

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2020-21

DEPARTMENT OF REVENUE

(Executive Director's Office and Taxation Business Group)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
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DEPARTMENT OF REVENUE

(Executive Director's Office and Taxation Business Group)

DEPARTMENT OVERVIEW

The Department of Revenue regulates, enforces, and administers the state's tax laws. The Department also issues and maintains records related to drivers licenses, vehicle emission testing stations, registration and titling of motor vehicles, limited stakes gaming, liquor and tobacco retailers, horse racing and pari-mutuel betting, the automobile sales industry, and medical and recreational marijuana retailers, growing facilities, and manufacturing facilities. In addition, the Department operates the State Lottery, including state and multi-state games. The Department is divided into six divisions or business groups, four of which provide direct services to the citizens of the State, and two that provide support for the four direct-service providers. This briefing document includes the following two divisions:

THE EXECUTIVE DIRECTOR'S OFFICE provides overall leadership and administration for the Department, including the central budget office, accounting and financial services, internal audit, human resources administration, and includes the Office of Research and Analysis, a citizens' advocate, and the Hearings Division.

THE TAXATION BUSINESS GROUP

- Is responsible for the collection, administration, and enforcement of individual and corporate income taxes, sales and use taxes, gasoline and special fuel taxes, and severance taxes, as well as all other taxes collected by the state;
- Provides assistance and information to taxpayers about compliance with Colorado's tax laws;
- Attempts to resolve taxpayer disputes before they reach the court system;
- Administers the cigarette tax rebate and the Amendment 35 distribution of cigarette taxes to the cities and counties;
- Administers the Old Age Heat and Fuel and Property Tax Rebate Program; and
- Administers the Commercial Vehicle Enterprise Sales Tax Refund.

The remaining four divisions (**THE INFORMATION TECHNOLOGY DIVISION, THE DIVISION OF MOTOR VEHICLES, THE ENFORCEMENT BUSINESS GROUP, AND THE STATE LOTTERY DIVISION**) are included in a separate staff briefing.

DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	\$108,468,830	\$113,271,850	\$124,688,584	\$128,005,756
Cash Funds	241,710,307	250,494,506	272,747,155	278,269,078
Reappropriated Funds	6,245,246	6,381,910	6,149,821	10,845,439
Federal Funds	824,388	824,388	1,036,329	1,073,589
TOTAL FUNDS	\$357,248,771	\$370,972,654	\$404,621,889	\$418,193,862
Full Time Equiv. Staff	1,437.2	1,472.2	1,564.4	1,591.0

*Requested appropriation.

EXECUTIVE DIRECTOR'S OFFICE: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	\$34,179,294	\$34,230,971	\$37,234,303	\$42,482,173
Cash Funds	33,089,264	32,365,745	37,500,616	40,760,673
Reappropriated Funds	5,495,896	5,488,504	5,315,991	10,007,615
Federal Funds	0	0	211,941	221,457
TOTAL FUNDS	\$72,764,454	\$72,085,220	\$80,262,851	\$93,471,918
Full Time Equiv. Staff	153.7	155.7	164.3	171.9

*Requested appropriation.

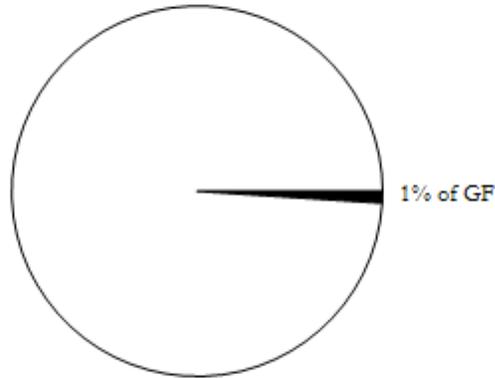
TAXATION BUSINESS GROUP: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	\$68,471,365	\$73,109,785	\$80,081,886	\$80,113,432
Cash Funds	3,488,304	3,435,997	3,682,074	3,189,351
Reappropriated Funds	317,368	317,368	317,368	317,368
Federal Funds	824,388	824,388	824,388	852,132
TOTAL FUNDS	\$73,101,425	\$77,687,538	\$84,905,716	\$84,472,283
Full Time Equiv. Staff	402.5	402.8	420.5	408.6

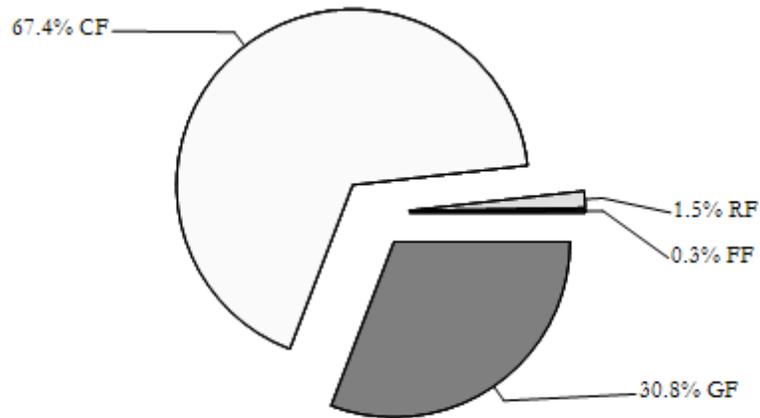
*Requested appropriation.

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

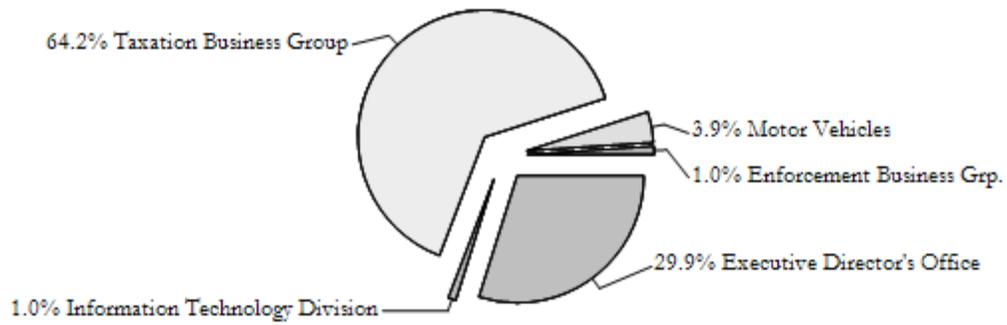


Department Funding Sources

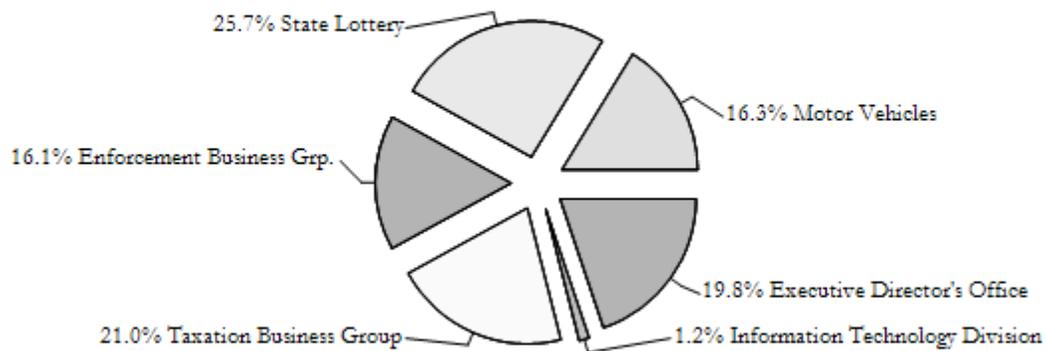


All charts are based on the FY 2019-20 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2019-20 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

Funding for the Department of Revenue in FY 2019-20 consists of 30.8 percent General Fund, 67.4 percent cash funds, 1.5 percent reappropriated funds, and 0.3 percent federal funds. The Department's primary budget drivers are the State's tax structure, population, and business activity in regulated industries. In recent years, mineral severance activity and legislative changes related to identification document requirements have also increased demands on Department staff and systems.

Funding for the divisions covered in this briefing document consists of 71.0 percent General Fund, 24.9 percent cash funds, 3.4 percent reappropriated funds, and 0.6 percent federal funds in FY 2019-20. Some of the major factors driving these division budgets are discussed below.

TAXATION BUSINESS GROUP

The complexity of Colorado's tax structure affects the resources required by the Taxation Business Group. In addition to collecting State taxes, the Department collects local taxes for most counties, cities, and special districts in Colorado, and tracks and distributes the collections monthly to the local governments. Local sales taxes collected include: city sales tax, county lodging tax, county transit sales tax, special district taxes, and transportation authority tax.

In FY 2017-18, the most recent year with finalized and audited data, \$8.3 billion dollars in corporate and individual incomes taxes and \$4.5 billion in sales, use, and excise taxes were collected. An additional \$102.7 million in severance taxes and \$1.7 billion in local taxes were also collected by the Department.

The following table outlines net collections by the Department of state and local taxes.

STATE AND LOCAL TAXES - NET COLLECTIONS BY SOURCE						
	FY12-13	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18
Sales, Use, and Excise	\$3,358,295,289	\$3,589,496,389	\$3,884,650,516	\$3,971,595,400	\$4,205,477,196	\$4,504,425,027
Income						
Individual	\$5,492,975,311	\$5,604,460,072	\$6,265,989,913	\$6,408,294,486	\$6,751,356,491	\$7,451,886,967
Corporate (and Partnership)	652,180,000	717,490,225	669,053,880	626,109,655	528,543,069	782,678,705
Fiduciary	<u>35,509,997</u>	<u>49,482,213</u>	<u>60,348,290</u>	<u>42,604,925</u>	<u>40,551,342</u>	<u>58,479,509</u>
Subtotal - Income	\$6,180,665,308	\$6,371,432,510	\$6,995,392,083	\$7,077,009,066	\$7,320,450,902	\$8,293,045,181
Total Sales and Income collections	\$9,538,960,597	\$9,960,928,899	\$10,880,042,599	\$11,048,604,466	\$11,525,928,098	\$12,797,470,208
Severance	147,730,791	245,087,355	292,685,322	84,076,263	(7,195,424)	102,722,238
Total State Tax Collections	\$9,686,691,388	\$10,206,016,254	\$11,172,727,921	\$11,132,680,729	\$11,518,732,674	\$12,900,192,446
Local Taxes	1,229,611,187	1,320,838,949	1,433,206,180	1,507,965,792	1,612,435,969	1,726,680,823
Total Tax Collections	\$10,916,302,575	\$11,526,855,203	\$12,605,934,101	\$12,640,646,521	\$13,131,168,643	\$14,626,873,269
Tax Bus Group - GF actual expenditures	\$23,696,341	\$24,374,377	\$30,192,553	\$32,701,868	\$33,601,977	\$36,340,575
percent of Sales and Income collections	0.25%	0.24%	0.28%	0.30%	0.29%	0.28%
percent of Total Tax collections	0.22%	0.21%	0.24%	0.26%	0.26%	0.25%

As reflected in the table, the General Fund cost of the Taxation Business group represents 0.28 percent of total state sales and income tax collections and 0.25 percent of all tax collections in the most recent fiscal year.

The following table outlines Taxation Business Group appropriations (excluding the Special Purpose subdivision).

TAXATION BUSINESS GROUP APPROPRIATIONS (EXCLUDING SPECIAL PURPOSE)								
	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21
General Fund	\$26,189,215	\$33,878,545	\$35,166,692	\$37,246,793	\$39,871,365	\$38,997,129	\$42,809,420	\$42,038,266
Cash Funds	3,448,965	3,741,333	2,031,642	2,019,744	2,046,760	2,025,746	2,338,441	1,845,718
Reappropriated Funds	220,085	220,085	220,085	271,468	317,368	317,368	317,368	317,368
Federal Funds	824,388	824,388	824,388	824,388	824,388	824,388	824,388	852,132
Total Funds	\$30,682,653	\$38,664,351	\$38,242,807	\$40,362,393	\$43,059,881	\$42,164,631	\$46,289,617	\$45,053,484
FTE	333.2	371.9	381.9	404.2	402.5	402.8	420.5	408.6
Total Funds percent of Tax Bus Group	59.7%	57.4%	60.9%	57.0%	58.9%	54.3%	54.5%	53.3%
Total Funds annual percent change		26.0%	(1.1%)	5.5%	6.7%	(2.1%)	9.8%	(2.7%)
Total Funds CAGR								4.9%
General Fund CAGR								4.0%

As reflected in the table, compound annual growth rate totals 4.9 percent for the total funds appropriation and 4.0 percent for the General Fund appropriation over the period included in the table.

GEN TAX

Included in the table above are the costs for the state's tax administration system known as GenTax. The following table outlines the capital construction appropriations from FY 2006-07 through FY 2012-13 and isolates the annual operating appropriations since FY 2013-14 for the GenTax system included in the Taxation Business Group. Additional staff resources for managing the GenTax system are located in the Executive Director's Office and are not included in the table.

GEN TAX APPROPRIATIONS (CAPITAL CONSTRUCTION AND TAX ADMINISTRATION IT SYSTEM (GEN TAX) SUPPORT)								
Capital Construction	FY6-07	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	Total
Capital Construction Fund	\$8,077,488	\$9,515,475	\$7,817,037	\$7,444,907	\$10,177,308	\$7,063,864	\$3,940,000	\$54,036,079
Operating Appropriations	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21*
General Fund	\$1,744,200	\$3,981,616	\$4,206,750	\$4,583,432	\$6,454,170	\$5,707,610	\$6,448,744	\$6,152,432
Cash Funds	1,888,000	1,884,000	35,440	47,069	73,950	24,032	194,000	17,892
Reapprop. Funds	0	0	0	51,383	0	0	0	0
Federal Funds	0	0	0	0	0	0	0	0
Total Funds	\$3,632,200	\$5,865,616	\$4,242,190	\$4,681,884	\$6,528,120	\$5,731,642	\$6,642,744	\$6,170,324
Total Funds percent of Tax Bus Group	11.8%	15.2%	11.1%	11.6%	15.2%	13.6%	14.4%	13.7%
Total Funds annual percent change		61.5%	(27.7%)	10.4%	39.4%	(12.2%)	15.9%	(7.1%)
Total Funds CAGR								6.8%
General Fund percent of Tax Bus Group	6.7%	11.8%	12.0%	12.3%	16.2%	14.6%	15.1%	14.6%
General Fund annual percent change		128.3%	5.7%	9.0%	40.8%	(11.6%)	13.0%	(4.6%)
General Fund CAGR								17.1%

* request

In addition to \$54.0 million in capital construction appropriations, operating appropriations total \$37.3 million through FY 2019-20 and average \$5.4 million through the FY 2020-21 request. The FY 2019-20 appropriation of \$6.6 million represents 12.3 percent of the total capital construction appropriation.

SPECIAL PURPOSE – PASS-THROUGH DISBURSEMENTS

A substantial portion – almost half – of the Taxation Business Group budget division includes the Special Purpose budget subdivision, which includes pass-through disbursements as included in the following table.

SPECIAL PURPOSE - ACTUAL DISBURSEMENTS								
	FY11-12	FY12-13	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19
Cigarette Tax Rebate (GF)	\$11,233,165	\$10,739,380	\$10,428,361	\$10,461,631	\$10,542,818	\$10,308,809	\$9,732,856	9,364,164
Amend. 35 Distrib. to Local Gov. (CF)	1,335,640	1,289,435	1,264,380	1,304,900	1,301,300	1,288,332	1,239,276	1,205,766
Old Age Heat and Fuel Grant (GF)	7,173,388	6,582,510	6,030,061	5,622,987	5,807,240	6,679,191	4,907,528	5,546,646
Comm. Veh. Ent. Sales Tax Refund (CF)	17,351	21,612	27,142	55,586	0	0	204,423	14,619
Retail Marijuana Sales Tax Distrib. (GF)			1,359,814	5,908,308	9,858,697	14,349,488	18,537,979	19,324,469
Total Disbursements	\$19,759,544	\$18,632,937	\$19,109,758	\$23,353,412	\$27,510,055	\$32,625,820	\$34,622,062	\$35,455,664
Total Funds percent of Tax. Bus. Group.	43.7%	42.5%	40.7%	41.9%	44.2%	47.6%	47.4%	47.6%
Annual percentage change		(5.7%)	2.6%	22.2%	17.8%	18.6%	6.1%	2.4%
8-year CAGR								7.6%
Total General Fund	\$18,406,553	\$17,321,890	\$17,818,236	\$21,992,926	\$26,208,755	\$31,337,488	\$33,178,363	\$34,235,279
GF percent of Tax Bus Group GF actual	43.7%	42.2%	42.2%	42.1%	44.5%	48.3%	47.7%	48.3%

While the 8-year compound annual growth rate totals 7.6 percent over that period, the largest increases occur in the Retail Marijuana Sales Tax Distribution to Local Governments disbursement in FY 2014-15 through FY 2016-17. The increases for that disbursement appear to be stabilizing as regulation of the retail marijuana industry matures.

SUMMARY: FY 2019-20 APPROPRIATION & FY 2020-21 REQUEST

DEPARTMENT OF REVENUE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION:						
FY 2019-20 Long Bill (SB 19-207)	161,834,495	114,881,896	40,282,911	5,633,359	1,036,329	583.0
Other legislation	3,334,072	2,434,293	899,779	0	0	1.8
TOTAL	\$165,168,567	\$117,316,189	\$41,182,690	\$5,633,359	\$1,036,329	584.8
FY 2020-21 REQUESTED APPROPRIATION:						
FY 2019-20 Appropriation	\$165,168,567	117,316,189	\$41,182,690	\$5,633,359	\$1,036,329	584.8
R3 Budget efficiency - Taxation and Compliance Division	(310,466)	0	(310,466)	0	0	(5.0)
R4 Budget efficiencies - Taxpayer Services Division	(70,500)	0	(70,500)	0	0	(1.0)
R7 Budget efficiencies - Tax Conferee Office	(200,000)	(200,000)	0	0	0	0.0
R8 Budget efficiencies - Executive Directors Office	(50,000)	0	(50,000)	0	0	(1.0)
R10 Back office cashier re-alignment	(103,150)	0	(103,150)	0	0	(2.0)
R13 Departmental staffing re-alignment	0	0	0	0	0	0.0
Non-prioritized requests	847,537	577,307	270,230	0	0	0.0
Centrally appropriated line items	14,341,140	3,785,875	6,616,673	3,905,590	33,002	0.0
Technical adjustments	1,594,652	285,722	0	1,308,930	0	0.0
Indirect cost adjustments	15,323	517,321	15,926	(517,924)	0	0.0
Annualize prior year budget actions	(2,573,190)	1,032,683	(3,600,901)	(4,972)	0	3.0
Annualize prior year legislation	(715,712)	(719,492)	(478)	0	4,258	1.7
TOTAL	\$177,944,201	\$122,595,605	\$43,950,024	\$10,324,983	\$1,073,589	580.5
INCREASE/(DECREASE)	\$12,775,634	\$5,279,416	\$2,767,334	\$4,691,624	\$37,260	(4.3)
Percentage Change	7.7%	4.5%	6.7%	83.3%	3.6%	(0.7%)

R3 BUDGET EFFICIENCY - TAXATION AND COMPLIANCE DIVISION: The request includes a decrease of \$310,466 cash funds and 5.0 FTE in the Tax and Compliance Division. The Department states the request is a true-up due to lack of revenue collected to sustain the spending authority, including \$255,000 from the Marijuana Tax Cash Fund and \$55,466 the Tobacco Tax Enforcement Cash Fund and 5.0 FTE in unfilled positions in this Division.

R4 BUDGET EFFICIENCIES - TAXPAYER SERVICES DIVISION: The request includes a decrease of \$70,500 cash funds and 1.0 FTE in the Taxpayer Services Division. The Department states the request is a true-up due to lack of revenue collected to sustain the spending authority and vacancy savings due to recruitment challenges in this Division. Decreases include \$58,500 from the Private Letter Ruling Fund and \$12,000 from the Marijuana Tax Cash Fund.

R7 BUDGET EFFICIENCIES - TAX CONFEREE OFFICE: The request includes a decrease of \$200,000 General Fund in the Tax Conferee Office. The Department states the request is a decrease of General Fund used to hire temporary staff during the high-volume tax season.

R8 BUDGET EFFICIENCIES - EXECUTIVE DIRECTORS OFFICE: The request includes a decrease of \$50,000 cash funds from various sources in the Executive Director's Office. The Department states the request is a true-up based on actual expenditures over the last two years.

R10 BACK OFFICE CASHIER RE-ALIGNMENT: The request is a net-zero budget realignment that repositions \$103,150 cash funds from various sources and 2.0 FTE from the Executive Director's Office to the Division of Motor Vehicles.

R13 DEPARTMENTAL STAFFING RE-ALIGNMENT: The request is a net-zero budget realignment that repositions \$399,272 General Fund and 4.0 FTE from the Taxation and Compliance Division to the Executive Director's Office.

