HB 18-1195

Legislative Council Staff
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REVISED FISCAL NOTE

(replaces fiscal note dated February 23, 2018)

Drafting Number:	LLS 18-0795	**Date:**	May 7, 2018
Prime Sponsors:	Rep. Pabon Sen. Tate	**Bill Status:**	Senate SVMA
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Bill Topic: TAX CREDIT FOR CONTRIBUTIONS TO AFFORDABLE HOUSING ORGS

Summary of Fiscal Impact:

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

This bill creates a state income tax credit for donations made to eligible nonprofit residential real estate developers that build qualified affordable housing units in Colorado. The credit will be available for tax years 2019 through 2022, resulting in General Fund reductions that will be phased in over at least 10 years. State expenditures for the Department of Revenue will increase beginning in FY 2019-20.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 18-1195

		FY 2018-19	FY 2019-20	FY 2020-21
Revenue	General Fund	($600,000)	($1.2 million)	($1.3 million)
Expenditures	General Fund	-	$23,262	$18,954
	Centrally Appropriated	-	$2,673	$3,654
	Total	**-**	**$25,935**	**$22,608**
	Total FTE	**-**	**0.2 FTE**	**0.3 FTE**
TABOR Refund		($600,000)	($1.2 million)	Not Estimated

Summary of Legislation

This bill creates a state income tax credit for donations made to eligible nonprofit residential real estate developers that build qualified affordable housing units in Colorado. The credit is available for tax years 2019 through 2022.

State income taxpayers, both individual and corporate filers, who donate to eligible housing developers may claim an income tax credit of 50 percent of the donation, up to a maximum $250,000 per year. The tax credit is neither transferable or nonrefundable but may be carried forward for up to five subsequent income tax years. The bill caps the total amount of credits that can be issued at $1.5 million per tax year. The taxpayer may not claim the credit allowed under this bill if they claim any other state income tax credit for the same charitable contribution.

Eligible donations. Donations from a taxpayer to a qualified housing developer must be used solely for the costs associated with an eligible project. An eligible project is the development of new residential housing for home ownership consisting of one or more residential housing units constructed for sale to a buyer whose median income is 120 percent or less of the area median income. Each affordable housing unit sold is to be preserved as affordable housing for a minimum of 15 years.

In order to be designated as an eligible developer, a developer must be a nonprofit community-based home ownership development organization that:

- is organized under 26 U.S.C,§ 501 (c)(3);
- is operating in good standing with the state;
- has a three-year history of developing housing sold to persons with a household median income of 120 percent or less of the area median income;
- has sold at least one single family residential home in the last three-years;
- has purposes that include development of affordable housing, and
- is developing plans to develop an eligible project.

The Colorado Housing and Finance Authority (CHFA) is responsible for designating eligible developers and verifying that each donation is used solely for the costs associated with an eligible project. In addition, CHFA will issue tax certificates and ensure the aggregate amount of certified credits are under the annual cap. The bill allows CHFA to collect an administrative fee from each applicant for program administrative costs and expenses.

State Revenue

This fiscal note assumes that CHFA will issue the full $1.5 million in credits in each tax year the credit is available. The total amount of credits that will be issued after four years is $6 million. A sample of income tax returns for potential nonprofit building developers registered with the Secretary of State shows these organizations received over $40 million in contributions and grants per year. Also, data from various home builders indicate strong demand for the type of residential development projects that would be eligible under this bill.

While the amount certified each year is capped, the amount of credits claimed by taxpayers in any tax year after they receive certification is not capped. Therefore, the revenue impacts of the tax credit will vary. A taxpayer can claim the allowed amount in the same year tax year they made the donation and received certification from CHFA, or use a portion of the tax credit and carry forward the balance in up to five subsequent income tax years. 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. To the degree that the full amount of tax credit is not utilized as early as assumed here, reductions in General Fund revenue will be pushed into future fiscal years. Conversely, if credits are claimed sooner, General Fund reductions will occur earlier than what is shown in Table 2.

Assumptions. Table 2 shows state General Fund revenue reductions under the following assumptions:

- taxpayers will claim 80 percent ($1.2 million) of the amount certified in the first income tax year and spread out the remaining balance over the next five years ($300,000 per year);
- all income tax credits under this bill will eventually be claimed; and
- there will be sufficient demand for the type of eligible projects that can qualify for the income tax credit.

Table 2
General Fund Revenue Reduction Under of HB 18-1195

Fiscal Year	General Fund Revenue Impact
FY 2018-19 (half-year)	($600,000)
FY 2019-20	($1.2 million)
FY 2020-21	($1.3 million)
FY 2021-22	($1.4 million)
FY 2022-23	($810,000)
FY 2023-24	($240,000)
FY 2024-25	($210,000)
FY 2025-26	($150,000)
FY 2026-27	($90,000)
FY 2027-28	($30,000)
Total	**($6 million)**

Finally, to the extent that new donations are made to a qualified nonprofit housing developer, and these donations are claimed as a charitable deduction on the taxpayer's federal income tax form, state revenue reductions will be larger.

TABOR Refund

This bill reduces state revenue from the General Fund, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill reduces revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money for the General Fund budget in the future during years when the state does not collect revenue above the TABOR limit. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

The Department of Revenue (DOR) will require $25,935 and 0.2 FTE in FY 2019-20 and $22,608 and 0.3 FTE in FY 2020-21. These costs include one-time programming expenditures and workload for reviewing income tax credits submitted to the DOR. These costs are ongoing until at least FY 2027-28. No costs are incurred in FY 2018-19.

Table 3
Expenditures Under HB 18-1195

	FY 2018-19	FY 2019-20	FY 2020-21
Department of Revenue			
Personal Services	-	$11,939	$14,007
Operating Expenses and Other	-	$10,073	$4,947
Computer Programming (GenTax)	-	$1,250	-
Centrally Appropriated Costs*	-	$2,673	$3,654
FTE – Personal Services	-	0.2 FTE	0.3 FTE
Total Cost	**-**	**$25,935**	**$22,608**
Total FTE	**-**	**0.2 FTE**	**0.3 FTE**

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

Department of Revenue. An estimated 2,000 taxpayers are expected to claim the credit each year it is available. This will increase workload to answer taxpayer inquiries and review and audit returns. The Department of Revenue's GenTax software system requires changes to implement the bill, which will be programmed by a contractor at a rate of $250 per hour. The changes are expected to increase expenditures by $1,250 in FY 2019-20, representing five hours of programming.

Department of Personnel and Administration. This bill will result in the need to change four state income tax forms. Agency scanning and imaging software will be modified to implement the credit. This will require $4,800 which is $1,200 per form. These amounts will be reappropriated from the DOR to the document management line in the Department of Personnel and Administration.

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 estimated to be $2,673 in FY 2019-20 and $3,654 in FY 2020-21.

Statutory Public Entity

The bill allows CHFA to charge and collect a fee from each applicant to cover program administrative costs and expenses. CHFA has indicated that they will charge an administrative fee. The fee amount is yet to be determined.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Information Technology	Local Affairs
Personnel	Revenue