HB 24-1434

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 9, 2024)

Drafting Number:	LLS 24-1128	**Date:**	May 2, 2024
Prime Sponsors:	Rep. Bird; Weinberg Sen. Zenzinger; Simpson	**Bill Status:**	Senate Finance
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Bill Topic: **EXPAND AFFORDABLE HOUSING TAX CREDIT**

Summary of Fiscal Impact:

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

The bill increases the amount of affordable housing tax credits issued by the Colorado Housing and Finance Authority and creates a new state income tax credit for taxpayers that invest in qualified low-income housing projects located in a transit-oriented community. 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 reengrossed bill.

Table 1
State Fiscal Impacts Under HB 24-1434

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2027-28*
Revenue	General Fund	($6.3 million)	($51.1 million)	($123.7 million)
Expenditures		-	-	-
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	($6.3 million)	($51.1 million)	Not estimated

*The bill is projected to decrease General Fund revenue over a 15-year period from FY 2024-25 through FY 2038-39. Peak revenue loss is expected in FY 2027-28. See State Revenue section and Figure 1 for more information.

Summary of Legislation

The bill increases the amount of affordable housing tax credits that can be issued by the Colorado Housing and Finance Authority (CHFA) and creates a new state income tax credit for taxpayers that invest in qualified low-income housing project located in a transit-oriented community.

Affordable housing tax credit This bill increases the amounts that the Colorado Housing and Finance Authority (CHFA) can allocate for the state affordable housing income tax credit. The bill increases the amount CHFA can allocate for the following tax years:

- $20 million in credits for 2024 ($120 million over the six-year tax credit period);
- $20 million in credits for 2025 ($120 million over the six-year tax credit period);
- $20 million in credits for 2026 ($120 million over the six-year tax credit period);
- $16 million in credits for 2027 ($96 million over the six-year tax credit period);
- $16 million in credits for 2028 ($96 million over the six-year tax credit period);
- $16 million in credits for 2029 ($96 million over the six-year tax credit period);
- $10 million in credits for 2030 ($60 million over the six-year tax credit period); and
- $10 million in credits for 2031 ($60 million over the six-year tax credit period.

As under current law, the credit amounts allocated can be claimed by taxpayers for each of six tax years. This results in a total of at least $768 million in additional tax credits that can be allocated by CHFA over eight years. For these expanded credits only, the bill allows a qualified taxpayer to claim 70 percent of the credit in the first year of the credit period and six percent in each of the second through the sixth year of the credit period. Under current law, the taxpayer must claim the credit in equal proportions over a six-year credit period.

Transit-oriented communities tax credit. The bill creates a state income tax credit for a taxpayer that owns interest, direct or indirect, in qualified low-income housing project located in a transit-oriented community. The amount CHFA can allocate to qualified taxpayers for the following tax years are:

- $8.6 million in credits for 2025 ($43 million over the five-year tax credit period);
- $7.2 million in credits for 2026 ($36 million over the five-year tax credit period);
- $5.6 million in credits for 2027 ($28 million over the five-year tax credit period);
- $5.0 million in credits for 2028 ($25 million over the five-year tax credit period); and
- $3.6 million in credits for 2029 ($18 million over the five-year tax credit period);

The credit amounts allocated can be claimed by taxpayers for each of the five tax years. This results in a total of at least $150.0 million in transit-oriented communities tax credits that can be allocated by CHFA over five years. For these credits only, the bill allows a qualified taxpayer to claim 70 percent of the credit in the first year of the credit period, eight percent in years two and three, and seven percent in years four and five of the credit period.

The transit-oriented communities tax credit can be applied to either a taxpayer's state income tax (individual and corporate) or their insurance premiums tax liability, but not both. The credit may be applied to reduce the insurance premium tax paid by any entity that is not liable for

Colorado income taxes. A taxpayer cannot claim the transit-oriented communities tax credit until the qualified low-income housing project located in a transit-oriented community is placed in service. Finally, the credit is nonrefundable but any unused portion can be carried forward for three subsequent tax years.

