

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0308
Prime Sponsor(s): Rep. Keyser
 Sen. Crowder

Date: February 24, 2015
Bill Status: House SVMA
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BILL TOPIC: COLORADO IS HONORING OUR MILITARY TAX EXEMPTION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017	FY 2017-2018
State Revenue	(Up to \$5.5 million)	(Up to \$11.0 million)	(Up to \$11.5 million)
General Fund	(Up to \$5.5 million)	(Up to \$11.0 million)	(Up to \$11.5 million)
State Expenditures		\$42,703	\$30,087
General Fund		\$39,120	\$22,796
Centrally Appropriated Costs **		\$3,589	\$7,291
FTE Position Change		0.3 FTE	0.6 FTE
TABOR Set Aside	(Up to \$5.5 million)	(Up to \$11.0 million)	(Up to \$11.5 million)
Appropriation Required: None.			

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

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

Summary of Legislation

HB15-1181 allows a state income tax deduction for military income earned by a Colorado resident stationed outside the state on active military duty. To qualify, the serviceperson's military home of record and state of legal residence must be located in Colorado.

The state income tax deduction will be available for tax years 2016 through 2020.

Background

A serviceperson's home of record is the state in which the military member resided at the time they first joined the military. In general, the home of record never changes unless it was erroneously or fraudulently recorded initially. State of legal residence, or domicile, determines the state in which the serviceperson must comply with the applicable tax laws. It is the place where a serviceperson intends to live after they separate or retire from the military, and may or may not be the same as their home of record. A serviceperson may change his or her state of legal residency if they actually reside in the new state or intend to make it their permanent home. Intent may be indicated by such actions as:

- registering to vote;
- purchasing residential property or an unimproved residential lot;
- titling and registering your automobile(s);

- notifying the state of your previous legal residence of the change of your state of legal residence; or
- preparing a new last will and testament, which indicates your new state of legal residence.

Under current state law, a full-time Colorado resident who spends at least 305 days of the tax year on active military duty outside the country can elect to file as a nonresident on his or her Colorado income tax form.

State Revenue

This bill will reduce General Fund revenue by up to \$5.5 million in FY 2015-16 and by up to \$11.0 million in FY 2016-17, based on the assumptions listed below. The figure for FY 2015-16 represents a half-year impact, since the state income tax deduction is available beginning in tax year 2016.

Assumptions. Data from the United States Department of Defense (DOD) reports that just over 19,000 active duty military members claimed Colorado as their state of legal residence. A 2013 DOD report shows that 13 percent of all active duty members are serving outside the country; thus 13 percent of these are assumed to already file as a nonresident under current law. It is also assumed that 1.8 percent of activity duty military members claiming Colorado as their state of legal residence are stationed in Colorado and would not be eligible for the state income tax deduction under this bill. On average, Colorado has accounted for 1.8 percent of total new military recruitments each year since 2011.

Of the 19,000 active duty members claiming Colorado as their state of legal residence, enlisted military members accounted for 85 percent while commissioned and warrant officers accounted for the rest. Based on military pay tables and data from the Department of Revenue (DOR), the average Colorado tax liability for Colorado enlisted members was \$509 in tax year 2011, while the average Colorado tax liability for commissioned and warrant officers was approximately \$1,537.

The actual impact on state revenue will be lower if the member's home of record is not Colorado or the number of Colorado residents stationed in the state is higher.

TABOR Impact

This bill reduces state General Fund revenue from income taxes, which will reduce the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

General Fund expenditures will increase by \$41,609 and 0.3 FTE in FY 2016-17, and \$25,374 and 0.6 FTE in FY 2017-18. New expenditures are from auditing and computer programing costs for the DOR. Total expenditures are displayed in Table 1 and described below.

Table 1. Expenditures Under HB15-1181			
Cost Components	FY 2015-16	FY 2016-17	FY 2017-18
Personal Services		\$11,113	\$22,226
FTE		0.3	0.6
Operating Expenses and Capital Outlay Costs		\$2,822	\$570
Computer Programming		\$25,185	\$0
Centrally Appropriated Costs*		\$3,589	\$7,291
TOTAL	\$0	\$42,709	\$30,087

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

Taxpayer Service Division. In FY 2016-17, DOR's Income Tax Audit Section will require 0.3 FTE for a Tax Examiner to review a sample of taxpayers who claim the tax deduction under this bill beginning in tax year 2016. In FY 2017-18, the department will require 0.6 FTE.

Programming Costs. DOR will incur one-time programming costs of \$25,185 in FY 2016-17 to update the GenTax system to accept the new income tax deduction under this bill. It is estimated this will require 115 hours at \$218.55 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 2.

Table 2 . Centrally Appropriated Costs Under HB15-1181*			
Cost Components	FY 2015-16	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$0	\$2,405	\$4,811
Supplemental Employee Retirement Payments	\$0	\$1,184	\$2,480
TOTAL	\$0	\$3,589	\$7,291

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

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Military Affairs Personnel Revenue