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Revised Fiscal Note

(replaces fiscal note dated)

Drafting Number: LLS 22-0506 Date: March 8, 2022
Prime Sponsors: Rep. Bird; McKean Bill Status: House Appropriations
Sen. Zenzinger; Hisey Fiscal Analyst: Elizabeth Ramey | 303-866-3522
Elizabeth.Ramey@state.co.us

Bill Topic: MODIFY AFFORDABLE HOUSING TAX CREDIT

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

This bill continues the Colorado affordable housing tax credit that is scheduled to expire in 2024 for an additional ten years and increases the amount of the credit that the Colorado Housing and Finance Authority (CHFA) may allocate each year starting in 2023. This bill decreases state General Fund revenue beginning in FY 2023-24, and minimally increases workload for state agencies and CHFA.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under HB 22-1051

Table with 4 columns: Category, Budget Year FY 2022-23, Out Year FY 2023-24, and FY 2032-33 through FY 2034-35*. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

*The bill is projected to decrease General Fund revenue over a 19-year period from FY 2023-24 through FY 2041-42. Peak revenue loss is expected from FY 2032-33 through FY 2034-35. See State Revenue section and Figure 1 for more information.

Summary of Legislation

This bill continues the state affordable housing income tax credit allocated by the Colorado Housing and Finance Authority (CHFA) for an additional ten years, from 2024 to 2034. For tax years 2023 and 2024, this bill increases the amount of the credit that may be allocated from \$10 million to \$15 million each year, and for tax years 2025 to 2034, from \$0 to \$15 million each year. The bill removes the aggregate cap for credits for qualified developments in a county impacted by a natural disaster. This results in a total of at least \$960 million in additional tax credits that can be allocated by CHFA over twelve years.

Background

Credit Allocation. Under current law, CHFA may allocate up to \$530.3 million in state affordable housing tax credits to developers of qualifying housing projects. Colorado’s affordable housing tax credit program was originally established in 2001 and was renewed in 2014 under House Bill 14-1017, which allowed CHFA to issue \$30 million in state income tax credits in both 2015 and 2016. The bill also allowed CHFA to allocate credits above the \$5 million annual cap to support affordable housing developments in counties impacted by natural disasters. House Bill 16-1465 authorized an additional three years of \$30 million allocations. Senate Bill 18-007 authorized an additional five years (2020 through 2024) of \$30 million allocations. House Bill 19-1228 increased the annual allocation cap to \$10 million for tax years 2020 through 2024. Credits are required to be allocated over six years, and yearly allocations may not exceed the annual cap, except for tax years 2015 and 2016 allocations to areas impacted by natural disasters. Table 2 shows current law allocations of Colorado’s affordable housing tax credit.

Table 2
Current Law Allocation of Colorado’s Affordable Housing Tax Credit
Allocation per Calendar Year
Dollars in Millions

Allocation Year and Amount	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
2015: \$30 million	\$0.8	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$4.2							
2015: Natural Disaster (\$55.8 million)	\$1.4	\$9.3	\$9.3	\$9.3	\$9.3	\$9.3	\$7.9							
2016: \$30 million	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0								
2016 Natural Disaster (\$24.5 million)		\$0.8	\$4.1	\$4.1	\$4.1	\$4.1	\$4.1	\$3.2						
2017: \$30 million		\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0							
2018: \$30 million			\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0						
2019: \$30 million				\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0					
2020: \$60 million					\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0				
2021: \$60 million						\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0			
2022: \$60 million							\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0		
2023: \$60 million								\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	
2024: \$60 million									\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0
Calendar Year Totals	\$7.2	\$25.1	\$33.4	\$38.4	\$48.4	\$58.4	\$61.2	\$53.2	\$55.0	\$50.0	\$40.0	\$30.0	\$20.0	\$10.0
Total Credits Authorized for 2015 through 2024 under Current Law: \$530.3 million														

Claiming the credit. While the amount allocated is capped each year, the amount of credits claimed by taxpayers in any tax year is not capped. Therefore, the revenue impacts of the tax credit will not necessarily follow the same pattern or timing as the allocation schedule shown in Table 2. A taxpayer cannot claim the low-income housing tax credit until the qualified development is placed in service, which can delay the claiming of the credit by one or more years relative to when the credit is allocated. Additionally, any portion of the credit that exceeds a taxpayer's income tax liability in any given tax year may be carried forward for up to eleven years.

Assumptions

This fiscal note assumes that the additional credits allowed under this bill will be claimed beginning in tax year 2024. On average, 15 percent of qualified low-income housing developments are completed within one year of when CHFA approves the project, while the remaining 85 percent are generally put into service within two years. The timing of project completion depends on a number of factors including construction and permitting timelines, which have recently increased due to pandemic-related disruptions. To the extent that these disruptions abate in future years, the allocation of reductions in General Fund revenue may differ from that shown in Table 2.

