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**FINAL
FISCAL NOTE**

Drafting Number: LLS 18-0238
Prime Sponsors: Rep. Wilson

Date: August 28, 2018
Bill Status: Postponed Indefinitely
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Bill Topic: TAX CREDIT EMPLOYER-ASSISTED HOUSING PILOT PROGRAM

Summary of Fiscal Impact:

| | |
|---|---|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input checked="" type="checkbox"/> Statutory Public Entity |

This bill would have created a tax credit for donations to sponsors of employer-assisted housing projects. It would have reduced state revenue between FY 2018-19 and FY 2022-23 and increased state expenditures for administration over the same period.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 18-1125**

| | | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|---------------------|------------------------|--------------------|--------------------|--------------------|
| Revenue | General Fund | (\$240,000) | (\$444,000) | (\$444,000) |
| | Total | (\$240,000) | (\$444,000) | (\$444,000) |
| Expenditures | General Fund | - | \$54,264 | \$35,875 |
| | Centrally Appropriated | | \$9,587 | \$11,204 |
| | Total | - | \$63,850 | \$47,079 |
| | Total FTE | - | 0.5 FTE | 0.6 FTE |
| Transfers | | - | - | - |

Summary of Legislation

This bill creates an income tax credit for taxpayers who provide donations to non-profit sponsors of employer-assisted housing projects in rural areas of the state. The credit is available for tax years 2019 through 2022. The credit is calculated as 20 percent of the amount donated to a sponsor to be used for costs associated with employer-assisted housing projects for employees with incomes of less than 120 percent of area median household income. The credit is limited to \$400 per taxpayer and is nonrefundable, meaning it is limited to the taxpayer's income tax liability. Any remaining credits may be carried forward for up to five years.

Administration. The Division of Housing in the Department of Local Affairs is required to prepare tax credit certificates to verify donor information. The division may charge a fee to taxpayers who apply for the credit to offset the costs required to verify information submitted by taxpayers. The bill specifies the procedures for documenting and certifying donations and applying for the tax credit through a non-profit sponsor, which may include a housing agency, such as the Colorado Housing and Finance Authority (CHFA), a local government housing authority, or a qualifying nonprofit organization. Sponsors who receive cumulative donations of \$10,000 or more in a calendar year are required to report on the economic activity, usage, and impacts of the employee-assisted housing project(s) funded by qualifying donations.

Assumptions

This fiscal note assumes that about 1,200 taxpayers will claim the tax credit each year based on the number of taxpayers that have historically claimed state tax credits limited to rural areas of the state and the incentives created by the maximum tax credit that can be claimed per taxpayer. A majority of taxpayers claiming the credit are expected to claim the maximum tax credit amount of \$400. Taxpayers are assumed to claim the federal charitable contribution deductions for amounts donated, but may not claim any other state tax credits or deductions for amounts contributed per the requirements of the bill.

State Revenue

This bill is estimated to reduce state revenue by a net of \$240,000 in FY 2018-19 (half-year impact); \$444,000 in each of FY 2019-20, FY 2020-21, and FY 2021-22; and by \$204,000 in FY 2022-23 (half-year impact). The General Fund revenue reduction attributable to the new tax credit is assumed to be partially offset by an estimated \$36,000 increase in fee revenue. To the extent that taxpayers carry credits forward, revenue reductions may occur through FY 2027-28.

Tax credit. Based on the assumption that 1,200 taxpayers will claim a \$400 credit for each tax year for which the credit is available, state income tax revenue will be reduced by about \$480,000 per tax year. To the extent that the tax credit motivates donations that would not have otherwise been made, the revenue reduction is potentially greater than estimated because taxpayers who itemize their federal deductions may include the amount of their donation in their federal charitable contributions deduction. This reduces federal taxable income on which the Colorado income tax is based.

Fee revenue. This bill allows the Division of Housing to charge a fee to offset the costs required to verify information submitted by taxpayers seeking to qualify for the tax credit. A \$30 application fee per taxpayer is estimated to generate sufficient revenue to offset the division's administrative costs for personnel only. Higher fees may reduce the likelihood that taxpayers will seek to claim the credit under the bill. Assuming a \$30 fee and that 1,200 taxpayers claim the credit each tax year, annual fee revenue will total about \$36,000 each fiscal year beginning in FY 2019-20. Because the bill does not specify a destination fund for fee revenue, fees are assumed to be credited to the General Fund.

Fee impact on individuals and businesses. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee amounts will be set administratively by the Department of Local Affairs based on estimated program costs and the number of certificate applications subject to the fee. The table below identifies the fee impact of this bill.

