HB05-1049

Colorado Legislative Council Staff

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 05-0057	**Date:**	January 31, 2005
Prime Sponsor(s):	Rep. McCluskey Sen. Sandoval	**Bill Status:**	House Finance
		Fiscal Analyst:	Josh Harwood (303-866-4796)

TITLE: CONCERNING THE CREATION OF A COLORADO INCOME TAX CREDIT TO REIMBURSE A TAXPAYER FOR A CERTAIN PORTION OF THE PROPERTY TAXES THAT THE TAXPAYER PAYS TO A SCHOOL DISTRICT FOR THE TAXPAYER'S USE OF BUSINESS PERSONAL PROPERTY.

Fiscal Impact Summary	FY 2005/06	FY 2006/07	FY 2008/09
State Revenues General Fund - Income Tax Credit		($45,000)	($3,231,000)
State Expenditures General Fund - Dept. of Revenue		$71,144*	$8,432
FTE Position Change - Dept. of Rev.	0.0 FTE	0.7 FTE*	0.0 FTE
Other State Impact: TABOR Impact			
Effective Date: August 10, 2005, unless a referendum petition is filed. Applies to property tax years beginning on and after January 1, 2005.			
Appropriation Summary for FY 2005/06: None Required.			
Local Government Impact: To the extent that county treasurers and assessors need to allocate resources to determine if the payment of certain business personal property taxes reduced the state's obligation to fund school finance, some administrative costs could be incurred.			

**Includes one-time computer programming expenses that may be included in the FY 2005-06 Long Bill appropriations to the Department of Revenue. If these resources are provided, the appropriation would not be required to implement the bill.*

Summary of Legislation

The bill provides an income tax credit for qualifying Colorado businesses equal to 50% of the business personal property taxes paid to the local school district general operations on equipment first used on or after January 1, 2005. In order for a business to qualify for the credit, it must meet the following requirements:

- submit an affidavit stating that at least 50% of the goods and services produced by the business in Colorado are sold to companies or individuals outside of Colorado;
- provide proof that the business paid the business personal property tax in the year for which the credit is claimed;

- submit written certification from the county that the business personal property tax paid reduced the state payment required by the School Finance Act to the school district in which the tax was paid; and
- in the event that the company claiming the credit is in a regulated industry, the credit claimed only applies to those operations that are unregulated.

The bill also stipulates that the credit may be claimed by businesses that lease equipment, and provides how that should be implemented. Furthermore, it specifies that companies involved in extracting natural resources may not claim the credit.

All or a portion of the credit specified in the bill may be transferred to another taxpayer. Both the transferee and the taxpayer claiming the credit would be required to submit written statements to the Department of Revenue detailing the transfer of the credit. Furthermore, the bill states that the amount of the credit claimed by a taxpayer will not be deemed a decrease in the amount of income taxes owed. The credit would not be refundable and the total amount received through the credit and any moneys received through the business personal property refund mechanism would not exceed the company's total business personal property tax liability for a given year.

Finally, the bill gives the Department of Revenue the authority to promulgate rules necessary to implement the bill and must do so within existing resources.

State Revenues

Income Tax Credit. The bill will reduce state income tax revenues by the amount of credits claimed by qualifying businesses for the reduction in state school finance equalization payments in the prior fiscal year. The credit will result *only* in those districts that would have generated less local property tax revenue had the new business personal property not been taxed. In other words, the credit would be equal to 50% of the school operating business personal property taxes paid on equipment first used after January 1, 2005, in those districts *not* at their property tax revenue limit. Additionally, the credit would occur, though at a lower value, in districts where the new purchases of business personal property pushed the district over its property tax revenue limit.

The number of school districts at their property tax revenue limit can vary widely from year to year for multiple reasons. One reason is that the reassessment cycle builds in two years of property value growth every other year, while the school district property tax revenue limit applies only one year of inflation. Second, unlike other local governments, the definition of local growth for school districts incorporates only enrollment growth, not new construction. When a large amount on new construction occurs in a school district, unless it is accompanied by an immediate, proportionate increase in enrollment, the district is pushed over its property tax revenue limit. As an example of the variation in the amount of taxes collected in school districts over their revenue limit, in FY 2005-06 over 98% of school district property taxes will come from districts over their limit, while in FY 2006-07, that amount is reduced to 24%.

The requirement that a business must sell more than 50% of its goods and services to consumers outside the state greatly restricts the number of businesses that could qualify for the credit. The pool of qualified applicants is restricted further by the elimination of mineral extracting companies and regulated business operations from qualification. As a result, the vast majority of credits would likely occur in manufacturing businesses. These businesses tend to build and export goods, and also have a larger proportion of their property tax liability associated with business personal property. Additionally, it appears that railroads and airlines located in Colorado could qualify for the credit, though their proportion of the total impact reflected in this fiscal analysis is relatively minor. Other businesses, such as those in the finance and insurance sectors may also qualify, though their business personal property tax liabilities are relatively small.

Finally, businesses will have little method of anticipating which years they will receive the credit. As a result, it is unlikely that a large amount of new investment would occur expressly because of the bill. For large businesses, the mere act of moving into a school district could push the district over its property tax revenue limit, and eliminate the credit in the initial year that it, and other businesses in the district, might have otherwise qualified for the credit.

Assuming that new business personal property investment will occur proportionally across school districts, the amount of credit that could be claimed in FY 2006-07 will be approximately $45,000. For subsequent fiscal years, the total income tax revenue impact would continue to be dependent on the degree to which school districts reach their property tax revenue limit and the amount of credit that businesses may claim on equipment purchased in prior years, but after January 1, 2005. In other words, because businesses pay personal property tax on equipment annually, they may receive a credit each year following the purchase of the equipment. For FY 2007-08, the impact is estimated to be $3,231,000. These impacts have been reduced due to the expectation that businesses will receive refunds on their business personal property taxes through the TABOR Refund Mechanism in FY 2006-07 and FY 2007-08.

State Expenditures

Department of Revenue. The Department of Revenue would incur mailing, printing, and programming costs associated with the new income tax credits. Additionally, the department would be required to track and file documents associated with the credit. This would likely be significant due to the fact that the credit is saleable. Presumably, a company could receive the credit in multiple counties, then pool the amount and sell it to multiple businesses for each year the credit is received. Ongoing mailing and printing costs associated with a quarterly payment schedule would total $8,432 beginning in FY 2006-07. Programming and associated personnel costs are estimated to be $71,144 associated with 0.7 FTE in FY 2006-07. It should be noted that the computer programming resources identified to implement the bill may also be included in the FY 2006-07 Long Bill appropriation to the Department of Revenue. If these resources are included in the Long Bill, no further appropriation for computer programming will be required to implement the bill.

Expenditures Not Included

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs;
- short-term disability costs;
- inflationary cost factors;
- leased space; and
- indirect costs.

Local Government Impact

Counties would likely see some additional administrative costs incurred through providing the detailed information for each credit to the Department of Revenue. Furthermore, because the counties are the holders of the individual business accounts, they would need to be involved in notifying the businesses as to the amount of credit that they may claim.

State Appropriations

The fiscal note implies that no new appropriations are required to implement the bill for FY 2005-06.

Departments Contacted

Revenue	Local Affairs	Legislative Council Staff	Education