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Revised Fiscal Note

(replaces fiscal note dated February 27, 2024.)

Drafting Number: LLS 24-0883 Date: April 1, 2024
Prime Sponsors: Rep. Valdez; Soper Bill Status: House Appropriations
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Bill Topic: TAX CREDIT COMMERCIAL BUILDING CONVERSION

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

The bill creates a new refundable tax credit from 2026 through 2035 for expenditures on the conversion of a commercial structure to a residential structure. It increases state expenditures beginning in FY 2024-25 and decreases state revenue in future years.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$126,323 to the Office of Economic Development and International Trade.

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

Table 1
State Fiscal Impacts Under HB 24-1125

Table with 4 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, and Out Year FY 2029-30. Rows include Revenue (General Fund Tax, Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), and Other Budget Impacts (TABOR Refunds, General Fund Reserve).

1 Revenue from application fees is assumed to begin in FY 2024-25 and from issuance fees in FY 2027-28. The tax credit will reduce revenue by a total of \$40 million and is expected to impact FY 2027-28 through FY 2035-36, with the full annual reduction assumed beginning in FY 2029-30. See Table 2 for more detail.

Summary of Legislation

The bill creates a new refundable state income tax credit, available for tax years 2026 through 2035, for certain costs related to the conversion of a commercial structure to a residential structure.

Application and reservation. To claim the tax credit, a person must submit an application, a conversion plan, and an estimate of the qualified conversion expenditures under the conversion plan to the Office of Economic Development (OEDIT).

OEDIT may make reservations for the tax credit between 2025 and 2032, up to \$5 million per year. If OEDIT reserves less than \$5 million in a calendar year, the difference may be reserved in the following year instead.

Application fee. OEDIT may charge an application fee up to \$500 for conversion projects with more than \$250,000 in qualified conversion expenditures and up to \$250 for conversion projects with less than \$250,000 in qualified conversion expenditures. The bill creates the Commercial Building Conversion Tax Credit Program Cash Fund. Application fee and issuance fee (discussed below) revenue are deposited into the cash fund and used to offset administration costs of the bill. The cash fund is continuously appropriated to OEDIT and exempt from the cash fund reserve limit.

Conversion timeline. An approved applicant must commence a conversion plan and incur 20 percent or more of the estimated qualified conversion expenditures (expenditures) within 18 months of receiving notice from OEDIT that a tax credit has been reserved for the applicant. The applicant must complete the conversion on or before December 31, 2035.

Claiming the tax credit. After completing the conversion, the applicant must notify OEDIT and provide documentation. Upon review, OEDIT may issue a tax credit certificate equal to 25 percent of the applicant's expenditures. OEDIT may impose an **issuance fee** up to three percent of the amount of the tax credit, which must be paid before the tax credit is issued. Any application or issuance fee revenue collected must be applied to the administration of the tax credit.

If the amount of the tax credit exceeds the applicant's tax liability, 90 percent of the amount of the credit not used as an offset against income taxes is refunded to the taxpayer.

Recapture. If, as of the last day of any taxable year within 15 years from when the applicant placed a conversion in service, the converted structure is not a qualified residential structure, the applicant must add the full amount of the credit to its return as a recaptured credit for that taxable year.

Reporting. The bill requires OEDIT, in consultation with the Department of Revenue (DOR), to submit an annual report to the General Assembly on the impact of the tax credit.

Background

In July 2023, the City and County of Denver published a compatibility assessment,¹ identifying buildings in the area determined to be compatible for a commercial to residential conversion. The assessment identified 16 candidates for commercial to residential conversion within the City and County of Denver.

State Revenue

The bill decreases state revenue on net. It decreases General Fund revenue from income taxes and increases cash fund revenue from fees. A summary of the bill’s revenue impacts by year can be found in Table 2 below. All affected revenue streams are subject to TABOR.

