Colorado Legislative Council Staff

HB16-1065

FINAL FISCAL NOTE

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

Drafting Number:	LLS 16-0419	**Date:**	July 6, 2016
Prime Sponsor(s):	Rep. Conti	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Kate Watkins (303-866-3446)

BILL TOPIC: INCOME TAX CREDIT FOR HOME HEALTH CARE

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
State Revenue	**($4.9 million)***	**($7.2 million)***	**($16.8 million)***
General Fund	($4.9 million)*	($7.2 million)*	($16.8 million)*
State Expenditures		**$320,523***	**$130,268***
General Fund		$286,435*	$114,775*
Centrally Appropriated Costs		$34,088*	$15,493*
TABOR Impact	($4.9 million)*	($7.2 million)*	($16.8 million)*
FTE Position Change		2.0 FTE*	0.9 FTE*
Appropriation Required: None.*			
Future Year Impacts: Contingent upon forecast General Fund growth.			

* *Assumes the credit under this bill is triggered in tax year 2018, 2019, and 2020.*

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill provides a state income tax credit for taxpayers aged 75 and older of up to $3,000 per year for certain out-of pocket health care costs as follows:

- in tax years 2016 and 2017, the cost of certain home modifications;
- in tax years 2018 and 2019, the cost of certain home modifications and home health care services; and
- in tax year 2020 and 2021, the cost of certain home modifications, home health care services, and durable medical and telehealth equipment.

The tax credit is nonrefundable, meaning the credit is limited to a taxpayer's income tax liability, and may not be carried forward.

Each tax year, the availability of the credit is contingent upon the Legislative Council Staff December forecast projecting sufficient revenue to grow General Fund appropriations by at least 6 percent in the fiscal year in which the forecast occurs. For example, a December 2016 forecast of sufficient FY 2016-17 revenue would trigger a tax year 2017 credit. If the credit is not available in a given tax year but a taxpayer qualifies, that taxpayers may claim the credit in future years if and when it is available.

To claim the credit, a qualifying senior must obtain a credit certificate signed by a doctor, physician's assistant, nurse practitioner, or home health care agency coordinator listing home health care modifications, equipment, or services needed for the qualifying taxpayer's home health care. Certificates must be submitted with the taxpayer's tax return. Taxpayers may claim a percentage of out-of-pocket home health care costs of the goods and services listed on the certificate based on their federal taxable income and filing status, as shown in Table 1.

Table 1. Tax Credit Allowable Under HB 16-1065 by Taxpayer Status

Percentage of Health Care Costs	Federal Taxable Income	
	Single Filers	Joint Filers
70%	$0 to $25,000	$0 to $50,000
35%	$25,001 to $45,000	$50,001 to $90,000
0%	More than $45,000	More than $90,000

State Revenue

If the credit is triggered for the 2018, 2019, and 2020 tax year, this bill is expected to reduce General Fund revenue **by $4.9 million in FY 2017-18 (half-year impact), $7.2 million in FY 2018-19, and $16.8 million in FY 2019-20**. Based on the December 2015 Legislative Council Staff forecast, the credit will not be triggered in tax year 2016, and General Fund revenue is not expected to grow at a sufficient pace to trigger the credit in tax year 2017. This bill allows credit amounts that would have been claimed in subsequent years when the credit is triggered. Therefore, if triggered for tax year 2018, the credit could be claimed for qualifying health care costs incurred in 2016, 2017 and 2018.

Alternative trigger scenarios. It is possible that forecast General Fund revenue growth will not be sufficient to trigger the credit in 2018, or any subsequent fiscal years. Among other scenarios, it is possible that all six years of the credit could be made available in a single tax year between 2021 and 2025. Table 2 illustrates several trigger scenarios and their expected revenue impact by year. Underlaying assumptions for revenue estimates are provided below.

Table 2. Estimated HB 16-1065 Revenue Impact Under Different Trigger Scenarios
(Dollars in Millions, Shown by Tax Year)

If triggered...	2016*	2017	2018	2019	2020	2021
...each year	*N/A*	$5.5	$4.2	$4.6	$29.0	$31.0
...only in 2018	*N/A*	*N/A*	$9.7	*N/A*	*N/A*	*N/A*
...only in 2021	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	$74.3

N/A = Not available due to the trigger not being met.
** As a result of the December 2015 Legislative Council Staff forecast, the credit will NOT be triggered for tax year 2016.*

Population and average income tax liability. In 2012, there were 38,521 single filer and 37,016 joint filer taxpayers over the age of 74 with federal taxable incomes that qualify for the credit under this bill. Approximately 17,600 of these taxpayers are assumed to be living in a certified nursing home and will not be eligible for the tax credit. Population estimates were grown by the State Demographer's forecast of growth in the population over age 74. Qualifying taxpayers are projected to have an average state income tax liability of $213 and $576, respectively, in tax year 2018, based on tax data for 2012. This is well below the maximum credit of $3,000.

