HB 24-1314

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-1007	**Date:**	March 14, 2024
Prime Sponsors:	Rep. Lukens; Martinez Sen. Gonzales	**Bill Status:**	House Finance
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Bill Topic: **MODIFY TAX CREDIT PRESERVATION HISTORIC STRUCTURES**

Summary of Fiscal Impact:

☒ State Revenue ☐ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

The bill makes modifications to the existing preservation of historical structures tax credit, including expanding the tax credit and extending it through 2036. The bill reduces state revenue and increases state expenditures through FY 2036-37.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $128,663 to multiple agencies.

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

Table 1
State Fiscal Impacts Under HB 24-1314

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2027-28
Revenue	General Fund (Tax)	($25,000)	($60,000)	($5.1 million)
	General Fund (Fees)	-	-	$150,000
	Total Revenue	**($25,000)**	**($60,000)**	**($4.9 million)**
Expenditures	General Fund	$128,663	$104,472	$104,472
	Centrally Appropriated	$16,305	$21,676	$21,676
	Total Expenditures	**$144,968**	**$126,148**	**$126,148**
	Total FTE	**0.8 FTE**	**1.0 FTE**	**1.0 FTE**
Other Budget Impacts	TABOR Refunds	($25,000)	($60,000)	not estimated
	General Fund Reserve	$19,299	$15,671	$15,671

Summary of Legislation

The bill makes modifications to the existing preservation of historic structures tax credit. **For both commercial and residential structures**, the bill

- lowers the minimum required age for a structure from 50 years old to 30 years old;
- extends the period that a taxpayer may claim the credit through income tax year 2036, rather than through 2032;
- beginning January 1, 2026, limits the credit to apply to rehabilitation expenditures that occurred 12, rather than 24, months prior to the submission of the application;
- beginning January 1, 2025, prohibits applications in connection with an already completed rehabilitation project; and
- for applications submitted on or after January 1, 2025, removes the 5 percentage point increase in percent of qualified expenditures that can be claimed for structures located in declared disaster areas.

For residential structures only, the bill

- beginning January 1, 2025, increases the maximum award per building, per owner from $50,000 to $100,000; and
- for tax years 2027 and subsequent years, allows the credit to be refundable rather than able to be carried forward.

For commercial structures only, the bill

- extends the period for which the Governor's Office of Economic Development and International Trade (OEDIT) may reserve tax credits for commercial structures to be through 2032, rather than through 2029;
- for calendar years 2025 through 2029, establishes a second income tax credit pool of $5 million annually that may be reserved for commercial structures that are rehabilitated to have housing units in at least half the square footage of the structure;
- in regards to the second income tax credit pool, allows for an extra 5 percentage points of qualified expenditures to be claimed for structures subject to a deed restriction requiring the owner to lease rental housing to individuals below a certain income;
- in regards to the second income tax credit pool, limits a tax credit reservation to $1.5 million per rehabilitation plan.

Background

The preservation of historic structures tax credit is available to property owners who rehabilitate or preserve a residential or commercial certified historic structure in Colorado. The credit was enacted in 2014 under the Colorado Job Creation and Main Street Revitalization Act (House Bill 14-1311), as an alternative credit to the preexisting historic property preservation credit that was enacted in 1990 and expired January 1, 2020. Since the credit took effect, it has been substantially changed once, under House Bill 18-1190. The credit is calculated as a percentage of qualified rehabilitation expenditures, between 20 and 35 percent, depending on the structure type and location.

History Colorado's State Historic Preservation Office (SHPO) develops the standards for approval for the substantial rehabilitation of qualified structures, in consultation with the Governor's Office of Economic Development and International Trade (OEDIT) for commercial structures. Structures must be at least 50 years old and in the National Register of Historic Places, the State Register of Historic Properties, or within a designated historic district of one of the state's 67 certified local governments (CLGs).

Residential structures. Under current law, the preservation of a historical residential structure is allowed a base credit of 20 percent of qualified expenditures, which is increased by 5 percentage points for structures in a declared disaster area and 15 percentage points for structures in a rural area. Up to $50,000 every 10 years per structure, per owner may be claimed as a tax credit, with no statewide credit cap.

