

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0696	Date: February 3, 2015
Prime Sponsor(s): Rep. Arndt Sen. Donovan	Bill Status: House Agriculture
	Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: INSTREAM FLOW INCENTIVE TAX CREDIT

Fiscal Impact Summary	FY 2014-2015 (current year)	FY 2015-2016
State Revenue General Fund	Potential reduction. See State Revenue section.	
State Expenditures		
TABOR Set Aside		Potential reduction. See TABOR Impact section.
FTE Position Change		
Appropriation Required: None.		

Summary of Legislation

This bill extends the instream flow incentive tax credit, currently set to expire after tax year 2014, through tax year 2019. It also removes a provision restricting the credit's availability to tax years beginning during fiscal years when revenue is sufficient to grow General Fund appropriations by 6 percent. Finally, the bill extends credit eligibility to instream flows that improve the environment in addition to those that preserve it.

The bill does not affect the \$2 million cap on aggregate instream flow credit awarded for a single tax year.

Background

Current law allows a refundable income tax credit to an owner of a water right who permanently transfers a right to the Colorado Water Conservation Board (CWCB) for the purpose of creating an instream flow that preserves the environment to a reasonable degree. The CWCB has the exclusive authority to allow credits, which it does by issuing a credit certificate to the taxpayer transferring the water right, and to determine their value.

The instream flow incentive tax credit was created under House Bill 09-1067. This legislation contained a provision restricting the credit's availability to tax years beginning during fiscal years when General Fund appropriations were expected to grow by 6 percent. Because General Fund appropriations grew by less than 6 percent between FY 2008-09 and FY 2011-12, the credit did not become available until tax year 2013. For tax years 2013 and 2014, no credit applications were submitted to the CWCB, and no certificates were awarded.

State Revenue

This bill may reduce General Fund revenue by up to \$1.0 million in FY 2014-15 and up to \$2.0 million in FY 2015-16. Preparation of a water right for transfer can take up to two years, meaning that applications for credit certificates pursuant to this bill might not be submitted until tax year 2017. However, the Department of Natural Resources reports that the CWCB did not award any credit certificates during tax years 2013 and 2014, when the credit was also available, because no applications for credit certificates were received during these years. If credit certificates are not awarded in tax year 2015 and subsequent tax years, then the bill will not reduce General Fund revenue.

TABOR Impact

To the extent that the bill results in reduced General Fund revenue in FY 2015-16, it will reduce the amount that the state will set aside for TABOR refunds in tax year 2016 for FY 2016-17. State revenue subject to TABOR is not expected to exceed the Referendum C cap in FY 2014-15.

State Expenditures

This bill is not expected to increase state expenditures. Because the instream flow incentive tax credit exists in current law, any workload increase is expected to be minimal and can be addressed within existing resources in both the Department of Revenue and the Department of Natural Resources.

Effective Date

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

State and Local Government Contacts

Agriculture

Natural Resources

Revenue