HB 23-1091

Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0683	**Date:**	February 1, 2023
Prime Sponsors:	Rep. Pugliese; Kipp Sen. Marchman; Rich	**Bill Status:**	House Finance
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Bill Topic: **CONTINUATION OF CHILD CARE CONTRIBUTION TAX CREDIT**

Summary of Fiscal Impact:

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

The bill extends the child care contribution tax credit through 2027 and expands the types of contributions that qualify for the credit to include in-kind donations of real property. The credit is currently set to expire after 2024. The bill reduces state General Fund revenue through FY 2027-28.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $165,377 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under HB 23-1091

		Current Year FY 2022-23	Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		($0.5 million)	($1.0 million)	($19.6 million)	($39.4 million)
Expenditures	General Fund	-	$165,377	$106,863	$194,623
	Centrally Appropriated	-	$26,827	$20,223	$44,777
	Total Expenditures	**-**	**$192,204**	**$127,086**	**$239,400**
	Total FTE	**-**	**1.5 FTE**	**1.0 FTE**	**2.5 FTE**
Other Budget Impacts	TABOR Refund	($0.5 million)	($1.0 million)	($19.6 million)	($39.4 million)
	GF Reserve	-	$24,807	$16,029	$29,193

Summary of Legislation

The state child care contribution tax credit is currently available through tax year 2024 to taxpayers who make a monetary contribution to promote child care in Colorado. The credit is nonrefundable, meaning that the amount claimed cannot exceed a taxpayer's income tax liability for a given year. The credit is equal to the lesser of 50 percent of the total contribution, up to $100,000 per taxpayer per year or the taxpayer's actual income tax liability. Qualifying contributions include those to facilities, schools, or programs that provide child care, programs that train child care providers, and grant or loan programs for parents requiring financial assistance for child care purposes.

This bill extends the credit through tax year 2027, and, beginning on its effective date, expands the credit to include in-kind donations of real property, including the value of leasing real property below market value, to promote child care. The bill requires the Department of Revenue to collect additional data related to the tax credit, and requires the Office of the State Auditor to prepare the tax expenditure evaluation for the credit that is currently required by current law in the 2026 income tax year.

Assumptions

In tax year 2020, the most recent year for which data are available, taxpayers claimed 16,850 child care contributions credits worth an aggregate $28.4 million, representing an average amount of $1,685 per credit. For years beyond 2020, the average amount of the credit is assumed to grow by 4.7 percent annually, the compound average annual rate of growth in this figure between 2014 and 2020. The number of credits claimed is assumed to grow by the December 2022 Legislative Council Staff forecast for Colorado population growth combined with the State Demography Office's 2022 projections for population growth. To the extent that the amount of the credit grows at a different pace than anticipated here, the impact on revenue will be correspondingly greater or less.

The in-kind credit is assumed to operate in a similar manner as for current in-kind donations to child care organizations, as reported on publicly available tax returns of charitable organizations, which qualify as a tax deduction under current law. This estimate assumes that the change would not substantially incentivize additional in-kind contributions of real property to qualifying organizations, given that the value of the credit is limited to $100,000. To the extent that in-kind donations of real property to eligible organizations are not adequately captured in currently available data, the impact on revenue will be correspondingly greater or less.

State Revenue

The bill is estimated to decrease General Fund revenue by:

- $500,000 in the current FY 2022-23;
- $1.0 million in FY 2023-24;
- $19.6 million in FY 2024-25;
- $39.4 million in FY 2025-26;
- $40.7 million in FY 2026-27; and
- $20.9 million in FY 2027-28.

The expansion of the credit to include in-kind donations of real property is estimated to reduce revenue by $1.0 million annually, beginning in tax year 2023. The extension of the tax credit from tax years 2025 through 2027 is estimated to reduce revenue by $37.3 million to $41.9 million annually as the value of contributions increases over time. The estimates for the current FY 2022-23 and for FY 2027-28 represent half-year impacts for tax years 2023 and 2028 on an accrual accounting basis. The bill decreases income tax revenue, which is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Department of Revenue to administer the tax credit by about $192,000 in FY 2023-24, about $127,000 in FY 2024-25, and $239,400 in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1091

	FY 2023-24	FY 2024-25	FY 2025-26
Department of Revenue			
Personal Services	$121,645	$98,185	$183,920
Operating Expenses	$2,025	$1,350	$3,375
Capital Outlay Costs	$13,340	-	-
Computer Programming and Testing	$20,975	-	-
Research and Analysis	$7,392	$7,328	$7,328
Centrally Appropriated Costs[1]	$26,827	$20,223	$44,777
Total Cost	**$192,204**	**$127,086**	**$239,400**
Total FTE	**1.5 FTE**	**1.0 FTE**	**2.5 FTE**

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

Personal services. Workload in the DOR will increase to update state forms and systems in order to capture the additional information required by the bill. The department will require additional staff to review and validate property appraisals with respect to the in-kind credit and for testing of the GenTax software system. Starting in FY 2023-24 and ongoing, the department will require 1.0 FTE for appraisers. Also in FY 2023-24, the department will require 0.5 FTE, or 1,100 hours, in the Systems Support Office for testing. Starting in FY 2025-26 and ongoing, the department will require 1.5 FTE for ongoing tax credit administration for staffing in the Taxpayer Service Division to review tax credits claimed, identify and address taxpayer errors, and manage call and correspondence volume associated with the tax credit. Standard operating and capital expenses are included for this new staff.

Computer programming and testing. The DOR will have costs of $28,367 in FY 2023-24 to program, test, and update database fields in its GenTax software system. Programming costs are estimated at $3,375, representing 15 hours of contract programming at a rate of $225 per hour. Costs for testing at the department are estimated at $17,600, representing 550 hours of user acceptance testing at a rate of

$32 per hour. Expenditures in the Office of Research and Analysis are required for data management and reporting so that the department can access and document tax statistics related to the new tax policy. These costs are estimated at $7,392, representing 231 hours at a rate of $32 per hour in FY 2023-24.

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. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

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 2023-24, the bill requires a General Fund appropriation of $165,377 to the Department of Revenue, and 1.5 FTE.

State and Local Government Contacts

Early Childhood	Human Services	Information Technology
Revenue	State Auditor	