Colorado Legislative Council Staff

HB16-1045

FISCAL NOTE

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

Drafting Number:	LLS 16-0340	**Date:**	January 26, 2016
Prime Sponsor(s):	Rep. Singer Sen. Merrifield; Kefalas	**Bill Status:**	House Finance
		Fiscal Analyst:	Kate Watkins (303-866-3446)

BILL TOPIC: STARTING THE CHILD TAX CREDIT

Fiscal Impact Summary	FY 2015-2016 *(Current Fiscal Year)*	FY 2016-2017	FY 2017-2018
State Revenue	**($33.4 million)**	**($67.2 million)**	**($68.3 million)**
Revenue Change General Fund	(33.4 million)	(67.2 million)	(68.3 million)
State Transfers			
General Fund			($166.8 million)
Capital Construction Fund			$55.6 million
Higher Users Tax Fund			$111.2 million
State Expenditures*		**$1,120,318**	**$1,296,467**
General Fund		892,999	1,002,383
Centrally Appropriated Costs		227,319	$294,084
TABOR Impact		($67.2 million)	($68.3 million)
FTE Position Change*		13.2 FTE	16.8 FTE
Appropriation Required: $892,999 - Department of Revenue (FY 2016-17)			
Future Year Impacts: Ongoing revenue and expenditure impacts.			

* *State expenditure and FTE estimates may be revised downward depending on the appropriation made to the Department of Revenue as a part of the annual budget process to administer the Earned Income Tax Credit.*

Summary of Legislation

This bill, ***recommended by the Early Childhood and School Readiness Legislative Commission***, repeals the contingent start of the refundable Colorado child tax credit, allowing the credit to be claimed beginning in tax year 2016. Under current law, the credit becomes effective beginning with tax year 2016 only if Congress passes the Marketplace Fairness Act (or similar legislation). The Marketplace Fairness Act is a federal bill that requires out-of-state retailers to collect and remit sales taxes to states that have met minimum simplification requirements for sales tax administration. To date, Congress has not passed the bill or an alternate measure with similar requirements.

Under this bill, beginning in tax year 2016, qualifying taxpayers may claim a refundable state income tax credit equal to 30 percent, 15 percent, or 5 percent of the federal child tax credit depending on their federal adjustable gross income (AGI). The credit is capped for single filers at an AGI of $75,000, and for joint filers at an AGI of $85,000.

Background

Under Section 24 of the Internal Revenue Code (IRC), the federal government allows a non-refundable credit equal to $1,000 per qualifying child age 16 and under. The credit is phased-out for taxpayers with a federal AGI over $75,000 for single filers and $110,000 for joint filers. A refundable child tax credit ("additional credit") is also available for certain taxpayers who get less than the full $1,000 of the child tax credit.

The passage of Senate Bill 13-001 created a refundable credit equal to a percentage of the federal credits claimed under Section 24 of the IRC. The credit can be claimed beginning in tax year 2016, contingent upon the passage of the Marketplace Fairness Act (or similar legislation). To date, Congress has not passed the Marketplace Fairness Act.

Under current law, the Colorado child tax credit is limited to qualifying taxpayers who have a federal AGI at or below $75,000 for single filers and at or below $85,000 for joint filers. The allowable credit is calculated as a percent of the federal credits claimed, and differs based on taxpayer AGI, as summarize in Table 1.

Table 1. Colorado Child Tax Credit Allowed Under Current Law* and HB 16-1045

Percentage of the Federal Credit	Federal Adjusted Gross Income (AGI)	
	Single Filer	**Joint Filers**
30 percent	Below $25,001	Below $35,001
15 percent	Between $25,001 and $50,000	Between $35,001 and $60,000
5 percent	$50,001 and $75,000	Between $60,001 and $85,000

**Contingent upon Congress enacting the Market Fairness Act or similar legislation.*

State Revenue

This bill will result in a **General Fund revenue reduction of $33.4 million in FY 2015-16 (half-year impact), $67.2 million in FY 2016-17, and $68.3 million in FY 2017-18.** This revenue impact is expected to grow with the population of children under age six.

Data and assumptions. This fiscal note is based on data obtained from the 2012 Internal Revenue Service (IRS) Statistics of Income for the amount and number of eligible dependents for which the federal child tax credit and additional child tax credit were claimed. Estimates account for the qualifying requirements of this bill, including filing status, federal AGI, and child age (under age six). Revenue estimates were increased annually by the State Demographer's anticipated growth rate for the state population of children under six.

TABOR Impact

This bill reduces state revenue from the General Fund, which will reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. Table 2 shows the projected impact on the mechanisms used to refund the TABOR surplus under current law. Based on the December 2015 Legislative Council Staff forecast, revenue refunded through the Six Tier Sales Tax Refund mechanism is expected to be reduced by $67.2 million in FY 2016-17 and $68.3 million in FY 2017-18.

