Colorado Legislative Council Staff

HB16-1037

FISCAL NOTE

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

Drafting Number:	LLS 16-0302	**Date:**	January 20, 2016
Prime Sponsor(s):	Rep. Windholz Sen. Aguilar	**Bill Status:**	House Public Health Care and Human Services
		Fiscal Analyst:	Kate Watkins (303-866-3446)

BILL TOPIC: INCOME TAX CREDIT FOR EMPLOYERS OF PERSONS WITH DISABILITIES

Fiscal Impact Summary	FY 2015-2016 *(Current Fiscal Year)*	FY 2016-2017	FY 2017-2018
State Revenue			
General Fund	($1.1 million)	($3.4 million)	($4.9 million)
State Expenditures		**$31,837**	
General Fund		29,508	
Centrally Appropriated Costs		2,329	
TABOR Impact		($3.4 million)	($4.9 million)
FTE Position Change		0.2 FTE	
Appropriation Required: $29,508 – Department of Revenue (FY 2016-17)			
Future Year Impacts: Ongoing state revenue decrease and minimal workload increase through FY 2020-21.			

Summary of Legislation

This bill, ***as recommended by the Vocational Rehabilitation Services for the Blind Interim Study Committee***, creates two income tax credits for taxpayers who hire persons with developmental disabilities and persons who are blind or visually impaired and are referred for employment by the Division of Vocational Rehabilitation (DVR). The income tax credits are calculated as follows:

- ***a tax credit for employee wages*** equal to 50 percent of the gross wages of a qualifying employee in the first three months of continuous employment, and 30 percent of the gross wages of a qualifying employee in the next nine months of continuous employment; and
- ***a tax credit for software and hardware costs*** equal to a share of the cost of the maintenance, repair, or upgrade of software or hardware that assists a qualifying employee in performing his or her job as follows:

  - 75 percent of costs incurred in the first year of qualifying employee's employment;
  - 50 percent of costs incurred in the second year; and
  - 25 percent of costs incurred in the third year of employment.

Both credits are nonrefundable and are available for three years, beginning in tax year 2016. Both credits are limited to a taxpayer's income tax liability. The amount of a credit in excess of the liability may be carried forward for up to five years.

Background

House Bill 08-1127 created an income tax credit for taxpayers who hire individuals with a developmental disability at a workplace located in certain Colorado counties. The tax credit was calculated as 50 percent of the gross wages of a qualifying employee in the first three months of continuous employment, and 30 percent of the gross wages of a qualifying employee in the next nine months of continuous employment. However, the credit was not triggered in the three years it was offered beginning with tax year 2009, because it was contingent upon the December 2008, 2009 and 2010 forecasts of General Fund revenue being sufficient to grow General Fund appropriations by 6 percent. This bill reinstates this prior tax credit without the General Fund revenue contingency, expands the covered population to include the blind and visually impaired, and creates a new credit for accommodation costs of qualifying employees.

State Revenue

This bill is estimated to reduce General Fund revenue by **$1.1 million in FY 2015-16 (half-year impact), $3.4 million in FY 2016-17, and $4.9 million in FY 2017-18**. Table 1 shows the full revenue impact expected from the bill through FY 2020-21. Actual impacts could vary from these estimates depending on the date in which a qualifying employee is hired, the employers tax liability, the duration of a qualifying employee's employment, deviation from the assumed average employee wage, the cost of eligible accommodations, and the number of qualifying employees hired between 2016 and 2019.

Table 1. Estimated General Fund Revenue Impact of HB 16-1037
Dollars in Millions

	FY 2015-16*	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21*
Gross Wages	($1.0)	($3.2)	($4.4)	($2.3)	$0	$0
Accommodation Costs	(0.1)	(0.2)	(0.5)	(0.3)	(0.1)	(0.03)
Total Revenue Impact	**($1.1)**	**($3.4)**	**($4.9)**	**($2.6)**	**($0.1)**	**($0.03)**

**Half year impact.*

Data and assumptions. The total population of persons who are seeking work and are blind, visually impaired, or have a cognitive disability totaled 14,500 in 2013 according to data published by the U.S. Census Bureau. This fiscal note assumes that qualifying employees will be limited to clients of the DVR and that the number of qualifying employees will be similar to the number of DVR clients who maintained employment for 90 days or more during calendar year 2015. This includes 153 blind or visually impaired employees and 487 developmentally disabled employees, as reported by the Department of Human Services. For 2016 through 2018, these populations are assumed to increase in line with the State Demography Office's statewide population growth projections.

In 2016, qualifying employees are assumed to earn an average annual salary of $18,058, based on the weighted average of wages earned in 2015 by the estimated qualifying population assuming an average work week of 30.5 hours. Estimates for 2015 were grown by the Legislative Council Staff forecast for per capita wages and salaries to project future year wages.

