



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 31, 2023)

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|-------------------------|--|------------------------|---|
| Drafting Number: | LLS 23-0398 | Date: | May 4, 2023 |
| Prime Sponsors: | Rep. Soper; Valdez Sen. Baisley; Priola | Bill Status: | Senate Finance |
| | | Fiscal Analyst: | Louis Pino 303-866-3556 louis.pino@coleg.gov |

Bill Topic: **ADVANCED INDUSTRY SEMICONDUCTOR MFG INCENTIVES**

| | | |
|----------------------------------|---|--|
| Summary of Fiscal Impact: | <input checked="" type="checkbox"/> State Revenue | <input checked="" type="checkbox"/> TABOR Refund |
| | <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| | <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill modifies existing tax credits, allows local governments to designate new areas (“CHIPS Zones”) where manufacturers may access certain enterprise zone tax credits, and creates a task force. It decreases state revenue beginning in FY 2024-25 and in future years, and increases state expenditures from FY 2023-24 through FY 2029 30.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$417,691 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under HB 23-1260**

| | | Budget Year FY 2023-24 | Out Year FY 2024-25 | Out Year FY 2025-26 |
|---------------------|---------------------------|---------------------------|------------------------|------------------------|
| Revenue | General Fund | - | (\$1.5 million) | (\$3.0 million) |
| | Total Expenditures | - | (\$1.5 million) | (\$3.0 million) |
| Expenditures | General Fund | \$417,691 | \$95,572 | \$95,572 |
| | Centrally Appropriated | \$46,398 | \$18,225 | \$18,225 |
| | Total Expenditures | \$464,089 | \$113,797 | \$113,797 |
| | Total FTE | 2.7 FTE | 1.0 FTE | 1.0 FTE |
| Transfers | | - | - | |
| Other Budget | TABOR Refund | - | (\$1.5 million) | Not estimated |
| | General Fund Reserve | \$62,654 | \$14,336 | \$14,336 |

Summary of Legislation

The bill:

- modifies existing state income tax credits to allow refundability of the credits for certain taxpayers;
- allows municipalities and counties to create CHIPS (Creating Helpful Incentives to Produce Semiconductors) Zones where manufacturers may be eligible for certain enterprise zone income tax credits;
- allows advanced manufacturing or semiconductor manufacturing businesses that meet certain criteria to apply for a job growth incentive refundable credits; and
- creates a task force to study the effectiveness of financial incentives to promote and develop STEM companies in Colorado.

These provisions are discussed below.

Refundable income tax credits. For FY 2023-24 through FY 2028-29, the bill allows taxpayers who are eligible to claim three existing state income tax credits to apply to the Colorado Economic Development Commission (EDC) for a refundability certificate. With the certificate, the taxpayer is able to claim a tax refund for the portion of the credit that exceeds the taxpayer's tax liability. Refunds may be claimed for the following credits:

- the enterprise zone investment tax credit (ITC);
- the enterprise zone new employee tax credit; and
- the enterprise zone research and development tax credit.

The EDC may approve up to \$15 million dollars in refundable credits per fiscal year. If the full amount allowed each fiscal year is not approved, the balance can be added to the next fiscal year. Only a total of \$75.0 million can be approved from FY 2023-24 to FY 2028-29.

CHIPS Zone Act. For tax years 2023 through 2035, the bill creates the CHIPS Zone program. The program allows any municipality, county, or group of contiguous municipalities to designate a CHIPS Zone in accordance with the policies established by OEDIT. If a CHIPS Zone is established, taxpayers are eligible for the enterprise zone investment tax credit (ITC), new employee tax credit, and research development credit and may apply to the commission for approval for refundable credits described above.

Colorado Job Growth Incentive Act. The bill allows advanced manufacturing or semiconductor manufacturing businesses that create at least 20 jobs with an average yearly wage of 75 percent or greater of the average wage of the county to apply to the EDC to make this credits refundable.

The Advanced Manufacturing and STEM Industries Task Force. The bill creates the Advanced Manufacturing and STEM Industries Task Force. The task force will include two members from the House of Representatives, two members from the Senate, two representatives with experience in the administration of the advanced industries acceleration program, at least four industry representatives from businesses supported by the advanced industries acceleration grant program, and the Director of OEDIT or their designee. The members of the task force serve without compensation.

