HB14-1311

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 14-0743	**Date:**	April 8, 2014
Prime Sponsor(s):	Rep. Garcia; Dore Sen. Steadman; Crowder	**Bill Status:**	House Finance
		Fiscal Analyst:	Louis Pino (303-866-3556)

SHORT TITLE: JOB CREATION & MAIN STREET REVITALIZATION ACT

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016	FY 2016-2017
State Revenue		**($7.5 million)**	**($15 million)**
Revenue Change			
General Fund		(7.5 million)	(15 million)
Cash Funds		10,000	10,000
State Transfers			
Cash Funds		(15 million)	(15 million)
General Fund		7.5 million	15 million
State Expenditures	**$211,877**	**$257,954**	**$202,104**
General Fund	195,654	226,121	170,271
Centrally Appropriated Costs**	16,223	31,833	31,833
FTE Position Change	1.6 FTE	3.2 FTE	3.2 FTE
Appropriation Required: $195,654- multiple agencies (FY 2014-15)			

* *This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.*

** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

*** *Currently, there are no dedicated funds in the CCF for this transfer, see the technical note for more information.*

Summary of Legislation

HB14-1311 creates an income tax credit for a property owner that completes a qualified rehabilitation project on a historical property. The credit will be available for tax years 2015 through 2018.

The Office of Economic Development and International Trade (OEDIT) will annually certify $15 million in income tax credits to owners of qualified historical structures who wish to preserve the property. The office may charge a fee for processing the applications of these potential recipients of the credit. For commercial projects, a fee of up to $500 may be charged for a credit of $1 million or less, or $1,000 if the credit exceeds $1 million. In addition, OEDIT may charge an issuance fee when the owner claims the income tax credit. The issuance fee is up to 2 percent of the qualified rehabilitation expenditures. A reasonable fee may also be applied to applications for residential projects. The bill requires OEDIT and the Colorado Historical Society to develop standards for the approval of the historical structures for which the income tax credit is being claimed.

Beginning in FY 2015-16, HB 14-1311 requires four annual transfers of $15 million from the Capital Construction Fund (CCF) to the newly created Tax Credit for Qualified Costs Incurred in the Preservation of Historic Structures Fund (Historic Structures Fund). These funds are to be used to offset the General Fund revenue loss from the tax credit.

To qualify, the property must be included on a 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 original purchase price for commercial structures and $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:

- 30 percent of qualified costs up to $2 million; plus
- 25 percent of qualified costs that are between $2 and $4 million; plus
- 20 percent of the qualified rehabilitation costs over $4 million.

The value of the credit is capped at $2 million 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 twenty percent of the rehabilitation costs, not to exceed $50,000 for each residential property. Income tax credits for residential structures are not transferable but may be carried forward for up to 10 years.

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 increase by 5 percent in all the cost categories described above. .

Background. Current federal and state tax laws provide income tax credits for historic preservation projects.

The **federal income tax credit** is equal to 20 percent of qualifying expenses. It is only available only to 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.

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.

State Revenue

General Fund revenue will be reduced by $7.5 million in FY 2015-16, $15 million in FY 2016-17, and $15 million in FY 2017-18. The FY 2015-16 estimate is for one-half year on an accrual accounting basis. **Cash fund revenue to the OEDIT will also increase by $10,000 each year in FY 2014-15 to FY 2018-19** from application fees. The fiscal note assumes that, on average, 15 property owners will annually apply for the income tax credit. Ten of these projects will be charged an application fee of $500 each, and the remaining applicants will be accessed a fee of $1,000 each. Actual revenue to OEDIT will vary depending on the number of applications received and the fee charged to each applicant. Also, additional revenue could be generated if OEDIT elects to charge an issuance fee allowed under this bill. The fee is up 2 percent of the owner's qualified rehabilitation costs . In FY 2015-16, $600,000 would be generated if the office applies the maximum fee allowed. Revenue from both the application and issuance fees would be shared between OEDIT and the Historical Society.

The estimated costs of rehabilitating historic properties is substantially defined by project scope. Based on data from other states, rehabilitation costs can range from $10,000 to $65 million. The fiscal note assumes OEDIT will certify the maximum of $15 million each year because the credit is transferable, and that a total of $60 million in income tax credits will ultimately be claimed between FY 2015-16 from FY 2019-20. However, it also assumes that historic preservation projects will take at least one year to be certified as complete, and that credits will not be claimed until one year after certification.

