JOB GROWTH CREDIT

EVALUATION SUMMARY | SEPTEMBER 2022 | 2022-TE38

TAX TYPE	Income
YEAR ENACTED	2009
REPEAL/EXPIRATION DATE	December 31, 2026
REVENUE IMPACT (TAX YEAR 2018)	$14.2 million
NUMBER OF TAXPAYERS	130

KEY CONCLUSION: The credit has likely had some effect on businesses' decisions to establish job creation projects in Colorado and may have resulted in the creation of new jobs.

WHAT DOES THE TAX EXPENDITURE DO?

The Job Growth Credit is available for businesses that create new jobs for a project "that encourages, promotes, and stimulates economic development in key economic sectors…" The credit is equal to the net job growth for the given calendar year multiplied by 50 percent of the FICA taxes imposed on the business during that year for the net new jobs of the project.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Neither statute nor the enacting legislation explicitly states the purpose of the credit; therefore, we could not definitively determine the General Assembly's original intent. Based on our review of the credit's operation, we considered a potential purpose: to encourage businesses to create new jobs in Colorado.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider:

- Amending statute to establish a statutory purpose and performance measures for the credit.
- Clarifying the available credit period and the calculation of the credit amount.
- Examining the effects of remote work on companies' average annual wages for purposes of qualifying for the credit.

JOB GROWTH CREDIT

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The Job Growth Incentive Credit (Job Growth Credit) [Section 39-22-531, C.R.S.] is available for businesses that create new jobs for a project "that encourages, promotes, and stimulates economic development in key economic sectors…" Statute directs the Economic Development Commission (Commission) to administer most aspects of the credit. However, the Commission is situated within the Office of Economic Development and International Trade (OEDIT), which generally handles the application process and issues credit certificates for the credit, with the Commission approving businesses for the credit and setting the terms businesses must meet to qualify.

In order to be eligible for the credit, statute [Section 39-22-531(3)(a)(III)(B), C.R.S.] requires businesses to assert to the Commission and OEDIT during the application process that the credit "is a major factor in the decision to locate or retain the project in Colorado…" Additionally, projects must generally bring a net job growth of at least 20 net new jobs to Colorado, although this requirement is reduced to five net new jobs for projects located in an enhanced rural enterprise zone, which is an area of the state that OEDIT has determined to be economically distressed.

Under statute [Section 39-22-531(1)(f), C.R.S.], net job growth is calculated as the increase in the number of full-time equivalent (FTE) employees for the project between the project's commencement and the end of the given calendar year, as demonstrated in Exhibit 1. According to OEDIT staff, only those employees with a primary residence in Colorado and who pay Colorado state income tax are included in the calculation of net job growth.

EXHIBIT 1. CALCULATION OF NET JOB GROWTH PER CALENDAR YEAR (BASED ON NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED FOR THE PROJECT)

FTE employees, end of calendar year − FTE employees, commencement of project = Net job growth

SOURCE: Office of the State Auditor analysis of Section 39-22-531(1)(f), C.R.S.

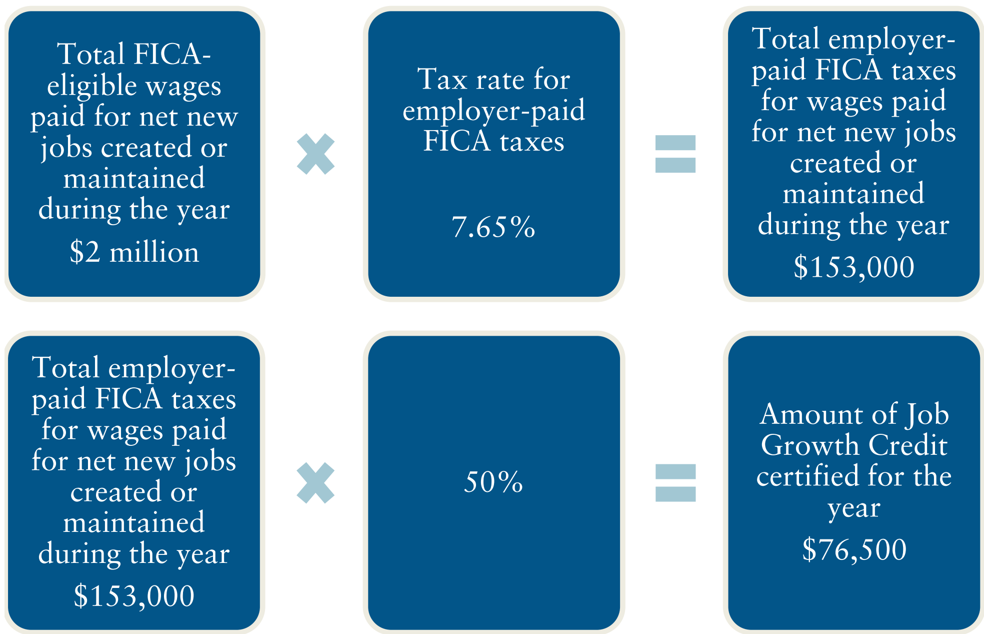
The new employees hired must be retained for at least 1 year, and the average annual wage of the jobs created must be at least 100 percent of the average annual wage of the county in which the project is located. OEDIT staff indicated that the county average annual wage used to verify that the project meets this requirement, both at the project's outset and on an annual basis thereafter, is set when the project is approved and is calculated based on the most recently available data from the U.S. Bureau of Labor Statistics at that time.

The credit may be claimed for a specific credit period that the Commission sets individually for each project, which cannot exceed 96 consecutive months, or 8 income tax years. If the amount of the credit exceeds the taxpayer's income tax liability for the income tax year in which the credit is claimed, the taxpayer may carry forward the remaining amount for up to 10 income tax years. The Commission can approve new projects for the credit through December 31, 2026.

Under OEDIT's interpretation of statute [Section 39-22-531(5)(b), C.R.S.], a company's annual credit amount is equal to 50 percent of the Federal Insurance Contributions Act (FICA) taxes imposed on the taxpayer during that year for the net new jobs for the approved project, as demonstrated in Exhibit 2 (see the *What policy considerations did this evaluation identify?* section below for a discussion on the operation of this statute). FICA taxes, which include social security taxes and Medicare taxes, are generally imposed on employers at a total rate of

7.65 percent of the wages paid to employees; therefore, the credit is typically equivalent to about 3.8 percent of the new employees' wages.

