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Final Fiscal Note

Drafting Number: LLS 22-0548 Date: July 13, 2022
Prime Sponsors: Rep. Tipper; Rich Sen. Winter; Simpson Bill Status: Signed into Law
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Bill Topic: COLORADO HOMELESS CONTRIBUTION INCOME TAX CREDIT

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

This bill replaces and expands a state income tax credit for contributions to projects meant to address homelessness. It reduces state revenue and increases state expenditures from FY 2022-23 through FY 2030-31.

Appropriation Summary: For FY 2022-23, the bill includes an appropriation of \$129,613 to the Division of Housing in the Department of Local Affairs.

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

Table 1
State Fiscal Impacts Under HB 22-1083

Table with 6 columns: Category, Fund, Budget Year FY 2022-23, Out Year FY 2023-24, Out Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

Summary of Legislation

Under current law, local enterprise administrators within the Office of Economic Development and International Trade (OEDIT) enterprise zone (EZ) program manage a state income tax credit available for taxpayers that make monetary or in-kind contributions to promote temporary, emergency, or transitional housing programs for homeless persons in Colorado enterprise zones. This bill moves the administration of the income tax credit to the Division of Housing (DOH) in the Department of Local Affairs (DOLA), expands the credit allowed, and makes the credit available in the entire state.

Expanded tax credit. Under the bill, taxpayers who make a monetary or in-kind contribution to an approved nonprofit organization or to an approved project administered by the nonprofit organization are allowed a state income tax credit equal to 25 percent of the total value of the contribution. In-kind contributions must be valued over \$5,000 and monetary contributions must be equal to or greater than \$100. If the approved nonprofit organization or project is in an underserved, rural county as defined by the Division of Housing, a taxpayer may claim a credit equal to 30 percent of the total value of the contribution. The credit may be carried forward for up to five years, and is available to individual and corporate taxpayers from 2023 through 2030.

The amount of income tax credits each approved nonprofit organization can issue per income tax year is \$750,000, while each approved project is capped at \$750,000 per tax year.

Administration. The DOH is required to review and approve nonprofit organizations and projects eligible to receive contributions. The DOH must post a list on their website of all the approved nonprofit organizations and projects by November 1, 2022 and on or before each year thereafter. Homeless programs previously approved by the Colorado Economic Development Commission are eligible to receive contributions unless specifically rejected by the DOH.

An approved nonprofit organization is required to maintain an accounting system to track contributions received by taxpayers. The DOH may specify what taxpayer information must be reported and can request an audit or financial report from the nonprofit organization. The nonprofit organization is also required to issue a tax credit certificate to each taxpayer that make an allowable contribution.

Background

Existing income tax credit. Enterprise zone projects encourage community participation to revitalize designated areas in the state. Under current law, donors may contribute to an enterprise zone project that promotes temporary, emergency, or transitional housing programs for homeless persons and claim 25 percent of a cash donation or 12.5 percent for an in-kind donation as an income tax credit. Contributions are capped at \$100,000 per tax year. The enterprise zone administrator may charge a fee to organizations to oversee the program.

Data from the OEDIT estimates that 54 projects meant to promote eligible housing for the homeless within Colorado enterprise zones received contributions in 2020, the most recent data available. Of the 54 projects, approximately 14,178 taxpayers made a total of \$21.7 million in contributions in 2020, generating approximately \$5.4 million in state income tax credits. The median contribution to these projects was \$400, with contributions ranging from \$1 to \$450,000.

The Office of the State Auditor (OSA) is required to evaluate all of the state's tax expenditures at least once every five years. The OSA published the enterprise zone contribution income tax credit evaluation report on July 21, 2021. The OSA report evaluated all the income tax credits available under Enterprise Zone Contribution program. The full report can be found here: https://leg.colorado.gov/sites/default/files/2021_te16_enterprise_zone_contribution_credit.pdf. The evaluation of the homeless contribution credit begins on page 27 of the report.

State Revenue and Assumptions

The bill is expected to reduce General Fund revenue by \$2.6 million in FY 2022-23, \$6.1 million in FY 2023-24, \$7.5 million in FY 2024-25, and by \$8.4 million annually from FY 2025-26 through FY 2030-31 when the credit is set to expire. The estimate for FY 2022-23 represents a half-year impact on an accrual accounting basis. The bill reduces individual and corporate income tax revenue, which is subject to TABOR.

These estimates are based on new contributions expected by making the income tax credit available statewide. Estimates are net of the General Fund revenue reductions expected under current law for the tax credit program administered by the OEDIT.

