

**STATE
FISCAL IMPACT**

Drafting Number: LLS 10-0750
Prime Sponsor(s): Rep. Hullinghorst
 Sen. Heath

Date: January 26, 2010
Bill Status: House Appropriations
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TITLE: CONCERNING A TEMPORARY REQUIREMENT THAT A TAXPAYER DEFER CLAIMING ANY AMOUNT OF AN ENTERPRISE ZONE INVESTMENT INCOME TAX CREDIT THAT EXCEEDS TWO HUNDRED FIFTY THOUSAND DOLLARS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue General Fund	up to \$11.8 million	up to \$24.6 million
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: None.		

Summary of Legislation

Under state law, a taxpayer can claim a state income tax credit equal to three percent of any qualified investment that is either acquired, placed into service, or constructed and used exclusively in an enterprise zone for the first year of ownership by the taxpayer. The three percent investment tax credit can be used to offset the first \$5,000 of tax liability plus 50 percent of tax liability in excess of \$5,000. Any amount of unused credits can be carried forward for 12 years after the year for which the full amount of the credit was unused.

For tax years 2011, 2012, and 2013, this bill limits the amount of the investment tax credit that a taxpayer can claim to \$250,000 and defers any portion of the credit that exceeds \$250,000, to tax year 2014. This bill also allows taxpayers that defer claiming any credit in excess of \$250,000, to carry forward the credit for 12 income tax years after the year the credit was initially allowed, plus one additional year for each year the taxpayer defers claiming the credit in excess of \$250,000.

Background

The Colorado Urban and Rural Enterprise Zone Act of 1986 established an enterprise zone program to provide incentives and tax credits for private enterprise to expand and for new businesses to locate in economically distressed areas of the state. There are several tax credits and incentives available to taxpayers for economic activities in enterprise zones.

One incentive is called the three percent investment tax credit. This credit has traditionally made up the bulk of the enterprise zone credits claimed. For example, in FY 2008-09, it made up \$38.0 million of \$48.8 million (78 percent) of total corporate enterprise zone tax credits claimed. This credit applies to any qualified investment in tangible personal property used in a taxpayer's trade or business such as machinery, furniture, appliances, law books, or vehicles.¹

State Revenue

State income tax revenue will increase by up to \$11.8 million in FY 2010-11 and up to \$24.6 million in FY 2011-12.

Two years of sample data from corporate income tax returns were used to evaluate the effect of limiting the amount of the three percent investment tax credit to \$250,000. The revenue impact of imposing the \$250,000 cap would result in a net revenue gain of up to \$23.6 million in the first year. Since a half-year revenue impact for this bill is estimated in the first year, General Fund revenue is estimated to increase up to \$11.8 million in FY 2010-11. State revenue will increase up to \$24.6 million in FY 2011-12. However, given the current economic conditions, fewer investments may be made by corporations than would otherwise be made in a healthy economy. Thus, corporations may have lower corporate liabilities against which to use the credit and the revenue increases may be less than estimated in this fiscal note.

In contrast to the short term, for credits that are deferred to 2014 and afterwards, the state may see less revenue as the credits affected by this bill are pushed out to future years.

State Expenditures

Since enterprise zone credits, including the three percent investment tax credit, are currently programmed in the department's computer accounting system, provisions of this bill can be implemented within existing resources.

Departments Contacted

Revenue Local Affairs

¹ Tangible personal property is commonly referred to as "Section 38 Property" and is defined in Section 48 of the Internal Revenue Code as that section existed prior to 1990. This property is either federal recovery property or other depreciable or amortized property having a useful life of three years or more.