EXHIBIT 2. EXAMPLE CALCULATION OF JOB GROWTH CREDIT PER CALENDAR YEAR, BASED ON OEDIT'S INTERPRETATION OF STATUTE



SOURCE: Office of the State Auditor analysis of Section 39-22-531(5)(b), C.R.S., and Office of Economic Development and International Trade documentation of the credit.

Businesses seeking the credit are required to submit an application to OEDIT before a qualifying project begins. The application must provide:

- An employment plan that includes the forecasted number, titles, hire dates, and annual wages of the positions that will be created.

- Documentation demonstrating that the Job Growth Credit is a major factor in the decision to locate the project in Colorado. This documentation must indicate that the company "could reasonably and efficiently" locate the project outside of Colorado and that at least one other state is being considered for the project.

- A cost differential analysis that compares the projected costs of the project in Colorado with the projected costs if the project were to commence in at least one competing state. The analysis may include the impact of incentive programs available in the other state; the costs of labor, utilities, and taxes; and "the cost structure of the taxpayer's industry in the competing state."

- Three years of historical company financials.

OEDIT staff review the application and conduct an analysis of the project, after which the project goes before the Commission for consideration, along with OEDIT's analysis and recommendations. Provided that the project meets the credit's eligibility requirements laid out in statute, the Commission has discretion in whether to offer conditional approval to the project. In deciding whether to approve any given application, statute [Section 39-22-531(3)(c), C.R.S.] requires that the Commission consider only the following four factors:

- The economic health of Colorado
- The economic viability of the proposed new jobs
- The economic benefits to Colorado of the new jobs
- The maximum amount of the credit needed to attract the new jobs to Colorado

The Commission may also establish additional terms that the business must meet in order for the project to qualify for the credit, such as raising a certain amount of funds or providing data on all Colorado jobs, including those not employed for the approved project, on their annual reports. The conditional approval will be revoked if the business does not meet these terms, or if the project is canceled or otherwise becomes ineligible for the credit. The Commission also establishes the maximum amount of the credit available to the business for the credit period, which is equal to either the estimated net job growth for each of the years in the credit period multiplied by 50 percent of the total estimated FICA taxes imposed on the business for the net new jobs of the project during each year of the credit period or, at the Commission's discretion, some lesser amount. OEDIT staff then formalize the terms established by the Commission in a contract that is signed by the company.

Businesses have 1.5 years from the receipt of the conditional approval to commence the project. Once the project has commenced, the company submits an annual request to OEDIT for a credit certificate by March 1 of each calendar year. This must include the number of employees hired for the project, the net job growth for the project, and all documentation needed to calculate the amount of the taxpayer's annual credit. If the project meets or exceeds the qualifications for the credit and the terms of the company's contract, OEDIT calculates the amount of the taxpayer's annual credit and issues a credit certificate in that amount for that calendar year, which certifies that the taxpayer qualifies for the credit. However, if the total amount of credits certified for the taxpayer for the credit period thus far, including the current credit certificate, exceeds the maximum amount of the credit established by the Commission in the project's conditional approval, OEDIT issues a credit certificate in the amount remaining up to the maximum credit amount. Pass-through entities may allocate the credit among their individual co-owners in any manner and must certify to the Commission and the Department of Revenue (Department) the amount allocated to each co-owner. OEDIT will then issue credit certificates in the certified amounts to the individual co-owners.

In order to claim the credit, taxpayers must submit the credit certificate along with their income tax return. Taxpayers generally claim the credit on the credit schedule for their respective income tax returns:

- Individuals claim the credit on Line 29 of the 2021 Individual Credit Schedule (Form DR 0104CR), which must be attached to the 2021 Colorado Individual Income Tax Return (Form DR 0104).

- Corporations claim the credit on Line 17 of the 2021 Credit Schedule for Corporations (Form DR 0112CR), which must be attached to the 2021 Colorado C Corporation Income Tax Return (Form DR 0112).

- Pass-through entities, such as S corporations and partnerships, report the credit on Line 14 of the 2021 Colorado Pass-Through Entity Credit Schedule (Form DR 0106CR), which must be attached to the 2021 Colorado Partnership and S Corporation and Composite Nonresident Income Tax Return (Form DR 0106). Separate co-owners of pass-through entities may claim their separate shares of the credit on their respective credit schedules, or, if the individual co-owners are non-residents, the pass-through entity may claim the credit on the co-owners' behalf on Form DR 0106CR.

The Job Growth Credit was created in 2009 by House Bill 09-1001. Subsequent legislation extended the credit for additional tax years and made various changes to the credit. The most significant changes were enacted in 2014 with House Bill 14-1014, which:

- Decreased the minimum required average annual wages of the net new jobs from 110 percent to 100 percent of the average annual county wage.

- Extended the maximum length of a company's credit period from 5 years to 8 years.

- Relaxed the eligibility requirement regarding the extent to which the credit must influence companies' decisions. Under the original legislation, the Commission was authorized to approve a company's application only "if the project would not occur but for the credit." Starting in 2014, the Commission was authorized to approve an application only if the credit was "a major factor in the decision to locate or retain the project in Colorado."

The credit has not changed substantially since 2015.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute [Section 39-22-531(1)(h), (2), and (3)(a)(I), C.R.S.] provides that the intended beneficiaries of the Job Growth Credit are businesses in key economic industries, such as aerospace, tourism, and information technology, that:

- Create new projects that stimulate economic development
- Create a minimum number of jobs that pay, on average, at least the county average annual wage
- Have been approved for the credit by the Commission

Additionally, to the extent that the credit incentivizes businesses to commence new projects that create jobs, the credit was also likely intended to benefit Colorado residents, who may be hired for some of the new positions.

OEDIT data indicates that the Commission approved a total of 210 projects between 2014 and 2020, for an average of about 30 projects per year. As demonstrated in Exhibit 3, the county with the most approved projects was Denver (76 projects), followed by Boulder (25 projects).

EXHIBIT 3. NUMBER OF PROJECTS APPROVED FOR JOB GROWTH CREDIT BY COUNTY, 2014-2020

County	Number of Projects Approved[1]
Denver	76
Boulder	25
Broomfield	19
Arapahoe	15
Jefferson	15
Larimer	13
Adams	10
El Paso	10
Weld	6
Routt	3
Alamosa, Douglas, Logan, Mesa, Montezuma, Montrose, Morgan, Otero, and Pueblo	1 each
None specified[2]	10
Total projects approved[1]	210

SOURCE: Office of the State Auditor analysis of Office of Economic Development and International Trade data.
[1]The number of counties does not add to 210 because one project received approval for two counties, Denver and Boulder.
[2]According to OEDIT staff, a project's county location may not be finalized until the company completes its contract with OEDIT. None of the 10 projects without a specified county location have signed a contract with OEDIT.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Neither statute nor the enacting legislation explicitly states the purpose of the Job Growth Credit; therefore, we could not definitively determine the General Assembly's original intent. Based on our review of the credit's operation, we considered a potential purpose: to encourage businesses to create new jobs in Colorado.