Data and assumptions. Revenue reductions under this bill are based on the following assumptions:

- This fiscal note assumes approximately 11,300 new contributions will be given to an approved nonprofit organization or program in 2023, an 80 percent increase from 2020. The amounts contributed by these taxpayers will track the same distribution as those that contributed to an EZ homeless project in 2020, adding approximately \$5.3 million to current levels. Contributions are expected to increase by another 15 percent in 2024 and continue to grow at a slower rate each year the income tax credit is available, following patterns of other new income tax credits.
- The fiscal note assumes most of the current homeless projects in an enterprise zone receiving contributions will be approved by the DOH and will continue to receive contributions at the same levels as the four-year average from 2017 through 2020 (\$5.2 million).
- Approximately 150 new nonprofit organizations and projects will seek approval to receive contributions beginning in 2023. The DOH currently administers the Colorado Homelessness Management Information System (COHMIS). COHMIS is a local system used to collect client-level data on the provisions of housing and services to homeless individuals, families, and persons at risk of homelessness. The U.S. Department of Housing and Urban Development requires communities receiving federal funding to use COHMIS. As of January 2022, approximately 134 nonprofit organizations manage about 600 programs that provide services to those experiencing homelessness. It is important to note that COHMIS does not include all homeless organizations and programs that may be eligible to seek approval from the DOH to receive contributions under this bill. The number of approved nonprofit organizations and projects is assumed to grow slightly each year as more organizations apply for the approval. Finally, COHMIS does not contain capital projects that might be constructed to perform operational campaigns or facilities that are used to provide administrative support for approved projects and would be eligible for the income tax credit in the bill.

- Estimates for the tax credit assume that all credits will reduce tax liability in the first year that they are earned, rather than being carried forward to future tax years. To the extent that a taxpayer's income tax liability is less than the credit amount, the revenue impact of the bill will be partially delayed into future fiscal years.

State Expenditures

The bill will increase General Fund expenditures by \$164,091 and 1.2 FTE in FY 2022-23, by \$227,774 and 1.7 FTE in FY 2023-24, and by \$194,556 and 1.7 FTE annually from FY 2024-25 through FY 2030-31. These costs, which are incurred in the Department of Revenue and the Division of Housing in DOLA, are summarized in Table 2 and described below.

Table 2
Expenditures Under HB 22-1083

Cost Components	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Department of Revenue				
GenTax Programming and Testing	-	\$33,218	-	-
Office of Research and Analysis	-	\$6,400	\$6,400	\$6,400
DOR Subtotal	-	\$39,618	\$6,400	\$6,400
Department of Local Affairs				
Personal Services	\$83,268	\$126,072	\$126,072	\$126,072
Operating Expenses	\$1,080	\$1,530	\$1,530	\$1,530
Capital Outlay Costs	\$12,400	-	-	-
Other Costs	\$32,865	\$9,520	\$9,520	\$9,520
Centrally Appropriated Costs ¹	\$34,478	\$51,034	\$51,034	\$51,034
FTE – Personal Services	1.2 FTE	1.7 FTE	1.7 FTE	1.7 FTE
Subtotal	\$164,091	\$188,156	\$188,156	\$188,156
Total	\$164,091	\$227,774	\$194,556	\$194,556
Total FTE	1.2 FTE	1.7 FTE	1.7 FTE	1.7 FTE

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

Department of Revenue. This bill requires one-time costs in FY 2023-24 for development, programming, and testing for the department's GenTax software system, which includes maintenance and support of \$6,750 for 30 hours at \$225 per hour. The Systems Support Office will require \$21,000 for development and testing. Business user acceptance testing is necessary to ensure the changes made to the computer system work as intended, requiring \$25.20 per hour for 200 hours for a one-time cost of \$5,040 in FY 2023-24. Finally, the bill requires changes to four income tax forms prepared by the Department of Personnel and Administration. These changes are expected to cost \$428 and this funding is to be reappropriated to DPA.

The Office of Research and Analysis, located within the EDO, requires \$6,400 in funding to map new schedule data and fields, representing 200 hours of work at \$32.00 per hour, in FY 2023-24 and future years.

Department of Local Affairs, Division of Housing. The DOH will require \$164,091 and 1.2 FTE in FY 2022-23 and \$188,156 and 1.7 FTE annually from FY 2023-24 through FY 2030-31 to manage and coordinate all aspects of the income tax credit program. FY 2022-23 includes hiring a Community and Economic Development Coordinator to conduct the required stakeholder engagement and develop program guidelines. FY 2022-23 also includes OIT costs to develop a database that will accept applications and store all program evaluation data. The DOH expects the application portal will be developed in Salesforce. Table 2 includes the cost of three Salesforce licenses. In addition, the DOH will require a Program Assistant to coordinate and review applications.

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. The bill is expected to decrease 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 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.

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 beginning in FY 2022-23. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by \$19,442 in FY 2022-23 and \$26,511 annually from FY 2023-24 to FY 2030-31, which will increase the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Governor on May 31, 2022, and takes effect on August 9, 2022, assuming no referendum petition is filed.

State Appropriations

For FY 2022-23, the bill includes a General Fund appropriation of \$129,613 to the Department of Local Affairs and 1.2 FTE.

State and Local Government Contacts

Information Technology
Secretary of State

Local Affairs
State Auditor

OEDIT