# HB15-1143

*Colorado Legislative Council Staff Fiscal Note*

# STATE FISCAL IMPACT

**Note: This fiscal note is provided pursuant to Joint Rule 22 (b) (2) and reflects strike-below Amendment L.001.**

| | | | |
|---|---|---|---|
| **Drafting Number:** | LLS 15-0360 | **Date:** | February 25, 2015 |
| **Prime Sponsor(s):** | Rep. Conti<br>Sen. Crowder | **Bill Status:** | House Health, Insurance, and Environment |
| | | **Fiscal Analyst:** | Louis Pino (303-866-3556) |

**BILL TOPIC:** TAX INCENTIVE FOR HOME HEALTH CARE

| Fiscal Impact Summary* | FY 2014-15 *current year* | FY 2015-2016 | FY 2016-2017 |
|---|---|---|---|
| **State Revenue** | **(Up to $14.0 million)** | **(Up to $29.1 million)** | **( Up to $31.3 million)** |
| General Fund | (Up to $14.0 million) | (Up to $29.1 million) | (Up to $31.3 million) |
| **State Expenditures** | | **$313,996** | **$528,947** |
| General Fund | | $266,877 | $422,620 |
| Centrally Appropriated Costs ** | | $47,119 | $106,327 |
| **FTE Position Change** | | 4.0 FTE | 8.8 FTE |
| **Tabor Set Aside** | | (Up to $29.1 million) | (Up to $31.3 million) |
| **Appropriation Required:** $266,877 -Department of Revenue (FY 2015-16). | | | |

* *This summary shows changes from current law under the bill for each fiscal year. Parenthesis indicate a decrease in funds.*

** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

## Summary of Legislation

With ***strike below amendment L.001,*** the bill provides a state income tax credit of up to $3,000 per year for out-of pocket costs for durable medical equipment, telehealth equipment, home modifications, or home health care services incurred by a taxpayer who is 75 years of age or older.

To claim the credit, the qualifying senior must obtain a credit certificate from an approved medical provider and include it with his or her tax return.

The amount of the credit is based on the taxpayer's federal taxable income and a percentage of the out-pocket-costs incurred by the qualified senior. The amount of the credit is determined as follows:

- For single income tax filers with a federal taxable income between $0 and $25,000, taxpayers may claim 70 percent of the out-of-pocket costs incurred by the qualifying senior;
- For single income tax filers with a federal taxable income between $25,001 and $45,000, taxpayers may claim 35 percent of the out-of-pocket costs;

- For joint income tax filers with a federal taxable income between $0 and $50,000, taxpayers may claim 70 percent of the out-of-pocket costs incurred by the qualifying senior; and
- For joint income tax filers with a federal taxable income between $50,001 and $90,000, taxpayers may claim 35 percent of the out-of-pocket costs.

The tax credit is capped at $3,000 per income tax year and is nonrefundable. The taxpayer may carry forward any unused credits for up to three years. The taxpayer agrees to allow the DOR to review all necessary records related to the income tax credit under this bill.

The credit will be available for tax years 2015 through 2017.

## State Revenue

**General Fund revenue will decrease by $14.0 million in FY 2014-15, $29.1 million in FY 2015-16, and $31.3 million in FY 2016-17**, based on the assumptions below. The figure for FY 2014-15 represents a half-year impact, since the state income tax deduction is available beginning in tax year 2015.

***Assumptions.*** In 2011, there were approximately 41,500 single filer taxpayers over the age of 74 with federal taxable income less than $45,000. These taxpayers, on average, are assumed to have a Colorado tax liability of $300 in 2015. During the same period, nearly 35,000 joint filer taxpayers over the age of 74 with federal taxable income of less than $90,000 filed a joint income tax return. It is assumed these taxpayers will have tax liability of $720 in 2015. The fiscal note assumes approximately 13,800 of these taxpayers are living in a certified nursing home and will not be eligible for the tax credit.

To the extent that these taxpayers are aware of the credit and request a credit certificate for the services or equipment specified under this bill, the fiscal note assumes the taxpayer will have enough costs to offset their tax liability each year.

The actual impact on state revenue will be lower if the qualified senior does not seek an income tax credit for the services or equipment offered under this bill or is not aware of the state income tax credit. Also, the actual impact will be lower if the taxpayer is denied a credit certificate.

