HB14-1305

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number: LLS 14-0133
Prime Sponsor(s): Rep. McCann; Sonnenberg
Sen. Hodge; Brophy
Date: March 17, 2014
Bill Status: House Finance
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SHORT TITLE: RENEWABLE ENERGY EZ INVESTMENT TAX CREDIT REFUND

Fiscal Impact Summary*	FY 2013-14 Current Year	FY 2014-15	FY 2015-16	FY 2016-17
State Revenue	**($4.5 million)**	**($8.9 million)**	**($8.9 million)**	**($8.1 million)**
Revenue Change				
General Fund	(4.5 million)	(8.9 million)	(8.9 million)	(8.1 million)
State Transfer				
Cash Fund **		($3.4 million)		
State Expenditures		**$109,449**	**$77,650**	**$77,650**
General Fund		104,207	71,954	71,954
Centrally Appropriated Costs**		5,424	5,696	5,696
FTE Position Change		0.5 FTE	0.5 FTE	0.5 FTE
Appropriation Required: $78,549 - Revenue; $30,900 - Ofc. of Economic Development (FY 2014-15)				

* *This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.*

** *Under current law, a decrease in General Fund revenue in FY 2013-14 will reduce the amount transferred to the State Education Fund in FY 2014-15.*

Summary of Legislation

HB14-1305 allows a renewable energy company with Enterprise Zone Investment Tax Credits (ITC) to annually elect to receive a refund of the credit. The amount of the refund is equal to 85 cents for every one dollar of ITC credit. The refund for any company is capped at $2.5 million per tax year. If the company does elect to receive a refund, they are required to sign a one-time affidavit with the Colorado Economic Development Commission stating the company's intends to make further renewable investments within five years. The taxpayer may elect to receive a refund beginning in tax year 2014.

Background

The Enterprise Zone Investment Tax Credit is an income tax credit equal to 3 percent of qualified investments located in an enterprise zone. Taxpayers may claim up to half their annual tax liability plus $5,000 in any one year. If the income tax credit is more than what a taxpayer may claim, the credit can be carried forward. Renewable energy companies may carry the credit forward for up to 22 years.

State Revenue

General Fund revenue will be reduced by $4.5 million in FY 2013-14, $8.9 million in FY 2014-15, and $8.9 million FY 2015-16.

A revenue estimate for HB14-1305 is expected to be a minimum amount for the following reasons:

- The universe of existing credits eligible for the refund in 2014 is unknown. Any credits claimed for qualifying investments in prior tax years and carried forward into 2014 are eligible to be monetized using the refund mechanism. Data for ITC carry forward credits held by four renewable energy companies are available through 2012. However, no data for 2013 are available for these companies, and the number of existing smaller ITC credits that may qualify for the refund is unknown.

- The demand for future credits that will be eligible for the refund is difficult to predict, because it is impossible to accurately predict future qualifying investments.

- A revenue estimate requires ongoing assumptions about taxpayer behavior. Taxpayers may annually elect to either use the refund or not. The decision is a function of a business's investment plans, time value of money, and expectations for future tax liability.

For purposes of this fiscal note, the following is assumed:

- The four renewable energy companies for which a large ITC carry forward credit existed in 2012 represents the current universe of existing eligible credits. These outstanding credits total $73.6 million, of which $8.1 million are precertified. Of this amount, one company is assumed to hold $39.5 million. The remaining credits are assumed to be divided equally among the other three companies, for an average amount of $11.4 million per company.

- The Office of Economic Development and International Trade will not certify any additional ITC for renewable energy investments.

- These four companies will annually elect to receive the maximum refund until all carry forward credits have been exhausted.

These assumptions likely understate the revenue impact because: 1) they exclude any smaller carry forward credits or credits generated by investments in 2013 that currently exist but are not known; and 2) they exclude any future qualifying investments. However, they could overstate the revenue impact because they assume all four firms with known large carry forward credits will annually elect to receive the maximum refund until all credits have been exhausted instead of carrying forward any of the credits to claim against future tax liabilities.

Will the refund raise revenue for the state in the long run? If, under current law, the company holding the eligible carry forward credits would have sufficient tax liability to fully claim all credits within their 22-year carry forward period, the state would eventually gain 15 percent of their carry forward credits in revenue if the company chooses a refund instead. However, the gain would likely occur several years into the future, and would be diminished if it were discounted for the time value of money. If, under current law, the company would have sufficient tax liability to claim less than 85 percent of their credits, the state would lose revenue.

State Transfers. Current law transfers 75 percent of the General Fund surpluses in FY 2013-14 to the State Education Fund. Because the bill is expected to reduce General Fund revenue by $4.5 million in FY 2013-14, it will also reduce the transfer to the State Education Fund by $3.4 million in FY 2014-15.

State Expenditures

HB14-1305 will increase state expenditures by $109,449 in FY 2014-15 and $71,650 in FY 2015-16, as shown in Table 1.

Department of Revenue — This bill will require an estimated 150 hours of programming of the GenTax system, paid at a rate of $206 per hour, or $30,900 in one-time programming costs in FY 2013-14. The workload includes configuring the income tax returns to accept the refund. These costs will be paid from the General Fund.

Office of Economic Development — This bill requires 0.5 FTE Program Manager to implement and manage the program. In addition, the Program Manger will be responsible for reviewing companies for compliance. Other operating expenses include developing a program to collaborate with the Department of Revenue, collect data, and create an annual report .

Table 1 . Expenditures Under HB14-1305

Cost Components	FY 2014-15	FY 2015-16
Personal Services - Program Manager	$33,480	$33,480
FTE	0.5	0.5
Operating Expenses and Capital Outlay Costs - OEDIT	$2,827	$475
Other Operating Expenses - OEDIT	$37,000	$32,000
Computer Programing - DOR GenTax	$30,900	
Centrally Appropriated Costs*	$5,242	$5,696
TOTAL	**$109,449**	**$71,650**

** Centrally appropriated costs are not included in the bill's appropriation.*

***Centrally appropriated costs**.* 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2 . Centrally Appropriated Costs Under HB14-1305*

Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$3,369	$3,369
Supplemental Employee Retirement Payments	$2,055	$2,327
TOTAL	**$5,424**	**$5,696**

**More information is available at: http://colorado.gov/fiscalnotes*

HB14-1305

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2014-15, the following General Fund appropriations are required:

- $30,900 to the Department of Revenue; and
- $73,307 to the Office of Economic Development and authorization for 0.5 FTE.

State and Local Government Contacts

Office of Economic Development Personnel Revenue