HB11-1220

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 11-0505	**Date:**	February 17, 2011
Prime Sponsor(s):	Rep. Beezley Sen. Foster; Williams S.	**Bill Status:**	House Economic & Business Development
		Fiscal Analyst:	Alex Schatz (303-866-4375)

TITLE: CONCERNING THE ACCELERATION OF FUNDING FOR STATE HIGHWAY TRANSPORTATION PROJECTS THAT RESULT IN NEW COMMERCIAL DEVELOPMENT IN URBAN INFILL AREAS THROUGH ALLOCATION OF A PORTION OF NEW STATE SALES TAX REVENUE ATTRIBUTABLE TO THE TRANSPORTATION PROJECTS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue General Fund	Cannot be Quantified. See State Revenue section.	
State Expenditures Cash Funds*	See State Expenditures section.*	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: See Local Government Impact section.		

* *Under the bill, costs to the Economic Development Commission and the Department of Revenue will be paid by local governments through reimbursement or fees for the actual cost of state government services.*

Summary of Legislation

This bill provides a mechanism to divert an increment of state sales tax revenue to fund a portion of state transportation projects. Transportation project infill zones are authorized to help complete funding for certain state highway projects in undeveloped and underdeveloped areas. Under the bill, a transportation project funded by a transportation project infill zone is eligible for state sales tax increment financing.

Local governments create a transportation project infill zone by identifying a transportation project that:

- is within the territory of a Metropolitan Planning Organization;
- is adjacent to or within undeveloped or underdeveloped land;
- involves improvements to the state highway system within the scope of a project approved for the Statewide Transportation Improvement Program;
- will accelerate commercial development in the infill zone;
- is eligible to receive federal highway matching funds; and
- does not require the exercise of condemnation powers.

Local governments may apply individually or collectively to the state's Office of Economic Development (OED) and Economic Development Commission (EDC) for approval of a transportation project, including the designation of the associated transportation project infill zone. An application must include a description of the project, a defense of the criteria above, a cost estimate and funding plan, and an application fee if required by the OED. The OED reviews projects and makes a recommendation within 60 days of receiving an application, the EDC reviews the OED recommendation and holds a hearing within 90 days of receipt. The EDC makes a final decision to approve or disapprove the transportation project within 30 days after the hearing.

Local governments that build an approved transportation project get to keep 50 percent of the incremental state sales tax for up to 15 years following the completion of the project. The bill makes provisions for local government bonding against the state sales tax increment. The local government is required to produce an annual report including tax increment collections and construction status.

The Department of Revenue sets the base year revenue and thereafter acts as a collecting agent for state sales taxes. The department is charged with distributing state sales tax revenue to local governments and developing appropriate forms, lists, and procedures. The department and OED are required to prepare an annual report to various committees of the General Assembly.

Background

Tax increment financing (TIF) is a tool used by government agencies to set aside a revenue stream for the repayment of bonds or for another specific purpose. Local governments in Colorado most commonly use TIF to generate capital for urban renewal projects. The tax increment is identified as the difference between the initial revenue base within the TIF district and the amount of additional tax collections after the TIF is established by a financing entity (e.g., an urban renewal district). Base revenues are unaffected by the TIF, but tax collections above the base are diverted to the financing entity.

A similar process to authorize state sales tax TIF zones for regional tourism projects was enacted in Senate Bill 09-173. Under SB09-173, the OED and EDC review and approve or disapprove applications and perform other administrative functions included in the current bill. A regional tourism project has not yet been approved by the EDC, but interest in the TIF option has been high and staff resources are at capacity to manage this workload.

Under the bill, to qualify a transportation project for TIF, the project must be approved or have recent approval on the Statewide Transportation Improvement Program (STIP) list. A small sample of recent projects and total estimated costs from the STIP and Denver Regional Council of Governments (DRCOG) TIP list includes:

- **120th Avenue Connection (Broomfield) – $46,433,000**, with $25 million carried forward in latest DRCOG TIP proposal. Development of six-lane connection between Colorado Highway 128 and U.S. Highway 287, including grade separation from U.S. Highway 36 and BNSF Railroad;

- **Woodmen Road (Colorado Springs) - $34,900,000**, capacity and alignment improvements between U.S. Highway 24 and Powers Boulevard;

- **120th Avenue/Federal Boulevard (Westminster) - $5,214,000**, operational improvements to intersection and environs; and

- **Harmony/Shields Intersection Improvements (Fort Collins) - $794,000**, improvements to lanes and signals.

State Revenue

The net revenue effect of the bill is to temporarily divert revenue from the state General Fund to state highway projects. Half of state sales tax collections within each transportation project infill zone are diverted to a local government entity for up to 15 years. The actual impact of the bill depends on several factors that are currently unknown.