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We could not definitively determine whether the Job Growth Credit is meeting its purpose because no purpose is provided for it in statute or the enacting legislation. However, we found that the credit is meeting its potential purpose to some extent because it has likely had some effect on businesses' decisions to establish job creation projects in Colorado and may have resulted in the creation of new jobs, although we were unable to quantify the extent to which this is the case.

Statute does not provide quantifiable performance measures for this credit. Therefore, we created and applied the following performance measures to determine the extent to which the credit is meeting its potential purpose:

PERFORMANCE MEASURE #1: *To what extent has the Job Growth Credit influenced businesses' decisions to establish projects in Colorado that will create new jobs?*

RESULT: As discussed, in order to qualify for the credit, a company must have not yet started the qualifying project and must be considering at least one other location outside of Colorado for the project. Therefore, as one measure of the credit's effectiveness as an incentive, we reviewed the location decisions of companies that were approved for the credit. Of the 210 companies that were approved between Calendar Years 2014 and 2020, 135 companies (64 percent) chose to move forward with their approved projects in Colorado and signed a contract with OEDIT. These companies are eligible for annual tax credit certificates as long as they continue to meet the credit's requirements and are still within the credit period outlined in their contract, although some of these companies have not yet fulfilled the requirements necessary to receive credits. Another 18 companies (9 percent) initially chose to move forward with their approved projects in Colorado and signed contracts with OEDIT but later canceled these contracts. According to OEDIT staff, a company may decide to cancel their contract if hiring for the approved project does not proceed to the extent that they had anticipated when the contract went into place. The remaining 57 companies (27 percent) did not move forward with their projects in Colorado. These companies may have located their projects out of state or decided not to go through with their projects at all. Exhibit 4 summarizes the location decisions of the companies with projects that were approved by the Commission between Calendar Years 2014 and 2020.

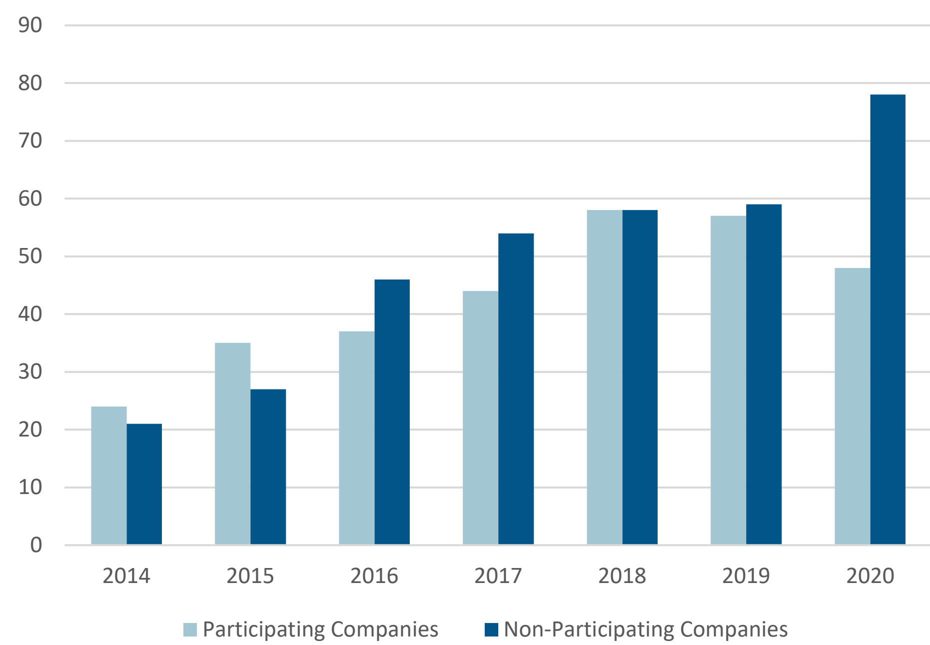
EXHIBIT 4. LOCATION DECISIONS FOR PROJECTS APPROVED BY THE ECONOMIC DEVELOPMENT COMMISSION CALENDAR YEARS 2014 THROUGH 2020

Company's Project Location Decision	Number of Projects	Percentage of Total
Chose Colorado and signed contract with OEDIT	135	64%
Chose Colorado, but canceled contract	18	9%
Did not move forward with project	57	27%
Total	**210**	**100%**

SOURCE: Office of the State Auditor analysis of Office of Economic Development and International Trade data.

In addition to looking at the number of companies that moved forward with their projects, we also measured companies' "participation" in the credit on an annual basis by comparing the total number of companies that were eligible for the credit in a given calendar year (i.e., those that had signed a contract with OEDIT and were still within their credit period) with the number of companies that actually received a credit certificate for the given year. From Calendar Year 2014 through Calendar Year 2020, we estimated that between 38 and 56 percent of eligible companies were issued a credit certificate in any given year. These "participating companies" submitted the required annual report to OEDIT demonstrating that they had created or maintained a certain number of net new jobs during the previous calendar year. We considered the companies that were eligible for the credit but were not issued a credit certificate to be "non-participating companies." Exhibit 5 provides the number of participating and non-participating companies in each calendar year from 2014 through 2020.

EXHIBIT 5. COMPANY PARTICIPATION[1]
IN JOB GROWTH CREDIT
CALENDAR YEARS 2014-2020



SOURCE: Office of the State Auditor analysis of Office of Economic Development and International Trade data.
[1]A company is eligible to receive a credit certificate if they have been approved for the credit by the Commission, have signed a contract with OEDIT, and are still within their credit period for the calendar year in question. Of these eligible companies, we considered a company to be "participating" in the credit if they submitted their annual report to OEDIT and were issued a credit certificate. "Non-participating companies" were eligible during the given calendar year but were not issued a credit certificate.

Although non-participating companies have been approved for the credit, they will not receive the credit's benefits or reduce the State's income tax revenue unless they submit their annual reports and demonstrate that they have created new jobs. There are a number of possible explanations for company non-participation. For example, the company may not have begun the project, created enough jobs to receive the credit, and/or submitted the annual report.