Applications for residential structures are reviewed and approved by one of the state's Certified Local Governments (CLG) or the SHPO. Upon completion and verification of expenditures, the CLG or SHPO will issue a certificate to the approved applicant in order for the applicant to claim the tax credit. Compared to commercial structures, residential structures face less requirements in statute that must be met in order to receive the tax credit.

Commercial structures. Under current law, the preservation of historical commercial structures receives a base credit of 25 percent for structures with less than $2 million in qualified expenditures and 20 percent for structures with over $2 million in qualified expenditures. The base percent is increased by 5 percentage points for commercial structures in a declared disaster area and 10 percent for structures in a rural area. Each commercial structure is eligible for up to $1 million in tax credits with a statewide reservation cap of $10 million per year.

Applications for commercial structures are reviewed and approved by OEDIT in consultation with the SHPO. OEDIT reserves a tax credit for approved property owners and issues a certificate for the tax credit once all requirements have been met, the restoration has been completed, and expenditures have been verified by a third party. Under current law, OEDIT may reserve tax credits for commercial structures through 2029 and may issue certificates for tax credits to be claimed through 2032.

State Revenue

The bill reduces General Fund revenue by $25,000 in FY 2024-25, $60,000 in FY 2025-26, and about $5 million per year for FY 2025-26 through FY 2036-37.

Residential structures. Based on a historical average tax credit amount of less than half of the $50,000 cap per building per taxpayer, it is assumed that only 4 percent of taxpayers would incur over $250,000 in expenditures such that more than $50,000 could be claimed with the cap increase in the bill. For residential structures that do claim tax credit amounts larger than $50,000, it is assumed that they would claim the maximum tax credit per this bill of $100,000. The revenue reductions attributable to modifications to the tax credit for residential structures is estimated at $25,000 in FY 2024-25, $60,000 in FY 2025-26, and reaching about $100,000 in subsequent years through FY 2036-37.

The bill extends the time period for which owners of residential structures may claim the tax credit through 2036, compared to through 2029 under current law, reducing General Fund revenue by about $1.1 million per year in FY 2033-34 through FY 2035-36, with half-year impacts in FY 2032-33 and FY 2036-37.

Commercial structures. The bill allows OEDIT to reserve an additional $5 million in tax credits per year for commercial structures converting to at least 50 percent residential in tax years 2025 through 2029, totaling to $25 million in additional tax credits to be issued upon completion of the rehabilitation plan. In reality, duration of rehabilitations varies greatly by project; however, given that the average length of project is 1.6 years, the fiscal note assumes that tax credits will begin to be claimed in the second half of 2026, realizing a full $5 million impact in FY 2026-27.

The bill extends the time period for which owners of commercial structures may claim the tax credit through 2036, compared to through 2029 under current law, reducing General Fund revenue by about $4.8 million per year in FY 2033-34 through FY 2035-36, with half-year impacts in FY 2032-33 and FY 2036-37.

Other modifications. It is assumed that all other modifications to the tax credit, other than the ones listed above, are offsetting such that the changes will not significantly impact the total number of applicants and historic structures approved for the tax credit. To the extent that these modifications cause significantly greater or lesser credit amounts to be claimed, the bill's impact on revenue will differ from that presented in this fiscal note.

Fees. The bill allows OEDIT to collect fees for the issuance of tax credit certificates to owners of qualified commercial structures, up to 3 percent of the tax credit amount. Fee revenue is expected to average $150,000 per year in FY 2026-27 through FY 2036-37. Fee revenue is collected in the General Fund and is to be used towards administrative costs incurred by the DOR, the SHPO, and OEDIT for the tax credit. Fee revenue is shown in Table 2 below.

Table 2
Tax Credit Certificate Fee Revenue

Fiscal Year	Type of Fee	Estimated Certificates	Fee as % of Certificates	Total Fee Impact
FY 2024-25	-	-	-	-
FY 2025-26	-	-	-	-
FY 2026-27	Certificate Fee	$5 million	3.0%	$150,000
FY 2027-28	Certificate Fee	$5 million	3.0%	$150,000

State Expenditures

The bill increases state expenditures by about $145,000 in FY 2024-25, $134,000 in FY 2025-26 and subsequent years, except for FY 2027-28 which includes one-time costs, totaling about $174,000 in expenditures for that year. The expenditures are detailed in Table 3 below and are expected to be largely offset by fee revenue beginning in FY 2026-27.

