SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 5057 Introduced on March 1, 2022
Author:	Simrill
Subject:	IRS Code
Requestor:	House Ways and Means
RFA Analyst(s):	Jolliff
Impact Date:	March 29, 2022

Fiscal Impact Summary

This bill updates South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2021. The Department of Revenue (DOR) will administer the changes to income tax provisions with existing staff and resources. Therefore, the bill is not expected to impact expenditures for the agency.

The bill will impact General Fund income tax revenue beginning in FY 2021-22. The summary table below provides the potential revenue impact on a fiscal year basis. However, the timing of the impact for provisions affecting tax year 2021 may change depending on when the bill is enacted. Filing season for tax year 2021 has already begun, and taxpayers would be required to file an amended return to take advantage of the changes. If the bill is passed following April 18, 2022, the impact for provisions affecting FY 2021-22 will likely be delayed until FY 2022-23.

Summary of General Fund Impact

	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Individual Income	($14,875,000)	($98,000)	($143,000)	($197,000)	($244,000)	($256,000)	($292,000)
Corporate Income	($541,000)	($339,000)	($299,000)	($261,000)	($227,000)	($191,000)	$1,442,000
Total	**($15,416,000)**	**($437,000)**	**($442,000)**	**($458,000)**	**($471,000)**	**($447,000)**	**$1,150,000**

Explanation of Fiscal Impact

Introduced on March 1, 2022
State Expenditure
This bill updates South Carolina's conformity to the IRC through December 31, 2021. DOR will administer the changes to income tax provisions with existing staff and resources. Therefore, the bill is not expected to impact expenditures for the agency.

State Revenue
This bill updates South Carolina's conformity to the IRC through December 31, 2021. In addition, the bill proactively adopts any expired provisions extended but not amended in 2022.

Research by DOR identified two federal tax laws enacted by Congress that impact South Carolina's conformity through December 31, 2021:

- American Rescue Plan Act of 2021 (ARPA) (PL 117-2) enacted on March 11, 2021
- Infrastructure Investment and Jobs Act (IIJA) (PL 117-58) enacted on November 15, 2021

DOR did not identify any expired provisions for 2021 that would impact 2022 if extended.

To estimate the impact of conforming to IRC changes, Revenue and Fiscal Affairs (RFA) utilizes U.S. estimates by the Joint Committee on Taxation and the Congressional Budget Office and adjusts those estimates to project the impact of adopting these federal provisions on South Carolina. Further, based upon research, RFA made additional adjustments to refine these estimates with respect to South Carolina. The provisions affecting South Carolina in these federal law changes are listed in Table 1 attached.

The summary table below provides the potential impact on a fiscal year basis. However, the timing of the impact for provisions affecting tax year 2021 may change depending on when the bill is enacted. Filing season for tax year 2021 has already begun, and taxpayers would be required to file an amended return to take advantage of the changes. If the bill is passed following April 18, 2022, the impact for provisions affecting FY 2021-22 will likely be delayed until FY 2022-23.

Summary of General Fund Impact

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Total	**($15,416,000)**	**($437,000)**	**($442,000)**	**($458,000)**	**($471,000)**	**($447,000)**	**$1,150,000**

The following summarizes select provisions from Table 1 with larger effects on South Carolina:

Line 1: ARPA includes a provision that extends the limitation on excess business losses of non-corporate taxpayers that is currently in place for tax years 2018-2025 to tax year 2026. In the Tax Cuts and Jobs Act of 2017, the federal code was amended to specifically disallow these losses for tax years 2018-2025, and SC conformed to this provision. In the Coronavirus Aid, Relief, and Economic Security Act of 2020, the IRC was amended to allow these losses for 2018-2020, but SC specifically did not adopt the change. Adopting the ARPA provision would extend the state's current treatment disallowing these excess losses for tax year 2026. As this is an extension of the existing treatment, the impact is already reflected in the forecast. However, the effect of non-conforming would be to decrease tax liabilities by approximately $46,000,000 for tax year 2026.

While South Carolina does not adopt federal credits, the changes to the Earned Income Tax Credit and the Child Dependent Care credit will impact our state tax credits as the state tax credits are based on the federal credits. These estimated impacts are listed in Table 1 as well.

Lines 3-7: South Carolina's Earned Income Tax Credit is based upon the federal tax credit. The changes to the calculation of the federal credit amount, therefore, would impact the amount of the state credit. The amount of the state credit is phased-in through 2023 and is 83.33 percent of the federal credit for tax year 2021. The percentage increases to 104.15 for tax year 2022 and 125.00 percent for tax year 2023. Because the state credit is non-refundable, the impact is limited to those returns with tax liabilities. The impact for these federal changes is estimated based upon the current relationship between total federal credits for South Carolina filers and the amount South Carolina taxpayers are able to utilize on their state tax returns.