Costs associated with hardware or software that assists qualifying employees in performing work-related tasks could range widely. This fiscal note assumes that costs will average $550 per employee in each year of employment. This assumption takes into account the wide range of costs that could be claimed as well as findings published by the National Foundation for the Blind and DePaul University and the Illinois Department of Commerce and Economic Opportunity on costs associated with employing persons who are disabled, blind or visually impaired.

Using these assumptions, Table 2 summarizes the average tax credits expected for qualifying employees hired in 2016 and employed through 2018.

Table 2. Estimated Average Employer Tax Credits Under HB 16-1037 per Qualifying Employee Hired January 1, 2016*

	2016	2017	2018	3-Year Total
Credit for Gross Wages 50% of the first 3 month's wages, 30% of the following 9 month's wages	$5,764	$0	$0	$5,764
Credit for Accommodation Costs 75% in the first year of employment, 50% in the second, and 25% in the third	$413	$275	$138	$825
Total Employer Tax Credit	$6,176	$275	$138	$6,589

*Assumes the employee remains hired for three consecutive years.

Revenue estimates assume that no tax credit carry-overs will occur. The average corporate income taxes owed after subtracting tax credits averaged $10,523 in 2012 and 2013, the two most recent years for which data are available. This amount exceeds the average tax credits shown in Table 2. However, employers with lower income tax liabilities and those who hire multiple qualifying employees may claim a tax credit that exceeds their liability. This would push out the expected revenue impact of this bill to future years if these employers claim a tax credit carry-over, which is allowed for up to 5 years.

TABOR Impact

This bill reduces state revenue from the General Fund, which will reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. In FY 2016-17 and FY 2017-18, this bill is expected to **reduce taxpayer refunds from the Six Tier Sales Tax refund mechanism by $3.4 million and $4.9 million, respectively.**

State Expenditures

This bill will increase General Fund expenditures for the **Department of Revenue by $31,837 and 0.2 FTE in FY 2016-17**. Workload increases are expected for FY 2017-18 through FY 2020-21. Costs include personal services, operating expenses, programming and form change costs, as summarized in Table 3.

Table 3. Expenditures Under HB 16-1037		
Cost Components	**FY 2016-17**	**FY 2017-18**
Personal Services - Tax Services Division	$8,518	
FTE	0.2	
Operating Expenses and Capital Outlay Costs	$190	
Programming	$20,800	
Centrally Appropriated Costs*	$2,329	
TOTAL	**$31,837**	

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

Taxpayer Service Division and Call Center costs. Additional tax examiner staff (0.2 FTE in FY 2016-17) will be required to test the GenTax system for claim processing and document management purposes. Based on the assumed population of qualifying employees, this bill is expected to create a workload increase that can be absorbed within existing resources for reviews of credits claimed and to answer taxpayer inquiries.

Programming and document management costs. This bill requires GenTax programming and reconfiguring of the Fairfax imaging system to insert an additional line to capture the credit value on the various schedules for each of the four income tax types (individual, corporate, partnership, fiduciary). The department will incur one-time programming costs of $16,000 in FY 2016-17 to modify the GenTax system estimated at $200 per hour for 80 hours. Fairfax programming requires changes to four state tax forms (104CR, 112CR, DR 105, and 106CR) at $1,200 each ($4,800 total), which will be reappropriated to the Department of Personnel and Administration.

Division of Vocational Rehabilitation verification. This fiscal note assumes that the DVR or a similar state agency will verify employee qualifications for employers claiming these tax credits. Verification is expected to create a minimal workload increase, absorbable within existing agency 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 16-1037		
Cost Components	**FY 2016-17**	**FY 2017-18**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$1,600	
Supplemental Employee Retirement Payments	$729	
TOTAL	**$2,329**	

Technical Considerations

The Department of Revenue has raised the issue that this bill does not specify a method of verification that an employee is blind, visually impaired, or developmentally disabled. The department is prohibited from requesting or reviewing medical information for any individual under the provisions of HB 14-1323. Federal Health Insurance Portability and Accountability Act (HIPAA) requirements also prohibit employers from disclosing medical information of employees. The department recommends that the Division of Vocational Rehabilitation or similar state agency provide the Department of Revenue with a quarterly report certifying employee qualification in addition to at minimum employer names and tax ID numbers, and the date of hire of qualifying employees.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2016-17, the Department of Revenue requires an allocation of 0.2 FTE and a General Fund appropriation of $29,508, of which $4,800 will be reappropriated to the Department of Personnel and Administration.

Department Contacts

Revenue	Labor and Employment	Human Services

Research Note Available

An LCS Research Note for HB16-1037 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.