State transfers. The bill requires four annual transfers of $15 million from the CCF to the Historic Structures Fund between FY 2015-16 and FY 2018-19. However, it should be noted that General Fund transfers are the primary source of revenue to the CCF, and that funds transferred to the CCF are typically obligated for approved capital construction projects. As such, it is unclear whether the CCF will have a sufficient unencumbered balance for the $15 million annual transfers from the CCF to the Historic Structures Fund to occur. See the Technical Note section for further discussion of this issue.

In addition, it is assumed that the bill requires a transfer from the Historic Structures Fund to the General Fund once an income tax credit has been claimed. In FY 2015-16, it is assumed that $7.5 million will be transferred from the Historic Structures Fund to the General Fund. In the next three fiscal years, $15 million will be transferred, with $7.5 million transferred in FY 2019-20.

State Expenditures

HB14-1311 will increase state expenditures by $211,877 in FY 2014-15 and $257,954 in FY 2015-16, as shown in Table 1.

Department of Revenue. The department will be required to audit the tax credit and modify computer systems. These functions are estimated to cost $35,721 and 0.6 FTE in FY 2014-15, and $138,621 and 2.2 FTE in FY 2015-16 each year thereafter.

Income tax and Audit Sections. The department will require additional auditing of the transferable credits to ensure the credits being claimed are accounted for properly. An estimated 750 new taxpayer accounts will be created each year under this bill. It is estimated that the tracking and reconciling of all credits, transfers, and roll forwards will take 30 minutes per month, or about 6 hours annually, for each account. Thus, at 6 hours per account, 750 accounts will generate 4,500 hours of work for a Tax Examiner 1 each year, or 2.1 FTE annually. In addition, the department will need to develop and establish program protocols with OEDIT. These costs are estimated based on the department's experience with the conservation easement income tax credit, a transferable tax credit that currently requires ongoing staffing of 11.0 FTE. Because of the uncertainty associated with a transferable income tax credit, additional resources may be requested through the annual budget process if the number of credit transfers is higher than expected.

Programming costs. The bill requires changes to the Colorado Integrated Tax Architecture (CITA). Costs are estimated at $45,580 in 2015-16, assuming 215 hours of work paid at the rate of $212 per hour.

Office of Economic Development and International Trade. OEDIT will require 1.0 FTE for a program manager to certify the income tax credits and track subsequent transfers of the tax credits among taxpayers. In addition, the program manager will partner with the Historical Society to assist in developing the criteria, processes, and procedures for determining eligibility for the income tax credit. The program manager will be responsible for verifying, monitoring, tracking, and reporting on the program. In addition, OEDIT will incur other operating expenses, such as hiring a consultant to facilitate with the development of the program. Also, OEDIT will require programming changes to their Salesforce computer program.

These expenditures for OEDIT could be offset if the fees allowed under this bill are used to pay for the costs described above. In FY 2015-16, the fee could generate up to $600,000, of which $300,000 would go to the OEDIT. In FY 2016-17, total revenue from these fees could reach $1.2 million, of which half would be for the OEDIT.

Table 1. Expenditures Under HB14-1311

Cost Components	**FY 2014-15**	**FY 2015-16**
Personal Services Tax Examiner 1 (DOR) Program Manager (OEDIT)	 $24,804 $66,960	 $90,951 $66,960
FTE	1.6	3.2
Computer Programming (OEDIT)	$50,000	$10,000
Computer Programming (DOR)		$45,850
Operating and Capital Outlay Expenses (OEDIT and DOR)	$16,570	$3,040
OEDIT Other Operating Expenses: (Consulting Services, Procurement and Accounting Support)	$37,320	$9,320
Centrally Appropriated Costs*	$16,223	$31,833
TOTAL	**$211,877**	**$257,954**

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

Capital Construction. To the degree the funds transferred from the CCF would have been used for other capital construction projects, this bill will result in less money for capital projects.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB14-1311*

Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$10,391	$20,130
Supplemental Employee Retirement Payments	$5,832	$11,703
TOTAL	**$16,223**	**$31,833**

**More information is available at: http://colorado.gov/fiscalnotes*

Technical Note

HB14-1311 requires a transfer from the CCF to the Historic Structures Fund. However, monies in the CCF are typically encumbered for approved capital construction costs. It is unclear how the transfers will occur if the $15 million is obligated for other capital projects. Also it is assumed that transfers from the Tax Credit for Qualified Cost Incurred in the Preservation of Historic Structures Fund will be to the General Fund since the bill does not state where the transfer will go.

Effective Date

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

State Appropriations

For FY 2014-15, the following General Fund appropriations are required:

- $35,721 to the Department of Revenue and authorization for 0.6 FTE; and
- $159,933 to the Office of Economic Development and authorization for 1.0 FTE.

State and Local Government Contacts

Higher Education	Local Affairs	Office of Economic Development
Revenue	Personnel	Treasury