Line 8: The largest impact is a result of the increase in the federal Child and Dependent Care credit amounts for tax year 2021. This change is a one-year impact only. The federal credit is increased from a maximum of $3,000 to $8,000 for one child and from $6,000 to $16,000 for two or more children. South Carolina's Child and Dependent Care credit is 7 percent of the federal credit amount. The state credit maximum would increase from $210 to $560 for one child and $420 to $1,120 for two or more children. In tax year 2019, 124,204 returns reported a total of $23,131,815 in state Child and Dependent Care tax credits. Based upon recalculating the 76,298 returns that claimed the maximum at the new credit limits in 2019, the change in the credit amount would increase total credits by approximately $15,274,000. However, credits declined by approximately 28 percent to $17,585,665 in 2020 due to effects of the COVID-19 pandemic. Continued childcare closures and issues from the pandemic likely affected credits for 2021, although not to the extent seen in 2020. The Census Bureau's Household Pulse Survey indicates that issues with childcare availability remained in 2021 as well. Based on the available information, we anticipate that childcare expenses for 2021 were likely approximately 10 percent lower than would be expected in a normal year. Based on this assumption, the increase in the credit amount for 2021 is expected to increase total credits for one year by $13,746,000. Since tax returns for 2021 are currently being filed, taxpayers would likely need to file an amended return to claim the increased credit.

Local Expenditure
N/A

Local Revenue
N/A

Frank A. Rainwater

Frank A. Rainwater, Executive Director

Table 1. Provisions Affecting Revenue (H. 5057 introduced)

Line	Provision	IRC §	Note	Individual or Corporate	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
1	**Extension of limitation on excess business losses of noncorporate taxpayers beginning in tax year 2026**	461(1)	[1]	I	$0	$0	$0	$0	$0	$0	$0
2	**Amounts attributable to premium assistance are not included in gross income of the assistance eligible individual**	139I	[2]	I	$0	$0	$0	$0	$0	$0	$0
3	**Earned Income Tax Credit expansion for tax year 2021 (affects state credit amount)**	32	[3]	I	($580,000)	$0	$0	$0	$0	$0	$0
4	**Earned Income Tax Credit for children who fail to meet identification requirements**	32	[3]	I	($1,000)	$0	$0	$0	$0	$0	$0
5	**Earned Income Tax Credit for certain separated spouses**	32	[3]	I	($1,000)	($1,000)	($2,000)	($2,000)	($2,000)	($2,000)	($2,000)
6	**Earned Income Tax Credit modification of disqualified investment income test**	33	[3]	I	($22,000)	($15,000)	($15,000)	($16,000)	($17,000)	($17,000)	($17,000)
7	**Earned Income Tax Credit taxpayers can base 2021 credit on 2019 earned income**	34	[3]	I	($156,000)	$0	$0	$0	$0	$0	$0
8	**Child and Dependent Care credit amount increase for 2021**	21	[4]	I	($15,180,777)	$0	$0	$0	$0	$0	$0
9	**Increase in income exclusion for employer-provided dependent care assistance in 2021**	129		I	($343,000)	$0	$0	$0	$0	$0	$0
10	**Modification of treatment for specified student loan forgiveness programs**	108(f)(5)		I	($26,000)	($23,000)	($26,000)	($26,000)	($26,000)	$0	$0

Table 1. Provisions Affecting Revenue (H. 5057 introduced)

Line	Provision	IRC §	Note	Individual or Corporate	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
11	**Expansion of limitation on excessive employee renumeration (deduction for compensation over $1 million for publicly traded corporations beginning in tax year 2027)**	162(m)		C	$0	$0	$0	$0	$0	$0	$1,603,000
12	**Extends use of private activity bonds for qualified broadband projects**	141, 142, 146		I	$0	($50,000)	($88,000)	($132,000)	($170,000)	($202,000)	($229,000)
13	**Extends use of private activity bonds for carbon dioxide capture facilities**	141, 142, 146		I	$0	($9,000)	($12,000)	($21,000)	($29,000)	($35,000)	($44,000)
14	**Modification of treatment of contributions to capital of a corporation**	118(c)	[5]	C	($541,000)	($339,000)	($299,000)	($261,000)	($227,000)	($191,000)	($161,000)
15	**Total**				($16,850,777)	($437,000)	($442,000)	($458,000)	($471,000)	($447,000)	$1,150,000
	Individual Income				($16,309,777)	($98,000)	($143,000)	($197,000)	($244,000)	($256,000)	($292,000)
	Corporate Income				($541,000)	($339,000)	($299,000)	($261,000)	($227,000)	($191,000)	$1,442,000

Figures rounded to 1,000s

Notes:

[1] SC currently does not allow excess deductions for 2018-2025. Adopting this provision would extend this treatment to 2026, which is the current basis of the revenue forecast. Non-conforming to this provision would decrease tax liability by approximately $46 million annually.

[2] Adoption not expected to significantly impact revenue

[3] SC Earned Income credit is based on federal credit amount.

[4] SC Child and Dependent Care Credit is based on federal credit amount

[5] SC does not adopt for contributions by a governmental entity under 118(b)(2)