**Table 2
 General Fund Revenue Impact Assumptions for HB 24-1125**

Fiscal Year	Tax Credit Reservations¹	Application Fee	Issuance Fee	Tax Credits Claimed
FY 2024-25	\$3,000,000	\$1,500	\$0	\$0
FY 2025-26	\$5,000,000	\$2,500	\$0	\$0
FY 2026-27	\$5,000,000	\$2,500	\$0	\$0
FY 2027-28	\$5,000,000	\$2,500	\$51,000	(\$1,700,000)
FY 2028-29	\$5,000,000	\$2,500	\$99,000	(\$3,300,000)
FY 2029-30	\$5,000,000	\$2,500	\$150,000	(\$5,000,000)
FY 2030-31	\$5,000,000	\$2,500	\$150,000	(\$5,000,000)
FY 2031-32	\$5,000,000	\$2,500	\$150,000	(\$5,000,000)
FY 2032-33	\$2,500,000	\$1,000	\$150,000	(\$5,000,000)
FY 2033-34	\$0	\$0	\$150,000	(\$5,000,000)
FY 2034-35	\$0	\$0	\$150,000	(\$5,000,000)
FY 2035-36	\$0	\$0	\$150,000	(\$5,000,000)
Total	-	\$20,000	\$1,200,000	(\$40,000,000)

¹ Tax credits do not impact revenue when they are reserved (left column); however, they reduce state revenue when they are claimed (right column).

¹ City and County of Denver, Gensler. "Office to Residential Repositioning: Downtown Denver." *City and County of Denver*. July 2023. https://denvergov.org/files/assets/public/v/4/community-planning-and-development/documents/urban-design/adaptive-reuse/adaptive_reuse_office_to_residential_conversion_study.pdf

Income taxes. The bill will reduce General Fund revenue by \$40 million across fiscal years between FY 2025-26 and FY 2035-36. Because the issuance of the tax credit occurs in the tax year that the conversion project is placed into service, the year in which credits will be claimed depends on when the conversion project is completed. It is assumed that the first qualified project will impact revenue in FY 2027-28, with the completion of projects ramping up to drive \$5 million in revenue reductions per fiscal year beginning in FY 2029-30.

Refundability. For tax credit amounts in excess of the total income tax paid by the taxpayer, the taxpayer is eligible to receive 90 percent of the excess amount as a refund. Tax-exempt recipients of the tax credit may receive 90 percent of the total tax credit amount through a refund. The fiscal note assumes that none of the recipients of the tax credit will be tax-exempt and that the total tax credit will not exceed the total income tax paid for any taxpayer. If 100 percent of the tax credit recipients were tax-exempt, the bill would reduce General Fund revenue by up to \$36 million across the ten tax years that the tax credit may be claimed, rather than the \$40 million assumed in this fiscal note.

Fees. The bill will increase fee revenue by an estimated \$1,220,000 across all years, as shown in Table 2, with fee revenue collected in the Commercial Building Conversion Tax Credit Program Cash Fund created in the bill. It is assumed that OEDIT will begin accepting applications and reserving tax credits for approved applicants in early 2025. It is further assumed that issuance fees will be collected after a project is placed into service and before OEDIT issues a certificate for the tax credit.

Fee impact on businesses. The bill authorizes OEDIT to charge both an application fee and issuance fee. The application fee may be charged at a rate of up to \$500 for applications requesting more than \$250,000 in tax credits per the bill and up to \$250 for applications requesting less than \$250,000 in tax credits per the bill. The issuance fee may be up to 3 percent of total qualified expenditures. The fiscal note assumes the maximum allowable application and issuance fee will be charged. These fee amounts are estimates only; actual fees will be set administratively by OEDIT based on program costs and the number of businesses subject to the fee. The table below identifies the fee impact of this bill. Fee revenue may be used only to offset implementation expenditures of the bill.

**Table 3
Fee Impact on HB 24-1125**

Fiscal Year	Type of Fee	Proposed Estimated Fee	Number Affected	Total Fee Impact
FY 2024-25	Application Fee ¹	\$500	3	\$1,500
	Issuance Fee	-	-	-
FY 2024-25 Total				\$1,250
FY 2025-26	Application Fee	\$500	5	\$2,500
	Issuance Fee	-	-	-
FY 2025-26 Total				\$2,500
FY 2029-30	Application Fee	\$500	5	\$2,500
	Issuance Fee	\$50,000	3	\$150,000
FY 2029-30 Total				\$152,500

State Expenditures

The bill increases state expenditures by about \$146,000 and 0.8 FTE in FY 2024-25, \$156,000 and 1.0 FTE in FY 2025-26, and \$206,000 and 1.0 FTE in FY 2026-27. Expenditures are summarized in Table 4 and explained below.