NON-PRIORITIZED REQUESTS: The request includes adjustments related to budget requests made by the Governor's Office of Information Technology that affect the Department of Revenue in FY 2020-21, which are summarized in the following table.

NON-PRIORITIZED REQUESTS				
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FTE
OIT Budget request package	\$847,537	\$577,307	\$270,230	0.0
TOTAL	\$847,537	\$577,307	\$270,230	0.0

CENTRALLY APPROPRIATED LINE ITEMS: The request includes an increase of \$14.3 million total funds including an increase of \$3.8 million General Fund related to employee benefits and other centrally appropriated items. This total includes the following changes:

CENTRALLY APPROPRIATED LINE ITEMS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Payments to OIT	\$6,515,791	\$2,583,650	\$0	\$3,932,141	\$0	0.0
Health, life, and dental	3,660,310	622,449	3,046,556	(21,357)	12,662	0.0
Salary survey	2,141,253	813,048	1,309,458	2,114	16,633	0.0
CORE	560,317	213,549	346,768	0	0	0.0
AED	543,923	149,614	395,436	(2,831)	1,704	0.0
SAED	543,923	149,614	395,436	(2,831)	1,704	0.0
Legal services adjustment	476,244	278,850	197,394	0	0	0.0
Paid family leave	296,356	112,558	181,202	293	2,303	0.0
Leased space	234,637	49,374	185,263	0	0	0.0
Capitol Complex leased space	107,847	(634,022)	741,869	0	0	0.0
Short-term disability	18,910	5,080	13,863	(95)	62	0.0
Shift differential	9,305	0	9,305	0	0	0.0
Document management	(404,756)	(404,756)	0	0	0	0.0
Workers' compensation	(247,057)	(100,415)	(146,642)	0	0	0.0
PERA Direct Distribution	(75,510)	(36,645)	(34,955)	(1,844)	(2,066)	0.0
Payment to risk mgt. / property funds	(30,314)	(13,771)	(16,543)	0	0	0.0
DPA Annual fleet vehicle request	(9,345)	(2,302)	(7,043)	0	0	0.0
ALJ	(694)	0	(694)	0	0	0.0
TOTAL	\$14,341,140	\$3,785,875	\$6,616,673	\$3,905,590	\$33,002	0.0

TECHNICAL ADJUSTMENTS: The request includes technical adjustments, summarized in the following table.

TECHNICAL ADJUSTMENTS				
	TOTAL FUNDS	GENERAL FUND	REAPPROPRIATED FUNDS	FTE
Reappropriated fund true-up	\$1,308,930	\$0	\$1,308,930	0.0
FAST Enterprises contract escalator	285,722	285,722	0	0.0
TOTAL	\$1,594,652	\$285,722	\$1,308,930	0.0

INDIRECT COST ADJUSTMENT: The request includes net adjustments to indirect costs across the Department.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The request includes a net decrease of \$2.6 million total funds, including a net increase of \$1.0 million General Fund, for prior year budget actions, summarized in the following table.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY19-20 R1 GenTax support enhancements	\$1,397,326	\$1,397,326	\$0	\$0	\$0	7.0
FY 19-20 R4 DMV drivers license documents	33,347	0	33,347	0	0	0.0
FY 19-20 R5 DMV leased space	(2,040,000)	0	(2,040,000)	0	0	0.0
Annualize prior year salary survey	(1,740,070)	(140,850)	(1,594,248)	(4,972)	0	0.0
FY 19-20 R2 Sales and use tax collection	(223,793)	(223,793)	0	0	0	(4.0)
TOTAL	(\$2,573,190)	\$1,032,683	(\$3,600,901)	(\$4,972)	\$0	3.0

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes a net decrease of \$715,712 total funds to reflect the FY 2020-21 impact of bills passed in previous sessions, summarized in the following table.

ANNUALIZE PRIOR YEAR LEGISLATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS	FTE
HB 19-1085 Grants for property tax rent and heat	\$777,853	\$777,853	\$0	\$0	0.0
SB 18-200 PERA unfunded liability	206,342	180,638	21,446	4,258	0.0
HB 19-1090 Publicly licensed marijuana companies	72,151	0	72,151	0	0.0
HB 18-1190 Modify job creation main street revitalization	63,453	63,453	0	0	1.4
HB 19-1234 Regulated marijuana delivery	14,850	0	14,850	0	0.0
HB 18-1185 Market sourcing for business income tax	7,891	7,891	0	0	0.0
HB 18-1202 Income tax credit leave of absence organ donation	6,290	6,290	0	0	0.0
SB 19-006 Electronic sales and use tax simplification	(817,000)	(817,000)	0	0	0.0
HB 19-1327 Authorize and tax sports betting refer under TABOR	(443,500)	(620,538)	177,038	0	0.0
HB 19-1245 Affordable housing funding from vendor fee	(251,041)	(251,041)	0	0	0.3
SB 18-141 Income tax checkoff nonprofit donation fund	(112,378)	0	(112,378)	0	0.4
SB 19-224 Sunset regulated marijuana	(77,722)	0	(77,722)	0	0.0
HB 18-1217 Income tax credit for employer 529 contributions	(50,000)	0	(50,000)	0	0.0
SB 19-256 Electronic documents motor vehicle appropriation	(37,868)	0	(37,868)	0	(0.4)
HB 18-1060 Income tax deduction for military retirement	(35,038)	(35,038)	0	0	0.0
SB 19-248 State tax system working group	(30,000)	(30,000)	0	0	0.0
HB 19-1230 Marijuana hospitality establishments	(7,995)	0	(7,995)	0	0.0
SB 19-142 Hard cider exemption Wine Industry Development Act	(2,000)	(2,000)	0	0	0.0
TOTAL	(\$715,712)	(\$719,492)	(\$478)	\$4,258	1.7

ISSUE: GENTAX UPDATE – S.B. 19-248 STATE TAX SYSTEM WORKING GROUP AND DEPARTMENT RESPONSE TO 2018 LONG BILL RFI

The State Tax System Working Group, created in S.B. 19-248, comprised of representatives from the Department of Revenue, the Governor's Office of Information Technology (OIT) and Joint Technology Committee staff, tasked with conducting an analysis of the state tax system, GenTax, and convened during the 2019 interim released its final report in December. The Department of Revenue submitted its response to a 2018 Long Bill Request for Information (RFI) as required on November 1, 2018. The response included statutory recommendations and additional funding recommendations, but none were included in the Department of Revenue's budget request for FY 2019-20 and no action was taken on the Department's response. This issue brief provides a GenTax update on the basis of these two items.

SUMMARY

- The final report from the working group identified: areas of improvement, many of which the Department reports implementing; the identification of service requests or SQRs and the Department's plan for addressing the current queue; evaluation of implementing an external severance tax module; improved data reporting and analytics; and an external assessment.
- Development costs for an external severance tax module appear to be similar to development costs for an upgraded severance tax functionality within GenTax. However, annual operating and maintenance costs appear to be much higher for an external module when compared to the costs provided by the Department for annual operating and maintenance within GenTax. However, those costs from the vendor, provided by the Department, do not appear to be realistic based on an analysis of actual GenTax historical and current costs.
- The Department's response to the 2018 Long Bill RFI included nine recommendations for statutory change, two recommendations for increased staff resources related to the statutory change recommendations, and a recommendation for increased resources for programming changes related to GenTax on the basis of statutory change recommendations.
- Department recommendations for increased resources were packaged around statutory change recommendations. Department recommendations did not address additional funding for changes to improve reporting from the current GenTax system under the current severance tax policy structure. This is the easiest and likeliest first step in providing improved data reporting to the General Assembly.
- Much of the Department's RFI response generally appeared to question General Assembly desire and assumptions for data and reporting and appeared to seek to deflect criticism of the Department for poor tax data reporting.

DISCUSSION

S.B. 19-248 STATE TAX SYSTEM WORKING GROUP

The State Tax System Working Group (working group), created in S.B. 19-248, and convened during the 2019 interim released its final report in December (included as an appendix). The working group, comprised of representatives from the Department of Revenue (the Department or DOR), the Governor's Office of Information Technology (OIT) and Joint Technology Committee staff (JTC), was tasked with conducting an analysis of the state tax system, GenTax.

Key findings include the following:

1. GenTax and the business processes for administering taxes, have some areas in need of improvement. The Department and OIT have already implemented many of these improvements.
2. The working group assessed the feasibility of creating a custom, severance tax module to evaluate system alternatives and cost comparisons. While there was not a clear consensus on this item, information included in the final report suggests that development costs for developing an independent module or upgrading to the newest generation of severance tax module in GenTax are similar, but ongoing maintenance costs are identified as substantially lower for a module in the GenTax system. The Department adds that before any technical changes are made, severance tax filings be submitted electronically. House Bill 19-1256, Electronic Filing of Certain Taxes, provided the authority for the Department to require electronic submission through administrative rules. Additionally, JTC staff recommends that a cost-benefit analysis be conducted to evaluate options prior to adding any additional severance tax functionality.
3. The working group determined that adding a stand-alone data technology to the GenTax system may be beneficial for tax reporting and analytics.
4. The Department procured a vendor to conduct an external assessment of GenTax. That assessment has been completed but staff is unaware of the Department's plans for release of the report.

GENTAX SYSTEM BENEFITS

The report identifies that GenTax provides the following functionality in seven modules:

1. The *Customer module* provides registry, correspondence, and online services;
2. The *Revenue module* provides functionality for returns, refunds, payments, accounting, billing, and appeals;
3. The *Workflow module* provides case and work management;
4. The *Information module* provides a data mart for tax reporting;
5. The *Compliance module* provides a data warehouse containing data from external sources, such as the IRS, along with collection, discovery, bankruptcy, non-filer, fraud, and audit functionalities;
6. The *Management module* provides security, interface, and business rules; and
7. The *Special Functions module* provides ancillary features, such as imaging and inventory management.

GENTAX SYSTEM DEFICITS

The Department reported that between June 21 and August 23, 2019, the GenTax system included a queue of 553 service requests (SQRs). This total included three high-level and no urgent SQRs. During

that period, a similar number of SQRs were added as were closed. The Department states that it intends to reduce SQRs through the use of GenTax staff resources approved in the FY 2019-20 budget. The Department's priority is to close all existing SQRs that address changes to existing tax forms and changes from new legislation. The Department expects to close 100 SQRs by the end of this calendar year. Some SQRs can be closed in as little as a day, while others may take close to a year to implement. Additionally, the SQR queue may contain duplicate requests or obsolete items.

DEPARTMENT IMPROVEMENTS

The following are a list of changes made by the Department and OIT since 2018 to improve the system deficits.

- The Business Innovation Group (BIG) is a partnering support group formed to lend agency expertise and establish clearly defined goals, accountability, and priorities for the Department's IT systems and projects.
- The Department established two governance teams: The production solution team is comprised of organizational leadership who meet every other week to align GenTax functionality with organizational strategy and requirements. The integrated support team are system super users and subject matter experts who represent each internal customer group, review and scope each SQR prior to submission, and work to improve the SQR submission process.
- The Department created the System Support Office that manages: internal projects such as implementing legislative changes; daily SQR work; daily tax file handling; ongoing user training; and tax system documentation.

EXTERNAL SEVERANCE TAX MODULE

The GenTax system is a commercial off-the-shelf or COTS system. The report identifies that Colorado's version of GenTax is identified by the vendor as 92 percent proprietary vendor code and 8 percent custom code. As a case study, the working group evaluated the possibility of implementing an external severance tax module as an alternative to being fully dependent on vendor services. Severance tax was chosen as it was among the first taxes implemented in GenTax. Over the past ten years, the Department has not enhanced the existing severance tax system in GenTax.

Creating an external severance tax module will require custom code developed by OIT or by programmer vendors managed by OIT. OIT would need to maintain the new module using agile development principles. Whereas, maintaining severance tax functionality in the GenTax system would continue to be performed by the vendor.

For the working group's analysis, OIT created a "high-level" cost estimate of resources needed to develop an external severance tax module. The report identifies a development cost of \$500,000-\$750,000 to develop an external module and \$489,253 to upgrade severance tax within GenTax. The report also identifies ongoing annual maintenance costs of between \$230,000 and \$460,000 for licensing and technical support for an external module and \$9,000 for a system within GenTax.

Staff is unable to confirm the vast difference in cost for these approaches to a new severance tax system. However, keep in mind the historical development and actual annual costs for the GenTax system. The following table outlines such a comparison.

EXTERNAL SEVERANCE TAX MODULE AND GEN'TAX SEVERANCE TAX UPGRADE COMPARISON WITH GEN'TAX HISTORICAL COST	
GenTax Actual Appropriations	
Development - Capital Construction	\$54,036,079
FY 2019-20 Operating and Maintenance Appropriation	6,642,744
External Module Cost Estimate	
Development	\$500,000
Annual Maintenance	230,000
Comparison to Actual	
Development	0.9%
Annual Maintenance	3.5%
GenTax Upgrade Cost Estimate	
Development	\$489,253
Annual Maintenance	9,000
Comparison to Actual	
Development	0.9%
Annual Maintenance	0.1%

As reflected in the table, development costs for either system represent just under 1 percent of total GenTax system development capital construction appropriations. Annual maintenance costs for an external severance tax module are reflected as 3.5 percent of current GenTax annual operating and maintenance costs. However, an upgraded severance tax system within GenTax, at a cost of \$9,000 per year, represents 0.1 percent of current GenTax annual operating and maintenance costs. This figure, on its surface, does not appear to be an accurate representation of annual operating and maintenance cost when compared to current costs for the existing GenTax system.

EXTERNAL ASSESSMENT

The working group determined that an external assessment of GenTax is necessary to better understand the system. The Department began procuring a vendor in September, an assessment commenced in October, and a final report was to be submitted to the Department in November. It is staff's understanding that the assessment report has been completed but staff is unaware of the Department's plans for release of the report.

STAFF'S PERSPECTIVE

Staff is hopeful that Department leadership is making necessary changes to improve the Department's ownership and management of the GenTax system as suggested by the report. On that basis, staff is willing to give the Department some time to show improvement related to Department and OIT management of the GenTax system. Staff is unconvinced that the Department takes seriously its role to provide thorough data collection and reporting as a part of its responsibilities. The General Assembly and the State generally will continue to pay for this shortcoming of the system, until the Department does that. As regards the development of an external severance tax module, in staff's opinion, the cost estimate for annual operating and maintenance for a severance tax upgrade for the GenTax system as provided by the Department in the report is so incredible, it generally calls into question much of what is included in the report from the Department.

DEPARTMENT RESPONSE TO 2018 LONG BILL RFI

BACKGROUND

Near the end of the 2016 legislative session, the Colorado Supreme Court decided a case involving BP America and the Colorado Department of Revenue in favor of the oil and gas industry. The Court held that the Department had routinely denied certain deductions operators were entitled to by statute. The deductions were related to the opportunity cost, or "cost of capital", of investing in transportation and processing facilities instead of other uses of capital. Not understanding the full impact of this decision on short-term and long-term severance tax revenue, member of the General Assembly began seeking data and were disappointed at the lack of data the Department of Revenue was able to provide to inform policymaking.

Since the BP America decision, the General Assembly adopted legislation from year to year primarily to prevent programs funded with severance tax revenue from having no source of funding. As previously discussed, severance tax forecasting is subject to both extreme volatility and uncertainty and as the General Assembly sought to improve budgeting for severance tax programs, it was found that the data is not systematically stored, is generally unobtainable, and is costly to collect.

Often, obtaining historical data by Department of Revenue or vendor staff requires manual individual tax form review and data entry. For each data point reported on tax forms by taxpayers, the Department theoretically *has access to* the requested data, but often, data is not automatically captured and stored as a regular function of the GenTax system. At an aggregate level, the Department may capture only a few fields or data points from any tax form. And while statute prevents the Department from sharing tax data when the data can clearly identify a specific taxpayer, as a general operating policy, aggregate data from data points required to be reported on tax forms is simply not comprehensively or consistently collected by the Department through the GenTax system.

In an effort to enhance data available for policy decisions, the Committee included a request for information (RFI) with the 2018 Long Bill asking the Department of Revenue to provide "an assessment of the additional resources needed to provide the General Assembly with more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance tax filers for decision making purposes." The RFI specified that additional resources may include statutory changes, increased staff, or changes to the GenTax system.

STAFF CONSIDERATION

It is staff's opinion that the Department of Revenue's response to the RFI largely sought to deflect criticism of the lack of data collection by the Department and the GenTax system. The following statements included in the response illustrate such deflection:

"Also, reporting data from tax filings includes an inherent lag. ... Filing data should only be used to inform decisions about long-term trends and patterns and cannot reasonably be used to forecast short term effects."

"The data desired by the GA is return data. This data can be used to inform some policy decisions about the severance tax landscape, but even if made available, limitations on the usefulness of the data should be considered and understood by decision makers. ..."

"Tax policy—such as providing deductions or credits—has an effect on severance tax collections, however larger economic and political forces on oil and gas prices such as global supply and demand, other federal and state exploration and production regulations, and industry profitability and technology contribute more to drive business decisions and ultimately production and tax revenue from producers than tax policy directly. These forces, as well as the results of any potential future litigation create variations from forecasts that are outside the control of the state and the impacts of these forces are not mitigated or predicted by additional data reported on returns."

These statements do nothing to address the Department of Revenue's role in providing adequate data reporting for data points to which it has access, and resolve the actual request included in the RFI.

Nevertheless, the Department of Revenue's response to the RFI did address recommendations for statutory change that includes nine items. In staff's opinion, the following four items likely do not require further consideration.

- #6 – This item appears to have been addressed in H.B. 19-1256 (Electronic Filing of Certain Taxes) which provides authority for the Department to require electronic filing through administrative rules.
- #1 – This item includes data sharing involving counties which entails addressing issues broadly related to local control and specifically related to local control of data.
- #2 – This item regards tax administration generally for timing related to when the Department of Revenue is required to pay refund interest. This item is likely reasonable for consideration but not specifically tied to severance tax issues.
- #7 – This item would require reporting from individuals with less than \$250 withheld. As the Department of Revenue states in its opening sentence for this recommendation: "If the general assembly needs complete information related to severance tax in order to make decisions, statute currently does not include reporting from individuals with less than \$250 withheld from all unit operators and for whom the \$250 minimum meets or exceeds the tax obligation." In staff's opinion, this is not a serious recommendation.

The following four items (#3, #4, #5, and #8) might be worthy of additional Committee consideration and discussion.

- #3 – Clarify statute related to deductions allowed against "gross income" and the definition of "related parties".
- #4 – Eliminate the option to use cash or accrual methods to determine the credit allowed and just follow the federal rule for most taxes of cash accounting for purposes of establishing a credit. This change would eliminate taxpayer use of accrual accounting getting the value of the credit before the payment is made that generates the credit.
- #5 – Codify the rule requirement that producers file withholding statements with the Department of Revenue in addition to sending statements to the interest holder. With that, conform producer withholding requirements to wage withholding requirements to include a penalty for failure to

correct withholding documents for withholding reporting submitted in error. Move fourth quarter withholding and annual reconciliation from March 1st to January 31st.

- #8 – Add a penalty and amended return requirement for failure to correctly account for tax.

The final item – #9 – addresses tax structure and is one that the Committee may wish to seriously consider. The Department of Revenue defines this statutory recommendation as a simplification of tax structure in order to create the easiest structure for filing. The Department of Revenue recommends significant changes to the reporting and liability structure of the tax so that the incidence of the tax is entirely on the producer and not on the interest or royalty holders. The current withholding scheme convolutes where the tax liability ultimately resides which significantly complicates reporting and filing. The Department of Revenue states that this structure benefits producers over royalty holders by reducing the overall tax due on severance at current rates. Staff has not confirmed the Department of Revenue's perspective through independent analysis, but will follow up on this item. The Department of Revenue also states that this has the potential to increase revenue and therefore adjustments and a decrease in rates may be necessary to mitigate a statewide revenue increase related to such a policy change.

In addition to statutory change recommendations, the Department of Revenue included recommendations for additional resources that included additional staff resources as well as additional resources for programming changes for GenTax.

Additional staff resources identified for Mineral Audit Staff section appear to be tied to recommended statutory changes. Similarly, additional staff resources identified for the Systems Support Office appear to relate to the package of legislative recommendations. Therefore, staff will not address those needs for additional staff resources as presented in the RFI response at this time.

Similarly, the request for additional resources related to the GenTax system also appear to be based on the package of recommended statutory change. Therefore, this portion of the RFI response is not helpful to the Committee at this time.

In staff's opinion, the Department of Revenue should have provided a cost to collect every data point from severance tax forms in the current GenTax system. Again, in staff's opinion, that is the easiest and likeliest first step in providing data to the General Assembly.

Clearly, that comes with an understanding that data collection would proceed from the point of funding such a change and implementation. It comes with a recognition that the Department of Revenue has failed to adequately collect data through the GenTax system historically; and this is simply a fact from which we must move on. It comes with a recognition that the Department of Revenue's role and responsibility for data collection needs to change immediately or the State will simply lose more data as time proceeds without such a recognition.