Revenue effects during the life of a transportation TIF. While a state sales tax increment for a transportation project infill zone is in effect, the state will retain less revenue than it would if the same sales tax-generating development occurred without a TIF. However, the effect of the bill on state revenue during the life of an infill zone depends on the relative amounts of state sales tax that would be generated within the infill zone with and without the state transportation project. If a large retail development in an infill zone, for example, generates more than twice the growth in state sales tax than the same area would experience without the associated transportation project, the project may increase state sales taxes to the General Fund. The fiscal note makes no assumption regarding the number of projects of this magnitude that may exist statewide.

The temporary effect of a transportation TIF on state sales taxes may be positive or negative, depending on numerous factors, including:

- absorption rate of retail space in a local market;
- cost of the transportation project relative to the potential for expanded tax base;
- amount of TIF contribution to construction and availability of funding from other sources;
- adequacy of existing state highway access, movements, etc.;
- priority of the transportation project (likelihood of funding without TIF);
- type of retail development;
- number and proximity of potentially competing development sites;
- bond market conditions;
- the number and distribution of TIF projects approved by the EDC; and
- the effect of development in the infill zone on sales elsewhere in the local market.

Revenue effects generally. At the expiration of a transportation TIF, affected state sales taxes will flow entirely to the General Fund, as under current law. The fiscal note assumes no overall increase or deduction in state sales tax collection as a result of this bill. However, during the life of transportation TIFs, the bill grants local governments control over certain revenue otherwise deposited in the General Fund, effectively reducing state revenue.

State Expenditures

The bill impacts state expenditures, with the actual impact depending on several factors that are currently unknown. The amount of other state and federal moneys available for transportation projects is unknown, but transportation TIFs will shift costs for certain state highway improvements from HUTF and the State Highway Fund to the General Fund.

Based on the analysis below, if applications for transportation projects are submitted to the EDC, it is assumed that any resulting need for state appropriations will be provided through the annual budget process.

Economic Development Commission. The EDC and OED will incur increased costs to establish guidelines for project review, analyze transportation project applications, coordinate with third-party contractors in the review process, hold hearings on applications, notify other agencies when projects are approved, and make annual reports. These costs are conditional on receipt of applications from local governments, and the fiscal note further assumes that the bill does not require action by the EDC or OED until the law has been effective for sufficient time for local governments to perform various tasks prerequisite to submitting an application to the EDC, including assessing costs on a qualified transportation project, designating an infill zone, and compiling maps, studies, and other required documentation.

EDC costs incurred in FY 2011-12 will be incidental to start-up of the program and absorbed within existing resources; however, if the EDC receives a substantial number of transportation project applications, this will require additional resources. Based on an estimated 1,050 projects that are potentially eligible under the program, the EDC, including its staff in the OED, could have a future need for at least 2.0 FTE at an average salary of $64,800 per FTE to effectively implement the program.

Department of Revenue. Expenditures by the department are required to set up a new taxing jurisdiction code, promulgate rules to implement the bill, establish base revenues, and produce annual reports. Costs to the department are conditional on the approval of a transportation project by the EDC. Based on caseload assumptions for the EDC and an assumed average of 62 sales tax accounts requiring coding in each approved infill zone, the department could have a future need for at least 0.6 FTE at a prorated salary of $25,800. Under the bill, all costs in the department associated with the collection and disbursement of the local government TIF will be repaid by financing entities.

Department of Transportation. The bill requires the Department of Transportation (CDOT) to commence work on an EDC-approved transportation project immediately after all project funding is secured. The fiscal note assumes that adjustments to CDOT project schedules produce minimal increases in costs to prioritize resources according to the bill. These costs will be absorbed within the CDOT budget.

Local Government Impact

Actions by local governments to apply for transportation project approval and approval of an infill zone drive conditional revenue and expenditure impacts under the bill. The bill's authorization of a state sales tax increment potentially increases local revenue up to the amount expended by a local government to complete an approved transportation improvement project. Local government costs will increase if a local government applies for and receives approval for a transportation project, to pay for financing of bonds and loans, to compile taxpayer lists and reimburse the Department of Revenue, and to prepare annual audits and reports. The fiscal note assumes that local governments will assess the financial structure of projects and only thereafter participate in transportation TIF projects.

Local government costs under the bill are generally offset by new TIF revenue; however, if a local government is unable to recoup its costs in a transportation project after 15 years of TIF revenue, the balance of its expenditures will not be covered through TIF.

Departments Contacted

Revenue	Local Affairs	Office of Economic Development
Transportation	Law	