# HB 23-1046

Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Final Fiscal Note

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|---|---|---|---|
| **Drafting Number:** | LLS 23-0633 | **Date:** | August 23, 2023 |
| **Prime Sponsors:** | Rep. Armagost | **Bill Status:** | Postponed Indefinitely |
| | | **Fiscal Analyst:** | Louis Pino \| 303-866-3556<br>louis.pino@coleg.gov |

**Bill Topic:** **TAX CREDIT PRE-ADOPTION LEAVE**

**Summary of Fiscal Impact:**

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

For tax years 2024 through 2028, this bill would have created a state income tax credit for an employer that provides pre-adoption paid leave to their employee. The bill would have decreased state revenue from FY 2023-24 through FY 2028-29, and increased state expenditures in FY 2024-25 only.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill. The bill was postponed indefinitely by the House Finance Committee on March 2, 2023; therefore, the impacts identified in this analysis do not take effect.

**Table 1**
**State Fiscal Impacts Under HB 23-1046**

| | | Budget Year FY 2023-24 | Out Year FY 2024-25 |
|---|---|---|---|
| **Revenue** | General Fund | ($0.3 million) | ($0.7 million) |
| | **Total Revenue** | **($0.3 million)** | **($0.7 million)** |
| **Expenditures** | General Fund | - | $60,045 |
| | Centrally Appropriated | - | $5,084 |
| | **Total Expenditures** | **-** | **$65,129** |
| | **Total FTE** | **-** | **0.3 FTE** |
| **Transfers** | | - | - |
| **Other Budget Impacts** | TABOR Refund | ($0.3 million) | ($0.7 million) |
| | General Fund Reserve | - | $9,007 |

## Summary of Legislation

For tax years 2024 through 2028, this bill creates a state income tax credit for an employer that provides pre-adoption paid leave to their employee for the purpose of adopting a child. The amount of the credit is equal to 50 percent of the employer's expenses incurred from voluntarily paying:

- an employee for pre-adoption leave; and
- for temporary replacement help, if any, during an employee's adoption leave.

The credit is limited to employees that have been employed for at least one year and who for the preceding year earned wages less than $80,000. Pre-adoption leave is defined to mean leave from work for the purpose of facilitating an adoption placement, completing required training and home study courses, meeting with legal counsel, attending hearings, or other preparation for an adoption, or bonding and adjusting immediately after adoption of a child. The minimum amount of pre-adoption leave an employer may provide is two weeks, while the maximum amount is 12 weeks per employee. The income tax credit is nonrefundable but may carried forward for five succeeding income tax years. Finally, the employer is required to have a pre-adoption leave policy to qualify for the credit.

The bill also allows the Department of Revenue to request documentation from the employer to ensure they meet all the criteria for the credit in the bill.

## Assumptions

On average, 811 adoptions have been finalized each year from FY 2019-20 to FY 2021-22 within the Colorado Department of Human Services Division of Child Welfare. Data for private domestic adoption is not available. These placements are arranged and managed by child placement agencies and private Colorado adoption attorneys. The American Community Survey shows approximately 41.6 percent of Colorado households that have adopted children earned less than $80,000 in wages or salary.

The fiscal note assumes in the first year the credit is available employers will provide pre-adoption paid leave to approximately 337 employees. Of these, 50 percent will take at least 2 weeks of paid leave incurring approximately $330,000 in employer's expenses, or $165,000 in state credits. Approximately 135, or 40 percent, of employees will take at least 6 weeks of paid leave generating $800,000 in employer expenses, or $400,000 in state credits. The remainder 34 employees will take 12 weeks of paid leave incurring costs of approximately $400,000, or $200,000 in state credits. Finally, the fiscal note assumes the number of employees taking pre-adoption paid leave from their employer will slightly increase each year the state credit is available.

To the extent that more employees are provided and take pre-adoption paid leave, the state revenue impact described below will be higher, or conversely, if fewer employees take paid leave the impact will be less than estimated.

## State Revenue

The bill is expected to decrease General Fund revenue by $0.3 million in FY 2023-24 (half-year impact) and $0.7 million in FY 2024-25 and by similar amounts each year through FY 2027-28, with a half-year impact in FY 2028-29, when the credit expires. The bill reduces corporate and individual income tax revenue, which is subject to TABOR.

## State Expenditures

The bill will increase General Fund expenditures by $65,129 and 0.3 FTE in FY 2024-25 only. These costs, which are incurred in the Department of Revenue, are summarized in Table 2 and described below.

**Table 2**
**Expenditures Under HB 23-1046**

| | FY 2023-24 | FY 2024-25 |
|---|---|---|
| **Department of Revenue** | | |
| Personal Services | - | $18,985 |
| GenTax Programming and Testing | - | $22,366 |
| Data Reporting | - | $7,392 |
| Document Management and Tax Form Changes | - | $11,302 |
| Centrally Appropriated Costs[1] | - | $5,084 |
| **Total Cost** | **-** | **$65,129** |
| **Total FTE** | **-** | **0.3 FTE** |

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

**Department of Revenue**. This bill requires one-time costs in FY 2024-25 for development, programming, and testing for the department's GenTax software system, which includes maintenance and support of $6,750 for 30 hours at $225 per hour. Business user acceptance testing is necessary to ensure the changes made to the computer system work as intended, requiring $32.00 per hour for 488 hours for a one-time cost of $15,616. The Systems Support Office will require 0.3 FTE or $18,985 for development and testing. The Office of Research and Analysis, requires $7,392 in funding to map new schedule data and fields for data reporting. Finally, the bill requires changes to one income tax form prepared by the Department of Personnel and Administration (DPA). These changes are expected to cost $11,302 and this funding is to be reappropriated to DPA in FY 2024-25.

## 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 for FY 2023-24 and FY 2024-25. 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 beginning in FY 2022-23. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase 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 and Local Government Contacts

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|---|---|---|
| Information Technology | Personnel | Revenue |
| State Auditor | Human Services | |