It is staff's understanding that the Department of Revenue asserts that it is responsible for collecting tax revenue and administering a tax collection system; but tax data collection and reporting is not one of its primary responsibilities. In addition to any funding provided for full GenTax reporting for severance tax data points reported in taxpayer forms, the Committee may wish to emphasize to the

Department of Revenue that data collection and reporting – for any data point deemed worthy of collection and reporting from taxpayers – is not optional for the Department.

In staff's opinion, it is unfathomable that the General Assembly that approved the funding for the GenTax system should have had to specify to the Department that tax data collection was a necessary element of the GenTax system. It is staff's opinion, that a tax data storage and reporting component was probably assumed if not understood. Given the apparent historical lack of mutual understanding on this issue, staff recommends that the Committee take the first step and make this expectation clear to the Department of Revenue.

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
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DEPARTMENT OF REVENUE Lu Cordova, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE

(A) Administration and Support

Personal Services	<u>8,569,946</u>	<u>8,614,777</u>	<u>10,522,055</u>	<u>12,819,740</u> *
FTE	124.1	126.1	134.7	142.3
General Fund	3,221,951	3,301,111	4,670,555	6,334,457
Cash Funds	146,908	220,433	594,382	437,159
Reappropriated Funds	5,201,087	5,093,233	5,257,118	6,048,124
Federal Funds	0	0	0	0
Health, Life, and Dental	<u>11,848,685</u>	<u>12,699,520</u>	<u>13,409,236</u>	<u>17,093,328</u>
General Fund	4,692,581	5,065,441	5,275,428	5,921,659
Cash Funds	7,132,434	7,615,882	8,002,942	11,049,498
Reappropriated Funds	23,670	18,197	34,422	13,065
Federal Funds	0	0	96,444	109,106
Short-term Disability	<u>144,085</u>	<u>137,500</u>	<u>147,347</u>	<u>166,852</u>
General Fund	61,768	56,646	57,479	63,154
Cash Funds	82,147	80,688	88,393	102,256
Reappropriated Funds	170	166	258	163
Federal Funds	0	0	1,217	1,279

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement	<u>3,797,608</u>	<u>4,042,418</u>	<u>4,360,113</u>	<u>4,919,703</u>	
General Fund	1,625,206	1,666,122	1,695,426	1,860,707	
Cash Funds	2,167,923	2,371,409	2,621,010	3,016,446	
Reappropriated Funds	4,479	4,887	7,631	4,800	
Federal Funds	0	0	36,046	37,750	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>3,797,608</u>	<u>4,042,418</u>	<u>4,360,113</u>	<u>4,919,703</u>	
General Fund	1,625,206	1,666,122	1,695,426	1,860,707	
Cash Funds	2,167,923	2,371,409	2,621,010	3,016,446	
Reappropriated Funds	4,479	4,887	7,631	4,800	
Federal Funds	0	0	36,046	37,750	
PERA Direct Distribution	<u>0</u>	<u>0</u>	<u>2,218,686</u>	<u>2,143,176</u>	
General Fund	0	0	849,711	813,066	
Cash Funds	0	0	1,346,314	1,311,359	
Reappropriated Funds	0	0	3,959	2,115	
Federal Funds	0	0	18,702	16,636	
Salary Survey	<u>1,444,882</u>	<u>2,582,782</u>	<u>2,798,869</u>	<u>2,141,253</u>	
General Fund	619,476	1,083,134	1,067,127	813,048	
Cash Funds	823,700	1,496,461	1,703,284	1,309,458	
Reappropriated Funds	1,706	3,187	4,972	2,114	
Federal Funds	0	0	23,486	16,633	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Paid Family Leave	<u>0</u>	<u>0</u>	<u>0</u>	<u>296,356</u>	
General Fund	0	0	0	112,558	
Cash Funds	0	0	0	181,202	
Reappropriated Funds	0	0	0	293	
Federal Funds	0	0	0	2,303	
Shift Differential	<u>130,712</u>	<u>126,584</u>	<u>114,613</u>	<u>123,918</u>	
General Fund	1,273	0	0	0	
Cash Funds	129,439	126,584	114,613	123,918	
Workers' Compensation	<u>985,589</u>	<u>1,085,724</u>	<u>939,970</u>	<u>692,913</u>	
General Fund	397,467	430,129	364,681	264,266	
Cash Funds	588,122	655,595	575,289	428,647	
Operating Expenses	<u>2,078,580</u>	<u>1,926,833</u>	<u>2,331,025</u>	<u>2,338,553</u>	*
General Fund	1,453,006	1,433,876	1,604,461	1,619,614	
Cash Funds	625,574	492,957	726,564	718,939	
Postage	<u>3,090,583</u>	<u>2,895,425</u>	<u>3,191,165</u>	<u>3,224,512</u>	
General Fund	2,749,934	2,623,439	2,848,606	2,848,606	
Cash Funds	340,649	271,986	342,559	375,906	
Legal Services	<u>4,218,602</u>	<u>4,370,044</u>	<u>6,116,606</u>	<u>6,561,244</u>	
General Fund	2,558,122	2,627,857	3,482,635	3,619,097	
Cash Funds	1,660,480	1,742,187	2,633,971	2,942,147	
Administrative Law Judge Services	<u>11,303</u>	<u>4,158</u>	<u>2,099</u>	<u>1,405</u>	
Cash Funds	11,303	4,158	2,099	1,405	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Payment to Risk Management and Property Funds	<u>336,022</u>	<u>293,248</u>	<u>310,447</u>	<u>280,133</u>	
General Fund	135,510	116,175	120,609	106,838	
Cash Funds	200,512	177,073	189,838	173,295	
Vehicle Lease Payments	<u>566,934</u>	<u>566,568</u>	<u>724,283</u>	<u>751,828</u>	*
General Fund	135,490	134,954	196,039	159,087	
Cash Funds	431,444	431,614	528,244	592,741	
Leased Space	<u>4,199,785</u>	<u>4,604,929</u>	<u>8,032,060</u>	<u>6,272,897</u>	
General Fund	631,879	610,265	987,428	1,083,002	
Cash Funds	3,567,906	3,994,664	7,044,632	5,189,895	
Capitol Complex Leased Space	<u>2,555,249</u>	<u>2,330,327</u>	<u>2,156,289</u>	<u>2,264,136</u>	
General Fund	1,701,570	1,649,646	1,497,525	863,503	
Cash Funds	853,679	680,681	658,764	1,400,633	
Payments to OIT	<u>19,125,207</u>	<u>15,798,988</u>	<u>15,081,936</u>	<u>22,371,805</u>	*
General Fund	11,155,787	10,388,686	10,522,374	13,626,462	
Cash Funds	7,969,420	5,410,302	4,559,562	4,813,202	
Reappropriated Funds	0	0	0	3,932,141	
CORE Operations	<u>718,378</u>	<u>902,422</u>	<u>783,059</u>	<u>1,343,376</u>	
General Fund	289,707	357,507	298,793	512,342	
Cash Funds	428,671	544,915	484,266	831,034	
Utilities	<u>77,565</u>	<u>70,251</u>	<u>143,703</u>	<u>143,703</u>	
Cash Funds	77,565	70,251	143,703	143,703	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Merit Pay	<u>646,030</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	268,996	0	0	0	
Cash Funds	376,166	0	0	0	
Reappropriated Funds	868	0	0	0	
Federal Funds	0	0	0	0	
SUBTOTAL - (A) Administration and Support	68,343,353	67,094,916	77,743,674	90,870,534	16.9%
<i>FTE</i>	<u>124.1</u>	<u>126.1</u>	<u>134.7</u>	<u>142.3</u>	<u>5.6%</u>
General Fund	33,324,929	33,211,110	37,234,303	42,482,173	14.1%
Cash Funds	29,781,965	28,759,249	34,981,439	38,159,289	9.1%
Reappropriated Funds	5,236,459	5,124,557	5,315,991	10,007,615	88.3%
Federal Funds	0	0	211,941	221,457	4.5%

(B) Hearings Division

Personal Services	<u>1,940,796</u>	<u>2,144,360</u>	<u>2,234,729</u>	<u>2,302,452</u>
FTE	29.6	29.6	29.6	29.6
General Fund	0	0	0	0
Cash Funds	1,940,796	2,144,360	2,234,729	2,302,452
Operating Expenses	<u>83,891</u>	<u>89,875</u>	<u>95,457</u>	<u>95,457</u>
General Fund	0	0	0	0
Cash Funds	83,891	89,875	95,457	95,457
Indirect Cost Assessment	<u>167,930</u>	<u>163,491</u>	<u>188,991</u>	<u>203,475</u>
Cash Funds	167,930	163,491	188,991	203,475

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
SUBTOTAL - (B) Hearings Division	2,192,617	2,397,726	2,519,177	2,601,384	3.3%
<i>FTE</i>	<u>29.6</u>	<u>29.6</u>	<u>29.6</u>	<u>29.6</u>	<u>0.0%</u>
General Fund	0	0	0	0	0.0%
Cash Funds	2,192,617	2,397,726	2,519,177	2,601,384	3.3%
TOTAL - (1) Executive Director's Office	70,535,970	69,492,642	80,262,851	93,471,918	16.5%
<i>FTE</i>	<u>153.7</u>	<u>155.7</u>	<u>164.3</u>	<u>171.9</u>	<u>4.6%</u>
General Fund	33,324,929	33,211,110	37,234,303	42,482,173	14.1%
Cash Funds	31,974,582	31,156,975	37,500,616	40,760,673	8.7%
Reappropriated Funds	5,236,459	5,124,557	5,315,991	10,007,615	88.3%
Federal Funds	0	0	211,941	221,457	4.5%

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(3) TAXATION BUSINESS GROUP					
(A) Administration					
Personal Services	<u>477,425</u>	<u>524,362</u>	<u>586,456</u>	<u>567,667</u>	
FTE	5.0	5.0	5.0	5.0	
General Fund	452,682	497,047	557,497	537,511	
Cash Funds	24,743	27,315	28,959	30,156	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Operating Expenses	<u>12,228</u>	<u>9,597</u>	<u>12,543</u>	<u>12,543</u>	
General Fund	12,228	9,597	12,543	12,543	
Tax Administration IT System (GenTax) Support	<u>5,438,748</u>	<u>5,673,000</u>	<u>6,642,744</u>	<u>6,170,324</u>	
General Fund	5,438,748	5,657,000	6,448,744	6,152,432	
Cash Funds	0	16,000	194,000	17,892	
SUBTOTAL - (A) Administration	5,928,401	6,206,959	7,241,743	6,750,534	(6.8%)
FTE	5.0	5.0	5.0	5.0	0.0%
General Fund	5,903,658	6,163,644	7,018,784	6,702,486	(4.5%)
Cash Funds	24,743	43,315	222,959	48,048	(78.4%)
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(B) Taxation and Compliance Division					
Personal Expenses	<u>15,721,117</u>	<u>15,555,016</u>	<u>18,519,726</u>	<u>18,340,096</u>	*
FTE	234.6	234.9	235.3	226.1	
General Fund	15,167,729	14,818,123	17,236,846	17,331,924	
Cash Funds	413,268	591,288	1,128,795	854,087	
Reappropriated Funds	140,120	145,605	154,085	154,085	
Operating Expenses	<u>1,032,518</u>	<u>981,336</u>	<u>1,074,072</u>	<u>1,067,697</u>	*
General Fund	1,028,717	969,256	1,049,876	1,053,967	
Cash Funds	3,801	12,080	24,196	13,730	
Joint Audit Program	<u>131,244</u>	<u>131,244</u>	<u>131,244</u>	<u>131,244</u>	
General Fund	131,244	131,244	131,244	131,244	
Mineral Audit Program	<u>834,701</u>	<u>824,388</u>	<u>890,388</u>	<u>918,132</u>	
FTE	10.2	10.2	10.2	10.2	
Reappropriated Funds	10,313	0	66,000	66,000	
Federal Funds	824,388	824,388	824,388	852,132	
SUBTOTAL - (B) Taxation and Compliance Division	17,719,580	17,491,984	20,615,430	20,457,169	(0.8%)
FTE	<u>244.8</u>	<u>245.1</u>	<u>245.5</u>	<u>236.3</u>	(3.7%)
General Fund	16,327,690	15,918,623	18,417,966	18,517,135	0.5%
Cash Funds	417,069	603,368	1,152,991	867,817	(24.7%)
Reappropriated Funds	150,433	145,605	220,085	220,085	0.0%
Federal Funds	824,388	824,388	824,388	852,132	3.4%

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(C) Taxpayer Service Division					
Personal Services	<u>8,350,998</u>	<u>8,466,461</u>	<u>9,972,286</u>	<u>9,982,318</u>	*
FTE	137.6	137.6	154.9	152.2	
General Fund	8,119,068	8,258,871	9,569,580	9,607,657	
Cash Funds	231,930	207,590	402,706	374,661	
Operating Expenses	<u>497,568</u>	<u>488,819</u>	<u>551,802</u>	<u>525,128</u>	*
General Fund	493,606	485,376	537,734	519,925	
Cash Funds	3,962	3,443	14,068	5,203	
Seasonal Tax Processing	<u>296,376</u>	<u>296,391</u>	<u>296,391</u>	<u>296,391</u>	
General Fund	296,376	296,391	296,391	296,391	
Document Management	<u>3,785,238</u>	<u>4,055,506</u>	<u>5,300,307</u>	<u>4,895,551</u>	
General Fund	3,785,238	4,055,506	5,261,788	4,857,032	
Cash Funds	0	0	38,519	38,519	
Fuel Tracking System	<u>454,915</u>	<u>523,565</u>	<u>497,587</u>	<u>501,019</u>	
FTE	1.5	1.5	1.5	1.5	
Cash Funds	454,915	523,565	497,587	501,019	
Indirect Cost Assessment	<u>9,334</u>	<u>9,075</u>	<u>9,611</u>	<u>10,451</u>	
Cash Funds	9,334	9,075	9,611	10,451	
SUBTOTAL - (C) Taxpayer Service Division	13,394,429	13,839,817	16,627,984	16,210,858	(2.5%)
FTE	<u>139.1</u>	<u>139.1</u>	<u>156.4</u>	<u>153.7</u>	(1.7%)
General Fund	12,694,288	13,096,144	15,665,493	15,281,005	(2.5%)
Cash Funds	700,141	743,673	962,491	929,853	(3.4%)

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	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(D) Tax Conferee					
Personal Services	<u>1,367,273</u>	<u>1,401,010</u>	<u>1,743,555</u>	<u>1,574,018</u> *	
FTE	13.6	13.6	13.6	13.6	
General Fund	1,367,273	1,401,010	1,646,272	1,476,735	
Reappropriated Funds	0	0	97,283	97,283	
Operating Expenses	<u>47,666</u>	<u>38,810</u>	<u>60,905</u>	<u>60,905</u>	
General Fund	47,666	38,810	60,905	60,905	
SUBTOTAL - (D) Tax Conferee	1,414,939	1,439,820	1,804,460	1,634,923	(9.4%)
FTE	13.6	13.6	13.6	13.6	0.0%
General Fund	1,414,939	1,439,820	1,707,177	1,537,640	(9.9%)
Reappropriated Funds	0	0	97,283	97,283	0.0%
(E) Special Purpose					
Cigarette Tax Rebate	<u>9,732,856</u>	<u>9,364,164</u>	<u>9,633,839</u>	<u>9,633,839</u>	
General Fund	9,732,856	9,364,164	9,633,839	9,633,839	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Amendment 35 Distribution to Local Governments	<u>1,239,276</u>	<u>1,205,766</u>	<u>1,223,109</u>	<u>1,223,109</u>	
Cash Funds	1,239,276	1,205,766	1,223,109	1,223,109	
Old Age Heat and Fuel and Property Tax Assistance Grant	<u>4,907,528</u>	<u>5,546,646</u>	<u>6,000,719</u>	<u>6,803,419</u>	
General Fund	4,907,528	5,546,646	6,000,719	6,803,419	
Commercial Vehicle Enterprise Sales Tax Refund	<u>204,423</u>	<u>14,619</u>	<u>120,524</u>	<u>120,524</u>	
Cash Funds	204,423	14,619	120,524	120,524	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Retail Marijuana Sales Tax Distribution to Local Governments					
General Fund	<u>18,537,979</u>	<u>19,324,469</u>	<u>21,637,908</u>	<u>21,637,908</u>	
	18,537,979	19,324,469	21,637,908	21,637,908	
SUBTOTAL - (E) Special Purpose	34,622,062	35,455,664	38,616,099	39,418,799	2.1%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	0.0%
General Fund	33,178,363	34,235,279	37,272,466	38,075,166	2.2%
Cash Funds	1,443,699	1,220,385	1,343,633	1,343,633	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%
TOTAL - (3) Taxation Business Group	73,079,411	74,434,244	84,905,716	84,472,283	(0.5%)
<i>FTE</i>	<u>402.5</u>	<u>402.8</u>	<u>420.5</u>	<u>408.6</u>	(2.8%)
General Fund	69,518,938	70,853,510	80,081,886	80,113,432	0.0%
Cash Funds	2,585,652	2,610,741	3,682,074	3,189,351	(13.4%)
Reappropriated Funds	150,433	145,605	317,368	317,368	0.0%
Federal Funds	824,388	824,388	824,388	852,132	3.4%
TOTAL - Department of Revenue	143,615,381	143,926,886	165,168,567	177,944,201	7.7%
<i>FTE</i>	<u>556.2</u>	<u>558.5</u>	<u>584.8</u>	<u>580.5</u>	(0.7%)
General Fund	102,843,867	104,064,620	117,316,189	122,595,605	4.5%
Cash Funds	34,560,234	33,767,716	41,182,690	43,950,024	6.7%
Reappropriated Funds	5,386,892	5,270,162	5,633,359	10,324,983	83.3%
Federal Funds	824,388	824,388	1,036,329	1,073,589	3.6%

APPENDIX B

RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2018 SESSION BILLS

S.B. 18-036 (RELOCATE TITLE 24 TOBACCO SALES MINORS TO TITLE 44): Relocates statutes concerning regulation of tobacco sales to minors from Title 24 to the newly created Title 44 of the Colorado Revised Statutes and makes minor technical changes. In FY 2018-19, appropriates \$6,730 cash funds, including \$5,402 from the Liquor Enforcement Division and State Licensing Authority Cash Fund and \$1,328 from the Tobacco Education Programs Fund, to the Department of Revenue, of which \$4,630 is reappropriated to the Governor's Office of Information Technology.

S.B. 18-108 (ELIGIBILITY COLORADO ROAD AND COMMUNITY SAFETY ACT): The Colorado Road and Community Safety Act (S.B. 13-251) authorizes issuance of a driver license, identification card, or instruction permit, valid for three years, to an individual who is either temporarily lawfully present in the U.S. or a Colorado resident who is not a U.S. citizen and does not have permanent residency status. The bill clarifies that S.B. 13-251 documents may be renewed or reissued in accordance with the process used for standard documents without the individual having to resubmit the initial requisite documentation if the individual provides a previously issued S.B. 13-251 document and proof of current Colorado residency. The bill also allows an applicant to provide his or her social security number in lieu of an individual taxpayer identification number. In FY 2018-19, appropriates \$108,992 cash funds from the Licensing Services Cash Fund and 1.2 FTE to the Department of Revenue.

S.B. 18-200 (ELIMINATE UNFUNDED LIABILITY IN PERA): Makes changes to the defined benefit plan administered by the Colorado Public Employees' Retirement Association (PERA) with the goal of eliminating PERA's unfunded actuarial accrued liability within 30 years. Among other changes, on July 1, 2020, increases the monthly employer contribution to PERA on behalf of members by 0.25 percent of salary. For additional information, see the bill description in the "Recent Legislation" section at the end of Part III of the Department of Treasury.

S.B. 18-233 (ELECTIONS CLEAN-UP): Makes technical modifications to various provisions of the Uniform Election Code of 1992. In FY 2018-19, appropriates \$63,000 reappropriated funds received from the Department of State to the Department of Revenue. For additional information, see the "Recent Legislation" section at the end of Part III for the Department of State.

S.B. 18-243 (RETAIL SALES ALCOHOL BEVERAGES): Effective January 1, 2019, the limitation on the maximum alcohol content of fermented malt beverages, also referred to as "3.2% beer", is eliminated, thereby allowing grocery stores, convenience stores, and others licensed to sell fermented malt beverages containing more than 3.2 percent alcohol. Modifies laws governing the retail sale of fermented malt beverages. In FY 2018-19, appropriates \$91,092 cash funds from the Liquor Enforcement Division and State Licensing Authority Cash Fund and 1.0 FTE to the Department of Revenue, of which \$10,656 is reappropriated to the Department of Law.

