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Fiscal Note

Drafting Number: LLS 22-0942 Date: April 6, 2022
Prime Sponsors: Rep. Titone; McLachlan; Sen. Donovan Bill Status: House Business
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Bill Topic: MODIFY MAIN STREET BUSINESS RECOVERY LOAN PROGRAM

- Summary of Fiscal Impact: State Revenue, TABOR Refund, State Expenditure, Local Government, State Transfer, Statutory Public Entity

This bill makes multiple changes to the Colorado Loans for Increasing Main Street Business Economic Recovery Act created under House Bill 20-1413 in the Office of the State Treasurer. The bill impacts state revenue, transfers, and expenditures through FY 2027-28, and may increase statutory public entity workload.

Appropriation Summary: No appropriation is required. The Small Business Recovery Fund is continuously appropriated to the Treasury Department.

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

Table 1 State Fiscal Impacts Under HB 22-1328

Table with 5 columns: Category, Budget Year FY 2022-23, Out Year FY 2023-24, Out Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue (General Fund, Cash Funds, Total), Expenditures (Cash Funds, Total), Transfers, and Other Budget (TABOR Refund).

1 Table 1 shows the maximum allowable issuance of insurance premium tax credits and small business recovery loan issuance. See Assumptions section for additional information.
2 Expenditure amount includes funding generated under HB 20-1413 but not yet used for loans, as these future loans are assumed to be issued under the terms of this bill.
3 Beginning in FY 2027-28, unspent and unencumbered funds in the Small Business Recovery Fund at the end of any fiscal year are transferred to the General Fund. On June 30, 2037, all unspent and unencumbered funds in the Small Business Recovery Fund are transferred to the General Fund. These amount have not been estimated.

Summary of Legislation

This bill makes multiple changes to the Small Business Recovery Loan Program created in [House Bill 20-1413](#) in the Office of the State Treasurer, and extends the program through December 31, 2040.

Loans to small businesses. The Small Business Recovery Loan Program is expanded to include businesses that have one or more employees (a reduction from five or more employees under current law) and one year of positive cash flow (a reduction from two years of positive cash flow under current law), as determined by the Small Business Recovery Loan Program Oversight Board (board).

The bill increases the allowable amount of first loss capital provided by the State Treasurer to the Small Business Recovery Fund by \$10.0 million over FY 2021-22, FY 2022-23, and FY 2023-24, without increasing the total amount (\$50.0 million) that can be issued over the life of the program. Except for funds contributed to the Colorado Credit Reserve, funds must be matched by other sources at a ratio of at least four-to-one and, once matched, may be used for loans for working capital, including the purchase of equipment.

The minimum amount of a loan is decreased from \$30,000 to \$10,000, and the length of maximum initial maturity is extended from 5 to 10 years. The bill also clarifies that loans made to women, veterans, and minority-owned businesses as related to program goals identified by the board, should support business owners with social and economic disadvantages.

Small Business Recovery Insurance Premium Tax Credits. The bill makes changes to the issuance and use of tax credits, including:

- extending the time period the Treasury Department may issue tax credit certificates equal to the combined total face value of up to \$28.0 million dollars or the combined total sales proceed of up to \$21.0 million, whichever is less, to FY 2022-23;
- allowing the qualified taxpayer to claim up to fifty percent of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2023, but not reduce its estimated tax payments in proportion to such credit prior to July 1, 2023;
- allowing the qualified taxpayer to claim the remaining amount of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2024, but not reduce its estimated tax payments in proportion to such credit prior to July 1, 2024; and
- modifying the requirement that the total credit applied by a qualified taxpayer in any one year not exceed the premium tax liability for the taxable year, whereby the excess may be carried over to succeeding taxable years, to make an exception for credits issued in FY 2020-21 to not be carried over to any taxable year that begins after December 31, 2031, and a credit issued in FY 2021-22 or FY 2022-23, may not be carried over to any taxable year that begins after December 31, 2029.

Small Business Recovery Fund. Beginning in FY 2027-28, the state treasurer is required to credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the General Fund and must transfer all unexpended and unencumbered money in the fund at the end of the FY 2026-27 to the General Fund. The bill extends the program repeal date to July 1, 2037.

Assumptions

Insurance Premium Tax Credits. The fiscal note assumes that \$40.0 million of insurance premium tax credits were issued as scheduled under HB 20-1413, generating \$30.5 million in proceeds, and that the \$28.0 million of credits scheduled to be issued in FY 2021-22 have not yet been issued. The State Treasurer will issue the \$28.0 million in credits in FY 2022-23, generating \$21.0 million of total sales proceeds. This could result in \$51.5 million total in tax credit revenue, only \$50.0 million of which will be issued as loans, and the remainder of which will be credited to the General Fund.

