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Revised Fiscal Note

(replaces fiscal note dated April 18, 2024)

Drafting Number: LLS 24-0546 Date: April 20, 2024
Prime Sponsors: Rep. Duran Bill Status: House Third Reading
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Bill Topic: FIREARMS & AMMUNITION EXCISE TAX

Summary of Fiscal Impact: [X] State Revenue [X] State Transfer [X] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill refers a ballot measure to voters at the November 2024 election. Conditional on voter approval, the bill imposes an excise tax on firearms dealers, firearms manufacturers, and ammunition vendors beginning April 1, 2025. The bill conditionally increases state revenue, expenditures, and transfers beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill conditionally requires an appropriation of \$383,027 to the Department of Revenue.

Fiscal Note Status: This revised fiscal note reflects the engrossed bill.

Table 1
Conditional State Fiscal Impacts Under HB 24-1349

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers (General Fund, Cash Funds, Net Transfers), and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill refers a ballot measure to voters at the November 2024 election. If voters approve the ballot measure, the bill imposes an excise tax on firearms dealers, firearms manufacturers, and ammunition vendors equal to 9 percent of net taxable sales from the retail sale of any firearm, firearm precursor part, or ammunition in Colorado. The tax is levied beginning on April 1, 2025. If approved by voters, revenue from the tax is exempt from TABOR as a voter-approved revenue change.

Revenue from the tax is collected in the General Fund and transferred to a new Firearms and Ammunition Excise Tax Cash Fund. Revenue in the fund is to be used for the implementation and administration of the excise tax annually before being distributed as follows:

- the first \$35 million in the first fiscal year and that amount adjusted for inflation in each fiscal year thereafter is transferred to the Colorado Crime Victim Services Fund (Victim Services Fund) in the Division of Criminal Justice of the Department of Public Safety for crime victim services grants;
- the next \$10 million in each fiscal year is transferred to the School Disbursement Program Cash fund and is subject to annual appropriation by the general assembly;
- the next \$5 million in each fiscal year is transferred to the Behavioral and Mental Health Cash Fund for the continuation and expansion of access to behavioral health crisis response system services for children and youth;
- the next \$5 million in each fiscal year is transferred to the Behavioral and mental Health Cash Fund for the continuation and expansion of the veterans mental health services program; and
- any remaining money in each fiscal year must be transferred to the Victim Services Fund for crime victim services grants.

The bill extends the School Security Disbursement Program Cash Fund, currently scheduled to be repealed on July 1, 2024, through July 1, 2032. It also extends the Behavioral and Mental Health Cash Fund, currently scheduled to be repealed on July 1, 2027, through July 1, 2032.

Exemptions. If total retail sales of a firearms dealer, manufacturer, or ammunition vendor is less than \$2,000 in a month, the business's sales are exempt from the excise tax. Retail sales to peace officers, law enforcement agencies, and active duty military are exempt from the excise tax.

Background

Firearms and ammunition are currently subject to an 11 percent federal excise tax. Other states have historically levied taxes on those selling, purchasing, or possessing firearms and other weapons. As of 2023 legislative sessions, California is the only other state that imposes an excise tax on firearms and ammunition, though Pennsylvania and some local governments levy comparable excise taxes or surcharges on firearm sales.

State Revenue

If voters approve the ballot measure, the bill is estimated to increase state revenue to the Firearms and Ammunition Excise Tax Cash Fund by \$12.5 million in FY 2024-25, \$49.5 million in FY 2025-26, and \$51.1 million in FY 2026-27 with comparable growth in future years. Revenue from the tax is exempt from TABOR as a voter-approved revenue change.

Based on national retail sale prices for firearms and ammunition, the fiscal note assumes average costs as follows:

- \$548 for a handgun;
- \$932 for a long gun;
- \$740 for other types of guns and precursor parts; and
- \$1,480 for purchases that include multiple guns.

Due to volatility in prices of firearms and precursor parts that is not solely attributable to inflation, firearms and precursor parts are not inflation-adjusted. The total estimated number of firearms sold each year is derived from approved firearm background checks as reported by the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI). The fiscal note assumes about 460,000 total firearm sales per year. The revenue estimate does not account for any sales exempted from the excise tax or any behavioral changes in sales that may result from the enactment of the bill.

Based on the estimated ammunition market size in the United States and the proportion of firearm background checks that occur in Colorado compared to the rest of the U.S., the fiscal note estimates that ammunition retail sales will contribute \$4.5 million to revenue collections in FY 2024-25, \$18.1 million in FY 2025-26, and \$19.3 million in FY 2026-27 with comparable growth in future years. The price of ammunition is assumed to increase by the Denver-Aurora-Lakewood inflation rates assumed in the March 2024 LCS forecast and growth in total amount of guns owned in Colorado each year.

State Transfers

If voters approve the ballot measure, the bill makes yearly transfers from the Firearms and Ammunition Excise Tax Cash Fund to three different cash funds in the order specified in the summary section of the fiscal note, after administrative and implementation costs are paid. The amount of total transfers to each cash fund is dependent on the total revenue collected from the excise tax per this bill.

It is assumed that administrative expenses will be paid from the General Fund in FY 2024-25 and from the cash fund in later years. For FY 2024-25, the bill requires a transfer of about \$380,000 from the cash fund to the General Fund to repay costs initially paid from the General Fund. The remaining \$12.1 million will be transferred to the Victim Services Fund.

In FY 2025-26, the bill makes transfers estimated as follows:

- \$35.8 million to the Victim Services Fund for crime victim services grants;
- \$10.0 million to the School Security Disbursement Program Cash Fund; and
- \$3.5 million to the Behavioral and Mental Health Cash Fund.