Since it is possible that some participating businesses would have gone forward with their projects regardless of the credit, we conducted a survey of the businesses that received approval from the Commission for a job creation project between 2017 and 2021 in order to assess the credit's impact on businesses' location decisions. The survey was successfully delivered to 66 businesses, and we received responses from 26 businesses (a 39 percent response rate). Since this is a non-statistical sample, the survey results may not accurately represent the views of all businesses that have been approved for the credit.

Based on the survey responses, the credit appears to have had a moderate effect on project location decisions for the businesses that responded to the survey, although businesses reported that multiple factors went into their location decisions. As shown in Exhibit 6, 10 businesses (63 percent) reported that the credit was a moderate factor in their decision to locate their projects in Colorado, and two businesses (13 percent) reported that the credit was a major factor.

EXHIBIT 6. SURVEY RESPONSES, RELATIVE IMPORTANCE OF JOB GROWTH CREDIT TO BUSINESSES' LOCATION DECISIONS

Response	Explanation	Number of Businesses
Not a factor at all	The project would have been located in Colorado regardless of the credit's availability.	1
A small factor	Other factors were more important in the decision to locate the project in Colorado.	3
A moderate factor	The credit was one of multiple factors in the decision to locate the project in Colorado.	10
A major factor	The credit was one of the most important factors in the decision to locate the project in Colorado.	2
	Total Respondents	**16**

SOURCE: Office of the State Auditor survey of businesses that were approved for the Job Growth Credit between 2017 and 2021.

When asked to select the top four most important factors in their decisions to locate their projects in Colorado, 10 businesses (63 percent of the businesses that responded to this question) selected the Job Growth Credit, followed by the availability of a skilled workforce and/or educational opportunities (nine businesses, or 56 percent). A total of six businesses selected transportation infrastructure, availability of workforce and/or ease of attracting workers, geographic location, and quality of life (38 percent each).

Academic literature also indicates that companies consider many factors when determining where to locate. Some of the factors that have consistently ranked high in recent studies include:

- Availability of skilled labor
- Favorable local labor costs
- Proximity to transportation infrastructure, such as highways and airports

- Technology infrastructure, such as access to fiber optic lines, high-speed internet, and technological support
- Favorable tax rates

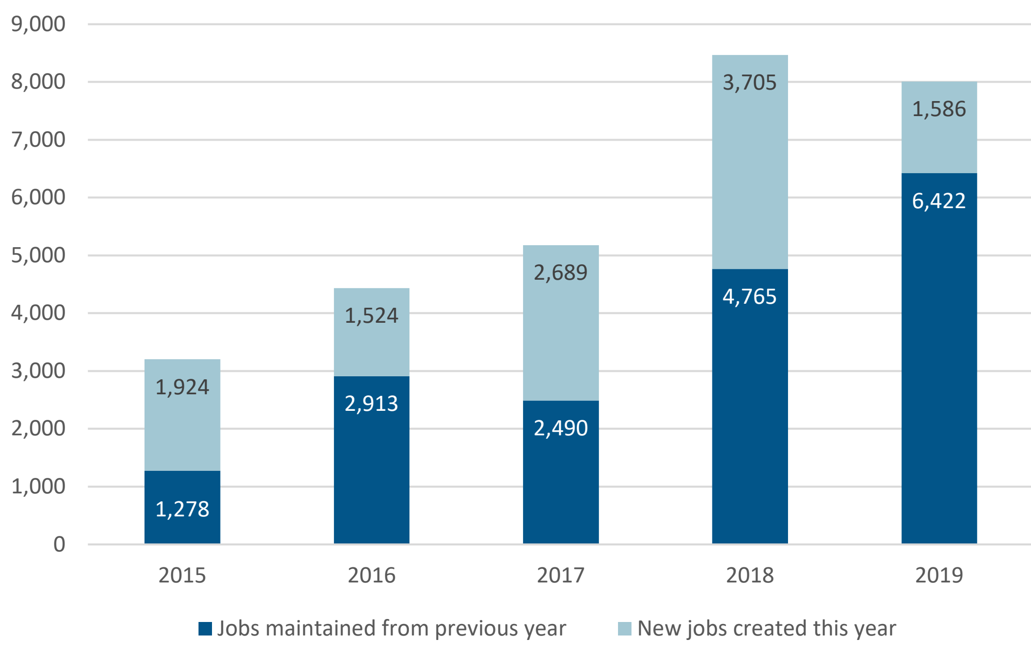
Studies have generally found that tax credits and other economic development incentives tend to have a relatively small impact on business location decisions, even when comparing companies that received these incentives with companies that did not. A recent meta-analysis of 30 academic studies, "'But For' Percentages for Economic Development Incentives" (Bartik 2018), concluded that economic development incentives likely "tip" between 2 percent and 25 percent of business location and expansion decisions, depending on factors such as the design and size of the incentive and companies' individual circumstances. The main reason why these percentages are relatively low is that "many other location and cost factors…have more major effects on a firm's costs and profitability," with taxes representing a small percentage of the costs of conducting business. Research also indicates that incentives may make more of a difference when a company is considering two locations with similar characteristics or when reducing costs would allow the company to achieve a more feasible rate of return. As discussed, statute requires companies to submit documentation indicating that they are considering at least one other state when they apply for the Job Growth Credit.

PERFORMANCE MEASURE #2: *To what extent has the Job Growth Credit resulted in the creation of new jobs in Colorado?*

RESULT: We found that participating companies created new jobs in each calendar year and maintained some of the jobs created in previous calendar years. Although it is likely that some of these jobs were created as a direct result of the credit (i.e., would not have been created without the credit), we were unable to determine the extent to which this is the case.

Exhibit 7 provides the total number of net new jobs reported by participating businesses for each calendar year, including a breakdown of the net number of jobs maintained from the previous year and the net number of new jobs created in the current year. Collectively, participating businesses created between 1,524 and 3,705 new jobs in each calendar year between 2015 and 2019, along with maintaining between 1,278 and 6,422 of the jobs that were created in earlier calendar years. The Exhibit does not include the number of jobs created in previous years that are no longer reported to OEDIT, which averaged 1,029 jobs per calendar year between 2015 and 2019. Some of the jobs no longer reported were created by companies that have reached the end of their credit periods, after which they no longer submit an annual report to OEDIT, and, as discussed, companies may also cease reporting to OEDIT for other reasons. We were unable to determine the extent to which the jobs that are no longer reported have been maintained by companies.