Loan repayment revenue. The fiscal note assumes that \$7.5 million of the \$30.0 million in loans allowed in FY 2020-21 under HB 20-1413 has been used to make small business loans, and that these loans are subject to the loan terms under HB 20-1413; these amounts are not accounted for in this fiscal note.

It is assumed that the remaining balance of up to \$20.0 million will be loaned out in FY 2022-23 along with the up to \$20.0 million originally intended to be provided in FY 2021-22 through the original bill, for a total of \$40.0 million in loans. The loan amounts are limited by the bill to \$40.0 million total in FYs 2021-22 through 2023-24. For informational purposes, the fiscal note shows all loans issued on January 1, 2023.

These loans are assumed to have the following terms:

- all loan repayments start January 1;
- 100 percent repayment;
- 10-year terms with monthly payments;
- 3.0 percent interest, credited to the state based on its share of funds committed to the loan program; and
- fixed payment over the life of loan.

State Revenue

The bill will impact state General Fund and cash funds revenue beginning in FY 2022-23. Revenue will increase from the sale of remaining insurance premium tax credits and loan repayments, while revenue will be reduced when taxpayers claim the tax credits. Table 2 provides estimates of the revenue impacts from tax credits, sales proceeds, and loan repayment revenues, based on the assumptions outlined above. The actual amount of impacts may be lower and timing of these impacts may vary.

Table 2
Maximum Projected Revenue Changes Under HB 22-1328
(in millions)

| | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|
| Reduced Insurance Premium Tax Revenue ¹ | - | (\$14.0) | (\$14.0) | - | - |
| Insurance Premium Tax Credit Certificate Revenue | \$21.0 | - | - | - | - |
| Loan Repayment Revenue ² | \$2.3 | \$4.6 | \$4.6 | \$4.6 | \$4.6 |
| Net Revenue Impact | \$23.3 | (\$9.4) | (\$9.4) | \$4.6 | \$4.6 |

¹ The bill may reduce insurance premium tax collections by up to \$28.0 million, shown here split evenly between FY 2022-23 and FY 2023-24; however, the actual reduction may be spread out through CY 2029, depending on how the credit is used and the amounts carried forward to future years.

² The fiscal note assumes all loan repayments on \$40.0 million in loans will commence January 1, 2023.

Reduced Insurance Premium Tax Credit revenue. In FY 2023-24 and FY 2024-25, state General Fund revenue will decrease as insurance premium taxpayers begin to utilize credit certificates by an estimated \$28.0 million over two fiscal years. The amount and timing of when insurance premium taxpayers claim the credits may differ from the assumptions in Table 2, as insurers may carry credits over into future years through CY 2029.

Sales proceeds from Insurance Premium Tax Credit Certificates. In FY 2022-23, the bill is expected to increase state cash funds revenue by up to \$21.0 million from the proceeds generated from selling the remaining insurance premium tax credits. This revenue is credited to the Small Business Recovery Fund.

Loan repayment revenue. Based on the assumed \$40 million in loans issued under the terms of this bill and terms described in the Assumptions Section above, loan repayments are estimated to be \$2.3 million in FY 2022-23 (half-year impact) and \$4.6 million in FY 2023-24 and future years through the end of the loan program. Loan repayment revenue will vary depend on interest rates for loans issued, the volume of loans, agreements with private sector lenders contributing capital to the lending program, and other factors. Interest income to the state from these loans is estimated to be \$0.6 million in FY 2022-23 (half-year impact) and \$1.1 million in FY 2023-24. Interest income will decline over time as the loans are paid off. Interest income is subject to the state's TABOR revenue limit; repayment of principal is not.

State Transfers

Beginning in FY 2027-28, unspent and unencumbered funds in the Small Business Recovery Fund at the end of any fiscal year are credited to the General Fund. On June 30, 2037, all unspent and unencumbered funds in the Small Business Recovery Fund will be transferred to the General Fund. These amounts have not been estimated, and will depend on the amount of proceeds from premium tax credit certificates not used to issue loans, the amount of revenue from repayments, the timing and amount of any funds used to support program administration, as well as other factors.

State Expenditures

Treasury Department. The bill will increase Small Business Loan Recovery cash fund expenditures in the Treasury Department to issue loans, as directed by the bill, assumed to be \$40.0 million in FY 2022-23. The department received 0.6 FTE for the program through HB 20-1413 and it is assumed this staff will continue to be sufficient to administer the program.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$0.6 million in FY 2022-23 and \$1.1 million for FY 2023-24. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save. The actual impact to taxpayer refunds will depend on the amount of interest revenue received.

Statutory Public Entity

CHFA. Workload will increase for the program lender, the Colorado Housing and Finance Authority (CHFA), to the extent that the decrease in the minimum loan amount results in a greater numbers of loans issued. CHFA does not receive state appropriations to support operations.

Effective Date

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

State and Local Government Contacts

Colorado Housing and Finance Authority
Treasury

Economic Development