HB 18-1208

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated March 9, 2018)

Drafting Number:	LLS 18-0466	**Date:**	March 30, 2018
Prime Sponsors:	Rep. Duran; Winter Sen. Martinez Humenik	**Bill Status:**	House Appropriations
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Bill Topic: EXPAND CHILD CARE EXPENSES INCOME TAX CREDIT

Summary of Fiscal Impact:

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

This bill expands the state income tax credit for child care expenses by increasing the amount of the credit and broadening the eligible taxpayer population. It decreases state revenue and increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2018-19, the bill requires an appropriation of $38,558 and 0.3 FTE to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the House Finance Committee, and has been revised to reflect the March 2018 revenue forecast.

Table 1
State Fiscal Impacts Under HB 18-1208

		FY 2017-18 *(current year)*	FY 2018-19	FY 2019-20
Revenue	General Fund	($10.7 million)	($18.8 million)	($18.8 million)
	Total	**($10.7 million)**	**($18.8 million)**	**($18.8 million)**
Expenditures	General Fund	-	$38,558	$44,977
	Centrally Appropriated	-	$5,186	$14,041
	Total	-	$43,744	$59,018
	Total FTE	-	0.3 FTE	0.8 FTE
Transfers		-	-	-
TABOR Refund		-	**($30.3 million)**	**$3.0 million**

Summary of Legislation

Beginning in the current tax year 2018, this bill expands the state income tax credit for child care expenses.

The credit is available to taxpayers who claim a child care expenses credit on their federal income tax return. Under current law, taxpayers with adjusted gross income (AGI) of $60,000 or less are eligible to claim the state credit. The credit is equal to:

- 50 percent of the federal credit for taxpayers with AGI of $25,000 or less;
- 30 percent of the federal credit for taxpayers with AGI of $25,001 to $35,000; and
- 10 percent of the federal credit for taxpayers with AGI of $35,001 to $60,000.

This bill allows taxpayers with AGI of up to $150,000 to claim the state credit. Under the bill, the state credit is equal to 80 percent of the federal credit for all eligible taxpayers. Credits are refundable for taxpayers with AGI of up to $60,000. For taxpayers with AGI between $60,001 and $150,000, credits are nonrefundable and, to the extent that they exceed a taxpayer's income tax liability, may be carried forward for up to five years.

Background

The federal child and dependent care expenses credit is available for individuals who pay child care expenses for a dependent child under the age of 13. Child care may be provided inside or outside of the home, and the taxpayer must report the persons or organizations providing child care on their tax return. The amount of expenses upon which the federal credit is based is capped at $3,000 for a taxpayer with one qualifying child and $6,000 for a taxpayer with two or more qualifying children. Based on the taxpayer's AGI, this amount is multiplied by a percentage between 35 percent and 20 percent for the purposes of determining the credit's value. Example calculations are provided in Table 2.

Table 2
Federal Child Care Expenses Tax Credit Caps

Taxpayer AGI	Percentage Adjustment	Credit Cap for One Dependent Child	Credit Cap for Two or More Dependent Children
Up to $15,000	35 percent	$1,050	$2,100
$25,000	30 percent	$900	$1,800
$35,000	25 percent	$750	$1,500
$43,001 and up	20 percent	$600	$1,200

State Revenue

This bill is expected to reduce state income tax revenue to the General Fund by $10.7 million in the current FY 2017-18, $18.8 million in each of FY 2018-19 and FY 2019-20, and $21.3 million annually beginning in FY 2020-21. The revenue impact for FY 2017-18 represents a half-year impact for tax year 2018 on an accrual accounting basis.

Child care expenses credit. Beginning in tax year 2018, the bill reduces income tax revenue by expanding the child care expenses tax credit. The estimated effects on taxpayers of different AGI levels are presented in Table 3.