EXHIBIT 7. ESTIMATED CUMULATIVE JOBS
CREATED AND MAINTAINED BY PARTICIPATING BUSINESSES
CALENDAR YEARS 2015-2019



SOURCE: Office of the State Auditor analysis of Economic Development Commission annual reports and Office of Economic Development and International Trade data.

Although Exhibit 7 provides information about job creation at companies that have received the credit, it does not indicate that these jobs were created as a direct result of the credit. If a company would have created a given job regardless of the credit's existence, that job cannot be attributed to the credit, despite the fact that the company received the credit based on the wages paid for this position.

In general, it is difficult to determine the true impact of tax incentives on job creation. Using a simulation model of economic development incentives in the United States, a recent study ("Who Benefits From Economic Development Incentives?" Bartik 2018), determined that these incentives do create jobs that would not have existed otherwise, but only in a minority of incented companies. The typical state economic development incentive provides businesses with a value of 2 to 3 percent of the company's wages, which is estimated to induce 10 to 15 percent of the total job creation associated with the incentive. In comparison, Colorado's Job Growth Credit is typically about 3.8 percent of the total wages paid for new jobs that are created after the company is approved by the Commission, not including any wages paid for positions that already exist when the company is approved. However, OEDIT staff indicated that in their experience, the total percentage of jobs influenced by the credit may be much higher than 10 to 15 percent of jobs reported, based on the following:

- OEDIT's review process of each company's application, including a cost comparison analysis of the company's potential locations.
- The statutory requirement that companies state that the incentive is "a major factor" in their decision to go forward with the project in Colorado.
- OEDIT's observations of the marketplace.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

According to Department data, the Job Growth Credit resulted in a total of $14.2 million in forgone revenue to the State in Tax Year 2018. This amount may include credits issued to companies for Calendar Year 2018 or earlier, including amounts carried forward from previous income tax years. Exhibit 8 provides the amount of credits claimed by each type of taxpayer, with the bulk of the credits ($13.3 million, or 94 percent) claimed by corporate taxpayers. OEDIT's staffing costs for this credit are included in their annual administrative budget, which they submit to the Commission for approval.

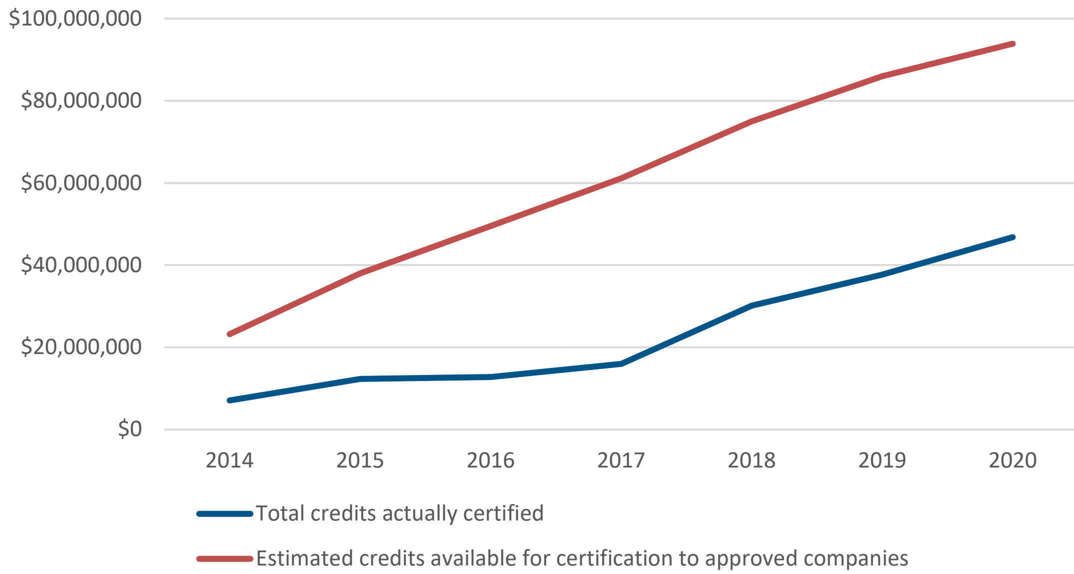
EXHIBIT 8. JOB GROWTH CREDIT REVENUE IMPACT BY TAXPAYER TYPE, TAX YEAR 2018

Corporate returns	$13.3 million
Individual returns	$546,000
Non-resident composite returns	$344,000
Total	**$14.2 million**

SOURCE: Office of the State Auditor analysis of Department of Revenue data.

Additionally, as demonstrated in Exhibit 9, OEDIT has certified between $7 million and $47 million in credits per calendar year between 2014 and 2020, with the total amount certified increasing each year from the previous year. This suggests that the revenue impact of the credit may increase substantially in future income tax years. We also compared the total amount certified each year with the estimated amount available for certification to approved companies, which we calculated for each year on a company-by-company basis by dividing the total approved credit amount by the number of years in the company's credit period (typically, 8 years). As shown in Exhibit 9, the total amount issued to participating companies has been much lower than the estimated amount potentially available to all approved companies. For example, in 2018, we estimated that approved companies may have been eligible for up to $75 million in credits, provided that they had created the required jobs and submitted their annual reports to OEDIT. In comparison, the total amount actually certified for participating companies in 2018 was about $30 million.

EXHIBIT 9. COMPARISON OF TOTAL ESTIMATED CREDITS AVAILABLE FOR CERTIFICATION AND TOTAL CREDITS ACTUALLY CERTIFIED, CALENDAR YEARS 2014-2020



SOURCE: Office of the State Auditor analysis of Office of Economic Development and International Trade data.

The credit's cost effectiveness is largely dependent on the amount of revenue forgone per job induced by the credit. As discussed above, it is difficult to estimate the number of jobs created as a direct result of the credit. Therefore, although we can calculate the amount of revenue forgone per job *associated* with the credit (i.e., the new jobs reported by companies that have been approved for the credit), we are unable to provide an accurate estimate of the cost per job *directly induced* by the credit.

For each job *associated* with the credit, the amount of the credit certified is calculated as:

	Employee's annual wages
x	Employer-paid FICA tax rate for these wages
x	50%

For example, if a company hired a new employee with an annual wage of $70,000, the company's credit amount for that employee would be:

$70,000 x 7.65% x 50% = $2,678

If this employee was hired in the first year of the company's 8-year credit period and earned the same wages each year, the State would forgo up to $21,420 in income tax revenue for this job as a result of the credit.