State Expenditures

If voters approve the ballot measure, the bill increases state expenditures to administer the new excise tax by about \$390,000 in FY 2024-25 and \$180,000 in FY 2025-26 and future years. These are summarized in Table 2 and discussed below. The costs are paid from the General Fund in FY 2024-25 and reimbursed by the Firearm and Ammunition Cash Fund at the end of the fiscal year. In FY 2025-26 and future years, costs are paid from the Firearm and Ammunition Cash Fund. The bill will also increase other spending of the new tax revenue by up to \$12.1 million in FY 2024-25, up to \$49.5 million in FY 2025-26, and increasing amounts in future years.

Table 2
Conditional Tax Implementation Costs Under HB 24-1349

	FY 2024-25	FY 2025-26
Department of Revenue		
Personal Services	\$20,845	-
Operating Expenses	\$512	-
Capital Outlay Costs	\$3,335	-
GenTax Programming & Testing	\$178,116	-
Office of Research Analysis	\$7,392	\$7,328
Legal Services	\$172,827	\$172,827
Centrally Appropriated Costs ¹	\$6,554	-
FTE – Personal Services	0.4 FTE	-
FTE – Legal Services	0.8 FTE	0.8 FTE
Total Cost	\$389,581	\$180,155
Total FTE	1.2 FTE	0.8 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Tax personnel. DOR requires 0.5 FTE tax examiner to answer taxpayer questions, review returns, and work with taxpayers to resolve issues. Personnel needs are estimated based on the assumed number of businesses impacted by the excise tax. Based on data reported by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, there is an estimated 2,250 businesses that would be subject to this tax. Workload is expected to be absorbable in future years as the volume of questions and errors decrease over time. Additional personnel will be required only from October 2024 through June 2025.

Legal services. DOR requires general counsel from the Department of Law on rulemaking, implementation, and the ongoing administration of the tax. Legal services needs are estimated at 1,350 hours (0.8 FTE) in the first year to promulgate rulemaking and in future years to provide legal representation for statutory interpretation questions raised by DOR and taxpayers. The bill establishes a new registration process for firearms dealers and manufacturers and grants DOR the ability to deny or revoke registrations; denial and revocation of registrations will be addressed in district court, further driving DOR's need for legal services.

GenTax Programming and Testing. DOR needs one-time funding in FY 2024-25 to create and program forms and returns. GenTax programming is estimated to require 600 hours at \$231.75 per hour, paid to the vendor, for a total cost of \$139,050. In addition, required development and testing work in support of GenTax programming is estimated to require 1,149 hours of work for a total one-time cost of \$39,066.

Office of Research Analysis. The Office of Research and Analysis within the Department of Revenue will perform 231 hours of work at a rate of \$32 per hour in FY 2024-25, and 228 hours of work in future years, to update database fields and conduct ongoing reporting.

Victim and other services. Based on available revenue, expenditures will increase by up to \$12.1 million in FY 2024-25 and up to \$49.3 million in FY 2025-26 and increasing amounts in future years to provide crime victim and other services, based on the amounts and for the purposes listed in the State Transfer section above. The Victim Services Fund and the Behavioral and Mental Health Cash Fund are continuously appropriated to the Department of Public Safety and the Behavioral Health Administration, respectively. The School Security Disbursement Program Cash Fund within the Department of Public Safety is subject to annual appropriation by the General Assembly. The timing and amount of future expenditures may vary based on future agency decisions and by appropriations made by the General Assembly through the annual budget process.

Election expenditure impact — existing appropriations. This bill includes a referred question that will appear before voters at the November 2024 general election. While no additional appropriation is required, certain election costs are incurred by the state when ballot measures are referred. These include reimbursing counties for certain election costs; publishing the text and title of the measure in newspapers across the state; and preparing and mailing the ballot information booklet.

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 shown in Table 2.

Other Budget Impacts

General Fund Reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2024-25.

Based on this fiscal note, the bill conditionally increases the amount of General Fund held in the reserve by the amounts shown in Table 1, which decreases the amount of General Fund available for other purposes.

Local Government

The proposed bill is anticipated to make additional funding available to local governments, including local law enforcement agencies and school districts. Funding will be used to provide services including crime victim and witness assistance; school security; and behavioral and mental health crisis services. Additional funding may also be available to local governments eligible for grants from various programs administered by the Division of Criminal Justice that would receive an allocation of the new excise tax. Local law enforcement agencies would not have to pay the excise tax for firearms or ammunition.

Technical Note

The Department of Revenue may not have sufficient time to create and program forms and returns, register vendors, promulgate rules, and draft web guidance and other publications before the April 1, 2025 implementation date. DOR is undertaking an upgrade to the GenTax system starting in January 2025 which will limit the ability to make the necessary programming changes before April 1, 2025.

Effective Date

The portion of the bill that refers a ballot measure to voters takes effect upon signature of the Governor, or upon becoming law without his signature. The remainder of the bill takes effect only if voters approve the ballot measure at the November 2024 election.

State Appropriations

If voters approve the ballot measure, for FY 2024-25, the bill requires a General Fund appropriation of \$383,027 to the Department of Revenue, and 1.2 FTE. Of this amount, \$172,827 should be reappropriated to the Department of Law with an additional 0.8 FTE.

State and Local Government Contacts

Corrections	Counties	District Attorneys
Information Technology	Judicial	Local Affairs
Law	Municipalities	Natural Resources
Personnel	Public Safety	Revenue
Secretary of State	Special Districts	State Auditor
BHA	Treasury	Education

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).