HB 18-1190

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated February 27, 2018)

Drafting Number:	LLS 18-0518	**Date:**	March 20, 2018
Prime Sponsors:	Rep. Esgar; McKean Sen. Tate; Garcia	**Bill Status:**	House Appropriations
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Bill Topic: MODIFY JOB CREATION MAIN STREET REVITALIZATION ACT

Summary of Fiscal Impact:

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

This bill makes several modifications to the historic preservation tax credit under the Colorado Job Creation and Main Street Revitalization Act. The credit will be extended to tax years 2020 through 2029, resulting in General Fund reductions that will be phased in over at least 10 years. State expenditures for the Department of Revenue, the Office of Economic Development and International Trade, and History Colorado will increase beginning in FY 2020-21.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This revised fiscal note has been updated to reflect new information.

Table 1
State Fiscal Impacts Under HB 18-1190

		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Revenue	General Fund	-	-	($5.4 million)	($10.8 million)
	Cash Funds	-	-	at least $316,750	at least $319,000
	Total			**($5.1 million)**	**($10.5 million)**
Expenditures	Cash Funds	-	-	$129,649	$129,649
	Centrally Appropriated	-	-	$15,819	$15,819
	Total	-	-	**$145,468**	**$145,468**
	Total FTE	-	-	**2.4 FTE**	**2.4 FTE**
Transfers		-	-	-	-

Summary of Legislation

This bill makes several modifications to the historic preservation tax credit under the existing Colorado Job Creation and Main Street Revitalization Act:

- Extends the period to 2029 and $10 million annual cap in which the Office of Economic Development and International Trade (OEDIT) may reserve income tax credits for qualified rehabilitation projects for historical properties;
- Removes residential rehabilitation projects from being subject to the $10 million annual cap; and
- Requires the OEDIT to review each completed application and plan in the order in which it was submitted. Under current law, the OEDIT uses a lottery process to determine the order in which applications are reviewed.

For qualified commercial properties, the bill:

- Requires the OEDIT to evenly distribute the $10 million in annual income tax credits between commercial projects with qualified rehabilitation costs up to $2 million, and projects with costs greater than $2 million; and
- For tax credits that are $250,000 or more, a fee of not more than $500 can be assessed and for those under $250,000 a fee of not more than $250 can be charged by OEDIT; and
- Changes the amount of expenditures required to be eligible for the income tax credit from 25 percent of of the original owner's price of the building less the value of land to an aggregate amount of at least $20,000.

For qualified properties in rural areas of the state, the bill:

- Increases the income tax credit amount to 35 percent of qualified costs.

Background

Colorado Job Creation and Main Street Revitalization Act. HB14-1311 created an income tax credit for a property owner that completes a qualified rehabilitation project on a historical property. The credit is available for tax years 2016 through 2019.

The OEDIT was allowed to reserve $5 million in income tax credits in 2016 and $10 million each year between 2017 to 2019. The OEDIT and History Colorado were also required to develop standards for the approval of the historical structures for which the income tax credit is being claimed.

To qualify, the property must be included on the National Register of Historic Places or have been designated as a landmark by a certified local government. The credit is available for both income-producing properties, such as apartments and commercial properties, and residential structures. The rehabilitation must be "substantial", which means the rehabilitation costs must exceed 25 percent of the owner's purchase price minus the current value of land for commercial structures, or $5,000 for residential structures. The taxpayer cannot claim the income tax credit until the project has been completed.

For commercial structures, the total amount of the income tax credit is equal to:

- 25 percent of qualified costs up to $2 million; plus
- 20 percent of qualified costs that are greater than $2 million.

The value of the credit is capped at $1 million in each year for each commercial structure project. The credit is not refundable but may be carried forward for up to 10 years. However, the taxpayer may chose to transfer all or a portion of the income tax credit to another taxpayer. For residential structures, the amount of the credit is equal to 20 percent of the rehabilitation costs, not to exceed $50,000 for each residential property.

Finally, if the property is located in an area that has been determined to be in a disaster area, the project qualifies for an additional income tax credit. The amount of income tax credit would increases by 5 percent greater in all the cost categories described above.