As discussed, academic research suggests that similar economic development incentives may *directly induce* between 10 and 15 percent of the total number of jobs associated with the incentives. Although we were not able to quantify the percentage of jobs that were induced by Colorado's Job Growth Credit, in order to illustrate the relationship between the credit's ability to induce companies to create new jobs and its cost effectiveness, we estimated the hypothetical revenue impact per job directly induced by the credit based on different assumptions regarding the percentage of total jobs directly induced by the credit, as provided in Exhibit 10.

EXHIBIT 10. HYPOTHETICAL REVENUE IMPACT PER JOB DIRECTLY[1] INDUCED BY THE CREDIT, BASED ON CREDITS CLAIMED IN TAX YEAR 2018

Total jobs created by participating businesses in Calendar Year 2018: 3,705

Hypothetical Percentage of Total Jobs Directly Induced by Credit	Hypothetical Number of Jobs Directly Induced by Credit	Estimated Amount of State Revenue Forgone per Job Induced
5%	185	$76,696
10%	371	$38,348
15%	556	$25,565
20%	741	$19,174

SOURCE: Office of the State Auditor analysis of Office of Economic Development and International Trade data, Department of Revenue data, and "Who Benefits From Economic Development Incentives?" (Bartik 2018).

[1]This analysis only accounts for jobs directly induced by the credit. To the extent that demand for products and services sold by other businesses increases due to participating businesses' decisions to locate projects in Colorado, the credit may also induce indirect job growth in the state, which is not included in the figures presented in this exhibit.

As shown, if the credit had induced between 10 and 15 percent of total jobs created in 2018, the revenue impact to the State per directly induced job would have ranged from $25,565 to $38,348. However, this does not fully account for the impact to the State per job created because it does not account for a variety of factors that affect this cost, including:

- The 8-year credit period. Companies can receive the credit for any given created job for up to 8 years. Therefore, the credit's total revenue impact for 2018 may have resulted from credits that were based on all 8,470 jobs reported for the year, including the 4,765 jobs created in earlier calendar years that were maintained in 2018. Additionally, the 3,705 jobs created in 2018 may continue to reduce state revenue in future calendar years, provided that the companies maintain those jobs, are still within their credit periods, and continue to submit their annual reports to OEDIT.

- Other taxes and economic impacts that result from the created jobs. Employees who fill the newly created positions are subject to Colorado sales tax on in-state purchases and Colorado income tax on their earnings. If an individual would have been unemployed or received lower wages without the credit, then the additional taxes that they pay represent a gain in state tax revenue. If an individual moved to Colorado to accept their position with the company, then their taxes paid would increase state revenue, but the increase in the State's population would also increase the State's expenses for government services. Finally, the creation of new jobs can also have "multiplier effects," in which the increased demand for local products and services resulting from the new job can increase economic activity and induce additional local job creation.

Finally, we examined academic studies to identify best practices for designing effective economic incentives and assessed the extent to which the credit's structure aligns with these practices. As shown in Exhibit 11, we found that Colorado's credit aligns with some of the recommendations for well-designed economic incentives but does not align with others. For example, Colorado's credit is discretionary rather than automatic, which is a recommended best practice, but provides incentives that are long-term, which may reduce its impact.

EXHIBIT 11. COMPARISON OF JOB GROWTH CREDIT WITH ECONOMIC INCENTIVE BEST PRACTICES

Best Practices for Well-Designed Economic Incentives	Does Colorado's Job Growth Credit align with best practices?
Target incentives at firms in industries that tend to create jobs both directly and indirectly through supporting jobs at other firms (i.e., firms with high job multipliers).	Yes. Under statute, the credit is allowed for "key economic sectors," including seven advanced industries specified in statute and any other industries approved by the Commission. Some of these industries tend to have higher job multipliers.
Target firms that pay higher wages	To some extent. The credit is only available to companies that pay an average annual wage for the newly created jobs that is at least 100% of the average annual wage in the county where the project is located.
Target created jobs at the local unemployed population	No. Statute does not require newly created jobs to be filled by unemployed locals.
Target firms that are actively considering other locations outside the state	Yes. Under statute, companies must be considering at least one other state for their project in order to qualify for the credit.
Minimize long-term incentives by coupling front-loaded incentives with claw-back provisions	No. The Job Growth Credit can reduce Colorado income tax revenue for up to 18 years, since businesses have an 8-year credit period in which they can earn credits and a 10-year credit period in which they can carry forward unclaimed credits. However, statute does provide a claw-back provision for the credit, and OEDIT staff indicated that they have a process in place for adjusting taxpayers' credit amounts as needed. Although the credit's annual reporting requirement helps ensure that participating businesses actually create jobs before receiving a credit, academic studies indicate that incentives are generally more impactful on businesses' decisions when benefits are front-loaded.
Discretionary rather than automatic and rules-based	Yes. Statute allows the Commission discretion in deciding whether to approve any given project for the credit, provided that the project meets all of the credit's statutory requirements. Additionally, the credit is not issued automatically but rather is calculated and issued by OEDIT only after the company has reported the number and wages of the jobs created.

SOURCE: Office of the State Auditor analysis of Section 39-22-531, C.R.S., information provided by the Office of Economic Development and International Trade, "Who Benefits From Economic Development Incentives?" (Bartik 2018), and "Economic development incentive program deadweight: The role of program design features, firm characteristics, and location" (Rephann 2020).

Although it is difficult to determine the effects of tax incentives on economic growth and job creation, some research indicates that the net benefits of typical incentives are modest relative to their costs, which suggests that a tax incentive must be particularly well designed in order to have a significant positive effect. Finally, as discussed, studies have found that companies generally view tax credits and other economic development incentives as a relatively small factor in their business location decisions. Based on this information, the authors of one of these studies (Jolley et al. 2015) suggested that the revenue forgone due to incentives might be better spent on improving those factors that consistently rank high for companies' location decisions, which, as discussed, include the availability of skilled labor, transportation infrastructure, and technology infrastructure.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

Eliminating the Job Growth Credit would remove the tax benefit that approved businesses currently receive for creating new qualified jobs in Colorado. On average, OEDIT approved about 30 businesses for the credit and issued credit certificates to 43 businesses each calendar year between 2014 and 2020. Based on OEDIT data, the majority of businesses (55 percent) were certified for annual credit amounts between $100,000 and $600,000.

