



Legislative  
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*Nonpartisan Services for Colorado's Legislature*

# HB 19-1245

## FINAL FISCAL NOTE

**Drafting Number:** LLS 19-0538      **Date:** August 21, 2019  
**Prime Sponsors:** Rep. Weissman      **Bill Status:** Signed into Law  
                                  Sen. Gonzales; Foote      **Fiscal Analyst:** Meredith Moon | 303-866-2633  
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**Bill Topic:** AFFORDABLE HOUSING FUNDING FROM VENDOR FEE CHANGES

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill increases the state vendor fee from 3.33 percent to 4.0 percent and caps the vendor fee allowance at \$1,000 per account per filing period. The additional funds generated from this cap are allocated for the development of affordable housing.

**Appropriation Summary:** For FY 2019-20, this bill requires a General Fund appropriation of \$286,408 to the Department of Revenue, and of \$39,400 to the Department of Local Affairs.

**Fiscal Note Status:** The final fiscal note reflects the enacted bill and is based off Legislative Council Staff's June 2019 forecast.

**Table 1  
State Fiscal Impacts Under HB 19-1245**

		FY 2019-20	FY 2020-21	FY 2021-22
<b>Revenue</b>	General Fund	\$23.1 million	\$47.9 million	\$49.4 million
	<b>Total</b>	<b>\$23.1 million</b>	<b>\$47.9 million</b>	<b>\$49.4 million</b>
<b>Expenditures</b>	General Fund	\$325,808	\$267,184	\$847,162
	Centrally Appropriated	\$9,973	\$55,974	\$138,173
	<b>Total</b>	<b>\$335,781</b>	<b>\$323,158</b>	<b>\$985,335</b>
<b>Total FTE</b>		<b>0.4 FTE</b>	<b>3.4 FTE</b>	<b>8.7 FTE</b>
<b>Transfers</b>	General Fund	(\$7.8 million)	(\$7.3 million)	(\$48.4 million)
	Cash Funds	\$7.8 million	\$7.3 million	\$48.4 million
	<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TABOR Refund</b>		\$23.1 million	\$47.9 million	Not estimated

## Summary of Legislation

This bill increases the state vendor fee allowance on sales tax accounts from the current rate of 3.33 percent to 4.0 percent starting on January 1, 2020. The vendor fee allowance is capped at \$1,000 per filing period per retailer. A retailer with multiple locations in the state is counted as one retailer for purposes of the vendor fee allowance cap. Local taxing jurisdictions that use the state's vendor fee as their rate may retain the same rate.

A portion of the net revenue increase from the vendor fee change is allocated to the Housing Development Grant Fund in the first two fiscal years of the change with the remainder retained in the General Fund. Starting in FY 2021-22, the entirety of the revenue derived from the vendor fee change will be transferred to the Housing Development Grant Fund. At least one-third of this revenue will be awarded to affordable housing projects directed towards households with incomes less than or equal to 30 percent of the area median household income. Any net revenue increase is not allocated to the state sales tax increment revenue for regional tourism zones.

## Background and Assumptions

**Vendor fee.** The vendor fee is a service fee the state allows retailers to retain for their cost in collecting and remitting sales and use tax to state and local governments. Only on-time returns to the Department of Revenue are allowed to retain the vendor fee. Table 2 below includes a history of state vendor fee rates.

In 2018, approximately 146,115 sales and use tax accounts retained a total of \$107.0 million in vendor fees. About 1,400 sales and use tax accounts will be capped under this bill. Average net taxable sales for these 1,400 retailers is over \$10.0 million per account in 2018, and they retained \$68.7 million of the total vendor fee.

**Table 2**  
**Colorado Vendor Fee History**

<b>Dates</b>	<b>Vendor Fee</b>
July 1, 1935 to June 30, 1965	5.00 percent
July 1, 1965 to June 30, 2003	3.33 percent
July 1, 2003 to June 30, 2005	2.33 percent
July 1, 2005 to February 28, 2009	3.33 percent
March 1, 2009 to June 30, 2009	1.35 percent
July 1, 2009 to June 30, 2011	0 percent
July 1, 2011 to June 30, 2014	2.22 percent
July 1, 2014 to current	3.33 percent

**Housing Development Grant Fund.** Under current law, the Housing Development Grant Fund consists of moneys appropriated by the General Assembly to acquire, rehabilitate, and construct affordable housing projects through a competitive grant process. The fund also covers the cost of acquiring economic data used to advise the State Housing Board on local housing conditions.

