

# Statement of Estimated State Revenue Impact

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**Date:** March 20, 2013  
**Bill Number:** S.334 (As amended by Finance Committee on 3/19/2013)  
**Authors:** Leatherman, O'Dell, Bryant, Matthews, *et al.*

**Committee Requesting Impact:** Finance

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## Bill Summary

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-4-352 SO AS TO REQUIRE THE GOVERNOR TO DEVELOP A PROTECTION PLAN TO MINIMIZE THE ACTUAL AND POTENTIAL COSTS AND EFFECTS OF IDENTITY THEFT DUE TO THE CYBER SECURITY BREACH AT THE DEPARTMENT OF REVENUE BY PROVIDING IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES, TO REQUIRE THE GOVERNOR TO DEVELOP A POLICY THAT ENSURES THE SAFETY OF ALL PERSONALLY IDENTIFIABLE INFORMATION IN THE POSSESSION OF THE DEPARTMENT OF REVENUE, INCLUDING THE ENCRYPTION OF PERSONALLY IDENTIFIABLE INFORMATION, TO SET FORTH THE PROCESS BY WHICH IDENTITY THEFT PROTECTION AND RESOLUTION SERVICES ARE PROCURED, TO REQUIRE THE GOVERNOR AND THE DEPARTMENT OF REVENUE TO ATTEMPT TO MAKE ENROLLMENT IN THESE PROGRAMS AS EASY AS POSSIBLE, TO PROVIDE THAT THESE PROGRAMS MUST BE FREE OF CHARGE TO THE ELIGIBLE PERSONS, AND TO DEFINE TERMS; BY ADDING SECTION 12-6-1141, SO AS TO PROVIDE AN INDIVIDUAL INCOME TAX DEDUCTION FOR THE ACTUAL COSTS, BUT NOT EXCEEDING TWO HUNDRED DOLLARS FOR AN INDIVIDUAL TAXPAYER, AND NOT EXCEEDING THREE HUNDRED DOLLARS FOR A JOINT RETURN OR A RETURN CLAIMING DEPENDENTS, INCURRED BY A TAXPAYER IN THE TAXABLE YEAR TO PURCHASE IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES; BY ADDING PART 7 TO CHAPTER 6, TITLE 37 SO AS TO ESTABLISH WITHIN THE DEPARTMENT OF CONSUMER AFFAIRS THE IDENTITY THEFT UNIT AND TO PROVIDE ITS DUTIES; BY ADDING CHAPTER 36 TO TITLE 1 SO AS TO ESTABLISH THE DEPARTMENT OF INFORMATION SECURITY, TO PROVIDE THAT THE MISSION OF THE DEPARTMENT OF INFORMATION SECURITY IS TO PROTECT THE STATE'S INFORMATION AND CYBER SECURITY INFRASTRUCTURE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF INFORMATION SECURITY IS THE CHIEF INFORMATION SECURITY OFFICER OF THE STATE AND TO PROVIDE THE CHIEF INFORMATION SECURITY OFFICER IS APPOINTED BY THE GOVERNOR, AND TO DEFINE TERMS, TO ESTABLISH THE TECHNOLOGY INVESTMENT COUNCIL TO ADOPT AND ANNUALLY REVIEW A STATEWIDE TECHNOLOGY PLAN, TO PROVIDE FOR THE MEMBERSHIP OF THE COUNCIL, AND TO REQUIRE REPORTS; TO AMEND SECTION 1-3-240, AS AMENDED, RELATING TO OFFICERS THAT ONLY MAY BE REMOVED BY THE GOVERNOR FOR CAUSE, SO AS TO ADD THE CHIEF INFORMATION SECURITY OFFICER; TO AMEND SECTION 1-30-10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF INFORMATION SECURITY; AND BY ADDING CHAPTER 79 TO TITLE 2 SO AS TO CREATE THE JOINT INFORMATION SECURITY OVERSIGHT COMMITTEE TO CONDUCT A CONTINUING STUDY OF THE LAWS OF THIS STATE AFFECTING CYBER SECURITY, INCLUDING THE RECEIPT OF IMPEDIMENTS TO IMPROVED CYBER SECURITY, AND TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE.

## REVENUE IMPACT <sup>1/</sup>

This bill will decrease General Fund individual income tax revenue by \$2,269,604 in FY 2013-14.