Additionally, Department data indicates that 130 taxpayers claimed the credit in Tax Year 2018, with 97 taxpayers (75 percent) claiming less than $5,000. Fifteen taxpayers (13 of them corporate) claimed credit amounts of at least $100,000. We also found that the average claimant's credit amount was about 1.1 percent of their Colorado taxable income. If the credit were eliminated and future claims followed the same trend as the claims in Tax Year 2018, taxpayers that would otherwise have claimed the credit would see a 1.1 percent increase in their average Colorado income tax rate, and the State would experience a corresponding increase in income tax revenue.

To the extent that the credit influences businesses' decisions regarding company location, expansion, and/or job creation, eliminating the credit may have a negative impact on businesses that would otherwise have made these business decisions based on receiving the credit. As discussed, research indicates that typical economic incentives such as the Job Growth Credit are the deciding factor in location and expansion decisions for between 2 and 25 percent of recipient businesses. This suggests that eliminating the credit may reduce the number of businesses that would otherwise have chosen to locate their project in Colorado as a result of the credit. Some businesses that would have moved forward with their projects regardless of the credit's availability may also be impacted, since half of the businesses (9 of 18) that responded to the relevant survey question stated that the credit had a meaningful impact on their company's operations in Colorado. We also spoke with a professional site selector who helps companies decide where to locate new facilities, and they stated that the credit can reduce the cost of doing business in Colorado, which can help keep Colorado on the "short list" of potential locations that a company is considering.

Finally, if the credit resulted in the creation of new jobs, eliminating the credit may decrease the number of jobs created by businesses that would have received the credit. As discussed, research indicates that typical economic development incentives may induce between 10 and 15 percent of the total jobs associated with those incentives, so the number of jobs created by these businesses may decrease by a corresponding amount. This may also impact the individuals who would otherwise have been employed with the project. When asked to select the types of employees who had been hired to fill the newly created positions, the 16 businesses that answered the relevant survey question indicated that they had hired:

- Locals who lived in the area where the project is located before the project was started (14 businesses, or 88 percent)

- Individuals who moved from out-of-state to accept employment with the project (9 businesses, or 56 percent)

- Remote workers who live in Colorado (8 businesses, or 50 percent)

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Job creation credits are common in the United States. For purposes of this report, we considered job creation provisions in other states to be similar to Colorado's Job Growth Credit only if they are:

- Tax expenditures that can be claimed against a business income tax
- Predicated on the creation of new jobs rather than, for example, simply requiring the business to create a new facility or incur expenses for a new project
- Broadly available to a variety of businesses rather than being restricted to a small set of industries or to certain areas in the state
- Broadly available for new jobs created rather than being restricted to certain types of newly hired employees (e.g. veterans, unemployed individuals)

We identified 20 credits in 18 other states that meet these criteria and are thus similar to Colorado's Job Growth Credit. Exhibit 12 summarizes the number of credits in other states that share other characteristics with Colorado's credit. As shown, most credits (16, or 80 percent) require businesses to create a minimum number of new jobs in order to be eligible for the credit. Additionally, 14 credits (70 percent) have a statutory application or review process in place before businesses can receive the credit, and 13 credits (65 percent) require businesses to pay wages exceeding a certain amount for the newly created jobs.

EXHIBIT 12. COMMON CHARACTERISTICS OF JOB CREATION CREDITS IN OTHER STATES

Credit Characteristic	Number of Other States' Credit with Characteristic	Percentage of Other States' Credit with Characteristic
Minimum job creation requirement	16	80%
Application and/or review process in place	14	70%
Minimum wage paid for new jobs requirement	13	65%
Can be carried forward for use in multiple tax years	13	65%
Increased value and/or decreased requirements for businesses in economically distressed areas	12	60%
Total credits in other states	20	—

SOURCE: Office of the State Auditor analysis of Bloomberg Law resources and other states' statutes.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

We identified the following programs and tax expenditures, all administered by OEDIT, that provide financial benefits to companies that create new jobs in Colorado:

LOCATION NEUTRAL EMPLOYMENT (LONE) INCENTIVE. The LONE Incentive is available only for companies that receive the Job Growth Credit and employ remote rural workers. The amount of the cash payment is capped at $300,000 and is based on the number of net new jobs that the company plans to create and maintain over the course of 5 years. These new positions must be filled by remote workers living in rural counties outside the county where the company's project is located. The incentive amount is equal to $2,500 for each remote worker living in a Rural Jump-Start county and $5,000 for each remote worker living in a Just Transition Rural Jump-Start county transitioning away from coal dependent economic strategies or in Southern Ute Indian Reservation or Ute Mountain Ute Reservation lands. In Fiscal Year 2021, the Commission approved three projects for a total of $825,000 in LONE incentives, which was associated with 165 remote rural jobs. The incentive is slated to end December 31, 2022.

STRATEGIC FUND JOB GROWTH INCENTIVE. The Strategic Fund Job Growth Incentive is a cash payment granted to companies that meet the incentive's requirements and create permanent, full-time net new jobs in Colorado. Among other things, the company must secure a commitment for local funding that matches the State's incentives one-to-one, consider locating in at least one other state instead of Colorado, and have the potential for significant economic spin-off benefits. The amount of this incentive per net new job created ranges from $3,000 to $6,500, depending on whether the company is located in an economically disadvantaged area and on the average annual wages paid for the new jobs. In Fiscal Year 2021, the Commission approved seven projects for up to $2.9 million in Strategic Fund Job Growth Incentives. OEDIT staff indicated that per Commission policy, businesses generally cannot receive this incentive and the Job Growth Credit for the same net new jobs created.

ENTERPRISE ZONE NEW EMPLOYEE CREDIT. The Enterprise Zone program is intended to encourage development and job growth in economically distressed areas of the state, which are designated as enterprise zones on the basis of unemployment rates, per capita income, and/or population growth. Businesses with facilities located in these zones that complete the pre-certification process with OEDIT are eligible for a $1,100 income tax credit per net new employee hired at the facility. Businesses located in an enhanced rural enterprise zone receive an additional $2,000 credit per net new employee. In Fiscal Year 2021, OEDIT certified 2,688 businesses for about $7.4 million in New Employee Credits, which was associated with a total of 6,124 net new employees. According to OEDIT staff, businesses can receive this credit and the Job Growth Credit for the same new jobs. The Office of the State Auditor evaluated this credit, along with most other Enterprise Zone tax expenditures, in January 2020.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

We did not identify any data constraints during our evaluation of the credit.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH A STATUTORY PURPOSE AND PERFORMANCE MEASURES FOR THE JOB GROWTH CREDIT. As discussed, neither statute nor the enacting legislation for the credit states the credit's purpose or provides performance measures for evaluating its effectiveness. Therefore, for the purposes of our evaluation, we considered a potential purpose for the credit: to encourage businesses to create new jobs in Colorado. We identified this purpose based on our review of the credit's operation; due to its structure, the credit confers a financial benefit only on approved companies that create at least 20 new jobs in Colorado (or 5 new jobs if located in an enhanced rural enterprise zone).

