Bill 9

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 24-0242
Prime Sponsors:

Date: September 29, 2023
Bill Status: Bill Draft
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Bill Topic: **STATEWIDE TRANSIT PASS AND TAX CREDIT**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

For tax years 2024 through 2028, the bill creates a refundable state income tax credit equal to 30 percent of the amount spent by a taxpayer to purchase one or more transit passes. It also creates a statewide transit pass exploratory committee.

Appropriation Summary: For FY 2024-25, the bill requires appropriations totaling $1.7 million to various agencies.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Transportation Legislation Review Committee.

Table 1
State Fiscal Impacts Under Bill 9

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($7,103,408)	($15,167,198)
	Total Revenue	**($7,103,408)**	**($15,167,198)**
Expenditures	General Fund	$1,712,164	$1,140,642
	Cash Funds	$53,403	$55,977
	Centrally Appropriated	$137,734	$104,937
	Total Expenditures	**$1,903,301**	**$1,301,556**
	Total FTE	**8.0 FTE**	**6.0 FTE**
Transfers		-	-
Other Budget Impacts	General Fund Reserve	$256,825	$171,096
	TABOR Refunds	($7,103,408)	($15,167,198)

Summary of Legislation

For tax years 2024 through 2028, the bill creates a refundable income tax credit equal to 30 percent of the amount spent by a taxpayer to purchase one or more transit passes during the income tax year for which the credit is claimed. To claim the credit, a taxpayer is required to include a credit certificate issued by the Colorado Energy Office (CEO) with their income tax return. The CEO is required to provide an electronic report of taxpayers receiving a credit certificate to the Department of Revenue (DOR) by January 1 of each year from 2025 through 2029.

The bill also creates a fifteen-member statewide transit pass exploratory committee within the Department of Transportation (CDOT) to produce a proposal for implementing a statewide transit pass. The committee must be created by October 1, 2024, and produce a proposal by July 1, 2026, with an implementation goal of January 1, 2028. The committee members are appointed by the executive director of CDOT and must include representatives of a diverse group of transit agencies throughout the state.

Assumptions

The eligible population for this new tax credit includes taxpayers purchasing one or more transit passes for the taxpayer's use during the income tax year for which the credit is claimed. Because there is no statewide data available on public transit expenditures by individuals in Colorado, this fiscal note uses a number of assumptions coupled with existing data about public transit programs in the state.

This fiscal note assumes that commuters who use public transit regularly will be most likely to obtain a credit certificate to claim the new tax credit. According to the Bureau of Census, American Community Survey, approximately 0.6 percent of Coloradans used public transit to commute to work in 2021. Applying this percentage to the estimated number of taxpayers in 2023, and assuming that the demand for public transit is relatively inelastic with respect to price, but will recover gradually toward pre-pandemic levels regardless of price, the fiscal note assumes that approximately 33,000 taxpayers will obtain credit certificates and claim the new tax credit in tax year 2024. This number is assumed to grow by 10 percent for tax years 2025 through 2028.

This fiscal note assumes that credit claimants will spend on average $1,435 per year in 2024 and $1,481 per year in 2025 on transit passes. This is based on the estimated future price of a local monthly RTD pass, $114 per month in 2023, growth by the Legislative Council Staff September 2023 forecast for Denver-Aurora-Lakewood inflation.

State Revenue

The bill is expected to decrease state revenue by $7.1 million in FY 2023-24, a half-year impact, by $15.2 million in FY 2024-25, by $17.2 million in FY 2025-26, and by increasing amounts in future years, until the credit expires in tax year 2028. These amounts reflect the assumptions stated above; however, the bill's actual impact may be higher or lower depending on the rate at which the credit is utilized and the ridership of public transit services. The bill decreases revenue from income taxes, which are subject to TABOR. Revenue impacts on a tax year basis and additional information are presented in Table 2.

Table 2
Revenue Reduction Under Bill 9

	Tax Year 2024	Tax Year 2025
Number of credits claimed	33,000	36,300
Average annual transit expense	$1,435	$1,481
Total qualifying expenditures	$47.4 million	$53.8 million
State Revenue Impact	**$14.2 million**	**$16.1 million**

Taxpayers are estimated to claim tax credits for approximately $47.4 million of qualifying transit pass expenditures in tax year 2024 and $53.8 million in tax year 2025. This amounts to a reduction in state income tax revenue of about $14.2 million in tax year 2024 and $16.1 million in tax year 2025 due to the 30 percent tax credit.

State Expenditures

The bill increases state expenditures by $1.9 million in FY 2024-25 and $1.3 million in FY 2025-26, as shown in Table 3 below. Costs in the CEO and DOR are paid from the General Fund, and costs in CDOT are paid from the State Highway Fund and various other cash funds available for the department's construction, maintenance, and operations budget. These costs, which continue through FY 2028-29, are described in more detail below.