S.B. 18-253 (CSTARS ACCOUNT TRANSFER TO DRIVES ACCOUNT EFFECTIVE): Establishes a uniform date of July 1, 2019, to transition the Department of Revenue's CSTARS account to the new

DRIVES Vehicle Services account. The bill also delays corresponding statutory repeal dates for one year.

S.B. 18-259 (LOCAL GOVERNMENT RETAIL MARIJUANA TAXES): Makes the following changes to marijuana taxation in Colorado:

- allows a county to continue collecting excise taxes for three years if a marijuana cultivation facility is annexed into a municipality. If this occurs, the municipality is unable to levy its own excise tax until the county's authority to levy an excise tax expires;
- allows counties to use either the wholesale price or the calculated wholesale price to determine excise taxes;
- removes the authority for metropolitan districts to collect a sales tax on retail marijuana; and
- clarifies that the state excise tax is collected when unprocessed marijuana is transferred between marijuana cultivation facilities.

In FY 2018-19, appropriates \$15,840 General Fund to the Department of Revenue.

S.B. 18-271 (IMPROVE FUNDING FOR MARIJUANA RESEARCH): Allows a marijuana research and development licensee or a marijuana research and development cultivation licensee to share premises with a commonly owned medical marijuana infused products manufacturer or a retail marijuana product manufacturers under a co-location permit. House Bill 18-1322 (Long Bill) transferred \$3.0 million from the Marijuana Tax Cash Fund to the health research subaccount of the Medical Marijuana Program Cash Fund. This bill continues the subaccount from its current repeal date of July 1, 2019, to July 1, 2023, and authorizes the Department of Public Health and Environment (CDPHE) to use up to \$100,000 from the subaccount for administration of the medical marijuana research grant program. In FY 2018-19, appropriates \$10,656 cash funds from the Marijuana Cash Fund to the Department of Revenue.

H.B. 18-1025 (RELOCATE TITLE 12 LIQUOR LAWS TO TITLE 44): Relocates the statutes regulating alcohol beverages from Title 12 to a newly created Title 44 of the Colorado Revised Statutes and makes minor technical changes. In FY 2018-19, appropriates \$3,091 cash funds from the Liquor Enforcement Division and State Licensing Authority Cash Fund to the Department of Revenue.

H.B. 18-1042 (PRIVATE INTERSTATE COMMERCIAL VEHICLES): Allows private parties to perform expedited vehicle registrations for commercial trucks. Requires the Department of Revenue (DOR) to promulgate rules in order to allow a private provider to perform expedited vehicle registration for Class A commercial vehicles. The provider may retain a service fee, but will collect and remit the registration taxes and fees to the department.

Private providers of expedited Class A vehicle registrations must:

- be approved by DOR;
- utilize a department-approved software that will calculate taxes and fees and be updated regularly to account for any rate changes;
- file evidence of a surety bond or an alternative to a surety bond; and
- provide for reimbursement of any damages caused to the state, local governments, or owners of Class A vehicles through its acts or omissions.

DOR is required to ensure that the expedited registration program:

- operates efficiently;
- provides additional services or increases the speed or quality of services at an overall cost savings to the state; and
- complies with state law.

DOR may deny, suspend, or revoke approval of a private provider who violates a contract, makes a material misstatement, fails to comply with state law or rules, or fails to provide expedited service. DOR may also accept financial assistance from a private party to implement the expedited registration program to the extent permitted, credited to the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) Vehicle Services Account.

In FY 2018-19, includes a net appropriation of \$20,865 General Fund and includes a net decrease of 0.3 FTE to the Department of Revenue, of which \$16,016 is reappropriated to the Governor's Office of Information Technology.

H.B. 18-1060 (INCOME TAX DEDUCTION FOR MILITARY RETIREMENT BENEFITS): Allows an income tax deduction for military retirement benefits received by individuals under age 55 for tax years 2019 through 2023, including up to \$4,500 in 2019, \$7,500 in 2020, \$10,000 in 2021, and \$15,000 in 2022 and 2023.

H.B. 18-1185 (MARKET SOURCING FOR BUSINESS INCOME TAX APPORTIONMENT): Changes the apportionment method for corporations that do business in multiple states. Prior to the bill, income from the sale of services and intangible property was apportioned based on where the income-producing activity was performed. The bill changes the sourcing rules so that the income is apportioned based on where the income-producing activity is used or delivered.

H.B. 18-1208 (EXPAND CHILD CARE EXPENSES INCOME TAX CREDIT): Beginning in tax year 2019, expands the state income tax credit for child care expenses for taxpayers with adjusted gross income (AGI) of \$60,000 or less who claim a child care expenses credit on their federal income tax return, equal to 50.0 percent of the federal credit. Prior to the bill, taxpayers with AGI of \$25,000 or less were eligible for 50.0 percent of the federal credit, taxpayers with AGI of \$25,001 to \$35,000 were eligible for 30.0 percent of the federal credit, and taxpayers with AGI of \$35,001 to \$60,000 were eligible for 10.0 percent of the federal credit.

H.B. 18-1244 (HONOR THE SERVICE OF SUBMARINE VETERANS): Creates the submarine service military license plate. The license plate is available to honorably discharged, retired, reserve, or active members of the submarine service of the U.S. Navy who submit the required forms and pay a one-time special plate fee of \$50. In FY 2018-19, appropriates \$2,960 cash funds from the License Plate Cash Fund to the Department of Revenue.

H.B. 18-1255 (CHILDHOOD CANCER AWARENESS SPECIAL LICENSE): Creates the childhood cancer awareness special license plate. This license plate is available to anyone who donates to an organization chosen by the Department of Revenue and pays a one-time special plate fee of \$50. At least once every five years, the DOR will choose an organization to which applicants must donate to qualify for this license plate. In FY 2018-19, appropriates \$8,288 cash funds from the License Plate Cash Fund to the DOR. This organization must:

- have an office in Colorado;
- have been in existence for at least one year; and
- provide financial assistance to families with a minor being treated for cancer or research foundations that provide money for pediatric cancer research.

H.B. 18-1280 (COURT APPOINTEES FOR MARIJUANA BUSINESSES): Provides specifications for court-appointed receiverships or similar situations related to a person taking possession of, operating, managing, or controlling a licensed marijuana business. Requires an individual to certify to the appointing court that he or she is not prohibited from holding a marijuana license before being appointed a receiver of a marijuana business. Once appointed, the receiver must notify the Marijuana Enforcement Division (MED) of the appointment. The MED is required to issue a temporary registration to the appointee, which may be subject to administrative action if the appointee fails to comply with state marijuana laws or regulations. In FY 2018-19, appropriates \$28,950 cash funds from the Marijuana Cash Fund to the Department of Revenue, of which \$14,918 is reappropriated to the Department of Law.

H.B. 18-1285 (REMUNERATION-EXEMPT DISABILITY PARKING PLACARD): Creates a remuneration-exempt placard that exempts individuals with qualifying disabilities from paying for meter parking. In FY 2018-19, appropriates \$9,870 General Fund to the Department of Revenue.

H.B. 18-1299 (ELECTRONIC FILING TITLE REGISTRATION MOTOR VEHICLE): Under current law, the Department of Revenue (DOR) may establish a system to allow the electronic transmission of registration, lien, and titling information for motor vehicles. To implement this system, the bill allows the DOR to adopt rules to: maintain titling information electronically; accept electronic signatures on any documents; eliminate any notarization requirements for document signatures; allow all parties to electronically file and release lien information; and authorize third-party providers to process registration, lien, and titling information on behalf of a business entity. The bill includes an appropriation clause for FY 2018-19; however, the effective date clause in the bill establishes an effective date for the entire bill of July 1, 2019, nullifying the appropriation in FY 2018-19.

H.B. 18-1322 (LONG BILL): General appropriations act for FY 2018-19.

H.B. 18-1339 (BACKGROUND CHECKS FOR EMPLOYEES WITH ACCESS TO FEDERAL TAX INFORMATION): Requires each applicant, state employee, state contractor, or other individual who has or may have access through a state agency to federal tax information received from the federal government to submit to a fingerprint-based criminal history records check. Specifies that a state agency that shares such federal tax information with a county may authorize and require the county department applicants, employees, contractors, or other individuals to submit to a fingerprint-based criminal history records check. Requires a state agency to deny access to federal tax information received from the federal government to any individual who does not pass the fingerprint-based criminal history record check. Provides FY 2018-19 appropriations as follows:

- \$6,188 General Fund to the Governor's Office of Information Technology;
- \$36,630 General Fund to the Department of Human Services;
- \$7,425 cash funds to the Department of Labor and Employment;
- \$6,683 General Fund to the Department of Local Affairs;
- \$11,633 General Fund to the Department of Personnel;

- \$41,580 General Fund to the Department of Revenue;
- \$121,748 reappropriated funds and 0.6 FTE to the Department of Public Safety from the appropriations made to other departments above.

H.B. 18-1350 (MACHINE TOOL SALES TAX EXEMPTION FOR SCRAP METAL): Expands the definition of recovered materials under the machinery and machine tools sales and use tax exemption beginning January 1, 2019. In FY 2018-19, appropriates \$14,292 General Fund and 0.3 FTE to the Department of Revenue.

2019 SESSION BILLS

S.B. 19-006 (ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM): Directs the Governor's Office of Information Technology (OIT) to procure an electronic sales and use tax simplification system. Requires OIT and the Department of Revenue (DOR) to work with stakeholders to determine the scope of work for the system. Requires DOR to use the system to accept sales tax returns and payments for state and state-collected local jurisdictions; home rule jurisdictions may choose to use the system. Appropriates \$9,183,000 General Fund to OIT; \$817,000 General Fund to DOR for a global information system (GIS) database; and reappropriates \$817,000 to OIT for FY 2019-20.

S.B. 19-035 (DOR ENFORCEMENT MEASURES COLLECTION OF TAX OWED): Clarifies the enforcement mechanisms available to DOR in circumstances of tax delinquency. Extends the one year statute of limitations on the assessment of any tax, penalty, or interest for any period during which the taxpayer's assets are under the control or custody of a court, and for six months thereafter or in a case under federal bankruptcy law during which the DOR is prohibited from seizing assets, and for six months thereafter. Specifies that for seizure and sales of vehicles, a government certificate of sale or court order is required to be accepted in lieu of a certificate of title for the purpose of transferring ownership and issuance of such a certificate voids previously issued titles to that motor vehicle. Specifies that any Colorado district court has jurisdiction to issue orders as necessary to collect delinquent taxes, penalty, or interest, including warrants to search premises to seize and sell a taxpayer's personal property. Clarifies that a person must surrender a delinquent taxpayer's property upon demand of the DOR with an exception if the person, at the time of the demand, has a valid right of setoff or an interest superior to the DOR's. Financial institutions must surrender any deposits within 21 days after service of the levy. Employers must surrender salary or wages within 21 days after the end of the taxpayer's pay period. A levy on salary or wages is continuous from the date when the levy is made until its release by the DOR, and may not exceed 25 percent of the taxpayer's disposable earnings. Persons who fail to surrender a delinquent taxpayer's property upon demand are liable for an amount equal to the value of the levied property, not to exceed the amount of the tax liability. Persons complying with orders to surrender property are discharged from any obligation to the delinquent taxpayer arising from the surrender. Appropriates \$6,750 cash funds from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-054 (MILITARY VEHICLE MOTOR VEHICLE REGISTRATION): Defines a demilitarized motor vehicle as a motor vehicle that was built for the U.S. Armed Forces, commonly used by the U.S. Armed Forces to transport persons or property over the highway, and purchased for a nonmilitary use. Exempts demilitarized motor vehicles from emissions requirements and allows persons to sell, register, or reregister a demilitarized motor vehicle with an emissions waiver certification. Allows

demilitarized motor vehicles to be deemed roadworthy without a physical vehicle identification number (VIN) inspection and allows certificates of title to include information about a vehicle's status as a demilitarized motor vehicle. Appropriates \$45,000 cash funds from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-123 (SUPPLEMENTAL BILL): Modifies the FY 2018-19 appropriations to the Department.

S.B. 19-139 (MORE CRCSA OFFICES): Requires, by January 1, 2020, that the DMV issue SB 13-251 documents at eight offices, including the DMV offices already issuing documents, and at ten offices by July 1, 2020, in varying geographic areas around the state. The Colorado Road and Community Safety Act (S.B. 13-251) authorizes the Division of Motor Vehicles (DMV) within DOR to issue a driver's license, identification card, or instruction permit (SB 13-251 documents) to an individual who is either temporarily lawfully present in the U.S. or a Colorado resident who is not a U.S. citizen and does not have permanent residency status. CRCSA or S.B. 13-251 documents are valid for three years after issuance, with an exception for minor driver licenses. Appropriates \$1.7 million cash funds from the Licensing Services Cash Fund and 21.6 FTE to DOR for FY 2019-20.

S.B. 19-142 (HARD CIDER EXEMPTION WINE INDUSTRY DEVELOPMENT ACT): Exempts produce used in the production of hard cider from the excise tax, and, for the purposes of the Wine Industry Development Act, the bill exempts hard cider from the definition of wine. Appropriates \$2,000 General Fund for IT programming for the GenTax system for FY 2019-20.

S.B. 19-167 (HONOR COLORADO PROFESSIONAL FIRE FIGHTERS): Creates the Colorado Professional Fire Fighters group special license plate to be available by January 1, 2020. The license plate is available to all applicants that pay a one-time special license plate fee of \$50 and give a donation to a designated Colorado nonprofit organization. Nonprofit organizations may only use the donations to directly support first responders, firefighters, and family members of first responders and firefighters, and must report to DOR annually regarding the collection and use of the donation. Appropriates \$56,364 cash funds to DOR, including \$51,864 from the License Plate Cash Fund for license plate ordering and \$4,500 from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-175 (SERIOUS BODILY INJURY VULNERABLE ROAD USER PENALTIES): Creates a new class 1 traffic misdemeanor of causing serious bodily injury to a vulnerable person while carelessly driving. A violation results in 12 points issued to the driver's license which results in a license suspension and may subject a violator to a restitution order, attendance at a driver improvement course, or performance of public service for no more than 320 hours. Defines a vulnerable road user, and includes, pedestrians, bicycles, and peace officers outside their vehicles. Appropriates \$1,575 cash funds from the Licensing Services Cash Fund for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-205 (HONOR SERVICE OF WOMEN VETERANS): Creates the U.S. Women Veteran military license plate. The license plate is available to honorably discharged or retired members of the U.S. Armed Forces who submit the required forms and pay a one-time special plate fee of \$50. Appropriates \$14,771 cash funds to DOR, including \$10,946 from the License Plate Cash Fund for license plate ordering and \$3,825 from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-207 (LONG BILL): General appropriations act for FY 2019-20.

S.B. 19-224 (SUNSET REGULATED MARIJUANA): Continues the regulation of medical and retail marijuana until September 1, 2028, incorporates recommendations from the sunset reviews for the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, and makes other changes including integration of the two codes into one code entitled the Colorado Marijuana Code. Appropriates \$396,604 cash funds from the Marijuana Cash Fund and 1.8 FTE for the Marijuana Enforcement Division and reappropriates \$103,630 and 0.6 FTE to the Department of Law for the provision of legal services for FY 2019-20.

S.B. 19-235 (AUTOMATIC VOTER REGISTRATION): Requires DOR, the Department of Health Care Policy and Financing (HCPF), and the Department of Human Services (DHS) to electronically transfer records to the Department of State for registering voters. Appropriates \$18,000 General Fund to DOR for IT programming for the DRIVES system for FY 2019-20.

S.B. 19-248 (STATE TAX SYSTEM WORKING GROUP): Convenes a state tax system working group to meet during the 2019 legislative interim to evaluate the state tax administration software system, GenTax, and make recommendations. Working group stakeholders include the nonpartisan legislative service agencies, the Department of Revenue (DOR), the Department of Personnel, and the Governor's Office of Information Technology. The working group must evaluate:

- the deficits of the current state tax system;
- the benefit of ownership of the current tax system in relationship to the cost of the total deficits of the current system;
- whether it would be more cost-effective for the state to make adjustments and new investments in the current tax system or to pursue a new system;
- options for managing the recurring changes in tax data and methods by which new tax reports are implemented and tracked; and
- any other topics the working group deems necessary.

The working group must provide an update on its progress to the Joint Technology Committee and the Joint Budget Committee by October 1, 2019, and, by December 1, 2019, report to the General Assembly on its findings and recommendations, whether an independent third-party assessment of the state tax system is necessary and whether the working group should be continued through the 2020 legislative interim.

Appropriates \$44,552 General Fund and 0.5 FTE to Legislative Council and the Office of Legislative Legal Services in the Legislative Department and \$30,000 General Fund to DOR for FY 2019-20.

S.B. 19-249 (LICENSE BUSINESS SELLING ITS USED MOTOR VEHICLES): Creates a new motor vehicle business disposal license. The license allows businesses to sell used motor vehicles that have been owned by the business for more than a year, are exclusively used for business purposes, are titled in the name of the business, and are not designed or used primarily to carry passengers. A business only qualifies for the disposal license if motor vehicle sales do not exceed 20 percent of the business's gross revenue. In addition, the bill enumerates the grounds for which a business disposal license may be denied, suspended, or revoked by the Colorado Motor Vehicle Dealer Board and the associated

penalties for selling specified vehicles without a license. Appropriates \$14,000 cash funds from the Auto Dealers License Fund to DOR for use by the Motor Vehicle Dealer Licensing Board for FY 2019-20.

S.B. 19-256 (ELECTRONIC DOCUMENTS MOTOR VEHICLE APPROPRIATION): House Bill 18-1299 allows DOR to implement a system to allow the electronic transmission of registration, lien, and titling information for motor vehicles. This bill appropriates \$1.2 million from gifts, grants, and donations deposited in the Colorado DRIVES Vehicle Services Account and 3.1 FTE to DOR and reappropriates \$16,590 to OIT to implement the system created in H.B. 18-1299 for FY 2019-20. Also specifies that the appropriation remains available through FY 2020-21.

H.B. 19-1023 (FOSTER CHILDREN DRIVING LICENSES): Clarifies that a minor who is at least 16 years of age can purchase auto insurance and exempts a foster child from having a foster parent or other guardian sign an affidavit of liability regarding financial responsibility. It lowers the age at which the state or a county must obtain permission from a foster parent or guardian to help a foster child obtain a permit from 17 1/2 years old to 17 years old and allows anyone who is at least 21 years of age and holds a driver license to instruct a foster child with a driving permit and sign a foster child's driving logs. It allows each county department of human services or social services that has custody of a foster child or ward of the court to implement a program that provides foster kids under the age of 18 with a driver permit if the minor's foster parent consents or the county has first consulted with the foster parent for a child 17 years old or older. The bill also requires the Transportation Legislation Review Committee to study the barriers to foster children meeting the 50 hour driving requirement for an instruction permit, and the ability of foster children to obtain automobile insurance during the 2019 legislative interim. Appropriates \$6,750 cash funds from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

H.B. 19-1039 (IDENTITY DOCUMENTS FOR TRANSGENDER PERSONS): Under current law, a person born in Colorado seeking to obtain a birth certificate that reflects a change in gender designation must first obtain a court order indicating that the person's gender has been changed by a surgical procedure and that their name has been changed. The bill eliminates the requirement for a court order, and requires the state registrar in the Colorado Department of Public Health and Environment (CDPHE) to issue a new birth certificate to any person who was born in Colorado and has a gender different from the gender denoted on that person's birth certificate. Persons who currently reside in Colorado but who were born in another state or in a foreign jurisdiction may request a decree from a court in Colorado if such a decree is required to issue an amended birth certificate in the place of their birth.

To issue a new birth certificate, the state registrar must receive a written request from the person and a statement confirming the sex designation on the person's birth certificate does not align with the person's gender identity. If the person is under the age of eighteen, the state registrar must receive the request and statement from the person's parents, guardian, or legal representative and a statement from a professional medical or mental health care provider. The DMV must issue a new driver's license or identity document to a person who has a gender different from the sex denoted on that person's driver's license or identity document upon receiving a statement similar to the above and a new birth certificate issued pursuant to this bill.

Appropriates \$58,500 cash funds from the Licensing Services Cash Fund for IT programming for the DRIVES system for FY 2019-20.

H.B. 19-1085 (GRANTS FOR PROPERTY TAX RENT AND HEAT): Under current law, Colorado residents over the age of 65 are eligible for a property tax and rent assistance rebate grant and a heat and fuel expenses rebate grant, if they meet certain conditions. This bill increases the minimum and maximum rebate amounts and eligible income requirements and removes the requirement that the payment of rent only qualifies for a rent rebate if the rent is paid to a landlord that pays property taxes. Under current law, the income amounts are adjusted annually for inflation. This bill adjusts the rebate amount and income levels for inflation starting in 2020. Appropriates \$24,847 General Fund to DOR, reappropriates \$1,200 to the Department of Personnel for document management services, and increases the Long Bill informational appropriation for the Old Age Heat and Fuel and Property Tax Assistance Grant by \$653,500 General Fund for FY 2019-20.

