



# Initiative 108

## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Impact Statement

**Date:** May 27, 2022

**Fiscal Analyst:** Greg Sobetski (303-866-4105)

### LCS TITLE: DEDICATED STATE INCOME TAX REVENUE FOR AFFORDABLE HOUSING PROGRAMS

Fiscal Impact Summary		FY 2022-23	FY 2023-24
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$1.2 million	\$0.7 million
	Cash Funds	-	\$135 million
	<b>Total</b>	<b>\$1.2 million</b>	<b>\$135.7 million</b>
<b>Total FTE</b>		<b>2.1 FTE</b>	<b>37.9 FTE</b>
<b>Diversions and Transfers</b>	General Fund	(\$135 million)	(\$270 million)
	Cash Funds	\$135 million	\$270 million
<b>Net Diversion and Transfer</b>		<b>\$0</b>	<b>\$0</b>
<b>Other Budget</b>	<b>TABOR Refund</b>	(\$135 million)	(\$270 million)

*Disclaimer.* This initial fiscal impact statement has been prepared for an initiative approved for petition circulation by the Secretary of State. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

## Summary of Measure

Beginning January 1, 2023, the measure requires that an amount of state income tax revenue equal to 0.1 percent of taxable income be diverted from the General Fund to a new State Affordable Housing Fund. Income tax revenue diverted to the State Affordable Housing Fund is exempted from the state TABOR limit as a voter-approved revenue change.

Beginning July 1, 2023, and each July 1 thereafter, money in the State Affordable Housing Fund is transferred as follows:

- 60 percent to a new Affordable Housing Financing Fund in the Office of Economic Development and International Trade (OEDIT); and
- 40 percent to a new Affordable Housing Support Fund in the Department of Local Affairs (DOLA).

Money transferred to these two funds is continuously appropriated to OEDIT and DOLA, respectively, for the purposes identified in the measure. These are discussed below.

**Affordable Housing Financing Fund—OEDIT.** The measure requires OEDIT to select an administrator for the programs financed through this fund. OEDIT must publicly announce the contract opening and select the administrator in a public meeting, but it is not required to conduct a competitive procurement process. OEDIT may contract with an administrator for up to five years at one time.

The administrator is required to use money in the fund to create three programs, for which the following percentages of the fund balance may be expended:

- between 15 percent and 25 percent for a land banking program to make grants to local governments and loans to nonprofit organizations, allowing those entities to acquire and preserve land for the development of affordable housing;
- between 40 percent and 70 percent for an affordable housing equity program to invest in low- and middle-income multifamily residential developments, to include a tenant equity vehicle that allows tenants a share of the equity growth in the project; and
- between 15 percent and 35 percent for a concessionary debt program to finance low- and middle-income housing developments, subordinate debt, predevelopment loans, and modular and factory built housing.

For all programs, the administrator is authorized to retain up to 2 percent of funds to cover its administrative costs. Each year, if the March Legislative Council Staff forecast indicates that state revenue for the next state fiscal year will fall below the TABOR limit, the General Assembly is authorized to reduce diversions to the Affordable Housing Financing Fund to balance the budget.

**Affordable Housing Support Fund—DOLA.** The Division of Housing in DOLA is required to create three programs, for which the following percentages of the fund balance may be expended:

- up to 50 percent for an affordable home ownership program to offer home ownership down payment assistance to first-time homebuyers, and to make grants or loans to nonprofit organizations and community land trusts to support affordable home ownership;
- up to 45 percent for a program to provide rental assistance, housing vouchers, and eviction defense assistance to people experiencing homelessness, and to make grants or loans to nonprofit organizations, local governments, and private entities to support the development and preservation of supportive housing for people experiencing homelessness; and
- up to 5 percent for a local planning capacity development program to make grants to local governments to increase the capacity of local government planning departments responsible for processing land use, permitting, and zoning applications.

The measure authorizes DOLA to retain up to 5 percent of funds to cover its administrative costs.

**Local government planning requirements.** In order to qualify to receive funding through the programs created in the measure, a local government must make and file a commitment with DOLA to annually increase the number of affordable housing units in its territorial boundaries by 3 percent

each year. Commitments are initially filed by November 1, 2023, and apply to affordable housing units added through 2026. Additional commitments are filed by November 1, 2026, and apply to affordable housing units added through 2029, and the baseline level of affordable housing units from which growth must be achieved resets every three years thereafter. Local governments that file commitments are eligible to receive funds, except that local governments that do not meet their commitments are ineligible to receive funds for the following calendar year.

In order to qualify to receive funding, local governments must also create a fast-track approval process that applies to developments where at least 50 percent of units are affordable housing units. The fast-track approval process must enable the local government to render a final decision on any application for a special permit, variance, or other development permit within 90 days of submission of a complete application.

## State Diversions and Transfers

The measure is expected to divert \$135 million in FY 2022-23 (half-year impact) and \$270 million in FY 2023-24 from the General Fund to the State Affordable Housing Fund. These estimates assume the March 2022 Legislative Council Staff forecast.