## TABOR Impact

As shown in Table 1, the bill is projected to reduce state General Fund revenue by $29.1 million in FY 2015-16 and $31.3 million in FY 2016-17. This will reduce the state's TABOR surplus and the amount of money required to be refunded to taxpayers. Table 1 shows the projected impact on the mechanisms used to refund the TABOR surplus in current law. Revenue is refunded in the year following the year in which it is collected.

| **Table 1. Impact of HB15-1143 on Current Refund Mechanisms**<br>Millions of Dollars | | |
|---|---|---|
| | FY 2015-16 Surplus<br>FY 2016-17 Refund<br>Tax Year 2016 | FY 2016-17 Surplus<br>FY 2017-18 Refund<br>Tax Year 2017 |
| **Current Law** | | |
| Revenue above the TABOR limit | $116.7 million | $620.4 million |
| *Earned Income Tax Credit* | *$89.3 million* | *permanent** |
| *Income Tax Rate Reduction* | | *$229.7 million* |
| *Sales Tax Refund* | *$31.0 million*** | *$390.7 million* |
| **House Bill 15-1143** | | |
| Revenue above the TABOR limit | $87.6 million | ($589.1) million |
| *Earned Income Tax Credit* | $0.0 | $94.9 million |
| *Income Tax Rate Reduction* | $0.0 | $229.7 million |
| *Sales Tax Refund* | $91.2 million | $264.5million |
| **Change from Current Law** | | |
| Revenue above the TABOR limit | ($29.1 million) | ($31.3 million) |
| *Earned Income Tax Credit* | ($89.3 million) | $94.9 million |
| *Income Tax Rate Reduction* | $0.0 | $0.0 |
| *Sales Tax Refund* | $60.2 million | ($126.2 million) |
| **Total Change from Current Law** | ($29.1 million) | ($31.3 million) |

*Source: Legislative Council Staff Forecast, December 2014.*
* *The EITC becomes permanent beginning in the first tax year following the tax year when it is used as a TABOR refund mechanism. Under current law, the EITC is expected to become permanent beginning in tax year 2017.*
** *$3.6 million is added to the sales tax refund in FY 2015-16 to correct for previous under-refunds.*

## State Expenditures

**General Fund expenditures will increase by $313,996 and 4.0 FTE in FY 2015-16, and by $528,947 and 8.8 FTE in FY 2016-17.** New expenditures are from auditing, call center, document management and computer programming costs for the DOR. Total expenditures are displayed in Table 2 and described below.

| **Table 2. Expenditures Under HB15-1143** | | |
|---|---|---|
| **Cost Components** | **FY 2015-16** | **FY 2016-17** |
| Personal Services | $171,010 | $373,051 |
| FTE | 4.0 FTE | 8.8 FTE |
| Operating Expenses and Capital Outlay Costs | $45,288 | $8,375 |
| Document Management and Computer Programming | $50,579 | $41,194 |
| Centrally Appropriated Costs* | $47,119 | $106,327 |
| **TOTAL** | **$313,996** | **$528,947** |

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

***Taxpayer Services.*** The Income and Tax Auditing Section and Call Center at the DOR will require 3.8 FTE to review tax returns and conduct audits for the new credit offered under this bill. It is assumed 50 percent of all filers claiming the credit will require a review. The 50 percent audit rate is based on the department's past experience with new state income tax credits. In addition, the call center is expected to experience an increase in the number of calls as taxpayers inquire about the new income tax credit.

***Document Management and Programming Costs.*** The DOR will require 0.2 FTE for tax return documentation that cannot be automatically read through the department's optical character recognition software. In addition, DOR will incur one-time programming costs of $25,440 in FY 2015-16 to update the GenTax system. It is estimated this will require 120 hours of programming at $212 per hour to update the system.

***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 3.

**Table 3. Centrally Appropriated Costs Under HB15-1143***

| **Cost Components** | **FY 2015-16** | **FY 2016-17** |
|---|---|---|
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | $32,327 | $70,701 |
| Supplemental Employee Retirement Payments | $14,792 | $35,626 |
| **TOTAL** | **$47,119** | **$106,327** |

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

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The tax credit would be effective for tax years 2015,2016, and 2017.

## State Appropriations

For FY 2015-16, the bill requires an appropriation of $266,877 from the General Fund and an allocation of 4.0 FTE to the DOR.

## State and Local Government Contacts

Health Care Policy and Financing Personnel Revenue