H.B. 19-1090 (PUBLICLY LICENSED MARIJUANA COMPANIES): Modifies the statutory ownership and investment definitions for medical and retail marijuana licensees, removes the limit of 15 out-of-state owners, changes the ownership residency requirement, and allows a publicly traded corporation to invest in a marijuana business or become a marijuana business. The bill repeals the definition of direct beneficial interest owner, indirect beneficial interest owner, and permitted economic interest; creates new ownership types; and changes disclosure and background requirements, including exemptions for passive beneficial owners and indirect financial interest holders.

A person intending to apply to become a controlling beneficial owner must receive a finding of suitability or an exemption from the Marijuana Enforcement Division (MED) in DOR prior to submitting a marijuana business application. The MED is required to complete a finding of suitability within 120 days. The MED is required to promulgate rules to implement the bill that address: ownership and financial disclosure procedure requirements; record keeping requirements; findings of suitability; divestiture of ownership of a person found unsuitable by the MED; transfers of ownership involving a publicly traded corporation; designation of controlling beneficial owners; modification of the percentage of securities that may be held by a controlling beneficial owner and passive beneficial owner; designation of persons who qualify for an exemption from a finding of suitability; and designation of indirect financial interest holders and qualified institutional investors.

Appropriates \$54,766 cash funds from the Marijuana Cash Fund and 0.2 FTE to DOR and reappropriates \$31,089 and 0.2 FTE to the Department of Law for legal services for FY 2018-19. Appropriates \$2.7 million cash funds from the Marijuana Cash Fund and 15.5 FTE to DOR, reappropriates \$242,494 and 1.3 FTE to the Department of Law for legal services, reappropriates \$18,772 to the Department of Public Safety for criminal history record checks, and reappropriates \$24,750 to the Department of Personnel for fleet vehicles for FY 2019-20.

H.B. 19-1138 (VEHICLE TRANSFER REGISTRATION FEE CREDIT): Under current law, vehicle owners receive a prorated credit of taxes and some registration fees when a vehicle is sold before the end of the vehicle registration year. This bill extends that credit to additional registration fees. Appropriates \$7,200 cash funds from the Colorado DRIVES Vehicle Services Account in the Highway Users Tax Fund for IT programming for the DRIVES system for FY 2019-20.

H.B. 19-1230 (MARIJUANA HOSPITALITY ESTABLISHMENTS): Beginning January 1, 2020, allows for the operation of marijuana hospitality establishments and retail marijuana hospitality and sales

establishments, as approved by a local government. The bill sets provisions for hospitality establishments, including definitions, licensing, rules, and exceptions to currently illegal acts. Beginning January 1, 2020, the MED may issue licenses for marijuana hospitality establishments and hospitality and sales establishments, conditional upon local government approval. Current law prohibits the public consumption and possession of small amounts of retail or medical marijuana, or evidence of marijuana consumption, on premises licensed by the MED. The bill creates an exception for display, consumption, and possession at a licensed marijuana hospitality or hospitality and sales establishment. The bill also creates an exception to the Clean Indoor Air Act for marijuana smoking that occurs in the hospitality space within a licensed hospitality or hospitality and sales establishment, if authorized by a local government ordinance, license, or regulation.

The bill establishes procedures for application submittal, denial, and revocation. Licenses are good for a period of time set for the licensee by the local government, not to exceed one year. The MED may set application and renewal fee amounts by rule. The bill establishes requirements for the licensee and employees of the licensed establishment, including that licensees prohibit the smoking or consumption of alcohol and tobacco products, and all employees must complete an annual responsible vendor training program that is approved by the MED. The bill adds that information on serving size, potency, and impairment must be included in approved responsible vendor training. The MED must promulgate rules related to the implementation of both license types, including general liability insurance requirements, a sales limit, and restrictions on the types of retail marijuana sold at hospitality and sales establishment.

Appropriates \$399,479 cash funds from the Marijuana Cash Fund and 3.2 FTE to DOR, reappropriates \$72,023 and 0.3 FTE to the Department of Law for legal services, reappropriates \$4,576 to the Department of Public Safety for criminal history record checks, and reappropriates \$4,790 to the Department of Personnel for fleet vehicles for FY 2019-20.

H.B. 19-1234 (REGULATED MARIJUANA DELIVERY): Creates a marijuana delivery permit to allow licensed medical marijuana centers, licensed retail marijuana stores, and medical and retail marijuana transporters to deliver marijuana and marijuana products to customers. The MED in DOR has rulemaking authority over the permit and delivery system.

Delivery permit issuances are valid for one-year and the bill establishes marijuana delivery requirements, including:

- requiring responsible vendor training programs to include marijuana delivery training;
- requiring a \$1.00 surcharge on each delivery to be remitted to the municipality or county where the establishment is in business to be used for law enforcement purposes;
- prohibiting more than one delivery to the same person per day;
- requiring the MED to provide a prompt response to local law enforcement agencies requesting information related to criminal activity materially related to marijuana delivery; and
- prohibiting delivery in jurisdictions that prohibit the operation of other licensed marijuana businesses.

The MED must issue a report to the Finance Committees of the General Assembly by January 2, 2021, regarding the number of medical marijuana center delivery permit applications and issuances, any findings of criminal activity materially related to delivery, and any incident reports of felony charges materially related to delivery.

Appropriates \$390,152 cash funds from the Marijuana Cash Fund and 3.6 FTE to DOR, reappropriates \$35,752 and 0.2 FTE to the Department of Law for legal services, and reappropriates \$4,950 to the Department of Personnel for fleet vehicles for FY 2019-20.

H.B. 19-1240 (SALES AND USE TAX ADMINISTRATION): Codifies DOR's rules regarding the requirement that out-of-state retailers collect and remit sales tax, establishes destination-based sourcing rules, and requires marketplace facilitators to collect and remit sales tax on behalf of their third-party vendors.

Establishes economic nexus for purposes of retail sales made by retailers without physical presence and applies to out-of-state retailers with over \$100,000 in sales into the state during the last calendar year. Regarding in-state sales tax sourcing rules, the bill codifies and expands upon DOR emergency rules regarding the change from origin-based to destination-based sales tax sourcing for both purchases and leases, and exempts retailers that do not meet the de minimus threshold. The destination sourcing rules applies to retailers with physical presence that have over \$100,000 in retail sales in the state during the previous calendar year. If a retailer does not meet the threshold, the sale is sourced to the business location of the retailer regardless of where the goods are delivered. This threshold remains effective until 90 days after the state is notified that a geographic information system (GIS) address location system for sales tax jurisdictions is online and available for use by retailers. After the GIS system is available, all sales will be sourced to the delivery location.

Defines marketplace facilitators for sales tax purposes and requires them to start collecting and remitting sales tax in Colorado. A marketplace can be either online or physical, including a store, a website, a catalog, or a software. A marketplace facilitator is defined as an entity that facilitates sales of marketplace sellers to purchasers on its platform, communicates the offer between the buyer and seller, and provides a payment processing service.

H.B. 19-1245 (AFFORDABLE HOUSING FUNDING FROM VENDOR FEE CHANGES): Beginning January 1, 2020, increases the "vendor fee" (an amount that a retailer is permitted to retain for its expenses incurred in collecting and remitting the state sales tax) from 3.33 percent to 4.0 percent, subject to a \$1,000 monthly cap. This limit applies regardless of the number of the retailer's locations, and a vendor with multiple locations is required to register all locations under one account with the Department of Revenue (DOR). Excludes the increase in sales taxes attributable to the vendor fee changes from the definition of "state sales tax increment revenue" for purposes of the "Colorado Regional Tourism Act" so that the increase is payable to the State and not an applicable financing entity.

Requires the State Treasurer to credit an amount equal to the increase in sales taxes attributable to the vendor fee changes, minus the following specified amounts that will instead be retained in the General Fund, to the existing Housing Development Grant Fund:

- \$15,335,781 for FY 2019-20;
- \$40,323,158 for FY 2020-21; and
- \$985,335 for FY 2021-22 and subsequent fiscal years.

Requires the Division of Housing in the Department of Local Affairs (DOLA) to annually award at least one-third of the money credited to the Housing Development Grant Fund under the act for

affordable housing projects for households whose annual income is less than or equal to 30 percent of the area median income.

Appropriates \$286,408 to DOR for FY 2019-20, and states that DOR will require 0.4 FTE to implement the act. Appropriates \$3,398 General Fund to DOLA for FY 2019-20.

H.B. 19-1265 (RIGHT-OF-WAY FOR SNOWPLOWS IN ECHELON FORMATION): Under current law, drivers must exercise care and caution when passing a snowplow engaged in snow and ice removal. Failure to do so is a class B traffic infraction. This bill makes it a class A traffic infraction if a driver passes a snowplow operated by a state, county, or local government while performing its service in an echelon formation, as defined by the bill. The bill does not change penalties for passing a snowplow. Appropriates \$3,375 cash funds from the Licensing Services Cash Fund to DOR for IT programming for the DRIVES system for FY 2019-20.

H.B. 19-1327 (AUTHORIZE AND TAX SPORTS BETTING REFER UNDER TABOR): Conditional upon voter approval, this bill decriminalizes sports betting and places it under the authority of the Division of Gaming in DOR and the Colorado Limited Gaming Control Commission (Commission). Both in-person and online bets must be placed in Colorado and are limited to people 21 years of age or older. Upon statewide voter approval, beginning in May 2020, sports betting will be allowed both in-person at casinos in the State's three gaming towns (Black Hawk, Central City, and Cripple Creek), if approved by local voters, and online through internet sports betting operators contracted by casinos.

The Commission is permitted to issue at least three types of licenses as defined in the bill. The license, and subsequent license renewal fee, cannot exceed \$125,000 and must be renewed every two years. The following entities may not hold an ownership interest or be employed by a sports betting operator or licensee:

- an athlete, coach, referee, employee, or the director of a sports governing body or any team that is a member of a sports governing body;
- a sports governing body or any of its member teams;
- an agent, union, or union representative that advocates for players, referees, or other personnel involved in sporting events;
- a person who holds a position of authority that may exert influence over participants in a sporting event;
- a person with access to nonpublic information about any sports event overseen by that person's sports governing body; or
- a person identified by the sports governing body to have potential conflicts of interest.

Members of the Commission and employees of the Division of Gaming may not participate in sports betting activities, since they are considered to hold positions of public trust.

Upon voter approval, a ten percent tax will be levied on net sports betting proceeds. All of the revenue generated by this tax will be deposited into the newly created Sports Betting Fund, along with all licensing fees, fines, and penalties. All of the expenses associated with regulating, administering, and investigating sports betting activity will be paid out of the Sports Betting Fund. The treasurer can invest the money in the fund as long as enough money remains to cover administrative expenses at any given time. Any additional funds may be spent by the state and are continuously appropriated.

This bill creates the Hold Harmless Fund, which will distribute six percent of total sports betting tax revenue to entities that may see a decrease in revenue if betting behavior shifts from casino-game and off-track parimutuel bets to sports betting. Each entity may submit an annual application to the gaming commission to receive a portion of those funds once it shows the loss in revenue attributable to the implementation of sports betting. If there is not sufficient revenue to cover all documented losses, the gaming commission will decrease distributions by a uniform percentage so that each receives a share proportionate to their losses. The following entities may apply for a distribution from this fund:

- the State Historical Fund;
- community colleges;
- the cities of Black Hawk, Central, and Cripple Creek;
- the counties of Gilpin and Teller; and
- any person or entity that benefits from purse funds, including off-track betting sites and the horse breeders' and owners' awards and supplemental purse fund.

This bill creates the Water Plan Implementation Cash Fund, which will receive deposits from sports betting revenue and any other money allocated by the General Assembly. Grants may be made from this fund pursuant to Section 37-60-106.3 (6), C.R.S., along with any expenditures that will ensure compliance with interstate water allocation compacts, equitable apportionment decrees, international treaties, and federal laws relating to interstate storage, release, apportionment, and allocation of water. Any expenditures related to the administration of this fund may also be paid out of the fund.

The distribution of all moneys credited to the Sports Betting Fund shall occur in the following order:

- 1 repayment of General Fund moneys provided for start up costs for the Division of Gaming;
- 2 payment of ongoing Division of Gaming administrative expenses for sports betting. The state treasurer may withhold an amount to cover administrative expenses for the following fiscal year;
- 3 transfer of six percent of the full fiscal year sports betting tax revenue to the Hold Harmless Fund, which will be further distributed to its beneficiaries, as described below;
- 4 transfer of \$130,000 to the Office of Behavioral Health in the Department of Human Services, of which \$30,000 will be allocated to the Rocky Mountain Crisis Partners, or its successor, for the operation of a crisis hotline for gamblers, and \$100,000 will be allocated for the prevention, education, treatment, and workforce development by counselors certified to treat gambling disorders; and
- 5 transfer of the remaining funds to the Water Plan Implementation Cash Fund.

After the initial appropriation to cover startup costs, the bill requires that no state money other than the revenue in the fund will be used to pay the administrative expenses of sports betting in the state. Appropriates \$1.7 million General Fund and 11.6 FTE to DOR, reappropriates \$142,388 and 0.8 FTE to the Department of Law for legal services, reappropriates \$34,650 to the Department of Personnel for fleet vehicles, and reappropriates \$1,716 to the Department of Public Safety for criminal history record checks for FY 2019-20.

Implementation of the sports betting provisions in the bill are conditional upon voter approval. However, the appropriation from the General Fund is made available to the Department of Revenue to implement information technology systems changes and to conduct background investigations

prior to voter approval. Thus, it is possible that the Department will incur General Fund expenditures prior to the election which would not be repaid if voters reject the referred measure.

APPENDIX C FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

There were no Department footnotes from FY 2019-20.

UPDATE ON REQUESTS FOR INFORMATION

There were no Department requests for information from FY 2019-20.

APPENDIX D

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Revenue is required to publish an Annual Performance Report for the previous fiscal year by November 1 of each year. This report is to include a summary of the department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the department is required to develop a Performance Plan and submit the plan for the current fiscal year to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the department's FY 2020-21 budget request, the FY 2018-19 Annual Performance Report and the FY 2019-20 Performance Plan can be found at the following link:

<https://www.colorado.gov/performancemanagement/department-performance-plans>

State Tax System Working Group

Members of the Working Group

Colorado Department of Revenue
Governor's Office of Information Technology
Colorado Department of Personnel and Administration
Legislative Council Staff

Legislative Council Staff

Jean Billingsley, Senior Research Analyst
Andrea Denka, Research Analyst

December 2019

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December 2019

To Members of the Joint Budget Committee, the Joint Finance Committee, and the Joint Technology Committee:

Submitted herewith is the final report of the State Tax Working Group. This working group was created pursuant to Senate Bill 19-248. The purpose of this working group is to assess the current state of the Colorado tax system to determine if continued investments in the existing tax system are in the best interest of the state.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Natalie Mullis".

Natalie Mullis
Director

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Introduction

Pursuant to Senate Bill 19-248, the State Tax System Working Group (working group) convened during the 2019 interim. The working group was tasked with conducting an analysis of the state tax system, GenTax, currently used by the Colorado Department of Revenue (DOR) to administer taxes, and maintained by DOR, the Governor's Office of Information Technology (OIT), and the vendor, FAST Enterprises, LLC (FAST). This report outlines the working group's findings and recommendations.

Background. In 2016, application support for GenTax was fully transitioned to FAST, with OIT managing the infrastructure to host GenTax.¹ In FY 2017-18, DOR submitted an operating budget request for \$3.8 million to add more FAST technical resources to support GenTax and to upgrade the state's data center, where GenTax is hosted. DOR was appropriated funds for GenTax operations in DOR's annual operating budget in FY 2017-18 and in FY 2018-19, \$6.4 million and \$5.7 million, respectively.

On December 11, 2018, the Joint Budget Committee (JBC) requested that the Joint Technology Committee (JTC) review DOR's most recent (FY 2019-20) operating budget request. The request consisted of an additional \$1.4 million General Fund (GF) and 12 full-time employees (FTEs), split between DOR and OIT, with future additional funding of \$2.8 million GF in FY 2020-21 and 26 FTE, annualizing to \$2.7 million GF in FY 2021-22.

To research the FY 2019-20 operating budget request, JTC staff met with DOR and OIT leadership and staff on two occasions. Following these discussions, the JTC recommended that the JBC fully fund the operating budget request to hire state employees to support GenTax in order to reduce the state's reliance on vendor resources. As the additional state FTEs become proficient in the system, the department's reliance on the GenTax vendor, FAST, should decrease.

The JTC sponsored SB 19-248 in response to its review of the FY 2019-20 operating budget request, the JTC staff analysis, and information from the department. The goal of creating the working group was an assessment of the current state of the Colorado tax system, which could be used to determine if continued investments in the existing tax system were in the best interest of the state.

Requirements of SB 19-248. SB 19-248 required the working group to consider, evaluate, and provide findings and recommendations on:

- the deficits of the current state tax system, including requests that the system cannot satisfy;
- stakeholder dissatisfaction with the system;
- the benefits of ownership of the current tax system in relation to the cost of the total deficits of the current system;
- any potential new investments in GenTax to either address the deficits of the system or pursue a replacement system;

¹Colorado Office of the State Auditor. "State of Colorado Statewide Single Audit Fiscal Year Ended June 30, 2018." February 2019. pp. II-37.

- any potential areas of improvement for the current state tax system, including options to provide a robust tax reporting and analytics solution and options to develop and maintain an external severance tax module that interfaces with the current state tax system;
- options for managing the recurring changes in tax data and the method by which newly requested tax reports are implemented and generated to track those changes;
- any other evaluations or considerations deemed necessary by the working group in connection with the state tax system;
- the benefit of an independent third-party assessment of the state tax system; and
- whether to continue the working group through the 2020 interim.

The scope of the working group assessment did not include any of the other software systems under DOR's purview, such as: (1) the Colorado Division of Motor Vehicles system, DRIVES, which provides driver and vehicle services, including processing state vehicle titling, registration, and driver licenses; (2) tax administration of the state lottery; (3) collection of city, county, Regional Transportation District, and special district taxes; (4) the Highway Users Tax Fund; and (5) the collection and distribution of gaming taxes.

Acknowledgments. JTC staff is grateful to the state employees who provided their expertise to analyze the tax system and the critical functionality it provides to many internal and external stakeholders. The staff further thanks the DOR and OIT management teams and staff, the Legislative Council director and staff, the legislative economists, the fiscal notes analysts, the JBC staff, and the Office of State Auditor for their support, guidance, and expertise.

Lastly, due to the dedication of DOR, OIT, and the legislative employees who contributed their time, the working group established a communication channel that brought new insight and clarity about GenTax, its functionality, and potential areas of improvement.

Executive Summary

Key Findings

1. **Benefits of GenTax versus deficits.** The Colorado GenTax system provides a breadth of functionality for administering state taxes; however the tax system, and the business processes for administering taxes, have some areas in need of improvement. Under the new leadership at DOR and OIT, the departments have already implemented many of these improvements.
2. **Developing an external severance tax module.** The working group assessed the feasibility of creating a custom, external severance tax module to evaluate system alternatives and possible future cost savings. Specifically, the working group compared OIT's high-level cost estimate to develop an external severance tax module and DOR's estimate to add severance tax functionality to the existing GenTax system. Although the estimates concluded that the maintenance costs for an external custom-coded module are higher than adding the severance tax functionality to the existing GenTax system, both options are comparable in costs to implement. Additionally, DOR explains that before any technical changes are made to the tax system, two actions should be completed: (1) DOR requests that all severance tax filings be submitted electronically since severance tax is currently submitted in paper form only; and (2) JTC staff recommends that a cost-benefit analysis be created to evaluate the options for adding severance tax functionality to ensure the best solution is chosen.

3. **Tax reporting and analytics solution.** DOR produces numerous reports using the reporting features of GenTax to provide Colorado tax administration information to internal and external stakeholders. However, the working group found that adding stand-alone data technology to the existing tax system may be beneficial.
4. **External assessment of GenTax.** DOR has procured a vendor to conduct an external assessment of GenTax.

Recommendations

JTC staff recommends not to continue the working group past the 2019 interim assuming DOR and OIT provide the JTC with the following updates on or before July 1, 2020:

- the timeline and progress of the goals stated for the recent operating budget increases;
- the progress of the action items identified by the working group and the DOR-managed external assessment;
- the progress of evaluating a custom, external severance tax module by creating a cost-benefit analysis using existing resources; and
- the progress of evaluating the costs and benefits of improving tax reports and adding a data analytics solution.

JTC staff also recommends that DOR and OIT conduct another tax system user survey to determine if their recent improvements have had an impact. After DOR evaluates the results of its user survey, it should provide the JTC the survey results and a summary. JTC staff recommends that DOR provide the JTC with its plan to conduct the user survey on or before July 1, 2020.

