HB15-1236

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number: LLS 15-0718
Prime Sponsor(s): Rep. Winter
Date: March 3, 2015
Bill Status: House Transportation & Energy
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: TAX CREDIT FOR IMPROVING ENERGY EFFICIENCY

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	**($780,000)**	**($1,560,000)**
General Fund	($780,000)	($1,560,000)
State Expenditures	**$139,690**	**$116,006**
General Fund	$127,718	$102,158
Centrally Appropriated Costs**	$11,972	$13,848
TABOR Set-Aside	($780,000)	($1,560,000)
FTE Position Change	0.9 FTE	1.0 FTE
Appropriation Required: $127,718 - Colorado Energy Office (FY 2015-16).		

* *This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.*
** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

Summary of Legislation

This bill creates a nonrefundable income tax credit for construction, remodeling, and retrofitting of multifamily residential and commercial buildings and affordable housing projects that attain certain standards of energy efficiency. The credit is available to owners of buildings in the following three categories:

- multifamily residential buildings or affordable housing projects that undergo retrofitting resulting in a reduction of energy consumption of at least 20 percent;
- new multifamily residential or commercial buildings, or multifamily residential or commercial buildings that undergo a major renovation, with energy savings of at least 20 percent relative to the commercial energy efficiency standard in the International Energy Conservation Code, and that are certified at a level of silver or higher by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program, or at a level of two Green Globes or higher by the Green Building Initiative; and
- new affordable housing projects, or affordable housing projects that undergo a major renovation, with energy savings of at least 20 percent relative to the commercial energy efficiency standard in the International Energy Conservation Code, and that achieve at least 35 point equivalents (for new buildings) or 30 point equivalents (for major renovations) as an enterprise green community.

Table 1. Tax Credits Available Under HB15-1236

Retrofitted multifamily residential buildings and affordable housing projects					
Type of building	**Energy consumption reduction required**	**Amount of credit**		**Annual credit cap per unit**	**Annual credit cap per building**
Multifamily residential buildings	energy consumption reduction of at least 20%	30% of retrofit costs after public utility rebates and other government funding		$1,500	$75,000
Affordable housing projects				$1,875	$93,750
Multifamily residential or commercial buildings: new or renovated					
Minimum savings required relative to the commercial energy efficiency standard	**Awards Required**	**Amount of credit**		**Annual credit cap per unit**	**Annual credit cap per building**
		First 50,000 square feet	**Remaining square feet**		
at least 20%	LEED Silver or 2 Green Globes	$0.50 per square foot	$0.25 per square foot	NA	$75,000
at least 35%	LEED Gold or 3 Green Globes	$1.00 per square foot	$0.50 per square foot	NA	$150,000
at least 50%	LEED Platinum or 4 Green Globes	$2.00 per square foot	$1.00 per square foot	NA	$300,000
Affordable housing projects: new or renovated					
Minimum savings required relative to the commercial energy efficiency standard	**Enterprise Green Community point equivalents required:**	**Amount of credit**		**Annual credit cap per unit**	**Annual credit cap per building**
		First 50,000 square feet	**Remaining square feet**		
at least 20%	new: 35 to 45 renovations: 30 to 40	$0.50 per square foot	$0.25 per square foot	NA	$93,750
at least 35%	new: 46 to 75 renovations: 41 to 70	$1.00 per square foot	$0.50 per square foot	NA	$187,500
at least 50%	new: at least 76 renovations: at least 71	$2.00 per square foot	$1.00 per square foot	NA	$375,000

NA = not applicable.

The credit is available for tax years 2016 through 2020. A credit that exceeds a taxpayer's income tax liability is not refunded and may be carried forward for a period of up to five years. The amount of credit available varies depending on the eligibility requirements that the building satisfies; these are described in Table 1 on page 2.

Credit certificates. Certificates for all three categories of credit are to be issued by the Colorado Energy Office (CEO) upon the completion of the retrofitting, construction, or renovation. Taxpayers wishing to obtain a certificate are responsible for providing relevant evidence to the CEO. The CEO is required to notify the Department of Revenue (DOR) of the identity of each awardee, and the amount of credit awarded, by November 1 of each tax year. The CEO must also make two reports on the program to the General Assembly, one in 2017 and one in 2020.