The OEDIT may charge a fee of up to $500 for processing the applications of these potential recipients of the credit. In addition, OEDIT may charge an issuance fee when the owner claims the income tax credit. The issuance fee is up to 3 percent of the amount of the tax credit issued. A reasonable fee may also be applied to applications for residential projects. Revenue from both the application and issuance fees is evenly distributed between the OEDIT, History Colorado, and the Department of Revenue.

Federal credit. The federal income tax credit is equal to 20 percent of qualifying expenses. It is only available for properties that will be used for business or other income–producing purposes. Finally, the historical structure must be certified by the National Park Service and the rehabilitation work has must meet the Secretary of the Interior's standards for rehabilitation.

Other state credits. The state income tax credit is equal to 20 percent of the qualified rehabilitation costs up to a maximum of $50,000 per qualified property. The structure must be at least 50 years old, and designated as a contributing property in the State Register of Historic Places or designated as a landmark by a certified local government. The availability of the credit is contingent upon the December Legislative Council revenue forecast showing that General Fund appropriations can grow by 6.0 percent. The program is scheduled to expire after the 2019 income tax year.

State Revenue

Under the bill, General Fund revenue will be reduced by $5.4 million in FY 2020-21 (half-year impact), $10.8 million in FY 2021-22, and $10.8 million in FY 2022-23. General Fund revenue reductions, resulting from this bill will continue until at least FY 2029-30, averaging $11 million per tax year. Carryforward credits can extend the period in which revenue reductions occur. In addition, revenue impacts of the tax credit will vary by income tax year. A taxpayer may use the full amount of the credit issued in the first year they were issued the credit, or use a portion of the tax credit and carry forward the balance and claim in future tax years. A taxpayer may also transfer all or a portion of the income tax credit.

Cash fund revenue to the OEDIT, the DOR, and History Colorado will increase from application and credit issuance fees. In FY 2020-21, at least $316,750 will be generated in application and issuance fees. This amount of this increase will depend on the amount of application and issuance fees generated from applicants.

Commercial properties. This fiscal note assumes that the OEDIT will reserve the full $10 million in credits in each year the credit is available. The total amount of credits that will be issued under the bill $100 million. The OEDIT has reserved the full $10 million in credits allotted for 2016 and 2017and has indicated they expect enough demand to reserve the full amounts for 2018 and 2019. The tax credits under this bill will reduce General Fund revenue beginning in tax year 2021. Income tax credits can not be claimed until the project has been completed and authorized by the OEDIT. On average, commercial property projects take one year before a tax credit is issued.

Residential properties Beginning in 2020, this fiscal note assumes that on average 40 residential projects with an estimated $100,000 in qualified rehabilitation costs will qualify for the historic preservation tax credit, equating to $20,000 in credits per taxpayer or $800,000 in total residential income tax credits per year. Data from History Colorado show that between 2011 and 2017, 30 residential projects were issued tax credits each year, averaging $15,000 per taxpayer.

Fee impact. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee calculations will be set administratively by the OEDIT and certified local governments based on cash fund balance, estimated program costs, and the estimated number of taxpayers subject to the fee. The table below identifies the fee impact of this bill.

Under current law, the OEDIT may charge an application and issuance fee to taxpayers applying for the commercial properties credit. The fees are required to be split evenly between the DOR, the OEDIT and History Colorado to cover the administration costs of the income tax credit. These fees are shared with the three departments listed above.

Table 2
Fee Impact on HB 18-1190*

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Application fee for projects requesting a tax credit over $250,000	$500	25	$12,500
	Application fee for projects requesting a tax credit under $250,0000	$250	17	$4,250
	Commercial property tax credit issuance fee	3 percent	$10 million	$300,000
			FY 2020-21 Total	**$316,750**
FY 2021-22	Application fee for projects requesting a tax credit over $250,000	$500	28	$14,000
	Application fee for projects requesting a tax credit under $250,0000	$250	20	$5,000
	Commercial property tax credit issuance fee	3 percent	$10 million	$300,000
			FY 2021-22 Total	**$319,000**

* *Fees apply to application and credit issuance fees for commercial properties only.*

TABOR Refund

This bill decreases state revenue subject to TABOR beginning in FY 2020-21. State revenue is expected to exceed the TABOR limit in FY 2018-19 and FY 2019-20. A TABOR limit has not been estimated beyond these fiscal years. If state revenue exceeds the TABOR limit in these future years, TABOR refunds will be reduced by up to an amount equal to the credits claimed under this bill.