Table 2. Impact of HB 16-1045 on Current Refund Mechanisms
(Millions of Dollars)

	FY 2016-17 Surplus FY 2017-18 Refund Tax Year 2017	FY 2017-18 Surplus FY 2018-19 Refund Tax Year 2018
Current Law		
Revenue above the TABOR limit	$191.6 million	$384.0 million
Income Tax Rate Reduction	0	232.9 million
Sales Tax Refund	191.6 million	151.3 million
HB16-1045		
Revenue above the TABOR limit	124.4 million	315.9 million
Income Tax Rate Reduction	0	232.9 million
Sales Tax Refund	124.4 million	83.0 million
Change from Current Law		
Revenue above the TABOR limit	(67.2 million)	(68.3 million)
Income Tax Rate Reduction	0	0
Sales Tax Refund	(67.2 million)	(68.3 million)
Total Change from Current Law	**($67.2 million)**	**($68.3 million)**

Source: Legislative Council Staff December 2015 Forecast.

Senate Bill 09-228 Transfers. When the TABOR surplus is between 1.0 percent and 3.0 percent of General Fund revenue, the Senate Bill 09-228 transfers are halved; when the TABOR surplus exceeds 3.0 percent the Senate Bill 09-228 transfers are suspended. This bill could reduce the TABOR surplus in FY 2017-18 to below 3.0 percent of General Fund revenue, which will increase the amount of money transferred to the Capital Construction Fund by $55.6 million and the Highway Users Tax Fund by $111.2 million in FY 2017-18.

State Expenditures

This bill will increase General Fund expenditures for the **Department of Revenue (DOR) by $1.1 million and 13.2 FTE in FY 2016-17 and $1.3 million and 16.9 FTE in FY 2017-18.** Expenditure estimates may be revised downward depending on the FTE appropriation to DOR as a part of the annual budget process to administer the Earned Income Tax Credit. Costs include personal services, operating expenses, programming, forms changes, document management, and postage costs, as summarized in Table 3 and explained below.

Table 3. Expenditures Under HB 16-1045		
Cost Components	**FY 2016-17**	**FY 2017-18**
Personal Services	$588,968	$754,126
FTE	13.2	16.9
Operating Expenses and Capital Outlay Costs	$73,679	$34,867
Programming Costs	$44,000	$20,800
Document Management	$169,125	$171,480
Postage and Mailing Costs	$17,228	$21,110
Centrally Appropriated Costs*	$227,319	$294,084
TOTAL	**$1,120,318**	**$1,296,467**

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

Auditing and review. This bill requires new staff in the DOR for auditing, reviewing, and processing returns. An estimated 214,675 households will claim the child tax credit in tax year 2016. This fiscal note assumes a 15 percent review rate (32,201 returns) and 15 percent protest rate of reviews (4,830 returns). These workload increases will require 11.7 FTE in FY 2016-17 and 15.9 FTE in FY 2017-18.

Call Center. The DOR call center is expected to receive calls from 10 percent of the filers claiming the credit in the first year the credit is available (an estimated 21,500 callers) and 5 percent of filers in the subsequent years (10,900 callers). This will require 1.4 FTE in FY 2016-18 and 0.9 FTE in FY 2017-18.

Programming and form change costs. The DOR will incur a one-time programming cost of $41,600 for contract work required to modify the tax accounting system program (GenTax) at a hourly rate of $200 for 208 hours. Programming to modify two different state income tax forms (104CR and 104DX) will also be required in FY 2016-17 at a cost of $1,200 per form, which will be reappropriated to the Department of Personnel and Administration (DPA). In FY 2017-18, an additional $20,800 will be required for GenTax changes to modify the logic used to identify returns for review ($200 per hour for 104 hours).

Document management costs. Of the estimated 214,675 filers claiming the credit, 16 percent are expected to mail in returns, and 50 percent of the remaining filers will mail in supporting documentation to claim the child tax credit. These filers are expected to average two pages of documents each, which will require scanning, data entry, and destruction costs. These costs are expected to total $169,125 in FY 2016-17 and will be reappropriated to the DPA. An Administrative Assistant II will be required to view and categorize documents, requiring an ongoing allocation of 0.1 FTE to the DOR.

Postage and mailing costs. Postage and mailing (envelope and printing) costs are assumed to be $0.49 and $0.045, respectively, per reviewed return. For the estimated 32,201 returns reviewed from tax year 2016, these costs will total $17,228. Costs will be ongoing and will grow with the number of returns reviewed.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 4.

Table 4. Centrally Appropriated Costs Under HB 16-1045

Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$105,639	$135,250
Supplemental Employee Retirement Payments	50,400	67,574
Leased Space	71,280	91,260
TOTAL	**$227,319**	**$294,084**

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2016-17, the Department of Revenue will require an allocation of 13.2 FTE and a General Fund appropriation of $892,999, $171,525 of which will be reappropriated to the Department of Personnel and Administration for document management.

State and Local Government Contacts

Revenue   Office of Information Technology   Personnel and Administration

Research Note Available

An LCS Research Note for HB 16-1045 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.