The fund was created pursuant to House Bill 09-1213 and is administered by the Division of Housing in the Department of Local Affairs. In FY 2017-18, the Housing Development Grant Fund received a total of \$23.3 million from both the General Fund (\$8 million) and from marijuana sales tax revenue (\$15.3 million). The Division of Housing expects to obligate all of the funds available during this fiscal year. The typical funding amount per project is approximately \$500,000.

## **State Revenue**

This bill will result in a General Fund revenue increase of \$23.1 million in FY 2019-20, which represents a half-year impact, \$47.9 million in FY 2020-21, and \$49.4 million in FY 2021-22, with ongoing revenue impacts in subsequent years. A portion of this increase in General Fund revenue is transferred to the Housing Development Grant Cash Fund during FY 2019-20 and FY 2020-21, with transfers of the total net revenue gain from this bill starting in FY 2021-22. Revenue derived from the vendor fee cap is expected to increase in future years with changes in sales tax revenue. This revenue estimate assumes a similar distribution of sales by net taxable sales category and a similar number of returns filed on time as exists under current law. Sales tax revenue is subject to TABOR.

## **State Transfer**

This bill requires General Fund transfers to the Housing Development Grant Fund equal to the amount of the additional revenue collected from the vendor fee change less an amount retained by the General Fund during the first two fiscal years. Out of the estimated total revenue of \$23.1 million in FY 2019-20, \$7.8 will be transferred to the Housing Development Grant Fund and \$15.0 million plus the \$339,179 in administrative costs will be retained in the General Fund. In FY 2020-21, \$7.3 million will be transferred to the Housing Development Grant Fund, while \$40.3 million plus \$323,158 in administrative costs will be retained in the General Fund. In FY 2021-22, \$48.4 million will be transferred to the Housing Development Grant Fund and \$985,335 in administrative costs will be retained in the General Fund.

## **State Expenditures**

State expenditures will increase by \$355,781 and 0.4 FTE in FY 2019-20, \$323,158 and 3.4 FTE in FY 2020-21, and \$985,335 and 8.7 FTE in FY 2021-22 with ongoing expenditure impacts in subsequent years. If revenue differs from these expectations, state expenditures could be higher or lower. Administrative implementation costs of the vendor fee changes are designed to be funded by the revenue generated by the vendor fee changes; however, there will be a lag between initial required costs and the incoming tax revenue. These impacts are described below.

**Table 3  
Expenditures Under HB 19-1245**

<b>Cost Components</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Local Affairs (DOLA)</b>			
Personal Services	-	\$191,858	\$547,610
Operating Expenses and Capital Outlay Costs	-	\$16,674	\$31,115
Computer System	\$39,400	\$19,125	\$34,650
Travel Mileage	-	\$1,820	\$4,680
Cell Phone Service	-	\$2,340	\$6,240
Regional Consultants	-	-	\$187,500
Centrally Appropriated Costs*		\$42,052	\$124,251
FTE – Personal Services	0 FTE	2.7 FTE	8.0 FTE
<b>DOLA (Subtotal)</b>	<b>\$39,400</b>	<b>\$273,869</b>	<b>\$936,046</b>
<b>Department of Revenue (DOR)</b>			
Personal Services	\$20,244	\$34,702	\$34,702
Operating Expenses and Capital Outlay Costs	\$5,368	\$665	\$665
Contractor Costs	\$166,192	-	-
GenTax Computer Programming & Testing	\$94,604	-	-
Centrally Appropriated Costs*	\$9,973	\$13,922	\$13,922
FTE – Personal Services	0.4 FTE	0.7 FTE	0.7 FTE
<b>DOR (Subtotal)</b>	<b>\$296,381</b>	<b>\$49,289</b>	<b>\$49,289</b>
<b>Total</b>	<b>\$335,781</b>	<b>\$323,158</b>	<b>\$985,335</b>
<b>Total FTE</b>	<b>0.4</b>	<b>3.4 FTE</b>	<b>8.7 FTE</b>