The task force must meet at least twice during the 2023 interim to:

- study the effectiveness of existing financial incentives, support, resources, and development strategies for advanced manufacturing and other science, technology, engineering, and math (STEM) companies in Colorado;
- examine other states' statutes, regulations, and policies intended to attract and promote the development of advanced manufacturing and other STEM companies; and
- identify any recommended legislation or changes in administrative rules or policies to make Colorado's advanced manufacturing and other STEM industries more nationally competitive.

The task force is required to report to the legislature by December 1, 2023. The report must contain the task force's recommendations for all issues on which two-thirds or more of its members agree. The bill requires the OEDIT to provide staff services to the task force.

Background

Enterprise Zone Investment Tax Credit (ITC). An income tax credit equal to 3 percent of qualified investments located in an enterprise zone. The credit is limited to \$750,000 each year for tax years 2014 and later. Credits above the limit may be carried forward for fourteen years. The EDC may waive the credit limit.

New Business Facility Employee Credit. A \$1,100 income tax credit is available for each new business facility employee working within an enterprise zone. An additional \$2,000 credit for each new business facility employee is available if the business is located in an enhanced rural enterprise zone. If the new business facility is located in an enhanced rural enterprise zone and engaged in a business that adds value through manufacturing or processing to agricultural commodities, an additional credit of \$500 per new business employee is allowed.

Research and Development Increase Tax Credit. A 3 percent credit is allowed on expenditures for research and experimental activities conducted in an enterprise zone.

Job Growth Incentive Tax Credit. The job growth incentive tax credit provides an income tax credit to firms that create jobs in Colorado. The credit is equal to one-half of the amount the employer is required to pay in federal social security and Medicare taxes. For each job created, firms receive credit each year the job is retained for up to 96 months (eight years) after the credit is first received. Wages for jobs for which the credit is claimed must be at least 100 percent of the average wage in the county within which the jobs are created. Each year's credit may be carried forward for ten years. Employers must receive initial authorization for the credit no later than tax year 2019. The credit is repealed after tax year 2029. If the jobs are created within an enhanced rural enterprise zone, firms must create at least 5 jobs and retain them for one year. If the jobs are not being created within an enhanced rural enterprise zone, at least 20 jobs must be created and retained for one year.

Assumptions

This fiscal note assumes that the commission will approve the full \$75.0 million in refundable credits allowed from FY 2023-24 through FY 2027-28. However, the amount approved by the commission will increase each fiscal year as taxpayers become aware of the credit and economic investment in the semiconductor industry grows over time. The fiscal note assumes the commission will approve \$3.0 million in refundable credits in FY 2023-24, \$7.0 million in FY 2024-25, \$10.0 million in FY 2025 26, with steady increases to FY 2028-29, the last year the commission may approve refund certificates.

While the amount approved by the commission each year is capped, the amount of credits claimed by taxpayers in any tax year after they receive certification is not capped. Therefore, the revenue impacts of the tax credit will vary. The amount and timing of when credits are claimed are dependent on a number of factors, such as the economy and individual and business tax liabilities in any given year. Further, enterprise zones credits cannot be claimed until they meet certain criteria. For example, ITC credits generally take a longer period of time before being certified and are typically for larger amounts, while the job growth incentive credit can be earned more frequently for generally smaller amounts and earned over a longer period of time.

State Revenue

The bill is expected to reduce General Fund revenue by \$1.5 million in FY 2024-25, by \$3.0 million in FY 2025 26, by \$10.0 million in FY 2026-27, and by larger amounts in later years. The total amount of refundable income tax credits authorized by this bill is \$75 million dollars. As mentioned above, the amount and timing of when the credits will be claimed is uncertain. To the extent the commission does not approve the full \$75 million, the decline in General Fund revenue will be less. In addition, if taxpayers claim their refundable income tax credits sooner (or later), revenue declines will be greater (or smaller) in the short term than the amount estimated in the fiscal note. The bill reduces individual and corporate income tax revenue, which is subject to TABOR.