Background of GenTax

GenTax processes 78 tax types and administers the local sales tax for 267 jurisdictions in the state. Colorado's GenTax system was developed over ten years ago, but it is currently operating in the latest FAST version. Each year, the state may install two to four FAST updates. DOR and OIT plan to update again in 2020.

In 2018, 83 percent of the individual income tax returns submitted to DOR were electronic, and the other 17 percent were paper tax returns.² Overall, most paper tax return forms are read by the FairFax optical character reader (OCR), which is located and maintained through the Department of Personnel and Administration. The OCR scans and then imports the data into GenTax for tax administering processing. For some of the older tax return forms, the return information is manually entered into GenTax.

Electronic tax returns can be submitted using three methods: (1) the GenTax web portal, Revenue Online; (2) the Modernized eFile (MeF), jointly administered by the Internal Revenue Service (IRS) and multiple states and used by commercial or external tax products; and (3) web services set up for high-volume taxpayers. A full description of tax return submission processes can be found in Attachment A, Tax Return Receipt Process for Paper and Electronic Tax Return Submissions.

²"By the Numbers – TAX," Colorado Department of Revenue
< https://www.colorado.gov/pacific/sites/default/files/2018_Annual_Report.pdf >, accessed September 25, 2019, pp. 57.

The DOR Division of Taxation is the primary user of GenTax, however; the system is also used by other DOR divisions and sections, including the Office of Research and Analysis (ORA). ORA produces statutory and nonstatutory tax reports while complying with various state and federal regulations.

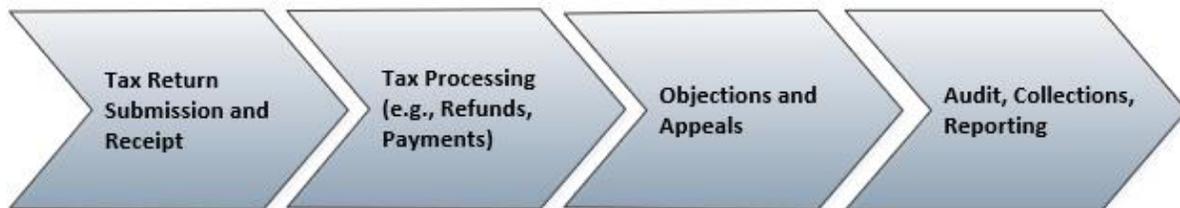
According to FAST, GenTax is a complete, integrated tax processing software package designed to support an agency implementing multiple tax types and can adapt to diverse agency requirements through custom code. FAST provides its tax system to 30 states and local governments, and internationally in 9 different countries.³ The Federation of Tax Administrators says the market has at least two other vendors that provide similar tax software. Florida and New York, states that have systems comparable to Colorado’s tax complexity, have custom tax processing systems. California’s four tax agencies use a combination of custom and commercial off-the-shelf (COTS) systems.

The Benefits and Deficits of GenTax

Background. Pursuant to SB 19-248, the working group evaluated the state tax system by reviewing the benefits and deficits of the system, including how effectively the system meets stakeholder requirements.

Tax systems can facilitate many of the tasks required to process tax returns, refunds, payments, and can collect tax information (see Figure 1: Tax System Functionalities). Tax systems can also provide a web portal for taxpayers to submit their tax returns or a system interface to integrate with third-party commercial applications. In regard to compliance monitoring and enforcement, tax systems may also provide features to support audits and collections, including providing tax information, or tax reports, to managers and staff.

Figure 1
Tax System Functionalities



³“Our Clients,” *FAST Enterprises*, < <https://www.fastenterprises.com/about/clients/> >, accessed on September 25, 2019.

System benefits. GenTax provides a breadth of tax processing functionality in each of the following seven modules:

1. *the Customer module* provides registry, correspondence, and online services;
2. *the Revenue module* provides functionality for returns, refunds, payments, accounting, billing, and appeals for some site protests;
3. *the Workflow module* provides functionality for case and work management;
4. *the Information module* provides a data mart for tax reporting;
5. *the Compliance module* provides a data warehouse containing data from external resources, such as the IRS, along with collection, discovery, bankruptcy, non-filer, fraud, and audit functionalities;
6. *the Management module* provides system management functionalities, such as security, interface, and business rules; and
7. *the Special Functions module* provides ancillary features, such as imaging and inventory management.

DOR elected to not procure all of the features that FAST offers because of the cost. For example, some features of the Special Functions module are not installed. Regarding other modules, some features such as e-services, appeals, workflow management, analytics, and the dashboard are not available for every Colorado tax type. For the Management module, the business rules feature is not available for some of the state tax types.

System deficits. The first release of the GenTax system was in 2008. Considering the age of the system and ongoing changes in business requirements, GenTax has a number of service requests (SQRs) in its queue. SQR types include requests to correct the original design of the system, enhancements, information requests, maintenance, and changes to address requirements added through new legislation. DOR tracks SQR priorities using the following four levels:

1. *Urgent* is a SQR describing a system functionality that does not work properly, and no work-around exists;
2. *High* is a SQR describing a system process that needs to be stopped, such as preventing return posting;
3. *Standard* is the default priority for most SQRs; and
4. *Low* is used mostly for enhancement requests.

DOR provided a report of SQRs in its queue between June 21 and August 23, 2019. During this time period, GenTax had a total of 553 items in its SQR queue, which included three high-level SQRs and no urgent SQRs. During this period, the report showed a similar number of SQRs added to the queue compared to the number that were closed. Nevertheless, DOR plans to increase the rate of closing SQRs as the additional state employees, appropriated under the FY 2019-20 operating budget request, are trained. The department's priority is to close all existing SQRs that address changes to existing tax forms and changes from new legislation. Overall, it expects to close over 100 SQRs by the end of this calendar year.

Although the number of SQRs is an indicator of the amount of work needed to correct or enhance GenTax, the total number of SQRs cannot be used to determine level of effort required to make system improvements since SQRs vary in size and scope. For example, DOR states that some SQRs can be closed in as little as a day, while others may take close to a year to implement. Additionally, DOR states that the SQR queue may contain duplicate requests or obsolete items.

Department improvements. Please find below a list of the changes DOR and OIT have undertaken and implemented since 2018 that aim to improve the system deficits of GenTax.

- *The Business Innovation Group (BIG).* BIG is a support group formed by DOR that partners with OIT and other technical-solution providers to lend agency expertise and establish clearly defined goals, accountability, and priorities for the department's IT projects. BIG coordinates with the DOR divisions to explore the use of both technology and process improvements to find greater efficiencies and effectiveness in customer service. BIG also uses an agile methodology, which involves collaboration and continuous feedback with stakeholders, to improve workflow and program implementation. The department's agile implementation aligns with the Governor's Office and OIT's approach for the state's new IT solutions and services.
- *Governance teams.* DOR established two governance teams that provide additional oversight of the system. The objective of the governance teams is to establish and employ policies to streamline processes that align IT solutions with customer expectations and mission requirements, including enterprise project planning initiatives and SQR-centric process improvement projects. First, the production solution team (PST) is comprised of organizational leadership who meet every other week to align GenTax functionality with organizational strategy and requirements. The integrated support team (IST) members are system super users and subject matter experts who: (1) represent each internal customer group; (2) review and scope each SQR prior to submission; and (3) work to improve the SQR submission process, including evaluating the use of an agile methodology for all future SQR submissions.
- *GenTax support team.* DOR created the System Support Office (SSO) team that manages: (1) internal projects, such as implementing legislative changes; (2) daily SQR work; (3) daily tax file handling; (4) ongoing user training; and (5) tax system documentation.
- *Improved communications.* The department is developing a system communications plan to improve internal communications about GenTax, and has already developed PST, IST, and SSO newsletters that are sent to all department staff.
- *Stakeholder review.* The department identified and developed the communication channels necessary for its internal system super users and subject matter experts to ensure adequate communication of GenTax.

Recommendations. JTC staff recommends that the department provide the JTC two updates: (1) the timeline and progress of the goals stated for the operating budget increases; and (2) the results of a future DOR tax system user survey to assess its more recent improvements.

1. *Operating budget increase goals.* For its FY 2019-20 operating budget request, DOR explained the urgency of increasing its annual budget to better support the GenTax system. JTC staff understood from its meetings with DOR that the department may need even more funding in the future to adequately support the system. To summarize, the DOR FY 2019-20 operating budget request stated the following goals:
 - “to level-set resources to execute tax administration accurately and efficiently without pulling existing resources from other areas of production which negatively impacts the performance and service levels of those other areas” and
 - “to demonstrate success with the initial [FY 2019-20 operating budget] investment, and then seek to continue to increase resources in future years to ensure that the system fulfills its maximum functionality and intended purpose.”

JTC staff recommends that DOR provide the JTC an update of its progress in meeting these stated goals, along with a milestone timeline of when the goal’s objectives will be completed within existing resources by July 1, 2020. If applicable, the department should provide an analysis of any critical objectives that cannot be completed in a timely manner under the existing operating budget.

2. *Results of another GenTax user survey.* On October 29, 2018, DOR and OIT published the results of an internal survey, which assessed user satisfaction with the state’s GenTax system.⁴ The survey discovered the following potential areas of improvement regarding the GenTax system; communication, governance, operation and maintenance, the SQR process, and training.

Since the completion of the survey, the DOR and OIT leadership team have implemented changes that may make substantial improvements in GenTax user satisfaction and its related processes and procedures. These changes include goals to:

- increase workload capabilities to support the daily functionality;
- provide ongoing training to business user groups;
- improve quality assurance oversight of the system outputs;
- mitigate tax system risks; and
- update the tax system configuration documentation.

After the recent improvements and newly hired staff have had time to affect change, JTC staff recommends that the department conduct another survey and provide a summary of the results to the JTC by July 1, 2020. If the department cannot provide an update at this time, JTC staff recommends that the department provide a new planned date to update the JTC on this effort.

⁴Colorado Governor’s Office of Information Technology, “GenTax – SQR Analysis Phase II,” October 29, 2018, pp. 8-11.

Lastly, JTC staff recommends that the departments continue their efforts to stay abreast of any potential improvements in the state tax system. DOR should continue meeting with other state and local governments and collaborating with OIT to stay up-to-date on technical solutions. The departments should also develop a contingency plan in the case the system is unavailable or not sustainable any more. Specifically, JTC staff recommends that the departments continue evaluating:

- plans to address GenTax obsolescence;
- the estimated cost to build an external, custom functionality that will interface with the existing GenTax system, such as an external severance tax module, a data mart, or additional data analytical tools;
- the addition of new technical platforms such as blockchain to improve system functionality;
- the cost of maintaining GenTax and a gap analysis of resources required to support and maintain the system in a pre-defined stable state; and
- the status of GenTax costs and security, including risks and issues associated with retaining the existing system versus replacing the system.

External Severance Tax Module

Severance tax stakeholders.⁵ The Colorado severance tax is a tax on natural resources, such as oil, gas, and metallic minerals, which are removed from the earth. Severance tax revenue is collected and distributed to the following state agencies and funds:

- the Innovative Energy Fund;
- the Department of Natural Resources Severance Tax Trust Fund;
- the Department of Local Affairs Local Government Severance Tax Fund;
- the Perpetual Base Fund for water loans and projects;
- various local impact grant and loan funds;
- the operational fund for Department of Natural Resources programs and other natural resource and energy-related programs; and
- direct distribution to local governments based on factors measuring the amount of oil, gas, and mining activities in a particular area.

Background. Although the GenTax system is a COTS system, it can be configured to provide customization. In Colorado's version of GenTax, approximately 92 percent of the code is proprietary vendor code, and the remaining 8 percent is custom code. As a result, the state benefits from a customizable system that is provided by a vendor that specializes in tax systems; however, the state is also dependent on vendor services and subject to its rates.

⁵"Severance Tax", <<https://leg.colorado.gov/agencies/legislative-council-staff/severance-tax>>, accessed on September 12, 2019.

As a case study, the working group evaluated the possibility of implementing an external severance tax module as a cost-effective alternative to being fully dependent on vendor services. Severance tax was chosen as the test case because severance taxes were among the first taxes implemented in the GenTax system.⁶ Over the past ten years, DOR has not enhanced the existing system to improve the administration of severance tax in GenTax. Adding additional severance tax functionality to GenTax as an external module presents an opportunity to automate some of the manual processes within the current functionality, which could increase the collection of severance tax and improve severance tax reporting.

In FY 2018-19, DOR provided the JBC an analysis and the estimated costs to simplify its severance tax administration by adding additional severance tax functionality to the existing GenTax system.⁷ Since all of the approximately 15,000 severance tax returns processed each year are submitted in paper form, DOR explained in its analysis that before technical updates are made to the tax system, the severance tax return should change from a paper return to an electronic tax submission to streamline filing and administration of severance tax returns. In other words, the department states that mandating electronic filing and adding additional severance tax functionality to the state tax system will improve the integrity and accountability of severance taxes in the state.

Findings. Creating an external severance tax module will require custom code developed by OIT, or by consultants managed by OIT. If the state develops and maintains custom software, it will add risk. Additionally, if the state pursues investing in a custom-coded external severance tax module, OIT would need to dedicate resources to designing, coding, and maintaining the new module for its customer, DOR. Whereas, maintaining all severance tax functionality in the existing GenTax system would continue to be performed by the vendor.

For the working group's analysis, OIT created a high-level cost estimate of resources needed to develop an external severance tax module. The OIT cost estimate budgets for a large contingency since OIT developed its analysis with limited available information. In order for OIT to refine its estimate, OIT asks that DOR develop the full scope of the project by: (1) reviewing the initial design and architecture options to determine the optimal technical platform; (2) collaborating with OIT to discuss solution options in order to meet business needs; (3) conducting a series of design workshops with key stakeholders, such as OIT, DOR, and local governments; (4) determining if existing resources are available to meet schedule and budget constraints; and (5) developing a statement of work.

OIT states that it can accomplish a detailed cost estimate and scope of work using existing resources if it re-prioritizes tasks assigned to its current projects. However, this would likely affect technical projects at other agencies. If the state decided to direct OIT to proceed with a detailed analysis, OIT states it can refine its estimates without impacting other tasking if it hires contractors for approximately six months. Table 1 outlines the funding needed to contract term-limited resources to develop a detailed analysis for an external severance tax module, without negatively affecting ongoing projects at OIT.

⁶2011 NASCIO Recognition Awards Nomination", *Colorado Department of Revenue Colorado Integrated Tax Architecture (CITA) Project, Phases II and III*, Award Category: Improving State Operations, National Association of State Chief Information Officers, p.2, <www.nascio.org/portals/0/awards/nominations2011/2011/2011CO7-Colorado%20Nomination_CITA.pdf>

⁷Department of Revenue FY 2018-19 RFI #1", The Colorado Department of Revenue, 2018, pp. 2-5.

<https://leg.colorado.gov/sites/default/files/images/lcs/rfi_electronic_sales_and_use_tax_simplification_system_3162018.pdf>

Table 1
OIT Contract Resources for a Detailed External Severance Tax Module Estimate
Six-Month Period

OIT Contract Position Resource	Estimated Costs
Senior Business Analysts (2)	\$100,000
Business Analyst (1)	\$35,000
Solution Engineer (1)	\$60,000
Project Manager (1)	\$60,000
Total	\$255,000

Source: OIT.

After comparing the OIT high-level estimate for a custom, external severance tax module and DOR's detailed estimate to add severance tax functionality to the existing GenTax system, as shown in Table 2 below, the working group determined that coding an external severance tax module is comparable in cost to adding the additional functionality to the existing GenTax system. However, when comparing the annual maintenance costs, the cost of maintaining and supporting an external severance tax module is two to five times higher than maintaining the functionality in the existing GenTax system. Specifically, the OIT high-level estimates show that the external severance tax module's annual maintenance cost would be between \$230,000 and \$460,000 for licensing and technical support compared to the annual cost of maintaining it within the existing GenTax is around \$9,000.

Table 2
Add Severance Tax Functionality to the Existing Tax System
OIT High-Level Estimate for an External Severance Tax Module and
DOR Detailed Estimate to Add Severance Tax to GenTax

OIT High-Level Estimate to Develop an External Module		DOR Detailed Estimate to Add GenTax Functionality	
Item	Estimated Costs	Item	Estimated Costs
Development and Testing		Vendor Development and Testing	\$147,500
Licensing		Mineral Audit	\$216,603
Integrations		ORA	\$22,720
Reporting		System Support Office	\$102,430
e-Signature			
Total	\$500,000-\$750,000	Total	\$489,253

Sources: OIT and DOR.

Before any tax system changes occur, DOR says severance taxes should be submitted electronically instead of in paper form. Even though DOR has rulemaking authority to require electronic filing per House Bill 19-1256, DOR is requesting statutory changes to support the collection and reporting of additional information sought by stakeholders, which includes requiring centralized collection, exempting severance taxes from refund interest statutes in certain cases, and giving DOR the authority to access a penalty for any severance taxes filed incorrectly.

Recommendations. JTC staff recommends that DOR and OIT review their estimates by conducting a high-level qualitative and quantitative cost-benefit analysis of the options for administrating severance taxes before investing funds to refine the estimates or conducting a proof-of-concept. For example, the departments could consider the following three options for their cost-benefit analysis: (1) creating custom code to develop and maintain an external severance tax module; (2) developing and maintaining additional severance tax functionality in the existing GenTax system; and (3) doing nothing, which requires continuing with the existing manual processes.

For the quantitative analysis, the departments should determine the most appropriate metrics to be used. Additionally, OIT and DOR should add a contingency amount to their estimates to account for risks based on their experience with similar projects. For instance, OIT may have a higher contingency since its estimates for an external module are based on limited information and on a technical platform that has not been approved yet.

For a qualitative analysis, the departments could consider the risks and benefits of each of their options. For example, one benefit of implementing an external severance tax module may be a reduction in costs when adding other external modules for administration of tax types besides severance tax. Specifically, economies of scale might be realized because the technical tools and internal knowledge would be established after the external severance tax module implementation. On the other hand, with the implementation of a custom-coded external severance tax module, the state may be increasing its risk by taking complete ownership of the code and the tax data it processes. However, given that OIT already hosts the GenTax system and its backups at the state data centers, the state may already have contractual obligations and risks pertaining to the GenTax system and tax data.

House Bill 15-1266 requires that information technology capital budget requests identify and quantify anticipated administrative and operating efficiencies or program enhancements and service expansion through cost-benefit analysis and return-on-investment calculations. Even though developing an external severance tax module is not a current capital budget request, JTC staff recommends that the departments provide the JTC updates, including a summary of their cost-benefit analysis, final recommendation, and if applicable, a milestone timeline. The timing of the updates to the JTC depends on the immediacy of the department's need to add severance tax functionality to GenTax and on resources, as well as statutory changes to support additional severance tax reporting and data collection.

State Tax Reports

Background. Pursuant to SB 19-248, the working group evaluated potential areas of improvement for GenTax, including a robust tax reporting and analytics solution. Timely, relevant tax reporting is essential because it supports:

- identifying problematic tax areas and taxpayer errors;
- estimating revenue impacts for fiscal notes and producing revenue forecasts;
- evaluating tax expenditures, including tracking enacted tax expenditures to confirm policy objectives;
- determining credit ratings for municipalities, counties, and special districts; and
- assessing the health of the state and regional economies for economists, bankers, and the business community.

Findings. ORA provides analytical expertise and research services to internal and external stakeholders. While complying with state and federal regulations, ORA provides tax information, statutorily mandated reports, and nonstatutory reports. During FY 2018-19, ORA provided 704 reports, including all of the reports required by statute (see Attachment B: DOR’s Tax Reports Delivered by ORA in FY 18-19). 97 percent of the reports ORA provided relied on GenTax data.

During the 2019 interim, ORA worked with FAST and OIT to research its reporting capabilities and possible improvements. For example, ORA recently finished its work to provide monthly retail sales reports to internal and external stakeholders. The retail sales reports provide the number of tax returns, gross sales, and retail sales by industry, county, and city in the state of Colorado between 2016 and 2018.⁸

Tax data. The information available for reporting depends on the data fields captured on tax forms and uploaded into the GenTax system. To increase efficiencies, reduce costs, and reduce taxpayer burden, some tax data fields are not collected on the tax form, and therefore cannot be reported. For example, a tax credit on the tax return form may ask for a total sum instead of requiring the taxpayer to itemize each tax credit amount.

Taxpayers can submit their tax returns either electronically or in paper form and that information is transferred into GenTax. Paper tax return data are collected through an OCR reader, and since the data captured are about 85 percent accurate, DOR and OIT are researching improvements in the OCR technology and procedures, which may result in increasing manual verification efficiencies. Additionally, DOR states that electronic return data are typically transferred into GenTax through batches processed in real-time or every 24 hours, depending on the tax type and program used to submit tax returns.

Outstanding tax reports. Most reports are developed using custom GenTax database queries that ORA runs to create each report. Not all tax information is currently accessible. For example, in cases when the information is not on the tax return form, or if the data have not been mapped and stored in GenTax, tax information from previous years cannot be easily reported. Currently, ORA and FAST are working together to map GenTax to get reporting information for tax types with limited reporting capacity.