In general, the bill requires CHFA to determine eligibility and allocate credits in accordance with the standards and requirements they apply for the Colorado's Affordable Housing Tax Credit Program.

Background

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. Finally, House Bill 22-1051 extended the credit for an additional seven years (2025 through 2031) at $10 million per year, and removed 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.

The Affordable Housing Credit can be applied to either a taxpayer's state income tax (individual and corporate) or their insurance premiums tax liability, but not both. The credit may be applied to reduce the insurance premium tax paid by any entity that is not liable for Colorado income taxes. Revenue from the insurance premium tax is credited to the state General Fund.

Credit Allocation. Credits are required to be allocated over six years, and yearly allocations may not exceed the annual cap. For example, under current law, CHFA is allowed to allocate $60 million in tax year 2025, from which taxpayers may claim $10 million annually for each year over a six-year period. Under the bill, and only for the credits in the bill, a taxpayers may claim 70 percent of their credit in year one, and the remaining 30 percent in increments of 6 percent annually over the next five years. Under current law, CHFA may allocate up to $625.0 million in state affordable housing tax credits in tax year 2024 through 2036 to developers of qualifying housing projects. 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

Allocation Year and Amount	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
2019: $30 million (HB 19-1228)	$5.0												
2020: $60 million (HB 19-1228)	$10.0	$10.0											
2021: $60 million (HB 19-1228)	$10.0	$10.0	$10.0										
2022: $60 million (HB 19-1228)	$10.0	$10.0	$10.0	$10.0									
2023: $60 million (HB 19-1228)	$10.0	$10.0	$10.0	$10.0	$10.0								
2024: $60 million (HB 19-1228)	$10.0	$10.0	$10.0	$10.0	$10.0	$10.0							
2025: $60 million (HB 22-1051)		$10.0	$10.0	$10.0	$10.0	$10.0	$10.0						
2026: $60 million (HB 22-1051)			$10.0	$10.0	$10.0	$10.0	$10.0	$10.0					
2027: $60 million (HB 22-1051)				$10.0	$10.0	$10.0	$10.0	$10.0	$10.0				
2028: $60 million (HB 22-1051)					$10.0	$10.0	$10.0	$10.0	$10.0	$10.0			
2029: $60 million (HB 22-1051)						$10.0	$10.0	$10.0	$10.0	$10.0	$10.0		
2030: $60 million (HB 22-1051)							$10.0	$10.0	$10.0	$10.0	$10.0	$10.0	
2031: $60 million (HB 22-1051)								$10.0	$10.0	$10.0	$10.0	$10.0	$10.0
Calendar Year Totals	**$55.0**	**$60.0**	**$60.0**	**$60.0**	**$60.0**	**$60.0**	**$60.0**	**$60.0**	**$50.0**	**$40.0**	**$30.0**	**$20.0**	**$10.0**

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 2024. 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 credit period begins once the project is complete. The timing of project completion depends on a number of factors including construction and permitting timelines.

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 $918 million in state affordable housing credits that CHFA may allocate between calendar years 2024 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 15 years, beginning in FY 2024-25. General Fund revenue will be reduced by $6.3 million in FY 2024-25 (half-year impact), and by 48.8 million in FY 2025-26, with larger impacts in subsequent years that then taper off over time. The bill decreases income tax revenue and insurance premium tax revenue, both of which are subject to TABOR.

