



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 22-0729 **Date:** September 16, 2022
Prime Sponsors: Sen. Kolker; Rodriguez **Bill Status:** Signed into Law
Rep. McLachlan; Snyder **Fiscal Analyst:** David Hansen | 303-866-2633
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Bill Topic: **SALES TAX ASSISTANCE FOR SMALL BUSINESS**

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 type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill increases the state vendor fee in 2023 from 4.0 percent to 5.3 percent for retailers with less than \$100,000 in taxable sales per filing period and allows the Department of Revenue to deduct convenience fees from certain electronic tax payments. The bill decreases state revenue and increases state expenditures in FY 2022-23 and FY 2023-24, with an ongoing reduction in revenue from deducting electronic payment fees.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of \$61,980 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-006

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	(\$2.8 million)	(\$3.1 million)
Expenditures	General Fund	\$61,980	\$44,380
Other Budget Impacts	Tabor Refund	(\$2.8 million)	(\$3.1 million)
	General Fund Reserve	\$9,297	\$6,657

Summary of Legislation

The bill increases the state vendor fee from 4.0 percent to 5.3 percent starting January 1, 2023. The increase is effective for one calendar year and applies only to retailers with less than \$100,000 in taxable sales per filing period.

The bill clarifies that the calculation of the amount that is credited to the Housing Development Grant Fund is based on the changes to the vendor fee under House Bill 19-1245, and not on any subsequent modifications, including those changes made in this bill.

Lastly, the bill allows the Department of Revenue to deduct processing costs from certain electronic tax payments to incentivize more use of electronic payments.

Background

Retailers are required to collect and remit sales and use tax and are allowed to retain a fee to help cover these expenses, which has changed over time as shown in Table 3. Under current law, retailers with less than \$1.0 million in sales during a filing period (generally each month), may retain 4.0 percent of collections, up to \$1,000 per account per filing period.

Table 2
Colorado Vendor Fee History

Dates	Vendor Fee
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	0.00 percent
July 1, 2011 to June 30, 2014	2.22 percent
July 1, 2014 to December 31, 2019	3.33 percent
January 1, 2020 to current	4.00 percent ¹

¹ Available for retailers with less than \$1.0 million in sales during a filing period and subject to a \$1,000 cap per retailer, per filing period.

House Bill 19-1245. Recent legislation modified the vendor fee over the past few years. Beginning January 1, 2020, House Bill 19-1245 increased the fee from 3.33 percent to 4.00 percent and capped the fee at \$1,000 per retailer per filing period. The revenue raised by the cap is credited to the Housing Development Grant Fund, administered by the Division of Housing in the Department of Local Affairs. The vendor fee was modified further by House Bill 21-1312, which limited the fee to retailers with less than \$1.0 million in taxable sales per filing period beginning January 1, 2022.

State Revenue

The bill is expected to decrease state revenue by \$2.8 million in FY 2022-23 and \$3.1 million in FY 2023-24, with an ongoing revenue reduction of \$0.3 million in subsequent years.

Vendor fee. For the 12 months ending October 2021, an average of 58,832 retailers with monthly taxable sales less than \$100,000 retained a total of \$14.1 million, based on data from the Department of Revenue. The vendor fee will be increased for these accounts under the bill. This revenue estimate assumes a similar share of taxable sales for retailers with less than \$100,000 in monthly sales, and projected growth consistent with the December 2021 Legislative Council Staff sales and use tax forecast. Sales and use tax revenue is subject to TABOR.

Electronic payments processing fee. Based on data from the Department of Revenue, deducting the processing fee from certain electronic payments will reduce General Fund revenue on an ongoing basis by about \$0.3 million each year.

State Expenditures

The bill increases state expenditures from the General Fund by \$61,980 in FY 2022-23, and by \$44,380 in FY 2023-24. Expenditures are displayed in Table 3 and described below.

Table 3
Expenditures Under SB 22-006

	FY 2022-23	FY 2023-24
Department of Revenue		
Computer and User Acceptance Testing	\$33,705	\$21,105
GenTax Computer Programming	\$16,875	\$16,875
Office of Research and Analysis	\$6,400	\$6,400
Sales and Use Tax System Computer Programming	\$5,000	\$0
Total Cost	\$61,980	\$44,380

The changes to the vendor fee require computer-programming changes that will result in costs within the Department of Revenue for development support, testing, and contractor services. The required changes will result in costs in FY 2022-23 when they are initially implemented, and in FY 2023-24 when the fee drops back to 4.0 percent. The analysis assumes contract services for GenTax computer programming will require 75 hours in both FY 2022-23 and FY 2023-24, billed at \$225 per hour. Sales and Use Tax System (SUTS) computer programming is assumed to have a one-time cost of \$5,000 for the Department's contractor in FY 2022-23. Additionally, the Office of Research and Analysis will incur additional costs for both implementation and reversal of the vendor fee change.

Other Budget Impacts

Tabor refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2021 Legislative Council Staff revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24.

Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

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 \$9,297 in FY 2022-23 and \$6,657 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Governor on May 16, 2022, and it took effect on August 9, 2022, except the vendor fee change takes effect January 1, 2023.

State Appropriations

For FY 2022-23, the bill requires and includes an appropriation of \$61,980 to the Department of Revenue.

State and Local Government Contacts

Information Technology
Personnel

Local Affairs
Revenue