ORA has compiled a list of nonstatutory report types that various stakeholders have requested, but cannot be provided at this time (see Attachment C, DOR’s Outstanding Tax Report Requests (as of 7-19-2019)). Tax report types that are not produced due to taxpayer burden cannot be provided until the tax form is changed and additional information is collected from taxpayers.

Data analytical tools. Although the GenTax system includes reporting capabilities, modern-day data analytical tools could provide a more robust addition to the state tax system reporting features, and may add monitoring and controlling functions. JTC staff found that other states have added reporting tools to their GenTax system to accomplish enhanced reporting. Besides improved access to the state’s tax data, a data analytical tool may also improve; reporting for auditing purposes, detecting data anomalies and root cause analysis, reducing the tax gap, or the difference between the tax amount owed and the tax revenue collected, and developing reports more efficiently.

⁸“Retail Sales Report”, <<https://www.colorado.gov/pacific/revenue/retail-sales-report>>, accessed October 17, 2019.

The working group found that procuring a data analytical tool may be a feasible solution to increase the reporting capabilities of both ORA and the taxation division without increasing staff, while benefiting numerous tax report stakeholders. However, OIT and DOR must continue to evaluate available options since new software tools come with additional costs and risks directly related to protecting and maintaining the tool(s) and the data processed and stored outside of the GenTax system.

Recommendations. JTC staff recommends that DOR continue to collaborate with OIT to assess the GenTax architecture in order to determine the optimal solution for improving tax reporting. JTC staff also recommends DOR conduct market research and reach out to states that use GenTax to research the results of their reporting tools and capabilities. While JTC staff recognizes that some outstanding report requests cannot be produced due to taxpayer burden, JTC staff recommends that the department provide an update to the JTC on or before December 1, 2020, describing any improvements in its tax reporting and data analytics.

External Assessment

Background. Pursuant to SB 19-248, the working group was tasked with recommending whether or not an external assessment of the state tax system was necessary.

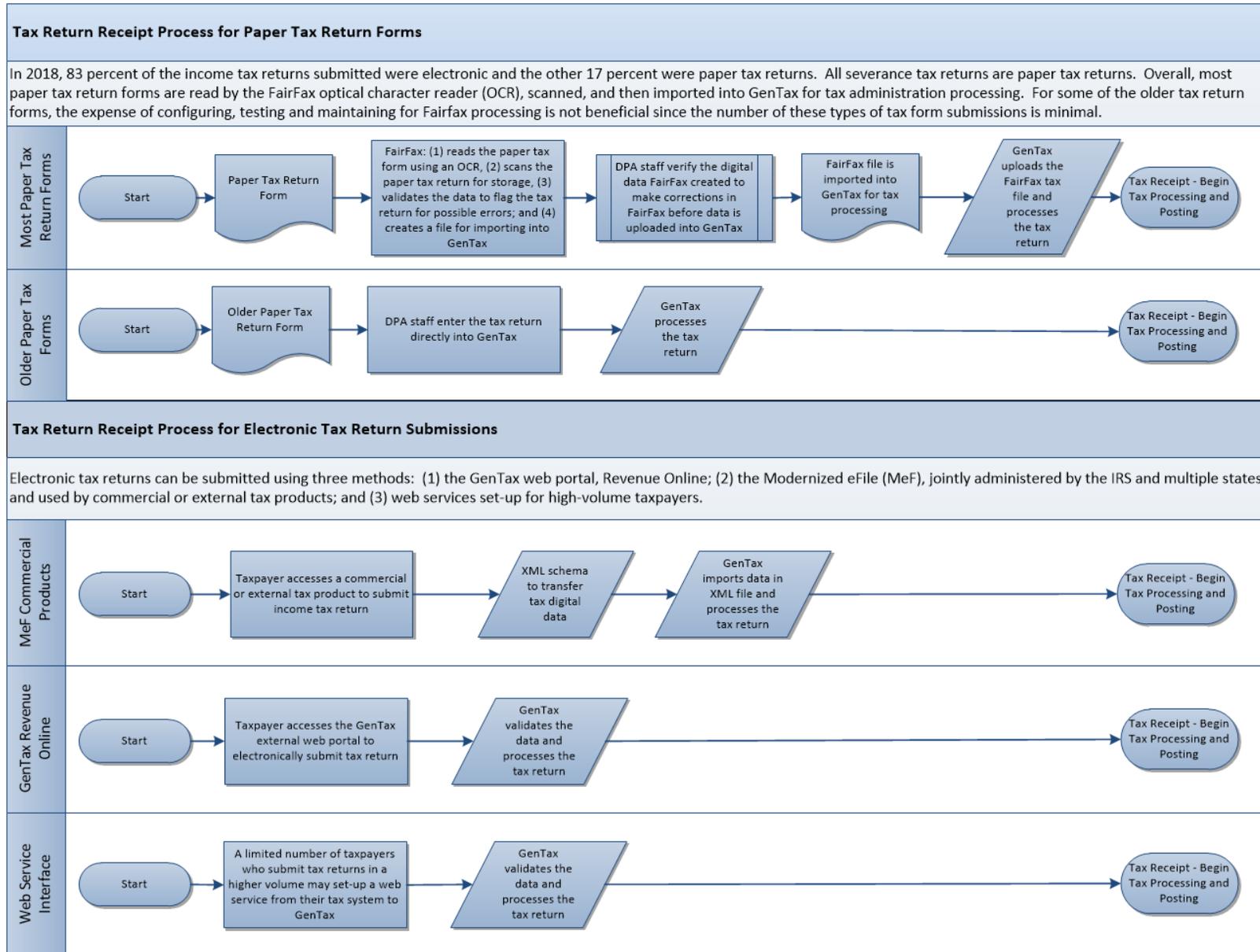
Findings. The working group determined that an external assessment of GenTax is necessary to better understand the system. DOR began procuring a vendor to conduct an external assessment by releasing a Document Quote (DQ) in September 2019. The assessment commenced in early October 2019, and a final report will be submitted and presented to DOR in November 2019.

The vendor will provide a comprehensive assessment of critical DOR software systems and best practices (see Attachment D, Documented Quote). The two critical DOR software systems to be evaluated in this assessment are the GenTax system and the Colorado Driver License, Record, Identification, and Vehicle Enterprise Solution (DRIVES). DRIVES replaced the legacy Driver License System and Colorado State Titling and Registration System in February 2017 and in August 2018, respectively. The primary objectives of the assessment are:

- assessing the current state of the GenTax and DRIVES systems;
- comparing DOR systems with other state systems;
- completing a list of best practices for managing these systems; and
- recommending enhancements or replacements of or within the systems.

Recommendations. JTC staff recommends that DOR provide the JTC a copy of the final assessment, along with a briefing, by July 1, 2020.

Attachment A Colorado Tax Return Submission and Receipt Process



Source: Legislative Council Staff

Attachment B - DOR's Tax Reports Delivered by ORA in FY 18-19

Report	Frequency	Number of Reports	Time/Per Report	Statutory Requirement	Source Data	Does this Report Depend on GenTax?	Link to Posted Reports
Ad-hoc Legislative	Ad-hoc	63	Hours - Weeks	NA, but needed for fiscal notes and policy decisions	Gentax - database tables	Yes	Delivered direct to customer
Ad-hoc DOR/Executive Branch	Ad-hoc	142	Hours - Weeks	NA, but needed for management decisions	Gentax - database tables	Yes	Delivered direct to customer
Ad-hoc All Other	Ad-hoc	244	Hours - Weeks	NA	Gentax - database tables	Yes	Delivered direct to customer
Coal Index report	Monthly	12	Hours	§39-29-106(5)	BLS	No	https://www.colorado.gov/pacific/tax/severance-tax-legal-research
Federation of Tax Administrators Report	Monthly	12	Hours	NA	CORE	Yes	Delivered direct to customer
General Fund - Final	Monthly	12	Hours	NA	CORE, AFS data	Yes	https://www.colorado.gov/pacific/revenue/general-fund-net-tax-collections
General Fund - Preliminary	Monthly	13	Hours	NA, however OSPB and LCS require this data for their forecasts	CORE, GenTax - cube report, AFS data	Yes	Delivered direct to customer
Liquor Report	Monthly	9	Hours	NA	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-liquor-excise-taxes
Marijuana Sales (2 reports)	Monthly	24	Hours	NA	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-marijuana-sales-reports
Marijuana Tax Data (4 reports)	Monthly	48	Hours	NA	CORE, GenTax - database tables and cube report	Yes	https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data
Out-of-State Retailer Sales Tax Report	Monthly	1	Hours	NA	GenTax - cube report	Yes	Delivered direct to customer
Severance Tax Monthly Collections Report - Final	Monthly	12	Hours	NA	CORE	Yes	Delivered direct to customer
Severance Tax Monthly Collections Report - Preliminary	Monthly	12	Hours	NA	CORE	Yes	Delivered direct to customer
Tobacco Tax Data Monthly Report	Monthly	12	Hours	NA	CORE, AFS data	Yes	Delivered direct to customer
Voluntary Contributions Report	Monthly (February through October)	9	Hours	§39-22-1001(9)	GenTax - report	Yes	https://www.colorado.gov/pacific/revenue/voluntary-contributions
FHWA and State Monthly Motor Fuel Report	Quarterly	4	Days	Federally Required	COFTS, IFTA, CORE, GenTax - reports	Yes	https://www.colorado.gov/pacific/revenue/colorado-motor-fuel-taxes
Marijuana Average Market Rate Calculation	Quarterly	4	Days	§39-28.8-101(1.5)	Metrc	No	https://www.colorado.gov/pacific/tax/marijuana-taxes-file
Marijuana Excise Tax Reports for Local Governments	Quarterly (some Ad Hoc)	38	Hours	§39-28.8-302(3)	GenTax - database tables	Yes	Delivered to DOR Local Government Liaison for distribution
Oil & Gas Ad Valorem Report	Quarterly	4	Hours	NA	GenTax - database tables	Yes	Delivered direct to customer
AFS Long Term Economic Estimate	Annual	1	Months	State Fiscal Procedures Manual, Chapter 3, section 3.3	GenTax - cube report	Yes	Internal DOR use only

Attachment B - DOR's Tax Reports Delivered by ORA in FY 18-19

Report	Frequency	Number of Reports	Time/Per Report	Statutory Requirement	Source Data	Does this Report Depend on GenTax?	Link to Posted Reports
AFS Short Term Economic Estimate	Annual	1	Months	State Fiscal Procedures Manual, Chapter 3, section 3.3	GenTax - cube report, AFS Net Collections reports from CORE	Yes	Internal DOR use only Internal DOR use only
AFS Wage Withholding Estimate	Annual	1	Weeks	State Fiscal Procedures Manual, Chapter 3, section 3.3	GenTax - cube report	Yes	https://www.colorado.gov/pacific/revenue/annual-report https://www.colorado.gov/pacific/revenue/annual-report
Annual Report - Table generation for Taxation	Annual	1	Months	§24-1-136 or §24-35102	CORE	Yes	
Annual Report - Table generation for AFS	Annual	1	Months	§24-1-136 or §24-35102	CORE	Yes	
Average Taxes Paid (Inside of Individual Income Tax Form Booklet)	Annual	1	Months	§24-35-108.5	BLS Consumer Expenditure Survey, variety of 3rd Party sources; DRIVES, GenTax/IRS blended data, SSA	Yes	https://www.colorado.gov/pacific/tax/individual-income-tax-instructions-and-forms Internal DOR use only Delivered direct to customer
Bioscience Fund - SB11-47 Withholding Transfer	Annual	1	Hours	39-22-604.3(5)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/statistics-income
Child Care Credits for CDHS	Annual	1	Hours	Statutory for CDHS	GenTax - database tables	Yes	Internal DOR use only Delivered direct to customer
Colorado Statistics Of Income - Individual	Annual	1	Months	§39-21-303	GenTax - database tables, IRS data	Yes	Delivered direct to customer
Commercial Vehicle Investment Tax Transfer Amount	Annual	1	Hours	§42-1-225	GenTax - database tables	Yes	https://www.fhwa.dot.gov/policyinformation/motorfuelhwy/trustfund_cfm
DOLA Annual Severance Tax Report	Annual	1	Hours	39-21-113(18)	GenTax	Yes	Delivered direct to customer
Enterprise Zone Credit report to OEDIT	Annual	1	Weeks	§39-30-111	GenTax - database tables	Yes	https://www.colorado.gov/pacific/tax/individual-income-tax-legal-research https://www.colorado.gov/pacific/tax/corporate-income-tax-legal-research https://www.colorado.gov/pacific/tax/partnership-income-tax-legal-research
FHWA Annual Motor Fuel Reporting	Annual	1	Days	Federally Required	COFTS, IFTA, CORE, GenTax - reports	Yes	https://www.colorado.gov/pacific/tax/property-tax-rent-heat-credit-ptc-rebate-forms
FHWA Prior Year Motor Fuel Verification	Annual	1	Hours	Federally Required	IFTA	No	https://www.colorado.gov/pacific/tax/property-tax-rent-heat-credit-ptc-rebate-forms Delivered direct to customer
Index Probate Levels	Annual	1	Hours	§15-10-112	BLS	No	
Index PTC (Property Tax Credit)	Annual	1	Hours	§39-31-101(2)	BLS	No	
Lodging Tax Summary	Annual	1	Hours	NA	GenTax - database tables	Yes	

Attachment B - DOR's Tax Reports Delivered by ORA in FY 18-19

Report	Frequency	Number of Reports	Time/Per Report	Statutory Requirement	Source Data	Does this Report Depend on GenTax?	Link to Posted Reports
TABOR report/letter	Annual	1	Days	§39-22-2002(4), §39-22-627(2), §39-22-123 (4)(c)	GenTax - database tables	Yes	Delivered direct to customer
Unlicensed Child Care Facilities List	Semi-Annual (January and July)	2	Hours	NA	GenTax - database tables	Yes	FYI Income (next to FYI Income 35 - Child Care Contribution Credit) https://www.colorado.gov/pacific/tax/fyi-publications-income-tax Income Tax -- Credits (Child Care Contribution Credit) https://www.colorado.gov/pacific/tax/income-tax-credits Individual Income Tax -- Instructions and Forms (next to DR 1317) https://www.colorado.gov/pacific/tax/individual-income-tax-instructions-and-forms Tax Forms by Number (DR 1317) https://www.colorado.gov/pacific/tax/forms-number-order
Colorado Statistics Of Income - Corporate	Even years	1	Months	§39-21-303	GenTax - database tables, IRS data	Yes	https://www.colorado.gov/pacific/revenue/statistics-income
Tax Profile and Expenditure Report - Alcohol Taxes Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Cigarette and Tobacco Excise Tax Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Fuel Excise Taxes Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	COFTS, ORA data files for monthly FHWA motor fuel reporting	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Income Tax Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Sales and Use Taxes Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Severance Taxes Expenditure Study	Even years	1	Months	§39-21-303 §39-21-305(2)(b)	GenTax - database tables	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Tax Profile and Expenditure Report - Colorado Tax Profile Study	Even years	1	Months	§39-21-303; §24-35-108.5	Average Taxes Paid, US Census	Yes	https://www.colorado.gov/pacific/revenue/colorado-tax-profile-and-expenditure-reports
Withholding Tables for Income Tax	Odd years, or more if there are federal changes	1	Weeks - Months	§39-22-604(3)(a)	IRS forms	No	https://www.colorado.gov/pacific/tax/fyi-publications-withholding-tax

Attachment C - SUMMARY - DOR's Outstanding Tax Report Requests (as of 7-19-2019)

Report/Data	Steps completed for tax return reporting (in order) <i>Responsible party</i>					Existing barriers <i>Yes (Y)/No (N)</i>				Solution			Costs of solution <i>Y/N</i>				Requester			Provide back year data? <i>Y/N</i>	
	1. Collect data	2. Capture data	3. Return map	4. Database map	5. Develop report	Opportunity costs	GenTax costs (\$)	Personnel costs (FTE)	Taxpayer burden	Not statutorily required	Difficulty <i>(Easy, Mod, Hard)</i>	Steps	Timescale <i>(once prioritized)</i>	DOR LOE	FAS T LOE	DPA LOE	Fairfax LOE	Who	Need		Priority <i>(Low, Med, High)</i>
	<i>DOR</i>	<i>Many</i>	<i>DOR, FAST</i>	<i>DOR, FAST</i>	<i>DOR</i>																
Sales Reports	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Y	N	Y	N	Y	Mod	1. Obtain and/or prioritize resources 2. Develop report	Months	ORA: Y	N	N	N	LCS, OSPB, GA, DOLA, CML, local governments, researchers, media, general public	Informs understanding of regional economic activity; improves revenue forecasting; informs evaluations of the regional impacts of policy decisions		Y
Unclaimed Credits (Outstanding Liability)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	Y	Y	Hard	1. Obtain and/or prioritize resources 2. Change tax return forms (add lines) 3. Build GenTax credit manager 4. Capture data 5. Return map 6. Database map 7. Develop report	Years	ORA: Y SSO: Y TAX: Y AFS: Y	Y	Y	Y	LCS, OEDIT, OSA, DOR	Improves fiscal note analyses of tax expenditures; informs tax management; informs policy decisions		N
Oil & Gas Severance Tax Deductions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	N	Y	Hard	1. Obtain and/or prioritize resources 2. Convert paper form to electronic 3. Return map 4. Database map 5. Develop report	Years	ORA: Y SSO: Y TAX: Y	Y	N	N	LCS, OSPB, DOLA, DNR, GA, researchers, media, and the general public	Improves severance tax revenue forecasting used to fund state agencies; informs policy decisions		N
Tax expenditure data that is <i>not currently itemized on a form</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	Y	Y	Hard	1. Obtain and/or prioritize resources 2. Change tax return forms (add lines) 3. Capture data 4. Return map 5. Database map 6. Develop report	Years	ORA: Y SSO: Y TAX: Y	Y	Y	Y	LCS, OSA, GA	Improves fiscal note analyses of tax expenditures; informs evaluations of tax expenditures for policy decisions		N
Tax expenditure data that is on a form, but <i>not currently database mapped</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	N	N	Y	Easy	1. Obtain and/or prioritize resources 2. Database map 3. Develop report	Weeks	ORA: Y SSO: Y	Y	N	N	LCS, OSA, GA	Improves fiscal note analyses of tax expenditures; informs evaluations of tax expenditures for policy decisions		Y
All supporting documentation for tax expenditures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	Y	Y	Hard	1. Obtain and/or prioritize resources 2. Require documentation be submitted 3. Capture data 4. Return map 5. Database map 6. Develop reports	Years	ORA: Y SSO: Y TAX: Y	Y	Y	Y	OSA	Informs evaluations of tax expenditures for policy decisions		N
Corporate income tax return data by industry	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	N	Y	Mod	1. Obtain and/or prioritize resources 2. Return map 3. Database map 4. Develop report	Months	ORA: Y SSO: Y TAX: Y	Y	N	N	LCS, OSA	Informs understanding of economic activity; improves fiscal note analyses; improves revenue forecasting; informs evaluations of tax expenditures for policy decisions		Y
Individual income tax return data by age for all income tax years	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y	Y	Y	N	Y	Easy	1. Obtain and/or prioritize resources 2. Database map 3. Develop report	Weeks	ORA: Y SSO: Y	Y	N	N	LCS, OSA	Informs understanding of economic activity; improves fiscal note analyses; improves revenue forecasting; informs evaluations of tax expenditures for policy decisions		Y

Attachment C - KEY - DOR's Outstanding Tax Report Requests (as of 7-19-2019)

Definitions and additional information:	Abbreviations:
Steps completed for tax return reporting (in order):	Solution Providers:
<p>1. Collect data: Information is requested on a form and required to be submitted to DOR. If the data is not collected, it is not available for reporting or tax administration.</p> <p>2. Capture data: Select fields from the forms and convert into a format that can be input into GenTax. If the data is not captured, it cannot be input into GenTax. This step is applied to paper and electronic forms.</p> <p>3. Return map: Build the GenTax user interface to include the captured data and load the data into GenTax. If data is not return mapped, DOR staff cannot view it in GenTax for tax administration needs.</p> <p>4. Database map: Write the return mapped data to the database. If data is not database mapped, it is not available for reporting.</p> <p>5. Develop report: This involves multiple steps including: researching the data availability, database structure, and table relationships; consult with internal subject matter experts about data questions; developing custom queries to pull the data from the database; extracting, organizing, and formatting the data; evaluating which data can be reported based on taxpayer confidentiality requirements.</p>	<p>DPA: Department of Personnel and Administration - Manage paper form processing and contract with Fairfax</p> <p>Fairfax: Paper form imaging vendor</p> <p>FAST: FAST Enterprises - The GenTax software vendor</p> <p>ORA: DOR's Office of Research and Analysis - they complete most of the tax data reporting</p> <p>SSO: DOR's Systems Support Office - they work with the vendors to support all GenTax and Fairfax system changes</p> <p>TAX: DOR's Taxation Division - includes Taxpayer Services, Auditing and Compliance, Tax Policy Analysis, Tax Conferee, Tax Communications</p>
Responsible party:	Requesters:
<p>Many = Fairfax (paper), DOR (paper/electronic), Tax software (electronic), FAST (Revenue Online) Existing barriers:</p>	<p>CML: Colorado Municipal League</p> <p>DOLA: Department of Local Affairs</p> <p>DNR: Department of Natural Resources</p> <p>GA: General Assembly</p> <p>LCS: Legislative Council Staff</p> <p>OEDIT: Office of Economic Development and International Trade</p> <p>OSA: Office of the State Auditor</p> <p>OSPB: Office of State Planning and Budgeting</p>
<p>Opportunity costs: If we prioritize one thing, we would have to give up something else (e.g., implementing changes required by new legislation; maintenance; operations affecting tax administration and/or customer service)</p> <p>GenTax costs (\$): These reports have not been completed because we do not have sufficient GenTax programming funding (\$).</p> <p>Personnel costs (FTE): These reports have not been completed because we do not have sufficient personnel (FTE).</p> <p>Taxpayer burden: Generally, requiring additional data to be reported on tax forms increases taxpayer burden. This additional burden can manifest in many ways including, but not limited to: individuals require increased time to complete a tax return; tax software vendors must reprogram their systems to collect the additional information; retailers have to adjust their point of sale systems to collect additional information; cashiers may have to ask purchasers to provide additional information.</p>	
Difficulty of solution:	
<p>The difficulty was determined by the number of missing steps and the timescale to implement the solution.</p> <p>Easy: There are 1-2 missing reporting steps and/or it would take weeks to provide the report.</p> <p>Mod: There are 3 missing reporting steps and/or it would take months to provide the report.</p> <p>Hard: There are 4-5 missing reporting steps and/or it would take years to provide the report.</p>	



Documented Quote (“DQ”)
#DOR20001/Critical Software Systems
Assessment
Published: September 13, 2019

Attachment D

1. Administrative Information

A. Overview

The State of Colorado, Department of Revenue (“Department”) is seeking quotes from qualified individuals or firms licensed to do business in Colorado to provide a comprehensive assessment of critical DOR software systems identified below as Critical DOR Software.

