess credit amounts to be carried forward maintains an exposure of the state fisc to these amounts, it is likely that in the aggregate these excess credit amounts will not be realized. Thus, greater net receipts will be retained by the state.

In general, inventory credit claims have exhibited strong persistent growth, while tax liabilities are more erratic, and do not exhibit consistent trending. Inventory claims growing at 6.5% per year generated an expectation of fiscal year total claims starting at \$518 million in FY16 and growing to \$664 million by FY20. These claims offset an aggregate average amount of tax liability of \$73 million per year, leaving excess amounts to be refunded that total some \$445 million in FY16 and growing to \$591 million by FY20. The bill allows 75% of these excess amounts to be refunded (\$356 million in FY16 to \$458 by FY20), and provides that 25% of these excess amounts can be carried forward for future use in the next five years. It is these 25% shares that are effectively retained by the state fisc, increasing net state tax receipts by \$111 million in FY16 to \$148 million by FY20. Removing the tax filers with less than \$10,000 of affected ad valorem taxes paid reduces these revenue gains by some \$3 million in FY16 to \$4 million in FY20. Remaining gains to the state fisc are \$108 million in FY16 to \$144 million in FY20. These gains are increased by the research & development component of the bill discussed below.

The three research & development tax credits have totaled some \$22 million per year in the last two years, with only about \$1 million of that total offsetting tax and the \$21 million balance being refunded. Converting these credits to nonrefundable credits, even with five year carry-forward allowed for two of the credits, could result in any amounts not offsetting tax liabilities effectively being revenue gains to the state fisc, since in the aggregate these excess amounts may not likely be realized. However, the narrow category of R&D entities may be able to be restructured to have more of the tax liability of parent or affiliate firms to offset the tax credits against. To the extent that occurs, the revenue gain to the state fisc will be reduced.

Final combined effects of the bill are revenue gains in FY16 of \$129 million, growing to \$166 million by FY20. **See Page 2**

- Senate Dual Referral Rules House
- 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}
- 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}
- 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
- 6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S}
- 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:

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DESCRIPTION OF THE BILL

Firms eligible for the R&D credit pursuant to a federal Small Business Innovation Research Grant are not provided the five year carry-forward of credit amounts in excess of tax liability.

Applicable to all claims for these credits on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates. Not applicable to amended returns timely filed after July 1, 2015, relating to original returns filed prior to July 1, 2015 and properly claimed credit.

REVENUE EXPLANATION

Since the bill makes these provisions applicable to all returns filed on or after July 1, 2015, the full effect of these changes are realized each fiscal year. Amended returns, timely filed after July 1, 2015 relating to original returns filed prior to July 1, 2015 that properly claimed an exemption, credit, rebate, or deduction are assumed to not effect the potential revenue generated by the bill. The original returns would have already received the benefit of any credits. Presumably, the amended filing would be for reasons unrelated to the properly claimed and received benefits.

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|-------------------------------------|--|--------------------------|---|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> | 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> | 6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S} |
| <input checked="" type="checkbox"/> | 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> | 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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Senate

Dual Referral Rules

House

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