HB15-1195

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 15-0447	**Date:**	April 29, 2015
Prime Sponsor(s):	Rep. Kagan	**Bill Status:**	House Finance
		Fiscal Analyst:	Louis Pino (303-866-3556)

BILL TOPIC: COMMENCEMENT OF THE EARNED INCOME TAX CREDIT

Fiscal Impact Summary*	FY 2014-15 *current year*	FY 2015-16	FY 2016-17
State Revenue	**($43.8 million)**	**($43.8 million)**	
Revenue Change			
General Fund	($43.8 million)	($43.8 million)	
State Transfers			
Capital Construction Fund	$101.7 million		
Highway Users Tax Fund	$25.4 million		
State Expenditures		**$266,345**	**$603,967**
General Fund		$230,075	$490,045
Centrally Appropriated Costs**		$36,270	$113,922
FTE Position Change		3.2 FTE	9.7 FTE
Tabor Set Aside	($43.8 million)	($43.8 million)	
Appropriation Required: $230,075 - Department of Revenue (FY2015-16)			

* *This summary shows changes from current law under the bill for each fiscal year. Parentheses 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

House Bill 15-1195 repeals the Colorado Earned Income Tax credit (EITC) as a TABOR refund mechanism and makes the credit available and permanent beginning in tax year 2015.

Background

The Colorado EITC is based on the federal EITC, which provides a tax credit to individuals who work but do not earn high incomes. Colorado taxpayers who claim the federal credit may receive up to 10 percent of the federal credit. Colorado taxpayers who claim the federal credit may also claim the state credit.

Under current law, the EITC is one of three refund mechanisms used to refund revenue in excess of the state's constitutional spending limit (TABOR limit). The EITC refund mechanism is triggered when the TABOR refund exceeds a threshold amount. This threshold amount is determined each year by growth in Colorado personal income. Once the threshold is met, the credit is available and permanent beginning in the first tax year following the first year the EITC is next used to refund a TABOR surplus.

The March 2015 Legislative Council Staff revenue forecast expects the FY 2015-16 surplus to reach the EITC threshold, triggering the credit for tax year 2016. A total of $91.1 million is expected to be refunded via the earned income tax credit in tax year 2016. The credit is expected to be available on a permanent basis beginning in tax year 2017.

State Revenue

General Fund revenue will decrease by $43.8 million in FY 2014-15 and $43.8 million in 2015-16. These estimates represent the $87.5 million EITC estimate for tax year 2015 on an accrual accounting basis.

According to the Internal Revenue Service, 357,542 Colorado taxpayers claimed the federal earned income tax credit in 2013. The average credit was $2,370 indicating, on average, a Colorado credit of $237 per taxpayer. The 2013 data was adjusted by population growth to obtain 2015 estimates.

TABOR Impact

As shown in Table 1, the bill is projected to reduce state General Fund revenue by $43.8 million in FY 2014-15 and $43.8 million in FY 2015-16. 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 HB15-1195 on Current Refund Mechanisms *Millions of Dollars*			
	FY 2014-15 Surplus FY 2015-16 Refund Tax Year 2015	**FY 2015-16 Surplus FY 2016-17 Refund Tax Year 2016**	**FY 2016-17 Surplus FY 2017-18 Refund Tax Year 2017**
Current Law			
Revenue above the TABOR limit	$66.1 million	$116.8 million	$434.9 million
Earned Income Tax Credit		*$91.1 million*	*permanent**
Income Tax Rate Reduction			*$226.6 million*
Sales Tax Refund	*$69.7 million***	*$25.6 million*	*$208.3 million*
House Bill 15-1198			
Revenue above the TABOR limit	$22.4 million	$73.0 million	$434.9 million
Earned Income Tax Credit	$0.0	$0.0	$0.0
Income Tax Rate Reduction	$0.0	$0.0	$226.6 million
Sales Tax Refund	$26.0million	$73.0 million	$208.3 million
Change from Current Law			
Revenue above the TABOR limit	($43.7 million)	($43.8 million)	$0.0
Earned Income Tax Credit	$0.0	($91.1 million)	$0.0
Income Tax Rate Reduction	$0.0	$0.0	$0.0
Sales Tax Refund	($43.7 million)	$47.4 million	$0.0
Total Change from Current Law	($43.7 million)	(43.8 million)	$0.0

Source: Legislative Council Staff Forecast, March 2015.
* *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 2014-15 to correct for previous under-refunds*

Senate Bill 09-228 Transfers. When the TABOR surplus is between 1.0 percent and 3.0 percent of general fund revenue, the SB 09-228 transfers are halved; when the TABOR surplus exceeds 3.0 percent, the SB 09-228 transfers are suspended. This bill will reduce the TABOR surplus in FY 2015-16 to below 1.0 percent of General Fund revenue, which will increase the amount of money transferred to the Capital Construction Fund by $25.4 million and the Highway Users Tax Fund by $101.7 million in FY 2015-16.

State Expenditures

General Fund expenditures will increase by $266,345 and 3.2 FTE in FY 2015-16, and by $603,967 and 9.7 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 HB15-1195		
Cost Components	**FY 2015-16**	**FY 2016-17**
Personal Services	$137,193	$422,983
FTE	3.2 FTE	9.7 FTE
FTE Operating Expenses	$39,253	$67,062
Computer Programming	$25,440	
Document Management and Forms Change	$28,189	
Centrally Appropriated Costs*	$36,270	$113,922
TOTAL	**$266,345**	**$603,967**

** 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 3.0 FTE to review returns and conduct audits for the refundable income tax credit. This is based on the experience of the Internal Revenue Service. Federal refundable tax credits have a higher rate of fraud and carry high auditing requirements.

Document Management and Programming Costs. The 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. In addition, the bill will result in data input, imaging and forms creation costs. These data processing costs are estimated at $28,189 and will be reappropriated to the Department of Personnel and Administration (DPA). The DOR will also require 0.6 FTE to review tax documents that cannot be read through the optical character recognition program.

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 HB15-1195*		
Cost Components	**FY 2015-16**	**FY 2016-17**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$25,636	$77,726
Supplemental Employee Retirement Payments	$10,634	$36,196
TOTAL	**$36,270**	**$113,922**

**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.

State Appropriations

In FY 2015-16, the bill requires an appropriation of $230,075 from the General Fund and an allocation of 3.2 FTE to the DOR. In addition, the DPA will require spending authority for the $28,189 reappropriated from the DOR.

State and Local Government Contacts

Revenue