State Revenue

General Fund revenue will decrease by $780,000 in FY 2015-16 and $1,560,000 in FY 2016-17. These estimates assume a half-year impact for FY 2015-16. It is further assumed that all credits awarded in a single tax year will be used to reduce revenue for that tax year. To the extent that credits awarded exceed a taxpayer's income tax liability for a tax year, the amount by which income tax revenue is reduced will be less than estimated.

Retrofitted multifamily residential buildings and affordable housing projects. Credits worth approximately $300,000 are expected to be awarded to owners of retrofitted multifamily residential buildings each year. This estimate assumes that 20 of these buildings will achieve the energy use reduction necessary to qualify for credit each year, with an average of 30 units each costing approximately $1,650 to retrofit. Estimates of costs are based on a utility retrofitting pilot program in multifamily residential buildings in 2014.

New or renovated multifamily residential or commercial buildings. Credits worth approximately $1,260,000 are expected to be awarded to owners of new and renovated multifamily residential and commercial buildings each year. This estimate assumes that between 25 and 30 buildings will qualify for credit each year, each with a floor area of 70,000 square feet on average. Most buildings, approximately 15 each year, will qualify for credit at the lowest energy efficiency tier. Approximately 10 buildings will qualify for credit at the middle tier, and fewer than 5 buildings will qualify for credit at the highest tier.

In 2014, 102 structures in Colorado were awarded LEED certification. Of these, 57 structures were multifamily residential or commercial buildings certified at a level of LEED Silver or better. This bill assumes that approximately half of these structures achieve the energy savings requirements in the bill. Because LEED has certified 37 times as many projects as Green Globes nationally, the number of buildings qualifying for credit on the basis of Green Globes certification is expected to be fewer than 3 per year.

New or renovated affordable housing projects. No credit is expected to be awarded to owners of new and renovated affordable housing projects. Most of these projects are owned by tax-exempt nonprofit organizations.

TABOR Impact

This bill decreases state revenue subject to TABOR, which will decrease the amount required to be refunded under TABOR by $780,000 for FY 2015-16 and $1,560,000 for FY 2016-17. TABOR refunds are paid from the General Fund in the year following excess collections.

State Expenditures

General Fund expenditures will increase by $138,440 and 0.9 FTE in FY 2015-16 and by $113,506 and 1.0 FTE in FY 2016-17. State expenditures are summarized in Table 2 and detailed below.

Table 2. Expenditures Under HB15-1236

Cost Components	**FY 2015-16**	**FY 2016-17**
Personal Services	$60,865	$67,628
FTE	0.9 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	$5,603	$950
Travel Costs	$1,250	$2,500
Programming and Document Management	$60,000	$31,080
Centrally Appropriated Costs*	$11,972	$13,848
TOTAL	**$139,690**	**$116,006**

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

Colorado Energy Office. Expenditures for the CEO will increase by $139,690 and 0.9 FTE in FY 2015-16, and by $84,926 and 1.0 FTE in FY 2016-17. Most expenditures are for personnel at the Program Assistant II level, who will be responsible for establishing and implementing program guidelines, review and approval of certificate applications, and answering program eligibility questions, as well as income verification required in the case of a credit application from the owner of an affordable housing project. The CEO will manage credit applications and approvals using Salesforce software. Programming of this system is estimated to require a one-time expenditure of $60,000 for FY 2015-16, based on software costs for other programs in the CEO. Verification of some documents will result in travel costs to the CEO, estimated at $2,500 annually.

Department of Revenue. The DOR will incur a one-time expenditure for programming changes to its GenTax software system. Because the CEO is required to report certificates for tax year 2016 by November 1, 2016, programming costs for the DOR are expected to be incurred in FY 2016-17. It is assumed that adding the credit to GenTax will require 120 hours of analysis, design, coding, and testing at a cost of $219 per hour. Fast Enterprises currently performs all maintenance and updates to the GenTax system, and is assumed to be the contractor for this work. As a part of this process, the DOR will need to make updates to four forms, at a cost of $1,200 each.

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 3.

Table 3. Centrally Appropriated Costs Under HB15-1236*

Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$7,254	$8,061
Supplemental Employee Retirement Payments	$4,718	$5,787
TOTAL	**$11,972**	**$13,848**

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

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2015-16, the Colorado Energy Office requires a General Fund appropriation of $127,718.

State and Local Government Contacts

Colorado Energy Office
Personnel and Administration
Property Taxation
Regulatory Agencies
Revenue