**Table 4
Expenditures Under HB 24-1125**

	FY 2024-25	FY 2025-26	FY 2026-27
OEDIT			
Personal Services	\$91,009	\$113,761	\$113,761
Operating Expenses	\$1,024	\$1,280	\$1,280
Capital Outlay Costs	\$6,670	-	-
Salesforce	\$29,120	\$17,920	\$17,920
Centrally Appropriated Costs ¹	\$18,534	\$23,168	\$23,168
FTE – Personal Services	0.8 FTE	1.0 FTE	1.0 FTE
OEDIT Total	\$146,357	\$156,129	\$156,129
Department of Revenue			
GenTax Programming and Testing	-	-	\$39,619
Office of Research and Analysis	-	-	\$7,392
Document Management (Paid to DPA)	-	-	\$3,097
DOR Total	-	-	\$50,108
Total Cost	\$146,357	\$156,129	\$206,237
Total FTE	0.8 FTE	1.0 FTE	1.0 FTE

¹Centrally appropriated costs are not included in the bill's appropriation.

Office of International Trade and Development (OEDIT). Beginning in FY 2024-25 and ongoing through FY 2035-36, OEDIT requires personnel and contractor resources to implement and manage the application process for the tax credit. OEDIT costs are paid from fee revenue credited to the cash fund in the bill, with any remaining amount requiring General Fund appropriations.

- **Program management.** OEDIT requires one additional program manager beginning in September 2024 to implement the program. The program manager is responsible for developing the program guidelines, policies, and procedures; coordinating the application process; tracking the compliance and issuance of tax credits; and working with DOR to meet reporting requirements. OEDIT may receive applications and make reservations of the tax credit through December 31, 2032. Therefore, beginning January 1, 2033, OEDIT's personnel needs will reduce to 0.5 FTE.
- **Salesforce.** The buildout and maintenance of the tax credit application in Salesforce is expected to require 130 hours of development in FY 2024-25 and 80 hours of ongoing program maintenance, billed by the contractor at a rate of \$224 per hour. Application expenditures impact FY 2024-25 through FY 2032-33, as OEDIT may reserve a tax credit for applicants through December 31, 2032.

Department of Revenue (DOR). Beginning in tax year 2026, which impacts work on tax return forms in FY 2026-27, DOR will require resources for GenTax programming and development, paper form changes, and reporting done by the Office of Research and Analysis (ORA) within DOR. Programming and form changes are one-time expenditures in FY 2026-27, while ORA expenditures are ongoing.

- **GenTax Programming and Testing.** For FY 2026-27, the bill will require changes to DOR's GenTax software system. This includes \$18,540 in GenTax programming costs, \$14,455 in development and testing in support of the GenTax programming, and \$6,624 in business and user acceptance testing following the GenTax programming.
- **Office of Research and Analysis.** The Office of Research and Analysis within the Department of Revenue will perform 231 hours of work at a rate of \$32 per hour in FY 2026-27, and 229 hours of work in future years, to update database fields and conduct ongoing reporting.
- **Document Management.** For FY 2026-27, DOR will incur \$3,097 in document management costs. This includes adding two additional lines to five tax return forms and the tax exempt tax return form. These expenditures will occur in the Department of Personnel and Administration (DPA) using reappropriated DOR funds. The population workload impact is expected to be minimal and absorbable.

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 and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. In FY 2024-25 and FY 2025-26, the bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. The bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1.

Local Government

For conversion projects that would not have occurred without the availability of the tax credit, the bill will create minimal workload for local governments related to:

- administrative processes for zoning changes for buildings converted from commercial to residential uses in areas not currently zoned for residential; and
- processing building permits associated with the conversion.

In addition, residential property tax rates are lower than commercial property tax rates; therefore, conversion projects that would not have occurred without the availability of the tax credit will lower property tax revenue compared to current law.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$126,323 to the Office of Economic Development and International Trade (OEDIT) and 0.8 FTE.

State and Local Government Contacts

Personnel	Revenue	State Auditor
Local Affairs	Office of Economic Development	Counties
Municipalities	RTD	Special Districts

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).