


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 09-0578
Prime Sponsor(s): Rep. Kefalas

Date: January 28, 2009
Bill Status: House Business Affairs and Labor
Fiscal Analyst: Natalie Mullis (303-866-4778)

TITLE: CONCERNING THE CREATION OF THE COLORADO INNOVATION INVESTMENT TAX CREDIT TO BE APPLIED AGAINST STATE INCOME TAXES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
General Fund - Income Taxes	(\$1.5 Million)	(\$3.0 Million)
State Expenditures		
General Fund*	\$29,980**	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: August 4, 2009, assuming the General Assembly adjourns as scheduled and unless a referendum petition is filed. Tax credits may be claimed for investments made beginning in 2010.		
Appropriation Summary for FY 2009-2010: None required.*		
Local Government Impact: None.		

* Does not incorporate potential costs that may be incurred but have not yet been identified by the Office of Economic Development. See the State Expenditures section of the fiscal note.

** This amount may be funded by line item in the FY 2009-10 Long Bill for programming costs in the Department of Revenue for 2009 legislation.

Summary of Legislation

This bill allows certain investors to receive an income tax credit for investments made in certain aerospace, bioscience, clean energy, and information technology small businesses. The credit is equal to 15 percent of the investment for each of the two tax years following the year in which the investment was made, up to a maximum total of \$100,000. The credit is non-refundable, non-transferable, and may be carried forward for five years. The state may grant a maximum of \$3.0 million in credits during each tax year. If applications worth more than \$3.0 million qualify, they will be approved on a first-come, first-serve basis.

In order to qualify for a credit, an investor must make an investment of at least \$25,000, may not own more than a 30 percent controlling interest in the small business immediately before making the investment, and cannot be a C corporation. In addition, the small business must:

- maintain its principal place of business in Colorado,
- have at least half of its gross assets and employee base located in Colorado,

- have less than \$2.0 million in annual revenue and total assets of less than \$2.0 million prior to receiving the investment,
- have been in operation for less than five years, and
- have at least two non-administrative, full-time-equivalent employees residing in Colorado.

An investor must apply for and receive a tax credit certificate from the Governor's Office of Economic Development. The tax credit certificate must then be presented to the Department of Revenue with the investor's income tax return. The bill requires the Office of Economic Development and the Department of Revenue to share information and specifies penalties for the misrepresentation of qualifications for the credit.

State Revenue

General Fund revenue will be reduced \$1.5 million in FY 2009-10 (half-year impact) and \$3.0 million in FY 2010-11. The maximum amount allowed for the credit is assumed because sufficient venture capital investment occurs in these industries in Colorado each year to allow for at least 30 tax credits worth the maximum allowable credit of \$100,000 to occur. For example, Cleantech Group, LLC. reports \$460 million of venture capital investments in Colorado clean technology firms during 2008. In addition, the Colorado Bioscience Association reports \$276 million of venture capital investments in Colorado bioscience firms during 2008. It is important to note that a taxpayer's federal tax liability may increase as a result of this credit.

Because the degree to which new economic activity may be created expressly due to the bill is unknown, the fiscal impact stated above does not incorporate increased revenue from potential new activity. To the extent that tax credit is the determining reason that activity is created in the state, tax revenue from the new activity would serve to partially offset the estimated loss of state revenue.

State Expenditures

Department of Revenue: \$29,980 in FY 2009-10. The Department of Revenue will incur information technology costs to adjust the state's computer systems and forms for the new credit. The annual Long Bill may include line item funding for information technology costs associated with new legislation. While the department identified additional need for postage, taxpayer services, and tax conferees, these costs are assumed to be minimal because of the limited number of tax credit certificates expected to be received each year by the Department. It is estimated that the Office of Economic Development will issue between 30 and 50 tax credit certificates each year.

Although information from the **Office of Economic Development** is currently unavailable, the office may incur costs to implement the bill. This fiscal note will be revised once that information becomes available.

Other State Impacts

Based on the December 2008 Legislative Council Staff revenue forecast, there is insufficient revenue in the General Fund to allow General Fund appropriations to increase by the maximum allowable growth rate of 6 percent in FY 2009-10. By reducing General Fund revenue, this bill will reduce the amount of money available for General Fund appropriations in FY 2009-10 by \$1.5 million.

Departments Contacted

Revenue	Governor's Office of Economic Development
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