We also developed performance measures to assess the extent to which the credit is meeting its potential purpose. However, the General Assembly may want to clarify its intent for the credit by providing a purpose statement and corresponding performance measure(s) in statute. This would eliminate potential uncertainty regarding the credit's purpose and allow our office to more definitively assess the extent to which the credit is accomplishing its intended goal(s).

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO CLARIFY THE AVAILABLE CREDIT PERIOD AND THE CALCULATION OF THE CREDIT AMOUNT FOR THE JOB GROWTH CREDIT. Under statute [Section 39-22-531(4)(b) and (c), C.R.S.], a company with an approved project may be issued an annual credit certificate for each year of their credit period, provided that the company meets the credit's requirements and submits the required annual report to OEDIT. However, statute [Section 39-22-531(2), C.R.S.] also establishes that the credit may only be claimed for income tax years beginning prior to January 1, 2027. This may cause confusion and uncertainty among taxpayers and may also reduce the credit's effectiveness because it is not clear whether taxpayers with credit periods that extend beyond this date can be issued with or claim new credit amounts earned after 2026. In 2019, OEDIT and the Department executed a Memorandum of

Understanding (MOU) establishing that the credit's end date of January 1, 2027 "applies only to the [Commission's] discretionary decision of whether to grant conditional approval" to a company for this credit and does not apply to OEDIT's ability to issue new credit certificates or taxpayers' ability to claim the credit. However, since statute is not clear on this point, if at some point a court order determines any portion of the MOU to be invalid or inconsistent with statute, the relevant portion would no longer be binding on either OEDIT or the Department. Therefore, the General Assembly may want to clarify in statute whether new credit amounts can be issued to and claimed after January 1, 2027 by companies that were approved for the credit prior to but have credit periods that extend beyond this date.

Additionally, the calculation of taxpayers' credit amounts, as established in statute, does not appear to be consistent with the legislative intent for or OEDIT's method of calculating the Job Growth Credit. Specifically, OEDIT calculates the amount of a taxpayer's credit as 50 percent of the taxpayer's FICA taxes imposed on wages paid for the project's net new jobs. However, statute provides that the amount of a company's credit for a given calendar year is calculated by "multiply[ing] the actual net job growth for that year by fifty percent of the taxpayer's [FICA] taxes imposed on the employer for the new employees of the project…" [Section 39-22-531(5)(b), C.R.S.]. Therefore, OEDIT's method of calculating the credit does not account for the clause about multiplying by the project's net job growth.

Although OEDIT's method of calculating the credit does not align with a plain reading of statute, OEDIT's approach appears to be consistent with the original legislative intent for the credit. The language in the relevant statutory provision has not changed since the credit's enactment in 2009, and bill summaries and fiscal notes for the credit's enacting legislation indicate that both legislators and legislative staff understood the credit's calculation to be 50 percent of the company's FICA taxes for net new jobs, the same method used by OEDIT. Notably, calculating the credit in accordance with a plain reading of statute would generally result in a very substantial credit for participating companies. Exhibit 13 uses the average number of net new jobs reported per participating company, per calendar year between 2015 and 2019 to provide an example of the typical difference in credit amounts when the credit is calculated based on the original legislative intent and OEDIT's interpretation of statute as opposed to a plain reading of statute. As shown, the original legislative intent and OEDIT's current approach to calculating the credit results in a credit amount of about 3.8 percent of the total wages paid by the company for the net new jobs. In contrast, a plain reading of statute would result in a credit amount for a single calendar year that is over 6 times what the company paid in wages for the net new jobs in the given calendar year (a $71.1 million credit compared with total wages of $11.4 million).

EXHIBIT 13. COMPARISON OF JOB GROWTH CREDIT CALCULATIONS, ORIGINAL LEGISLATIVE INTENT / OEDIT'S INTERPRETATION OF STATUTE VERSUS PLAIN READING OF STATUTE

(Based on Average Number of Net New Jobs Reported per Participating Company per Calendar Year 2015-2019)

Number of net new jobs	163
Hypothetical annual wages paid per net new job	$70,000
Total wages paid for net new jobs	$11,410,000
Total FICA taxes paid by employer (7.65% of total wages)	$872,865
Job Growth Credit calculated based on the original legislative intent and OEDIT's interpretation of statute (50% of total FICA taxes paid)	**$436,433 (3.83% of total wages paid)**
Job Growth Credit calculated based on a plain reading of statute (50% of total FICA taxes paid x number of net new jobs)	**$71,138,498 (over 6 times the total wages paid)**

SOURCE: Office of the State Auditor analysis of Section 39-22-531(5)(b), C.R.S., bill summaries and fiscal notes, and Office of Economic Development and International Trade data and documentation of the credit.

Since the statutory method of calculating the credit does not appear to align with the original legislative intent for or OEDIT's method of calculating the credit, the General Assembly may want to consider examining the credit and, if necessary, amending statute to accurately reflect how the credit should be calculated.

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER THE EFFECTS OF REMOTE WORK ON COMPANIES' AVERAGE ANNUAL WAGES FOR PURPOSES OF QUALIFYING FOR THE JOB GROWTH CREDIT. As discussed, in order for a company's project to qualify for the credit, statute requires the average annual wages of all newly created jobs to be at least 100 percent of the average annual wage of the county in which the project is located. The purpose of this provision may be to ensure that the jobs being created meet a certain standard for locals employed at the project. However, when asked to select the types of individuals employed in the newly created positions, eight businesses (50 percent) that responded to the question indicated that they had hired remote workers in Colorado. Since remote workers may be located anywhere in the state, the average annual county wage of the county in which the project is located may not correspond with the typical wages paid in remote workers' actual locations. Therefore, the General Assembly may want to examine whether the recent increase in remote work has impacted the functionality of the credit's average annual wage requirement and amend statute to address how remote work should be treated for purposes of this requirement.