Figure 1
General Fund Revenue Reductions Under HB 24-1434*
Dollars in Millions

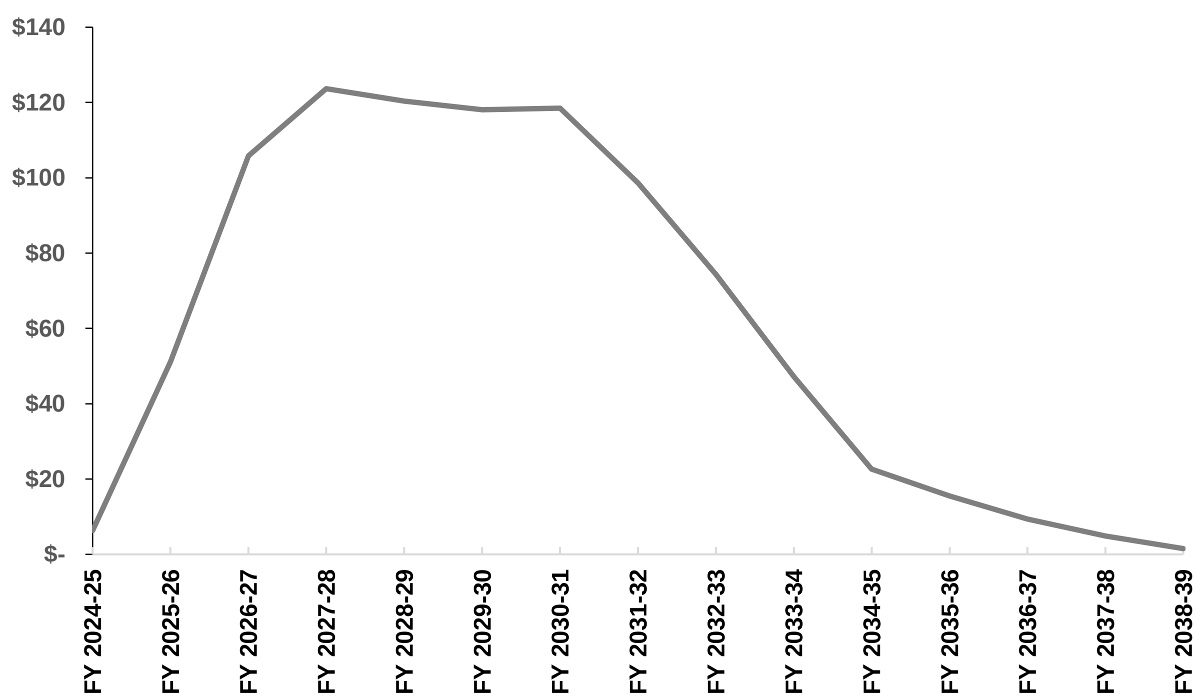

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Table 3
General Fund Revenue Reduction Under HB 24-1434*

Fiscal Year	Affordable Housing Tax Credit	Transit-Oriented Communities Tax Credit	Total Revenue Reduction
FY 2024-25	($6.3 million)	-	**($6.3 million)**
FY 2025-26	($48.8 million)	($2.3 million)	**($51.1 million)**
FY 2026-27	($88.7 million)	($17.2 million)	**($105.9 million)**
FY 2027-28	($94.6 million)	($29.1 million)	**($123.7 million)**
FY 2028-29	($93.3 million)	($27.1 million)	**($120.4 million)**
FY 2029-30	($92.5 million)	($25.5 million)	**($118.1 million)**
FY 2030-31	($95.9 million)	($22.7 million)	**($118.5 million)**
FY 2031-32	($84.7 million)	($13.9 million)	**($98.6 million)**
FY 2032-33	($68.2 million)	($6.2 million)	**($74.4 million)**
FY 2033-34	($43.4 million)	($3.8 million)	**($47.2 million)**
FY 2034-35	($20.7 million)	($1.9 million)	**($22.6 million)**
FY 2035-36	($15.0 million)	($0.5 million)	**($15.5 million)**
FY 2036-37	($9.4 million)	-	**($9.4 million)**
FY 2037-38	($4.9 million)	-	**($4.9 million)**
FY 2038-39	($1.5 million)	-	**($1.5 million)**
Total	**($768.0 million)**	**($150.0 million)**	**($918.0 million)**

* 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. This includes the additional workload expected from the new transit-oriented communities tax credit.

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 March 2024 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 lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

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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

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

CHFA	Information Technology	Local Affairs
Personnel	Revenue	

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.