Table 3
Expenditures Under HB 24-1314

	FY 2024-25	FY 2025-26	FY 2027-28
OEDIT			
Personal Services	$41,277	$51,596	$51,596
Operating Expenses	$512	$640	$640
Capital Outlay Costs	$3,335	-	-
Salesforce	$29,120	-	-
Centrally Appropriated Costs[1]	$8,871	$11,088	$11,088
FTE – Personal Services	0.4 FTE	0.5 FTE	0.5 FTE
OEDIT Subtotal	**$83,115**	**$63,324**	**$63,324**
History Colorado (SHPO)			
Personal Services	$41,277	$51,596	$51,596
Operating Expenses	$512	$640	$640
Capital Outlay Costs	$3,335	-	-
Implementation and On-Site Visits	$9,295	$9,295	$9,295
Centrally Appropriated Costs[1]	$7,434	$9,292	$9,292
FTE – Personal Services	0.4 FTE	0.5 FTE	0.5 FTE
History Colorado (SHPO) Subtotal	**$61,853**	**$70,823**	**$70,823**
Department of Revenue			
GenTax Programming and Testing	-	-	$37,608
Document Management (Paid to DPA)	-	-	$2,590
FTE – Personal Services	-	-	-
DOR Subtotal	**-**	**-**	**$40,198**
Total	**$144,968**	**$134,147**	**$174,345**
Total FTE	**0.8 FTE**	**1.0 FTE**	**1.0 FTE**

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

Office of Economic Development. Beginning in FY 2024-25, OEDIT requires personnel and one-time contractor resources to implement changes to the existing tax credit and manage the application for the expansion to the existing tax credit. It is expected that fees raised in the bill will cover administrative expenditures for OEDIT beginning in FY 2026-27.

- **Program management.** OEDIT requires one additional program manager beginning in September 2024 to implement the changes to and expansion of the tax credit in the bill. The program manager is responsible for developing the program guidelines, policies, and procedures; coordinating the application process for commercial structures; tracking the compliance and issuance of tax credits; and conducting outreach and education efforts related to the changes to and expansion of the tax credit.
- **Salesforce programming.** The buildout and maintenance of the tax credit application in Salesforce is expected to require 130 hours of development in FY 2024-25, billed by the contractor at a rate of $224 per hour.

History Colorado (SHPO). Beginning in FY 2024-25, the SHPO requires personnel and implementation resources to implement and manage the application process for the tax credit. It is expected that fee revenue under the bill will cover all administrative expenditures for the SHPO beginning in FY 2026-27.

- **Program management.** The SHPO requires one additional program manager beginning in September 2024 to implement the changes to and expansion of the tax credit in the bill. The program manager is reviewing rehabilitation plans; coordinating the application process for residential structures; tracking the compliance and issuance of tax credits; and conducting outreach and education efforts related to the changes to and expansion of the tax credit, including training CLGs on the modifications and making on-site visits to ensure compliance.
- **Implementation and site visits.** SHPO requires resources to ensure awareness of and compliance with the modifications to the tax credit. Expenditures include costs to develop and distribute educational materials, travel expenses to host training sessions regarding the modifications, and travel expenses for site visits to ensure ongoing compliance.

Department of Revenue (DOR). Beginning in tax year 2027, which impacts work on tax return forms in FY 2027-28, DOR will require one-time resources for paper form changes and GenTax programming and development, specifically for the shift to a refundable tax credit for residential structures.

- **GenTax programming and testing.** For FY 2027-28, the bill will require changes to DOR's GenTax software system. This includes $16,223 in GenTax programming costs, $14,655 in development and testing in support of the GenTax programming, and $6,720 in business and user acceptance testing following the GenTax programming.
- **Document management.** For FY 2027-28, DOR will incur $2,590 in document management costs to update tax return forms. 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 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 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, decreased General Fund revenue will decrease the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save for years that General Fund revenue is above the TABOR limit.

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

The bill will drive a minimal workload impact for local governments certified to review applications for residential historic properties. Certified local governments (CLGs) will need to apply the new qualifications and increased credit amounts.

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 the following General Fund appropriations:

- $74,244 to the Office of Economic Development and International Trade (OEDIT), and 0.4 FTE; and
- $54,419 to History Colorado, and 0.4 FTE.

State and Local Government Contacts

History Colorado	Information Technology	Local Affairs
OEDIT	Personnel	Revenue
State Auditor		