



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

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Prime Sponsors:

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Fiscal Analyst: David Hansen | 303-866-2633
David.Hansen@state.co.us

Bill Topic: ELECTRONIC LOCAL LODGING TAX SYSTEM

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

The bill requires the Department of Revenue to create an electronic lodging tax system. The bill increases state revenue, increases state expenditures, and decreases revenues for local governments.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$1.7 million to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Sales and Use Tax Simplification Task Force.

Table 1
State Fiscal Impacts Under Bill 3

Table with 5 columns: Category, Fund, Budget Year FY 2023-24, Out Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

## **Summary of Legislation**

The bill requires the Department of Revenue (DOR) to create an electronic system for users to remit local lodging taxes that will be interoperable with the existing electronic Sales and Use Tax System (SUTS). The new system must be completed by July 1, 2024. The system will process returns and payments for local marketing districts and county lodging taxes that are collected by the DOR, as well as for self-collecting jurisdictions that voluntarily use the system.

The bill also requires the DOR to annually determine the cost of creating, maintaining, and administering the system, and to retain up to 3.33 percent of the local lodging taxes that are collected through the system to offset its cost. The amount retained will be in place of, and not in addition to, amounts the department already keeps from local lodging taxes to cover its costs of collecting and administering them under current law.

## **Background**

Local governments in Colorado may establish local marketing districts with voter approval, and impose a marketing and promotion tax on rooms and accommodations that is collected by the Department of Revenue. Counties in Colorado may levy a county lodging tax up to 2.0 percent that is also collected by the Department.

Under current law, the Department of Revenue retains up to 3.33 percent of county lodging and local marketing district taxes to cover its cost of administration. For FY 2022-23, the Department will retain \$108,386 from local tax distributions based on FY 2020-21 costs.

## **State Revenue**

The bill increases General Fund revenue by an estimated \$6,000 in FY 2024-25, \$145,000 in FY 2025-26, and larger amounts in later years. The bill increases the amount of local government lodging tax revenue retained by the state to cover the development and maintenance cost of the electronic lodging tax system. This retained revenue is subject to TABOR.

Specifically, additional revenue is generated in two ways. First, when home rule municipalities opt into the system, additional tax will be collected by DOR and 3.33 percent of this tax revenue will be retained by the state. Second, when retailers that currently use the existing DOR filing system opt in to using the new filing system, the percent retained will increase. This will occur because the existing system retains a lower percent of revenue than the 3.33 percent cap, whereas the new system's costs will exceed the revenue retained and DOR is expected to retain the full 3.33 percent through at least FY 2025-26. Over time, as more jurisdictions and retailers use the system, it is expected that DOR will lower the retained percent once retained revenue exceeds their actual costs of maintaining the system.

Assuming retailer take-up rates are similar to those for the SUTS, lodging tax payments processed through the system are expected to reach \$3.4 million in FY 2024-25 and \$7.6 million in FY 2025-26. After accounting for current retained revenue of about \$108,000 per year, the DOR is expected to retain an additional \$6,000 in FY 2024-25 and \$145,000 in FY 2025-26. The amount retained will differ from this estimate to the extent that retailer participation differs from these assumptions.

**State Expenditures**

The bill increases state General Fund expenditures in the DOR by up to \$1.8 million in FY 2023-24 and up to \$1.1 million in FY 2024-25, with similar impacts in future years. Expenditures are shown in Table 2 and detailed below.

**Table 2  
Expenditures Under Bill 3**

	FY 2023-24	FY 2024-25
<b>Department of Revenue</b>		
Personal Services	\$192,210	\$256,279
Operating Expenses	\$4,455	\$5,400
Capital Outlay Costs	\$26,680	-
Lodging Tax System Development & Maintenance	Up to \$1.5 million	Up to \$750,000
Centrally Appropriated Costs <sup>1</sup>	\$52,155	\$68,074
FTE – Personal Services	3.1 FTE	4.0 FTE
<b>Total Cost</b>	<b>Up to \$1,775,500</b>	<b>Up to \$1,079,753</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Personal Services.** The DOR will require staff to support the new system with development and testing, and to provide system maintenance, integrations with SUTS and, if necessary, GenTax. Staff will also work to manage contracts with local governments and ensure their correct implementation in the system. Table 2 includes standard operating expenses and capital outlay costs for these staff.

**Lodging Tax System Development and Maintenance.** The bill requires the department to build a new software system. The system development is expected to cost between \$750,000 and \$1.5 million in FY 2023-24 based on preliminary market research. Cost variance depends on the complexity of integrating the systems with local governments and how many local governments participate in the new system. Ongoing maintenance costs will be between an estimated \$350,000 and \$750,000 each year beginning in FY 2024-25.

**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**

**TABOR refund.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section. Because the bill increases both General Fund revenue and the General Fund obligation for TABOR refunds, the bill will have no net impact on the amount available for the General Fund budget. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25.

**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 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by up to \$258,502 in FY 2023-24 and up to \$151,752 in FY 2024-25 and subsequent years, which will decrease the amount of General Fund available for other purposes.

## **Local Government**

The bill will reduce revenue for county lodging tax districts, local marketing districts, and home-rule municipalities that participate in the new system due to tax collections that are retained by the DOR. The estimated decline for these jurisdictions is an estimated \$6,000 in FY 2024-25, \$145,000 in FY 2025-26, and growing in-line with increased usage by vendors and local jurisdictions. As usage of the system grows, the revenue impact could increase up to \$1.1 million in future years, the amount expected to cover DOR's cost of support and maintenance of the system

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2023-24, the bill requires a General Fund appropriation of \$1,723,345 to the Department of Revenue.

## **State and Local Government Contacts**

Counties  
Regional Transportation District

Municipalities  
Revenue

Personnel  
Special Districts