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

**Department of Local Affairs.** This bill will require 2.7 FTE (partial-year impact) in FY 2020-21, and 8.0 FTE (full-year impact) in subsequent years, to manage the additional revenue allocated to the Housing Development Grant Fund. The FTE will provide technical assistance to local communities to help determine applicant need and evaluate projects for funding. Additionally, these FTE will manage grant and loan contracts, as well as ensure regulatory and contractual compliance. Hiring of FTE will be tiered to reflect a ramp-up in revenue flows.

To create efficiencies, DOLA will allocate larger buckets of funding per project with this revenue, thus reducing the need to onboard a greater number of FTE. Of the 8.0 FTE, 3.0 are expected to be located outside of the Front Range to assess and manage affordable housing needs in more rural areas. Starting in FY 2021-22, consultants will be contracted to provide technical assistance to local governments across DOLA's eight regions throughout the state. Additional funding is required to modernize DOLA's software system to handle the larger workload, as well as to cover travel and cell phone expenses.

The revenue generated by this bill for allocation to the Housing Development Grant Fund managed by DOLA more than doubles the funding the department currently manages, which totaled \$36 million in FY 2017-18. A team of 20.5 FTE manages the program under current law.

**Department of Revenue.** The changes to the vendor fee require computer programming changes to the GenTax software system within DOR. The GenTax system programming hourly rate is \$250 and 317 hours are required to make the changes to implement the bill for a total of \$79,250 in FY 2019-20. Additional costs for internal testing of the software are required, totaling \$15,354. It is assumed that the programming changes will need to be made before the change in the vendor fee takes effect. This fiscal note assumes that these expenditures will be appropriated from the General Fund because a system must be in place before additional tax revenues can be collected. Beginning in FY 2019-20, the Department of Revenue requires 0.4 FTE (seven-month impact) in the Taxpayer Services call center and for examining returns and managing taxpayer protests and correspondence. In FY 2020-21 and future years, a total of 0.7 FTE are required in these same positions.

**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 \$9,973 in FY 2019-20, \$55,974 in FY 2020-21, and \$138,173 in FY 2021-22.

**TABOR refunds.** The bill increases state revenue subject to TABOR by \$23.1 million in FY 2019-20 and by \$49.9 million in FY 2020-21, with ongoing impacts in subsequent years. These amounts represent the net impacts of the increase in sales tax revenue, which is subject to TABOR. Based on Legislative Council Staff's June 2019 forecast, the state is expected to collect a TABOR surplus in FY 2019-20 and FY 2020-21. This bill increases TABOR refunds for both years, which are expected to be refunded through the property tax exemption reimbursement and the six-tier sales tax refund mechanisms. The revenue increase from this bill was included in the June forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2020-21.

## Technical Note

For FY 2019-20, the enacted bill includes an appropriation to DOLA for use by the Division of Housing of \$3,398. This amount was based on an amount included in Legislative Council Staff's memo regarding the fiscal impacts of Amendment L.014, dated April 27, 2019. The correct amount that should have been appropriated is \$39,400, and is included in total state expenditures in this final fiscal note.

## Effective Date

The bill was signed into law by the Governor on May 17, 2019, and took effect August 2, 2019.

## State Appropriations

This bill requires a General Fund appropriation in FY 2019-20 of \$325,808 as follows:

- \$286,408 and an allocation of 0.4 FTE to the Department of Revenue; and
- \$39,400 to the Department of Local Affairs.

The enacted bill includes the following appropriations (see Technical Note above):

- \$286,408 and an allocation of 0.4 FTE to the Department of Revenue; and
- \$3,398 to the Department of Local Affairs.

## State and Local Government Contacts

Information Technology  
Personnel

Local Affairs  
Revenue

Municipalities