Table 3
Estimated Taxpayer Impact of Child Care Expenses Credit in HB 18-1208 for Tax Year 2018

Taxpayer AGI	Number of Taxpayers	Average Federal Credit	Average State Credit Current Law	Average State Credit HB 18-1208	Total GF Revenue Reduction	HB 18-1208 Fiscal Impact
Up to $25,000	3,200	$313	$156	$250	($0.8 million)	($0.3 million)
$25,001 to $35,000	7,000	$550	$165	$440	($3.1 million)	($1.9 million)
$35,001 to $60,000	14,100	$525	$53	$420	($5.9 million)	($5.2 million)
$60,001 to $150,000	33,100	$525	$0*	$420	($13.9 million)	($13.9 million)
Total	**57,400**	**$516**	**$99***	**$413**	**($23.7 million)**	**($21.3 million)**

**Average state credit amount under current law omits taxpayers with AGI of $60,001 or greater.*

Based on prior year populations claiming the federal and state child care expenses credits, the bill is assumed to increase the amount of the credit for about 24,300 taxpayers who claim the state credit under current law, and to expand the credit to an additional 33,100 taxpayers who are ineligible to claim the state credit under current law because their AGI exceeds $60,000. Because the allowable federal credit is the same for all taxpayers with AGI of $43,001 and up, the amount of the federal tax credit claimed by taxpayers with AGI exceeding $60,000 is assumed to resemble the amount of the federal credit claimed by taxpayers with AGI between $43,001 and $60,000 under current law. Taxpayers with AGI greater than $60,000 are assumed to have an income tax liability in excess of $420, meaning that the nonrefundability of these credits is not expected to significantly impact the total value of credits claimed.

Conservation easement credit. For tax year 2019 only, the bill is expected to increase income tax revenue by $5.0 million by reducing the amount of conservation easement income tax credits claimed in 2019. In most years, the conservation easement credit is nonrefundable. In tax years following fiscal years when the state collects a TABOR surplus, the credit is partially refundable, meaning a larger credit is available to some taxpayers and state income tax revenue is reduced. This bill is expected to eliminate the FY 2018-19 TABOR surplus, making the credit fully nonrefundable in tax year 2019 and increasing income tax revenue. This increase will partially offset the revenue reductions anticipated for FY 2018-19 and FY 2019-20.

TABOR Refund

FY 2018-19. This bill reduces state income tax revenue by an amount sufficient to eliminate the $8.4 million TABOR surplus that is expected to be collected in FY 2018-19 under current law and the March 2018 Legislative Council Staff forecast. Because the bill reduces state revenue by $18.8 million while reducing the amount required to be set aside for TABOR refunds by $8.4 million, the bill reduces the amount available for the FY 2018-19 General Fund budget by $10.4 million.

In addition, the elimination of the FY 2018-19 surplus will result in the following fiscal impacts:

- TABOR refund obligations carried over from prior surpluses, estimated at $21.8 million, will be postponed until the next TABOR refund occurs. This amount was already set aside in the General Fund during prior years; and
- partial refundability of the gross conservation easement income tax credit will not be available in tax year 2019, resulting in an estimated $2.5 million General Fund revenue increase in each of FY 2018-19 and FY 2019-20.

FY 2019-20. This bill reduces the amount required to be set aside for TABOR refunds for FY 2019-20 by $18.8 million. Because the bill reduces General Fund revenue and the refund obligation by equal amounts, this reduction has no impact on the amount available for the FY 2019-20 General Fund budget. However, the amount available for the budget in this year will be reduced by $30.3 million because the obligation for local government reimbursements for the senior homestead exemption and disabled veterans property tax exemption will not be offset by the TABOR refund obligation set aside in FY 2018-19.

The TABOR refund obligation for FY 2019-20 will be increased by $3.0 million, representing the net impact of a $18.8 million reduction in revenue and a $21.8 million increase in adjustments for previous underrefunds. This amount will be refunded in reimbursements for the senior homestead and disabled veteran property tax exemptions in FY 2020-21. Adjustments for previous underrefunds are already restricted in the General Fund and have no impact on the FY 2019-20 General Fund budget.

