

Department of Finance and Administration

Legislative Impact Statement

Bill: HB2256

As Engrossed: 3/14/2017

Bill Subtitle: TO ALLOW AN INCOME TAX INCENTIVE FOR CERTAIN FITNESS AND NUTRITION EXPENSES.

Basic Change :

Sponsor: Representative V. Flowers

HB2256, as amended by H-1, provides for a deduction for fitness and nutrition expenses of up to \$1,000 in a tax year. Fitness and nutrition expenses means goods and services that relate to improving a taxpayer's overall physical fitness or nutrition; or to address a particular physical fitness or nutritional need. The expenses allowed are for registering or enrolling in a workshop, class, conference, or program related to personal physical fitness or nutrition; purchasing personal physical fitness equipment; or procuring the services of a dietician. This bill is effective for tax years beginning on and after January 1, 2017.

Revenue Impact :

FY2018 and after of \$3.2M per year reduction to General Revenue.
[Assumption that there would be approximately 5% of all taxpayers that claim the deduction for the average impact of \$43 per return. Tax Year 2015, there was 1,500,000 filers, so estimated 75,000 claimants.]

Taxpayer Impact :

Taxpayers will be given a financial incentive in the form of a tax deduction for certain fitness and nutrition expenses.

Resources Required :

Tax forms, instructions and computer system will need to be revised. Department employees and public will need to be educated. Rules may need to be promulgated.

Time Required :

Adequate time is provided to implement this bill.

Procedural Changes :

None.

Other Comments :

The bill would benefit from clarification as to whether the deduction is:

- An adjustment from total income;
- A miscellaneous itemized deduction subject to the 2% AGI limit; or
- A miscellaneous itemized deduction not subject to the 2% AGI limit.

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Legal Analysis :

HB2256 contains several ambiguous terms which would require an extensive amount of interpretation on DFA's part to determine the goods and services that would qualify as fitness and nutrition expenses. The meaning of the terms may require a court determination, for example, to decide what "physical fitness" or "nutritional need" is so that the cost of the goods or services to be deducted clearly qualify as for those purposes.

It is not clear whether only certain types of food qualify as meeting a nutritional need. The bill provides for a deduction for the cost of procuring a dietician. Dietitians advise about proper nutrition but it is unclear whether the deduction would only exist for foods recommended by a dietician or any type of healthy food purchased based on a taxpayer's own determination.

The bill does not provide information whether the items included in the fitness and nutrition deduction may qualify for or be excluded from the medical expense deduction at § 26-51-423(a)(2), which adopts the federal medical expense deduction and its definitions. It appears that the proposed items could be treated as either or both such that DFA may have difficulty administering the provision without initiating audits of taxpayers claiming the deduction(s).