

REVISED CONDITIONAL FISCAL IMPACT

(replaces fiscal note dated April 22, 2009)

Drafting Number: LLS 09-0578

Date: April 27, 2009

Prime Sponsor(s): Rep. Kefalas
Sen. Scheffel

Bill Status: Senate Finance

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, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue Cash Funds Colorado Innovation Investment Tax Credit Cash Fund /A		Gifts, Grants, or Donations
State Transfers or Diversions Transfer from the Colorado Innovation Investment Tax Credit Cash Fund to the General Fund /A	(\$375,000)	(\$375,000)
State Expenditures General Fund /B Colorado Innovation Investment Tax Credit Cash Fund /A	\$29,980 \$43,682	\$38,374
FTE Position Change	0.5 FTE	0.5 FTE
Effective Date: Upon deposit of \$832,055 into the Colorado Innovation Investment Tax Credit Cash Fund by the Colorado Office of Economic Development, but not before September 1, 2009.		
Appropriation Summary for FY 2009-2010: See State Appropriations Section		
Local Government Impact: None.		

/A The Colorado Innovation Investment Tax Credit Cash Fund is comprised of gifts, grants, and donations, and \$832,055 from such sources is required to implement the bill. Moneys in the fund may cover a portion or all of the bill's costs.

/B 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. It may also be covered by gifts, grants, and donations.

This fiscal note is revised to reflect new information.

Summary of Legislation

This reengrossed bill allows certain investors to receive an income tax credit for investments made during tax year 2010 in businesses involved in the research and development or manufacturing of new technologies, products, or processes. The bill creates the Colorado Innovation Investment Tax Credit Cash Fund. The extension of the credit is conditional on the deposit of \$832,055 into the Colorado Innovation Investment Tax Credit Cash Fund by the Colorado Office of Economic Development. In addition, any other gifts, grants, and donations deposited into this fund are authorized to be used to defray the costs of the tax credit.

The credit is equal to 15 percent of the investment, up to a maximum total of \$20,000. The credit is non-refundable, non-transferable, and may be carried forward for five years. The state may grant a maximum of \$750,000 in credits. If applications worth more than \$750,000 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 \$5.0 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

State revenue will increase by the amount of gifts, grants, and donations received and deposited into the Colorado Innovation Investment Tax Credit Cash Fund. No such gifts, grants, or donations have been identified.

Because the degree to which new economic activity may be created expressly due to the bill is unknown, this analysis 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 money spent on the tax credit.

State Transfers or Diversions

In order for the credit to be offered, \$832,055 must be deposited into the Colorado Innovation Investment Tax Credit Cash Fund by the Office of Economic Development. In addition to potential gifts, grants, and donations, no definitive source of revenue for this transfer has been identified. However, the Office of Economic Development has indicated that they will ask the Colorado Economic Development Commission to provide this funding. This amount is equal to the \$750,000 cap on the total amount of tax credits that may be awarded plus \$82,055 in administrative costs.

The bill requires that the General Fund be reimbursed for revenue lost as a result of the income tax credit with identical \$375,000 transfers in FY 2009-10 and FY 2010-11 from the Colorado Innovation Investment Tax Credit Cash Fund to the General Fund.

State Expenditures

State expenditures will increase \$73,662 and 0.5 FTE in FY 2009-10 and \$38,454 and 0.5 FTE in FY 2010-11. This fiscal impact is conditional, predicated on the deposit of \$832,055 into the Colorado Innovation Investment Tax Credit Cash Fund by the Office of Economic Development.

Governor's Office of Economic Development: \$43,682 and 0.5 FTE in FY 2009-10. The Governor's Office of Economic Development will incur additional personnel costs to administer the bill in FY 2009-10 and FY 2010-11. These costs are summarized in Table 1. Personal services are required to develop application procedures, coordinate with small businesses, investors, and the Department of Revenue, evaluate applications and issue tax credit certificates, and develop database and tracking processes.

Table 1. Expenditures for the Governor's Office of Economic Development Under HB09-1105		
Cost Components	FY 2009-10	FY 2010-11
Personal Services	\$38,374	\$38,374
FTE	0.5	0.5
Operating Expenses and Capital Outlay	\$5,308	\$0
TOTAL	\$43,682	\$38,374

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 includes 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.

Expenditures Not Included

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 summarized in Table 2. Gifts, grants, and donations received by the state as a result of this bill may cover all or a portion of these expenses.

Table 2. Expenditures Not Included Under HB09-1105*		
Cost Components	FY 2009-10	FY 2010-11
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,276	\$6,846
Supplemental Employee Retirement Payments	1,118	\$1,427
Leased Space	1,408	\$1,408
TOTAL	\$8,802	\$9,681

*More information is available at: http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf

State Appropriations

This note implies that the Governor's Office of Economic Development requires an appropriation of \$43,682 and 0.5 FTE in FY 2009-10 from the Colorado Innovation Investment Tax Credit Cash Fund.

Departments Contacted

Revenue Governor's Office of Economic Development