Table 3
Expenditures Under Bill 9

	FY 2024-25	FY 2025-26
Colorado Energy Office		
Personal Services	$149,285	$166,477
Operating Expenses	$2,304	$2,560
Capital Outlay Costs	$13,340	$0
Computer Programming	$125,000	$5,000
Software Licenses	$166,625	$166,425
Contractor Expenses	$700,000	$700,000
Call Center	$125,000	$125,000
Centrally Appropriated Costs[1]	$34,714	$38,629
FTE – Personal Services	1.8 FTE	2.0 FTE
CEO Subtotal	**$1,316,268**	**$1,079,091**
Department of Revenue		
Personal Services	$292,307	$161,624
Operating Expenses	$6,784	$3,840
Capital Outlay Costs	$46,690	$0
Computer Programming and Testing	$129,193	$0
Research and Analysis	$7,392	$7,328
Document Management	$16,276	
Centrally Appropriated Costs[1]	$88,391	$49,673
FTE – Personal Services	5.3 FTE	3.0 FTE
DOR Subtotal	**$587,033**	**$222,465**

Table 3
Expenditures Under Bill 9 (Cont.)

		FY 2024-25	FY 2025-26
Department of Transportation			
Personal Services		$45,581	$54,697
Operating Expenses		$1,152	$1,280
Capital Outlay Costs		$6,670	-
Centrally Appropriated Costs[1]		$14,629	$16,635
FTE – Personal Services		0.9 FTE	1.0 FTE
CDOT Subtotal		**$68,032**	**$72,612**
	Total	**$1,903,301**	**$1,301,556**
	Total FTE	**8.0 FTE**	**6.0 FTE**

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

Colorado Energy Office. The CEO requires expenditures to implement the transit pass tax credit certificates as follows:

- **Staff.** The CEO requires 2.0 FTE for a program manager and assistant to design, implement, and manage the transit pass tax credit certificate program. Standard operating and capital outlay costs are included, and are prorated in the first year assuming a September 1, 2024 start date.

  Computer programming and software licenses. The CEO will require $291,625 in FY 2024-25 and $171,425 in FY 2025-26 for computer programming and software licenses to process applications for credit certificates. This includes $125,000 for computer programming in the first year, and $5,000 for ongoing maintenance of software, as well as $166,625 for SalesForce software licenses in FY 2024-25 and ongoing.

- **Other services.** CEO requires $700,000 per year starting in FY 2023-24 for a contractor to process certificate requests and $125,000 for call center services to answer questions from taxpayers. These costs continue over the life of the tax credit.

Department of Revenue. The DOR requires expenditures to implement the new tax credit and to process and review returns claiming the new tax credit as follows:

- **Staff.** The DOR will require an additional 5.3 FTE for tax examiners starting in FY 2024-25, 3.0 FTE for FY 2025-26 and subsequent years, through FY 2029-30. Standard operating and capital outlay costs are included, and account for the bill’s effective date. The tax examiners are necessary to process and review additional returns claiming the new tax credit and to resolve errors in returns.

- **Computer programming and testing.** For FY 2024-25 only, the DOR will have on-time costs of $129,193 for computer programming and testing. Programming costs are estimated at $51,912 representing 224 hours of contract programming at a rate of $231.75 per hour. Costs for user acceptance testing to ensure that programming changes are functioning properly are estimated at $77,281, representing 1,515 hours for the Systems Support Office at $35 per hour and 758 hours of user acceptance testing at a rate of $32 per hour.

- **Research and analysis.** Beginning in FY 2024-25, the Office of Research and Analysis within DOR will expend $7,392 each year to collect and report data on the new tax credit.

- **Tax form changes.** For FY 2024-25 only, the bill requires $16,276 in expenditures to implement tax form changes and document management. These expenditures will take place in the Department of Personnel and Administration using reappropriated funds from the DOR.

Department of Transportation. CDOT requires 1.0 FTE in FY 2024-25 and FY 2025-26 to administer stakeholder outreach, meetings, and research associated with the exploratory committee created by the bill. Standard operating and capital outlay costs are included, and are prorated in the first year assuming a September 1, 2024 start date. Costs are paid from continuously appropriated fund sources in CDOT.

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. This estimate assumes the September 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower 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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires the following General Fund appropriations:

- S1,281,554 to the Colorado Energy Office, and 1.8 FTE; and
- $498,642 to the Department of Revenue, and 5.3 FTE, of which $16,276 is reappropriated to the Department of Personnel Administration.

State and Local Government Contacts

Colorado Energy Office	Information Technology	Personnel
Revenue	Transportation	