Revenue diverted to the State Affordable Housing Fund is transferred on July 1, such that diversions for FY 2022-23 are transferred on July 1, 2023, at the beginning of FY 2023-24, and so on. Transfers are expected as follows:

- \$81 million in FY 2023-24 and \$162 million in FY 2024-25 to the Affordable Housing Financing Fund in OEDIT; and
- \$54 million in FY 2023-24 and \$108 million in FY 2024-25 to the Affordable Housing Support Fund in DOLA.

## Taxpayer Impact

Revenue diverted from the General Fund to the State Affordable Housing Fund is exempted from TABOR as a voter-approved revenue change. The measure reduces the state obligation for refunds to taxpayers by \$135 million for FY 2022-23 and \$270 million for FY 2023-24. Under current law and the March 2022 Legislative Council Staff forecast, these amounts would otherwise be refunded to taxpayers. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24.

Taxpayer impacts will depend on the refund mechanisms used to refund the surplus. If refunds are paid via current law mechanisms, the measure is expected to reduce refunds by approximately \$40 per taxpayer, on average, for tax year 2023 and \$80 per taxpayer, on average, for tax year 2024.

## State Expenditures

The measure increases state expenditures by an estimated \$1.2 million and 2.1 FTE in FY 2022-23, \$135.7 million and 37.9 FTE in FY 2023-24, and \$270.5 million and 37.0 FTE in FY 2024-25 and later years. Most expenditures are from cash funds, while some expenditures are from the General Fund, as discussed below.

**Cash funds.** The measure transfers revenue to cash funds in OEDIT and DOLA on July 1 of FY 2023-24 and later years and continuously appropriates the transferred money to these agencies. It is assumed that the entire transfer amounts, \$135 million in FY 2023-24 and \$270 million in FY 2024-25, will be expended for the affordable housing grant and loan programs created in the measure and for administrative costs incurred by OEDIT's contracted administrator and by DOLA to oversee the programs. Administrative costs are discussed below. The remaining amounts will be expended for affordable housing programs.

- **OEDIT Administrator.** Administrative costs for OEDIT's contracted administrator are limited to 2 percent of revenue transferred to the Affordable Housing Financing Fund, or about \$3.2 million annually beginning in FY 2024-25. Costs are not itemized in this fiscal impact statement and will depend on business planning decisions to be made by the administrator.
- **DOLA.** Administrative costs in DOLA are estimated at \$4.6 million in FY 2023-24 and \$3.8 million in FY 2024-25 and later years. Costs are for an additional 32.0 FTE in the Division of Housing and 2.0 FTE in the Division of Local Government to assist local governments and housing authorities with grant applications, review applications, manage grant and loan agreements, and handle contracts and disbursement of payments. Additional expenditures are for operating expenses, capital outlay, employee insurance, and leased space costs associated with the new staff, and for licensing of and data analysis in a new software system. Administrative costs for DOLA are limited to 5 percent of revenue transferred to the Affordable Housing Support Fund, or about \$5.4 million annually beginning in FY 2024-25.

**General Fund.** The measure increases General Fund expenditures by an estimated \$1,162,000 in FY 2022-23 and \$734,000 in FY 2023-24. All OEDIT and DOLA costs for FY 2022-23 are assumed to be paid from the General Fund, as initial transfers to cash funds in these agencies do not occur until July 1, 2023. Costs for FY 2022-23 include an additional 9.0 FTE in DOLA and 3.0 FTE in OEDIT on April 1, 2023, prorated to reflect the General Fund pay date shift; operating expenses and capital outlay costs associated with the new staff; and \$428,850 in system buildout costs for DOLA that require a reappropriation to the Office of Information Technology.

The measure does not authorize OEDIT to expend transferred cash fund revenue for its own administrative costs. This fiscal impact statement assumes that ongoing OEDIT expenditures for administration will be paid from the General Fund. These costs are estimated at \$647,000 in FY 2023-24 and include personal services and operating costs for 3.0 FTE, Salesforce licenses, and OEDIT indirect costs. If the measure is interpreted to allow these costs to be paid from money transferred to the Affordable Housing Financing Fund, these amounts may be paid from that cash fund rather than the General Fund. The remaining General Fund costs for FY 2023-24, \$87,000, are for June 2023 personal service expenses in DOLA, which are paid in FY 2023-24 due to the General Fund pay date shift.

## Local Government

Beginning in FY 2023-24, the measure increases revenue and expenditures for counties and municipalities that participate in the affordable housing planning process and receive grants for housing programs. Costs to participate in the planning process will depend on the local government's size and implementation strategy, and are estimated at between \$10,000 and \$100,000 for each participating local government. These costs may be offset by state grants for local governments that receive them. Most grant funding is expected to be spent for housing programs in local governments that seek grants for this purpose.

## Effective Date

If approved by voters at the 2022 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

## State and Local Government Contacts

Colorado Housing Finance Authority	Counties
Joint Budget Committee Staff	Legislative Council Staff Economists
Local Affairs	Municipalities
Office of Economic Development and International Trade	Office of State Planning and Budgeting
Special Districts	

## Revisions from Fiscal Summary

The fiscal summary, dated April 19, 2022, was based on preliminary cost estimates received from affected state agencies. This fiscal impact statement uses updated cost estimates from OEDIT and DOLA. Both the fiscal summary and this fiscal impact statement are based on the March 2022 Legislative Council Staff forecast. Future estimates for diversions and transfers under the measure will be revised to reflect future expectations for taxable income.