State Expenditures

The bill increases state expenditures by \$464,089 in FY 2023-24, \$113,797 in FY 2024-25 and by similar amounts in later years. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1260

| | FY 2023-24 | FY 2024-25 |
|---|------------------|------------------|
| Department of Revenue (DOR) | | |
| Personal Services | \$88,597 | - |
| Operating Expenses | \$1,890 | - |
| Capital Outlay Costs | \$6,670 | - |
| GenTax Programming and Testing | \$155,525 | - |
| Data Reporting | \$14,784 | \$14,656 |
| Document Management and Tax Form Changes | \$32,642 | - |
| Centrally Appropriated Costs ¹ | \$23,723 | - |
| FTE – Personal Services | 1.4 FTE | - |
| DOR Subtotal | \$323,831 | \$14,656 |
| Office of Economic Development and International Trade | | |
| Personal Services | \$89,158 | \$76,919 |
| Operating Expenses | \$1,755 | \$1,350 |
| Capital Outlay Costs | \$6,670 | - |
| Salesforce Software License | \$20,000 | - |
| Centrally Appropriated Costs ¹ | \$22,675 | \$18,225 |
| FTE – Personal Services | 1.3 FTE | 1.0 FTE |
| OEDIT Subtotal | \$140,258 | \$96,494 |
| Legislative Department | | |
| Per Diems and Expense Reimbursements | - | \$2,647 |
| Legislative Dept. Subtotal | - | \$2,647 |
| Total | \$464,089 | \$113,797 |
| Total FTE | 2.7 FTE | 1.0 FTE |

¹ Centrally appropriated costs are not included in the bill's appropriation

Department of Revenue. Beginning in FY 2023-24, expenditures will increase in DOR to administer the income tax credit and income tax addition in the bill.

- **Computer programming and testing.** For FY 2023-24 only, the bill will require changes to DOR's GenTax software system and testing. System programming costs are elevated for this bill, relative to other similar legislation, because the enterprise zone tax credit form that requires changes is currently at the page length limit allowed by the GenTax system (10 pages). Therefore, implementing the bill requires deconstruction of the current enterprise zone credit form and reimplementation as two separate forms.

Changes are programmed by a contractor at a cost of \$225 per hour. Approximately 485 hours of computer programming will be required to implement this bill, totaling \$109,125. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional \$46,400 in expenditures by the department. Finally, the department will require one-time temporary personnel, estimated at 1.4 FTE, for final development and testing of the changes to the software, which are shown under the personal services line in Table 2.

- **Data reporting.** For FY 2023-24, the Office of Research and Analysis (ORA) within DOR will have costs of \$14,784 to collect and report data on the new tax credit. These costs will slightly decrease beginning in FY 2024-25 and are ongoing through FY 2030-31.
- **Document management and tax form changes.** In FY 2023-24, the bill requires changes to three tax forms and computer testing for paper filings at a cost of \$32,642. Expenditure for form changes occur in the Department of Personnel and Administration using reappropriated funds.

Office of Economic Development and Trade (OEDIT). Beginning in FY 2024-25, expenditures will increase in OEDIT to administer the refundable income tax credit and provide support to the Advanced Manufacturing and STEM Industries Task Force.

- **Personal services.** OEDIT will require 1.3 FTE in FY 2024-25. Of this, 0.3 FTE is one time cost for a staff administrator to provide support to the task force. This includes preparation of notices, minutes, agendas and reports. The remaining 1.0 FTE is for a program manager to administer the program and verify the taxpayer meets the requirements in the bill. This includes coordinating with the CHIPS Zone administrators and verifying the taxpayers are meeting the federal grant requirements. This 1.0 FTE cost is on-going while the program is available.
- **Salesforce License.** OEDIT utilizes the management software Salesforce for interaction with customers, customer relationship, analytics, and application development. It is estimated a one cost for the license in FY 2023-27 is approximately \$20,000.

Legislative Department. It is assumed that four members of the legislature will participate in two meetings of the task force after July 1, 2023. Even though the bill provides that members serve without compensation, current state law entitles members to per diem/reimbursement for expenses when serving on committees.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above for FY 2023-24 and FY 2024-25. This estimate assumes the March 2023 LCS revenue forecast. A forecast of state revenue subject to

TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase the amount of General Fund available for other purposes.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires the following General Fund appropriations:

- \$117,583 to the Office of Economic Development and International Trade, and 1.3 FTE; and
- \$300,108 and 1.4 FTE to the Department of Revenue.

State and Local Government Contacts

Economic Development
Personnel

Information Technology
Revenue

Legislature
State Auditor