SB 24-016

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated January 26, 2024)

Drafting Number:	LLS 24-0543	**Date:**	April 16, 2024
Prime Sponsors:	Sen. Zenzinger; Smallwood Rep. Snyder	**Bill Status:**	House Appropriations
		Fiscal Analyst:	Elizabeth Ramey | 303-866-3522 elizabeth.ramey@coleg.gov

Bill Topic: **TAX CREDITS FOR CONTRIBUTIONS VIA INTERMEDIARIES**

Summary of Fiscal Impact:

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

Starting in tax year 2024, the bill expands the donations that would qualify for certain state income tax credits, and changes the administration of the state homeless contribution tax credit. Beginning in the current fiscal year, the bill reduces state revenue. Beginning in FY 2024-25, the bill increases state expenditures.

Appropriation Summary: For FY 2024-25, the bill requires appropriations of $46,769 to multiple agencies. It currently includes appropriations of $113,937.

Fiscal Note Status: The fiscal note reflects the reengrossed bill, as amended by the House Finance Committee, and it has been updated to reflect new information.

Table 1
State Fiscal Impacts Under SB 24-016

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($239,000)	($478,000)	($478,000)
	Total Revenue	**($239,000)**	**($478,000)**	**($478,000)**
Expenditures	General Fund	-	$46,769	$561
	Centrally Appropriated	-	$6,602	-
	Total Expenditures	**-**	**$53,371**	**$561**
	Total FTE	**-**	**0.4 FTE**	**-**
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	($239,000)	($478,000)	($478,000)
	General Fund Reserve	-	$7,015	$84

Summary of Legislation

Starting in tax year 2024, the bill permits a taxpayer to claim an income tax credit for donations made through an intermediary that forwards the contribution to a qualified recipient charitable organization, if the taxpayer could otherwise claim the credit for making the contribution directly to the recipient organization. An intermediary is a charitable organization that collects charitable contributions from donors and forwards them to charitable recipient organizations.

The bill allows a tax credit certificate for the state homeless contribution tax credit (HCTC) to include only the last four digits, rather than all digits, of a taxpayer's social security number. It also extends statutory deadlines for the Division of Housing (DOH) in the Department of Local Affairs (DOLA) to conduct performance and compliance reviews of nonprofit organizations and approved projects receiving donations that qualify for the HCTC.

Background

Several state income tax credits are available for taxpayers who make certain donations. Under current law, the bill expands the types of donations that may qualify for the HCTC and the child care contribution tax credit, although the bill is expected to have little to no impact on the child care contribution tax credit.

Homeless contribution tax credit. For tax years 2023 through 2026, the HCTC is available to taxpayers who make a monetary or in-kind contribution to an approved nonprofit organization or to an approved project administered by the nonprofit organization. Qualifying organizations or projects include those to assist individuals or families experiencing homelessness or the risk of homelessness and is equal to 25 percent of the total value of the contribution for projects located in a non-rural area and 30 percent of the total contribution for projects in rural areas. The credit is non-refundable, meaning that the amount claimed cannot exceed a taxpayer's income tax liability for a given year, but may be carried forward for five years. The homeless contribution tax credit is administered by the Division of Housing (DOH) in the Department of Local Affairs (DOLA).

Prior to tax year 2023, a similar income tax credit, administered by the Office of Economic Development and International Trade, was available for taxpayers making monetary or in-kind contributions to assist individuals or families experiencing or at risk of homelessness in Colorado enterprise zones. Donations made through intermediaries were eligible for the tax credit. House Bill 22-1083 made the HCTC available statewide, and shifted its administration to DOH. Contributions made through intermediaries were deemed no longer eligible to claim the HCTC. However, DOH began approving HCTC contributions made via intermediary nonprofit organizations as eligible for the HCTC in October 2023 for tax year 2023 only. Examples of intermediary nonprofit organizations include Colorado Gives 365, Mile High United Way, and Community Shares of Colorado.

According to the DOH, there were 81 organizations that qualified for the HCTC as of December 20, 2023. For tax year 2023, 3,150 donors contributed a total of $14.6 million for total estimated tax credits of $3.7 million.

Child care contribution tax credit. The state child care contribution tax credit is currently available through tax year 2027 to taxpayers who make a monetary contribution to promote child care in Colorado. The credit is nonrefundable and 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.

Assumptions

The fiscal note assumes the bill will have minimal or no impact on the donations eligible to claim the child care contribution tax credit based on the nature of qualifying organizations as well as the unchanged administration of the tax credit.