This fiscal note also assumes taxpayers will claim credits equal to the full allocation amount allowed in each tax year. The amount and timing of carry-forward tax credits are dependent on a number of factors, such as the economy and individual and business tax liabilities in any given year. If the full amount of the tax credit allowed each year is not utilized as early as assumed here, reductions in General Fund revenue will be pushed into future fiscal years.

State Revenue

The bill authorizes a total of at least \$960 million in state affordable housing credits that CHFA may allocate between calendar years 2023 through 2034. As shown in Figure 1 and Table 3, it is estimated that the total revenue impact from the credits under this bill will be phased in over 19 years. General Fund revenue will be reduced by at least \$375,000 in FY 2023-24 (half-year impact), at least \$3.3 million in FY 2023-24, and at least \$9 million in FY 2024-25, with larger impacts in subsequent years that then taper off over time. The bill decreases income tax revenue, which is subject to TABOR.

The bill removes the annual aggregate cap on affordable housing tax credits that CHFA may allocate for qualified projects in counties impacted by a natural disaster. The timing and amount of revenue decrease due to this provision cannot be estimated, as it depends on future resources, projects, and the nature of the unknown potential natural disaster, but may result in a significantly greater revenue impact than estimated here.

Figure 1
General Fund Revenue Reductions Under HB 22-1051*

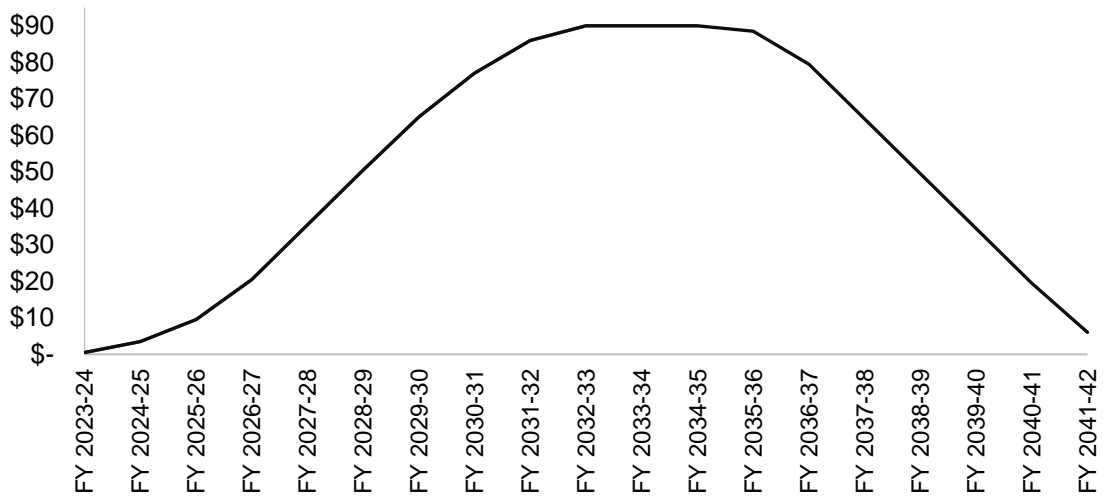


Table 3
General Fund Revenue Reduction Under HB 22-1051*

Fiscal Year	General Fund Revenue Reduction
FY 2023-24	(\$375,000)
FY 2024-25	(\$3.3 million)
FY 2025-26	(\$9.0 million)
FY 2026-27	(\$19.8 million)
FY 2027-28	(\$34.8 million)
FY 2028-29	(\$49.8 million)
FY 2029-30	(\$64.4 million)
FY 2030-31	(\$76.5 million)
FY 2031-32	(\$85.8 million)
FY 2032-33	(\$90.0 million)
FY 2033-34	(\$90.0 million)
FY 2034-35	(\$90.0 million)
FY 2035-36	(\$88.9 million)
FY 2036-37	(\$80.3 million)
FY 2037-38	(\$65.3 million)
FY 2038-39	(\$50.3 million)
FY 2039-40	(\$35.3 million)
FY 2040-41	(\$20.3 million)
FY 2041-42	(\$6.4 million)
Total	At least \$960 million

* Revenue impacts shown are the minimum reductions and do not include credits above the annual aggregate cap allocated for counties impacted by natural disasters.

State Expenditures

The Department of Revenue administers the current Colorado affordable housing credit and the Department of Personnel and Administration processes paper tax documents. This bill increases the amount of credits that may be claimed by taxpayers, which will result in ongoing workload impacts that can be accomplished within existing appropriations.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by at least \$375,000 in FY 2023-24. This estimate assumes the December 2021 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, 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. In future years when revenue subject to TABOR falls below the Referendum C cap, the bill will reduce General Fund revenue available for spending or saving.

Statutory Public Entity Impact

The bill will increase workload for CHFA on an ongoing basis to allocate additional credits. This workload can be accomplished with existing resources.

Effective Date

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

State and Local Government Contacts

CHFA
Personnel

Information Technology
Revenue

Local Affairs