## Explanation of Bill as amended by Finance Committee on 3/19/2013

Section 1.B. of S. 334, as amended, creates a deduction from South Carolina taxable income for actual costs incurred by a taxpayer to purchase a contract or subscription for identity theft protection and resolution services. The deduction may not exceed \$300 for an

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- individual taxpayer or \$1,000 for joint or head of household returns. Expenditures on identity theft protection and resolution services that qualify as a business expense are not eligible for the deduction. Taxpayers enrolled in the proposed identity theft protection and resolution services program contained in Section 1.A. of S. 334 as introduced are not eligible for the deduction.

We estimate that 1,537,856 individuals will enroll in the Experian ProtectMyID or Family Secure programs by the March 13, 2013 sign-up deadline. These taxpayers will receive the free services provided under the provisions in Section 1.A. of this bill but will not be eligible for the deduction.

We further estimate that the projected 1,537,856 individuals covered by the Experian ProtectMyID or Family Secure programs represent 42% of the 3,632,543 adult population in South Carolina. This leaves the remaining 58% of all adult South Carolinians eligible for the proposed deduction. We base our estimate on the adult population since most children do not have sufficient financial assets to justify purchasing identity theft protection.

A nationwide survey on identity theft by Javelin Strategy & Research found that identity fraud affected 11.6 million victims in 2011. Multiplying this U.S. estimate by 1.5%, the ratio of South Carolina population to the nation, results in an estimated 174,000 South Carolinians. Given the magnitude of the Department of Revenue data breach, we anticipate that approximately 50% more individuals, or 261,000 taxpayers, will fall victim to identity theft. Of the 261,000 projected victims, we expect that 58%, or 150,504 individuals, will be eligible for the deduction. We anticipate these identity theft victims will claim the proposed deduction at an average of \$260 resulting in total deductions of \$39,131,108. In determining the estimated average cost of the identity theft protection, we surveyed identity theft and fraud resolution contract or subscription prices and adjusted the \$151 average amount per person to account for joint and head of household returns that purchase multiple contracts or subscriptions. At an average tax rate of 5.8%, these deductions would reduce General Fund individual income tax revenue by \$2,269,604 in FY 2013-14.

Unless reauthorized by the General Assembly, taxpayers would be eligible for these deductions for five years, or through FY 2017-18.

The other Sections of the bill will have no revenue impact on the General Fund or other revenue. The Division of State Budget is the appropriate entity to address any expenditure impact associated with this Bill.

### **Explanation of Bill as Introduced**

Section 1.B. of this bill creates a deduction from South Carolina taxable income for actual costs incurred by a taxpayer to purchase identity theft protection and resolution services. The deduction may not exceed \$200 for an individual taxpayer or \$300 for joint or head of household returns. Expenditures on identity theft protection and resolution services that qualify as a business expense are not eligible for the deduction. Taxpayers eligible for the proposed identity theft protection and resolution services program contained in Section 1.A.

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of this bill are not eligible for the deduction. This excludes taxpayers that filed a return with the South Carolina Department of Revenue for any year after 1997 and before 2013 from the proposed deduction. Currently, 1,281,547 individuals and families have enrolled in the Experian ProtectMyID or Family Secure programs provided at no cost to taxpayers that have filed a South Carolina tax return since 1998. These taxpayers will receive the free services provided under the provisions of this bill, but will not be eligible for the deduction.

Persons eligible for the proposed deduction include new taxpayers filing their first return in 2013 or later. We anticipate that one percent, or 21,762, of the 2,176,159 individual income tax returns filed for the 2013 tax year will result from new taxpayers filing their first return in South Carolina. An estimated 9,219 returns that are non-taxable or have less than \$3,000 of taxable income further reduces the potential number of returns that could claim the deduction. If 100% of the remaining 12,543 eligible returns claim the deduction at an average cost of \$260, this would result in deductions totaling \$3,261,067. At an average tax rate of 5.8%, these deductions could reduce income tax revenue by \$189,142 in FY 2013-14.

We further reduce the expected revenue impact based on a U.S. survey on identity theft in November 2010 that reported only 12% of consumers were enrolled in an identity theft protection program. To account for additional uncertainty felt by taxpayers from the recent data breach in South Carolina, we expect that 3010, or 24%, of the new returns will claim the proposed deduction at an average of \$260 resulting in total deductions of \$782,656. At an average tax rate of 5.8%, these deductions would reduce General Fund individual income tax revenue by \$45,394 in FY 2013-14.

Unless reauthorized by the General Assembly, taxpayers would be eligible for these deductions for five years, or through FY 2017-18.

We do not anticipate that other sections of this bill would not have any affect on General Fund or other agency revenue.



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**Analyst:** Shuford

<sup>11</sup> This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.