Based on available data on credit-eligible and ineligible donations in tax year 2023, the fiscal note assumes that the bill will impact some recurring donors newly eligible to claim the HCTC in tax years 2024 through 2026 who were made ineligible to claim the HCTC in tax year 2023 due to the administrative change which removed eligibility for donations made through intermediaries for most of the tax year. The fiscal note assumes that 405 donors will be once again eligible to claim the HCTC, with an average credit amount of $1,180 for a total impact in tax year 2024 of $478,000. The fiscal note assumes that most recurring donors using intermediary organizations prior to tax year 2023 were made aware of the administrative change and were able to switch to making direct donations to qualifying organizations in 2023, or else made their donation from October 2023 to December 2023, when donations through intermediaries were being accepted by the DOH. The fiscal note assumes that any new donors who qualified for the credit in tax year 2023 will be unaffected by the bill.

State Revenue

The bill is estimated to reduce state revenue by $239,000 in the current FY 2023-24 (half-year impact) and by $478,000 in FY 2024-25 and FY 2025-26 on an accrual accounting basis, due to recurring donors again becoming eligible to claim the HCTC. The bill reduces income tax revenue, which is subject to TABOR.

State Expenditures

The bill will increase General Fund expenditures by about $53,000 in FY 2024-25, with ongoing costs of about $600 expected annually. These costs are incurred in the Department of Revenue (DOR) and the DOH in DOLA as summarized in Table 2 and described below.

Table 2
Expenditures Under SB 24-016

	FY 2024-25	FY 2025-26
Department of Revenue		
Personal Services	$20,845	-
Operating Expenses	$512	-
Capital Outlay Costs	$6,670	-
Software Programming and Testing	$11,190	-
Document Management	$2,552	$561
Centrally Appropriated Costs[1]	$6,602	-
FTE – Personal Services	0.4 FTE	-
DOR Subtotal	**$48,371**	**$561**
Department of Local Affairs		
Computer Programming	$5,000	-
DOLA Subtotal	**$5,000**	-
Total	**$53,371**	**$561**
Total FTE	**0.4 FTE**	**-**

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

Department of Revenue. The DOR will require $28,027 to add 0.4 FTE tax examiners in FY 2024-25 only to review claims for the homeless contribution tax credit. For later years, the workload demand is expected to lessen because the number of erroneous claims will decline due to education and outreach as well as claim denials. Expenditures include employee salary and benefits and standard operating and capital outlay costs, and are prorated to assume a December 2024 start date for staff. There are no DOR costs to manage the expansion of eligible credits for donations made through intermediaries.

In order to process tax credit certificates using identifying information other than a nine-digit social security number, the bill requires one-time expenditures of $11,190 to program, test, and update database fields in the DOR's GenTax software system. Programming costs are estimated at $7,416, representing 32 hours of contract programming at a rate of $231.75 per hour. Costs for testing at the department include $2,590 for 32 hours of innovation, strategy, and delivery programming support at a rate of $35 per hour, and $1,184 for 37 hours of user acceptance testing at a rate of $32 per hour.

Finally, the bill increases document management costs to update tax forms and review paper filings. These costs, estimated at $2,552 in FY 2024-25 and $561 ongoing, occur in the Department of Personnel and are paid using reappropriated DOR funds.

Department of Local Affairs, Division of Housing. The Division of Housing (DOH) will have increased workload for education and outreach regarding changes to the tax credit under the bill. This increase can be accomplished with existing resources. The database that supports

DOH's administration of the tax credit will require a modification to capture the last four digits of a social security number and connect previous records that used the full social security number. This work will cost $5,000 and be performed in the Office of Information Technology, which will be reimbursed by DOLA via real-time billing.

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 March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. 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 2024-25, the bill requires the following appropriations from the General Fund:

- $41,769 to the Department of Revenue, and 0.4 FTE, of which $2,552 is reappropriated to the Department of Personnel; and
- $5,000 to the Department of Local Affairs, reappropriated to the Office of Information Technology.

For FY 2024-25, the bill currently includes the following appropriations from the General Fund:

- $108,937 to the Department of Revenue, and 1.6 FTE; and
- $5,000 to the Department of Local Affairs, reappropriated to the Office of Information Technology.

State and Local Government Contacts

Information Technology	Local Affairs	Office of Economic Development
Personnel	Revenue	

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.