State revenue subject to TABOR is not estimated for years beyond FY 2019-20. Impacts of the bill on the state TABOR situation are presented in Table 4.

Table 4
TABOR Impacts of HB 18-1208

	FY 2018-19	**FY 2019-20**
Current Law		
TABOR Surplus	$8.4 million	$156.4 million
Adjustments for Previous Underrefunds	$21.8 million	-
TABOR Refund Obligation	$30.3 million	$156.4 million
HB 18-1208		
TABOR Surplus	-	$137.6 million
Adjustments for Previous Underrefunds	-	$21.8 million
TABOR Refund Obligation	-	$159.4 million
Change in TABOR Surplus	**($8.4 million)**	**($18.8 million)**
Change in TABOR Refund Obligation	**($30.3 million)**	**$3.0 million**

State Expenditures

This bill increases General Fund expenditures by $43,744 and 0.3 FTE in FY 2018-19 and by $59,018 and 0.8 FTE in FY 2019-20 and subsequent fiscal years. Expenditures are summarized in Table 5 and described below.

Table 5
Expenditures Under HB 18-1208

	FY 2018-19	FY 2019-20
Department of Revenue		
Personal Services	$13,523	$38,380
Operating Expenses and Capital Outlay Costs	$4,703	$760
Computer Programming and Testing	$9,840	-
Document Management	$10,492	$5,837
Centrally Appropriated Costs*	$5,186	$14,041
Total Cost	**$43,744**	**$59,018**
Total FTE	**0.3 FTE**	**0.8 FTE**

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

Personal services. Based on the assumption that the bill allows an additional 33,100 taxpayers to claim the income tax credit, workload in the Department of Revenue Taxpayer Service Division is expected to increase by 0.3 FTE in FY 2018-19 and 0.8 FTE beginning in FY 2019-20 to administer the credit, verify eligibility, and correspond with taxpayers. Workload estimates are based on actual workload for the current law credit. The estimate for FY 2018-19 is based on the assumption that administration of the expanded credit will begin in January 2019 for income tax returns filed for tax year 2018, and reflects the General Fund pay date shift for June 2019.

Computer programming and testing. This bill requires changes to the department's GenTax software system. Changes are programmed by a contractor at a rate of $250 per hour. The changes in this bill are expected to increase expenditures by $6,000, representing 24 hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill will require the expenditures for contract personnel totaling $3,840, representing 160 hours of testing at a rate of $24 per hour.

Document management. The bill requires changes to two tax forms at a cost of $1,200 per form in FY 2018-19 only. Additional document management costs are for the processing of paper income tax returns and for mailing costs for correspondence with taxpayers. A portion of these costs occur in the Department of Personnel and Administration and are paid with reappropriated Department of Revenue funds.

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, supplemental employee retirement payments, and leased office space, are estimated to be $5,186 in FY 2018-19 and $14,041 beginning in FY 2019-20.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2018-19, the bill requires a General Fund appropriation of $38,558 to the Department of Revenue with an allocation of 0.3 FTE, from which $7,588 should be reappropriated to the Department of Personnel and Administration.

Departmental Difference

The Department of Revenue assesses the bill as increasing state expenditures by $73,314 and 0.7 FTE in FY 2018-19, or $29,570 and 0.4 FTE more than estimated in this fiscal note. The department expects increased workload in the first tax year to identify and correct improperly filed tax returns. The department's analysis is based on two income tax deductions launched in 2017, including those for first-time home buyers and lessors of agricultural assets, for which tax returns had disproportionately high error rates. The department assumes that these error rates are attributable to taxpayer unfamiliarity with these deductions, and that other new tax expenditures will have similarly high error rates in their first year of availability. This fiscal note assumes that disproportionately high error rates are attributable to these deductions' high levels of complexity, and that error rates for the expanded child care expenses credit in this bill will resemble that for the child care expenses credit in current law.

State and Local Government Contacts

Information Technology   Personnel   Revenue