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Final Fiscal Note

Drafting Number: LLS 22-0506 Date: September 1, 2022
Prime Sponsors: Rep. Bird; McKean Bill Status: Signed into Law
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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 seven years. This bill decreases state General Fund revenue beginning in FY 2025-26, and minimally increases workload for state agencies and CHFA.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under HB 22-1051

Table with 4 columns: Category, Fund, Out Year FY 2025-26, Out Year FY 2026-27, and Out Year FY2032-33\*. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

\*The bill is projected to decrease General Fund revenue over a 14-year period from FY 2025-26 through FY 2038-39. Peak revenue loss is expected in FY 2032-33. No impact will occur in FY 2022-23 through FY 2024-25. 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 seven years, from 2024 to 2031 and maintains the amount of the credit at \$10 million per year. The bill removes the aggregate cap for credits for qualified developments in a county impacted by a federally declared natural disaster for the purposes of leveraging state and federal natural disaster funds for recovery efforts. This results in a total of at least \$420 million in additional tax credits that can be allocated by CHFA over nine 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*

<b>Allocation Year and Amount</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
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
<b>Calendar Year Totals</b>	<b>\$7.2</b>	<b>\$25.1</b>	<b>\$33.4</b>	<b>\$38.4</b>	<b>\$48.4</b>	<b>\$58.4</b>	<b>\$61.2</b>	<b>\$53.2</b>	<b>\$55.0</b>	<b>\$50.0</b>	<b>\$40.0</b>	<b>\$30.0</b>	<b>\$20.0</b>	<b>\$10.0</b>
<b>Total Credits Authorized for 2015 through 2024 under Current Law: \$530.3 million</b>														

**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 2026. 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.

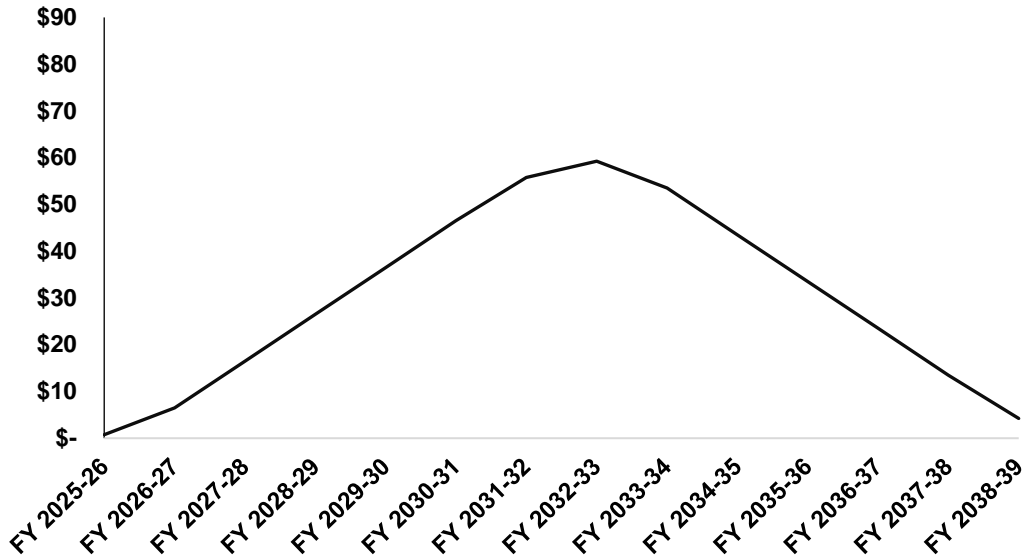
This fiscal note also assumes taxpayers will claim credits equal to the full allocation amount allowed in each tax year. The amount and timing of carry-forward tax credits are dependent on a number of factors, such as the economy and individual and business tax liabilities in any given year. If the full 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 \$420 million in state affordable housing credits that CHFA may allocate between calendar years 2025 through 2031. 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 9 years, beginning in FY 2025-26. General Fund revenue will be reduced by at least \$750,000 in FY 2025-26 (half-year impact), and at least \$6.5 million in FY 2026-27, 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 and solely for the purposes of leveraging state and federal natural disaster funds for recovery efforts. 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 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\***

<b>Fiscal Year</b>	<b>General Fund Revenue Reduction</b>
FY 2025-26	(\$0.8 million)
FY 2026-27	(\$6.5 million)
FY 2027-28	(\$16.5 million)
FY 2028-29	(\$26.5 million)
FY 2029-30	(\$36.5 million)
FY 2030-31	(\$46.5 million)
FY 2031-32	(\$55.8 million)
FY 2032-33	(\$59.3 million)
FY 2033-34	(\$53.5 million)
FY 2034-35	(\$43.5 million)
FY 2035-36	(\$33.5 million)
FY 2036-37	(\$23.5 million)
FY 2037-38	(\$13.5 million)
FY 2038-39	(\$4.3 million)
<b>Total</b>	<b>At least \$420 million</b>

*\* 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.** 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 in years in which there is a TABOR surplus 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 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

This bill was signed into law by the Governor and took effect on May 26, 2022.

## State and Local Government Contacts

CHFA  
Personnel

Information Technology  
Revenue

Local Affairs