State Expenditures

This bill increases state expenditures by $145,468 and 2.4 FTE in each of FY 2020-21 and FY 2021-22. These costs are ongoing until at least FY 2029-30. These costs include personal services expenditures for the DOR, the OEDIT, and History Colorado, as shown in Table 3.

The bill allows both the application and issuance fees collected from the program to be used for administration costs. The fees are evenly divided between the History Colorado, the DOR, and the OEDIT. In FY 2020-21, this fiscal note assumes these departments will receive approximately $106,000 each. It is assumed revenue from the fees will be adequate to cover all the administrative costs of the program for all departments in each year the credit is available. All other expenditures will be centrally appropriated. To the extent that both application and issuance fees are not sufficient to cover the costs associated with this bill, it is assumed that the department will make a request for additional resources through the annual budget process.

Department of Revenue. Cash Fund expenditures for the DOR are expected to increase by $69,128 and 1.4 FTE in FY 2020-21 and FY 2021-22. Expenditures are for taxpayer services section to administer and audit the tax credit. The department anticipates workload for this credit to be higher given the transferability of the income tax credit. A high rate of taxpayer audits are expected to ensure the total amount of credits claimed do not exceed the original reservation amount.

Office of Economic Development and International Trade. In FY 2020-21, the OEDIT will require 0.5 FTE for a program manager to a review, track, and certify commercial property applications. The OEDIT is responsible for processing the initial applications for the credit and reserving the income tax credit. Once the project is compete, the department is also responsible for verifying that eligibility criteria has been met before reserving the tax credits an for tracking all income tax credits that are transferred.

Department of Higher Education (History Colorado). In FY 2020-21, History Colorado will require 0.5 FTE for an Architect to review all applications to determine whether rehabilitation costs are eligible for the income tax credit and if the project follows the standards for rehabilitation.

Table 3
Expenditures Under HB 18-1190

Cost Components	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Department of Revenue				
Personal Services (Tax Examiner)	-	-	$62,153	$62,153
Operating Expenses	-	-	$1,300	$1,300
Centrally Appropriated Costs*	-	-	$5,675	$5,675
FTE – Personal Services	-	-	1.4 FTE	1.4 FTE
Dept of Revenue (Subtotal)	**-**	**-**	**$69,128**	**$69,128**
OEDIT				
Personal Services (Program Assistant)	-	-	$27,749	$27,749
Operating Expenses	-	-	$475	$475
Centrally Appropriated Costs*	-	-	$6,720	$6,720
FTE – Personal Services	-	-	0.5 FTE	0.5 FTE
OEDIT Dept (Subtotal)	**-**	**-**	**$34,944**	**$34,944**
History Colorado				
Personal Services (Architect)	-	-	$37,497	$37,497
Operating Expenses	-	-	$475	$475
Centrally Appropriated Costs*	-	-	$3,424	$3,424
FTE – Personal Services	-	-	0.5 FTE	0.5 FTE
History Colorado Dept (Subtotal)	**-**	**-**	**$41,396**	**$41,396**
Total	**-**	**-**	**$145,468**	**$145,468**
Total FTE	**-**	**-**	**2.4 FTE**	**2.4 FTE**

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

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 $15,819 in FY 2020-21 and FY 2021-22.

Local Government

The bill allows certified local governments to charge an application fee to review and approve tax credits for residential properties. Data from various certified local governments shows the average fee is approximately $1,000 per residential project. To the extent that fees are collected, fee revenue may partially offset costs of administering the bill for local governments.

Effective Date

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

State and Local Government Contacts

Counties	Higher Education	Information Technology	Local Affairs
OEDIT	Personnel	Revenue	Treasury