Home modifications. The definition of home modifications under this bill is narrow and the costs for most modifications is expected to well exceed the average income tax liability of qualifying taxpayers. This fiscal note assumes that 10 percent of eligible taxpayers (7,033 filers in tax year 2016) will claim these costs per tax year, and costs claimed will exceed the income tax liability of the average taxpayer.

Health care services. This fiscal note assumes that 4 percent of eligible taxpayers will claim out-of-pocket home health service costs (3,190 filers in tax year 2018) each tax year. These costs are expected to exceed the average tax liability of this qualifying population. Based on data from a 2013 study published by the Center for Disease Control, an estimated 17 percent of Coloradans over the age of 75 used home care services in 2011. However, Medicaid or Medicare covered the majority of costs for these patients.

Durable medical and telehealth equipment. This fiscal note assumes that 80 percent of eligible taxpayers (70,982 in tax year 2020) will claim a credit for durable medical and telehealth equipment, home modifications and home health care services in tax years 2020 and 2021. Based on the broad definition of durable medical equipment, a majority of eligible taxpayers likely incur costs each year that would qualify for the credit under this bill and, for most, this cost would exceed their income tax liability.

TABOR Impact

If the credit created by this bill is triggered during a TABOR surplus situation, it will reduce the state's TABOR surplus and the amount of money required to be refunded to taxpayers. For example, if the credit under this bill were triggered for the 2018 tax year and if the state incurred a TABOR surplus in FY 2017-18, this bill would reduce taxpayer refunds from the Six Tier Sales Tax refund mechanism by an estimated $4.9 million in tax year 2018.

State Expenditures

If the credit under this bill is triggered in tax year 2018, **General Fund expenditures in the Department of Revenue (DOR) will increase by $286,435 and 2.0 FTE in FY 2018-19.** If triggered in the two subsequent years, General Fund expenditures will be increased by $114,775 and 0.9 FTE in FY 2019-20, and by $625,229 and 4.2 FTE in FY 2020-21. State expenditure impacts could occur sooner, later, or not at all depending on the credit trigger. Expenditures are from auditing, call center, document management and computer programming costs for the DOR, as shown in Table 3 and described below.

Table 3. Expenditures Under HB 16-1065*			
Cost Components	**FY 2018-19**	**FY 2019-20**	**FY 2020-21**
Personal Services	$85,173	$38,328	$178,864
FTE	2.0 FTE	0.9 FTE	4.2 FTE
Operating Expenses and Capital Outlay Costs	$11,306	$5,558	$22,802
Document Management and Programming	$187,661	$69,851	$417,362
Printing and Postage	$2,295	$1,038	$6,200
Centrally Appropriated Costs**	$34,088	$15,493	$72,305
TOTAL	**$320,523**	**$130,268**	**$697,534**

** Assumes the credit under this bill is triggered in tax year 2018, 2019, and 2020.*
*** Centrally appropriated costs are not included in the bill's appropriation.*

Taxpayer Services Division and call center. Assuming that the credit under this bill is triggered for tax year 2018, DOR will require 2.0 FTE in FY 2018-19 to review tax returns at a 15 percent review rate, to test the GenTax system, and to respond to taxpayer calls (estimated at 10 percent of the number of filers claiming the credit). These workload increases are expected to increase with the number of filers claiming the credit, should the credit be triggered in subsequent years.

Document management and programming costs. Assuming that the credit is triggered in tax year 2018, DOR will incur one-time programming costs of $32,000 in FY 2018-19 to program the GenTax system at an estimated contractor rate of $200 per hour for 160 hours of programming. Additionally, data input, imaging, and management costs are estimated at $154,461. These costs and a one-time cost of $1,200 for Fairfax programming to modify one tax form will be reappropriated to the Department of Personnel and Administration. Document management costs are expected to increase with the number of filers claiming the credit, if triggered.

Reporting of home health care agencies. Under this bill the Department of Public Health and Environment is required to provide DOR with a list of licensed home health care agencies in Colorado. This is expected to result in a minimal workload that can be absorbed within existing resources.

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 16-1065*			
Cost Components	**FY 2018-19**	**FY 2019-20**	**FY 2020-21**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$15,999	$7,199	$33,598
Supplemental Employee Retirement Payments	7,289	3,434	16,027
Leased Space	10,800	4,860	22,680
TOTAL	**$34,088**	**$15,493**	**$72,305**

**More information is available at: http://colorado.gov/fiscalnotes*

Technical Considerations

DOR is limited in its ability to verify eligible home health care costs under this bill, as receipts or invoices can only be compared to submitted credit certificates, which are signed by certain health care professionals, instead of a licensed home health care agency. DOR recommends that certificates be completed instead by home health care agencies, which can be cross-referenced against the list of agencies provided by the Department of Public Health and Environment. Alternatively, DOR recommends that medical professionals provide professional license numbers with the certificate, and that the Department of Regulatory Agencies share data that allows for the verification of the status of medical professionals.

Effective Date

This bill was postponed indefinitely by the House Finance Committee on February 24, 2016.

State and Local Government Contacts

Health Care Policy and Financing	Personnel	Revenue
Public Health and Environment		