Table 2
Fee Impact of HB 18-1125

| Type of Fee | Current Fee | Proposed Fee | Fee Change | Number Affected | Total Fee Impact |
|--|--------------------|---------------------|-------------------|------------------------|-------------------------|
| Employer-Assisted Housing Tax Credit Certificate Application Fee | \$0 | \$30 | \$30 | 1,200 | \$36,000 |
| | | | | Total | \$36,000 |

TABOR Impact

This bill decreases state revenue subject to TABOR by \$204,000 in FY 2018-19 and \$444,000 in FY 2019-20, and similar amounts through FY 2022-23. Under the December 2017 Legislative Council Staff forecast, state revenue is not expected to exceed the TABOR limit in FY 2018-19 or FY 2019-20 and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be reduced. A forecast of the state TABOR situation is not yet available for FY 2020-21 and subsequent years.

State Expenditures

This bill will increase state General Fund expenditures by \$63,850 and 0.5 FTE in FY 2019-20, and by \$47,079 and 0.6 FTE in FY 2020-21, FY 2021-22, and FY 2022-23. Costs include personnel, programming, and form change costs, as summarized in Table 3.

**Table 3
Expenditures Under HB 18-1125**

| | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|---|------------|-----------------|-----------------|
| Department of Local Affairs | - | \$49,062 | \$47,079 |
| Personal Services | - | \$30,129 | \$32,868 |
| Operating Expenses and Capital Outlay Costs | - | \$5,178 | \$570 |
| Travel and Cell Phone Service | - | \$953 | \$904 |
| Legal Services | - | \$1,066 | \$533 |
| Network Administrator | - | \$1,000 | \$1,000 |
| Computer Programming | - | \$1,150 | - |
| Centrally Appropriated Costs* | - | \$9,587 | \$11,204 |
| Department of Revenue | - | \$14,788 | - |
| Programming and Form Change Costs | - | \$14,788 | - |
| Total Cost | \$0 | \$63,850 | \$47,079 |
| Total FTE | | 0.5 FTE | 0.6 FTE |

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Local Affairs, Division of Housing. To verify taxpayer information contained in tax credit certificates, the Division of Housing will require 0.6 FTE each year from FY 2019-20 through FY 2022-23. For FY 2019-20, the personal services expenditure is reduced to 0.5 FTE to reflect the General Fund pay date shift.

These estimates assume that the review of information for each taxpayer averages about one hour, and the review of sponsors averages about two hours. To the extent that more taxpayers apply for the credit than are assumed in this fiscal note, additional FTE may be required to administer the bill. Personnel are assumed to require limited travel to verify eligibility of sponsors. The division will also incur costs for computer programming, network administration, and legal services. These costs may decline over time.

Department of Revenue (DOR). This fiscal note assumes that with third party verification provided by the Division of Housing, the DOR will be able to accommodate review and auditing within existing appropriations. This bill requires changes to the DOR's GenTax software system. Changes are programmed by a contractor at a rate of \$250 per hour, and are expected to increase General Fund expenditures by \$3,750, representing 15 hours of programming. All GenTax programming changes are tested by department staff. GenTax testing for this bill will require \$3,838 for 160 hours of testing at a cost of \$24 per hour. Additional expenditures to update six tax forms will require \$7,200 in Department of Personnel and Administration expenditures paid from reappropriated DOR funds.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, supplemental employee retirement payments, and leased space are estimated to be \$9,587 in FY 2019-20 and \$11,204 in FY 2020-21. Leased space is included to show the incremental impact of the additional FTE, and calculated at a rate of 200 square feet per FTE at a rate of \$25 per square foot.

Statutory Public Entity and Local Government Impacts

This bill may increase workload for CHFA and local government housing agencies to allocate and report on the economic and other impacts of the tax credit.

Technical Note

The bill requires that the Division of Housing report seven digits of the social security numbers of qualifying taxpayers to the DOR. However, the DOR may require the full social security number to accurately identify eligible taxpayers. Without this information, additional verification costs may be required for the DOR.

Effective Date

This bill was postponed indefinitely by the House Finance Committee on February 26, 2018.

Departmental Difference

Without the full social security number for taxpayers, DOR expects to manually verify eligibility for the tax credit under the bill. The department estimates that this workload increase will require an estimated \$248,879 and 3.8 FTE in FY 2019-20 and \$484,248 and 6.9 FTE for FY 2020-21 through FY 2022-23. This fiscal note assumes that the Division of Housing will share sufficient taxpayer identifying information for the DOR to be able to match credit certificates to tax returns. If additional expenditures are required, these costs will be addressed through the annual budgeting process.

State and Local Government Contacts

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|----------------|------------------------|---------------|
| Counties | Information Technology | Local Affairs |
| Municipalities | Personnel | Revenue |