B. Term of Award

The resulting award will be from date of award through June 30, 2020 with the option to renew.

The State, at its discretion, shall have the option to extend the performance under the contract beyond the initial term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in the contract. The total duration of the contract, including the exercise of any options to extend, shall not exceed five years from its Effective Date absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

The Department reserves the right to add additional goods/services that would be a natural extension of this procurement.

C. Pricing

Pricing will be firm for the initial term of the award. Price increases may, in the Department’s discretion, be allowed per extension/renewal period. If requesting a price increase the vendor must submit a written request for price increase along with a justification, to the below listed purchasing agent thirty (30) calendar days prior to the current end date. In the event the prices have decreased, this decrease shall be immediately extended by the vendor to the Department.

All pricing must be for delivery FOB Destination. Unless otherwise specified, pricing/costs must be inclusive of administrative support, supplies, office supplies, pagers, cell phones, parking fees, meals, lodging, rents, mileage, travel expenses, training, after hours or weekend time, insurance, use of subcontractors, overhead, profit, and costs for all other items consumed, utilized, and/or required by vendor’s staff or subcontractor’s staff. Total costs proposed will be used in the evaluation of the vendor’s bid. All hardware and software deemed necessary by the vendor shall also be included in the proposed costs. Items or costs not identified in the vendor’s bid will be the sole responsibility of the vendor.

D. Sole Point of Contact

The Department’s sole point of contact for this DQ is:

Seth Meisinger, Senior Purchasing Agent
Colorado Department of Revenue
Purchasing and Contracts Services
Phone: 303-866-2812
[Email: seth.meisinger@state.co.us](mailto:seth.meisinger@state.co.us)

The preferred method of communication is by email. All email correspondence should include “DQ #DOR20001/Critical Software Systems Assessment” in the subject line.

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E. Schedule of Activities

Activity	Date/Time
Published Date	September 13, 2019
Inquiries	September 16, 2019
Bid Submission Deadline	September 18, 2019

Solicitation Publication and Communication

The DQ has been published on the Colorado Vendor Self Service (“VSS”) website at [Colorado VSS](#). Vendors should monitor VSS for any updates or modifications. In the event that it becomes necessary to revise any part of this DQ, a modification notice will be published on VSS. It is very important that vendors check VSS on a regular basis, as this is the sole method for communicating any changes. Modifications published on VSS take precedence over information in this DQ.

VSS Help Desk is available Monday through Friday 8:00 a.m. to 5:00 p.m. MT and can be reached by calling (303)-866-6464 or emailing VSSHelp@state.co.us.

F. Inquiries

Inquiries shall be submitted in writing by the Inquiries Deadline via email to the purchasing agent containing “DQ #DOR20001/Critical Software Systems Assessment” in the subject line.

Inquiries will be compiled and responses will be published on VSS as a modification.

G. Bid Submission Instructions

The bid must be submitted via email to the purchasing agent in an electronic PDF format. The email must contain “DQ #DOR20001/Critical Software Systems Assessment” in the subject line.

A bid must be received on or before the Bid Submission Deadline. Late bids may not be accepted by the Department.

H. Evaluation and Award

There will be no scheduled public bid opening.

The Department may determine whether or not a response meets the Department’s needs and pricing is fair and reasonable. The Department may negotiate with vendor(s) to make bid (s) acceptable. The Department reserves the right to negotiate with any vendor to clarify its quote or to effect modifications that will make the bid acceptable or make the bid more advantageous to the Department. The Department shall not disclose competing vendor bid information until after award.

The Department reserves the right to request interviews/demonstrations with any vendor prior to making an award.

Award will be made to the vendor whose response is most advantageous to the Department, price/cost being the primary consideration. Other considerations may include, but may not be

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limited to, experience and qualifications of vendors, and past performance. The determination of whether the bid is acceptable and meets the minimum requirements of the DQ is solely within the discretion of the Department. No formal evaluation system or methodology is required for any DQ process.

The Department prefers to award to a single vendor; however, the Department reserves the right to make multiple awards from this DQ if in the best interest of the Department.

After responses have been reviewed, an award will be published on VSS.

I. Standard Terms and Conditions

A sample contract is attached to this DQ. (See Attachment A, Sample Contract) Modifications to these terms and conditions may not be accepted.

By submitting a response, the vendor acknowledges that an award will require a contract between the Department and the vendor, with no modifications. If the vendor submits any modifications the Department may deem this as non-acceptance of the contract and may disqualify vendor from further consideration. The vendor shall include in its response any proposed modifications or additional terms and conditions. The decision to reject, accept or further negotiate is at the Department's discretion. The Department, at its sole discretion, may propose modifications.

J. Scope of Work

The Vendor shall provide an assessment of critical DOR software systems and best practices for management, maintenance and continuous improvement used in similar systems around the country. The department estimates roughly 200 hours will be needed in total for these services with a deadline of November 15 for a report and presentation to DOR management of results.

In the agency's desires for continuous improvement, DOR has embarked on this analysis effort to gain a better understanding of the variables and options influencing decisions to maintain, enhance or if needed, replace critical DOR software systems. DOR software is used to help deliver a variety of services, and we seek to make them highly efficient, secure, and scalable to support the various missions of each division. These systems are an integral part of the effective delivery of services at the state and county level and must meet federal reporting requirements that support a funding model with significant cost-benefits to the state.

The primary objectives of the analysis effort are to:

- Assess the current state of critical DOR software systems
 - How are they performing?
 - What are the biggest challenges?
- Compare DOR systems with a select group of other states using similar systems
 - How do other states use the system, similarly or differently?
 - How do they compare with DOR use?
 - What are their challenges and best practices?
- Present a list of best practices that could be adopted at DOR
 - Are there best practices that DOR could adopt?
 - What might be a prioritized list (roadmap) for adoption?
 - What method of adoption would be suggested?
 - What costs might be associated with adoption?
- Suggest enhancements or replacement of critical systems if warranted
 - Why would a system be in need of replacement?

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- o What would be an analysis framework with which we could make decisions on the future of a system?

Critical DOR software systems are supported by a diverse group of individuals comprised of the various departments that operate the system and a limited group of state staff working cooperatively with various vendor's that develop and maintain the systems. You would be authorized to talk with vendors and support staff within DOR to assess the condition of the system.

1. Project Timeline

This project is expected to commence in early October, 2019, and finish mid-November, 2019

- Week 1 (40 hours): Work with DOR staff to fine-tune the scope of work and deliverables to be mutually agreed
- Week 2-4 (120 hours): Research and analyze along the scope of work
- Week 5 (20 hours): Work with DOR staff to finalize and review results
- Week 6: (20 hours): Produce and present a report of findings to DOR leadership

2. Experience and Qualifications

The desired experience and qualifications of the vendor or vendor personnel includes:

Having experience with:

- Government software systems
- Performing comprehensive assessments and analyses of State technical systems
- Producing third-party vendor analysis
- Governance processes and structures that depict roles and responsibilities, Key Performance Indicators (KPIs), compliance and risk mitigation, analysis within each assessed support model

Possessing:

- Project management skills to execute on time and meet the budget.
- People management skills to be able to get the needed information without undue burden on employees or other state workers
- Collaboration skills to work with DOR leadership, staff and other States, have everyone willing to discuss and participate in this analysis
- Analytical skills to assess key factors and processes and their affects
- Reporting skills to complete a report that is easy to read and succinctly conveys the key points of findings (a background in audit is helpful)
- Communication and presenting skills to convey the findings to leadership

K. Bid Response Format and Content

The purpose of this section is to specify a format for a bid response.

1. Service Disabled Veteran Owned Small Businesses (SDVOSB)
SDVOSBs must submit documentation of SDVOSB certification issued through the U.S. Department of veterans affairs in their response. §24-103-905 CRS sets a SDVOSB goal of at least 3% of all contracts by dollar value be awarded to SDVOSBs who must be incorporated or organized in Colorado or they must maintain a place of business or have an office in Colorado and must be officially registered and verified as

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a SDVOSB by the Center for Verification and Evaluation within the United States department of veterans affairs. See www.vip.vetbiz.gov.

2. Cover Letter

Vendor shall include the following information on company letterhead:

- a. Introduction of company
- b. Contact information, name, address, phone number and email
- c. General overview of response
- d. List key personnel that will be assigned
- e. Description of any services under a resulting purchase order or contract, including subcontracts anticipated to be performed outside the United States or Colorado. If any, identify where the services will be performed and explain why these services will be performed outside of the United States or Colorado.

3. Project Plan

- a. Submit a Project Plan describing your methodology and approach for this project.
- b. Propose deliverables associated with the project based on your project plan, to include a timeline for completion of each deliverable.

4. Sample Report

Provide a sample report for similar services performed.

5. Experience

Provide details for experience with the following:

- a. Government software systems
- b. Performing comprehensive assessments and analyses of State technical systems
- c. Producing third-party vendor analysis
- d. Governance processes and structures that depict roles and responsibilities, Key Performance Indicators (KPIs), compliance and risk mitigation, analysis within each assessed support model

6. Pricing

- a. Submit a firm, fixed price for the review, analysis, report and presentation of summary information to the Department along with estimated total hours needed to complete. Pricing shall include all fees, costs and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges and other expenses.
- b. In addition to the firm, fixed price, provide a blended hourly rate for additional services if needed.



Executive Summary

Summary of Additional Resources Required to Provide Severance Tax Filing Data¹			
<i>Category of Expenditure</i>	<i>FY 1*</i>	<i>FY 2</i>	<i>FY 3 and Ongoing</i>
Vendor Development and Testing Costs (Fast for GenTax Progaming)	\$73,750	\$73,750	\$-
Mineral Audit	\$43,321	\$86,641	\$86,641
Office of Research and Analysis	\$19,200	\$3,200	\$320
System Support Office (Personal Services Dollars to Backfill Testing and Project Management Functions)	\$51,215	\$51,215	\$-
Total	\$187,486	\$214,806	\$86,961

*Fiscal Year Ending During the Impacted Tax Filing Year

Note: For a more detailed explanation of costs and methodologies, review the “Additional Resources Required to Implement” section of the report.

As a result of this request for information, the Colorado Department of Revenue (CDOR) convened a working group of audit, taxpayer service, business analyst, reporting, and policy staff to discuss current limitations and identify areas of opportunity to modify severance tax administration to improve the systematic intake and output of taxpayer data. CDOR made several assumptions about what constitutes “more specific information” about the data in question that are outlined in the “Problem Statement” section of the report. Potential solutions developed by the team are grouped by solutions that would be facilitated by statutory changes or by solutions that could be addressed through return and/or system updates alone.

Colorado’s severance tax was enacted in 1977 and portions of statute have not been substantially updated or revisited since the 1980’s and 90’s. This document summarizes

¹ For purposes of estimating costs to respond to this RFI, the Department assumes that the implementation timeline for statutory and system changes would begin January 1 of the impacted tax filing year. For example, if the changes are effective for the tax year beginning January 1, 2019, the project would be initiated, planned and developed beginning January 1, 2019 (or as soon as possible thereafter) in order to ensure that the returns, data sharing processes, and filing and billing systems are fully updated by January 1, 2020 when taxpayers may begin filing for the 2019 tax year.



several statutory changes the Department recommends including but not limited to: mandate e-filing; mandate centralized collection and sharing of NERF data electronically with CDOR, CDOLA, and the counties; exempt severance tax from refund interest statutes in certain cases; and add an option for the Department to assess a penalty for failure to report and file correctly to ensure correct information is collected.

In addition to providing the General Assembly with more reporting capacity, the adoption and funding of the solutions suggested in this report simplify severance tax filing for taxpayers and reduce manual work and errors for CDOR, improving the integrity and accountability of the tax system. Historically, conflicting and higher impact demands on CDOR development resources have superseded opportunities to automate the severance tax or to drive the systematic collection of data for reporting of the tax. While modernizing these processes would result in more efficient administration of the tax, the cost of the modernization has exceeded the benefit given the Department's budget allocations in the past.

For general information, currently there are no cases waiting in the Department's conferee section to be resolved as a result of BP Am. v. Colo. Dept. of Revenue decision. There is projected to be \$16 M of refunds issued for returns that are currently under audit. These refunds are related to the BP Am. v. Colo. Dept. of Revenue decision ruling. These refunds are expected to be processed and paid by the end of this fiscal year, June 30, 2019. Additionally, there is anticipation that amended returns may be filed for the eligible time period of tax year 2014 through 2016 for an estimated total of up to \$29 M².

Without an electronic filing mandate, the costs to collect and prepare the data for reporting manually by staff increase exponentially above what is presented in this RFI response. The adoption of any single solution alone is not enough to address the request for additional reporting for the general assembly and the suggestions provided should be considered as a package.³

² This estimate is based on a representative group of the largest taxpayers and the limited information that is known at this time. This total is only an estimate, as the decision to file amended returns is left to the business. The Department of Revenue has no advance notice of taxpayer intent until such time as the business files tax information with the Department.

³ Any changes made as a result of suggestions from this RFI will only be effective going forward; what data the Department does have available for back years and current years is limited and can only be retrieved through manual information gathering, which means copying information from images of paper forms (if provided and available) by hand into a spreadsheet or other data collection tool.

Also, reporting data from tax filings includes an inherent lag. For example, if taxpayer requirements were changed effective for the 2019 filing period (which is due beginning April 15, 2020), the earliest that reporting could be completed would be January 2021 to include fiscal year taxpayers and extension filers in a "full tax year". In addition, reporting on return-based information does not predict the potentially substantial revenue adjustments that happen as a result of late filings, amendments, or audits. Filing data should only be used to inform decisions about long-term trends and patterns and cannot reasonably be used to forecast short term effects.



Introduction

1.1 Problem Statement:

“The Department is requested to submit to the Joint Budget Committee (JBC) by November 1, 2018, an assessment of the additional resources it would need to provide the General Assembly with more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance tax filers for decision making purposes. Additional resources may include, but is not limited to: statutory changes, additional personnel, additional software modules, or software adjustments to GenTax.”

In order to complete the request for information (RFI), the Department makes the following assumptions:

- The JBC believes that historical data on the use of specific credits, exemptions, and deductions allowed under statute against severance tax will allow for more accurate forecasts of severance tax revenues in the future.
- The “more specific” information includes a breakout of credit, exemption, and deduction amounts claimed that is consistent and comparable to the information that is collected by property tax administrators in the netback expense (NERF) forms.
- Collecting and reporting data systematically is facilitated by receiving data electronically.
- Without an electronic filing mandate, the costs to collect and prepare the data for reporting manually by staff increase exponentially above what is presented in this RFI response.

CDOR is currently unable to provide reporting on the specific information requested related to severance. Prior to 2008, all CDOR administered taxes were housed by a patchwork of systems in a mainframe environment developed decades before. The legacy system presented a number of limitations on data, processing, and information collection that set a foundation of manual processing and little integration. The severance taxes were among the first taxes that were migrated to the new system in 2008. As one of the first taxes implemented in the system, the priorities for severance tax migration were (1) proof-of-concept to transfer relatively smaller taxes to a more integrated new system and (2) maintaining existing processes with minimal business disruption for taxpayers and for Department staff. The severance tax roll out was not designed include significant enhancements or changes. Since the initial roll out and over the past ten years, other conflicting and higher impact demands on CDOR resources have superseded many opportunities to improve the administration of the severance tax or to increase the systematic collection and reporting of the tax data.



The data desired by the GA is return data. This data can be used to inform some policy decisions about the severance tax landscape, but even if made available, limitations on the usefulness of the data should be considered and understood by decision makers. Returns are reports that rely on voluntary compliance and taxpayer knowledge that may be audited and corrected by the Department. Not every return received is audited. Return information can be changed at any time (within reason and within a statute of limitations) through amendment, review adjustment, audit findings, administrative hearing settlement, or court process. While return data (which is specified by tax year/filing period) largely tracks collection data (which is specified by revenue period) it will not match exactly and cannot be easily linked to collection data because substantial revenue adjustments can happen as a result of late filings, amendments, or audits.

Tax policy--such as providing deductions or credits--has an effect on severance tax collections, however larger economic and political forces on oil and gas prices such as global supply and demand, other federal and state exploration and production regulations, and industry profitability and technology contribute more to drive business decisions and ultimately production and tax revenue from producers than tax policy directly. These forces, as well as the results of any potential future litigation create variations from forecasts that are outside of the control of the state and the impacts of these forces are not mitigated or predicted by additional data reported on returns.

The majority of the suggestions included in the report are focused on changes to oil and gas reporting specifically, however each of the changes recommended are also applicable to other severance taxes (metallic minerals, coal, molybdenum, etc.) Much of the statute governing the administration of severance taxes applies to all severance tax types so the associated costs for updates also consider severance tax as an inclusive package. The costs to make changes could be reduced marginally if the suggested statutory and administrative changes were adapted to fully separate the administration of oil and gas severance from all other severance taxes; however the reduction in development costs would be marginal and would decrease consistency in administration between the various types of severance tax.

Finally, the members of the working group discussed ideas outside of the scope of reporting that could have a stabilizing impact on the state revenue stream generated by severance taxes to improve the General Assembly's ability to budget and expend severance tax revenues.⁴ Ultimately, these ideas were not addressed in detail in the RFI response due to

⁴ These ideas were to (1) change the way distributions are allocated from the severance tax funds in the state budget based on collections from the prior fiscal year rather than the current fiscal year, (2) raise the tax rates, (3) change the point of taxation to producers only rather than require a withholding and liability sharing with other taxpayers by taxing the production directly rather than the gross income from the production, (4) remove, reduce, or modify the ad valorem credit since taxpayers receive reductions and credits against the ad valorem tax based on several netback expense (NERF) deductions, and (5) remove or reduce the threshold for consideration of "stripper" well exemption status.



the fact that they were more significant tax policy changes or budget decisions rather than collection of information and had the potential to result in net revenue increases for the state.

1.2 Statutory Construction of Severance Tax

The current statutory framework authorizing severance tax contains grey areas and does not provide statutory authority for the Department to enact or enforce administrative changes that only serve the purpose of increasing the amount of reportable data. To the extent the Department determines that additional information is required on a return for the purpose of tax administration the Department has statutory support to require that information. However, depending on the quantity, type, and scope of changes to returns and systems to accommodate the information the Department must defend and budget for the changes or forgo other maintenance and support work to pay for the development. In addition, the results of the *BP Am. v. Colo. Dept. of Revenue* decision mean that the Department has little room to make any regulatory adjustments regarding deductions without supporting legislative changes to the underlying statute. In order to support the request for additional reporting and return information from taxpayers, the Department recommends several statutory changes in the “Statutory Solutions” section of this report.

1.3 Return and System Limitations on Data Collection

The general assembly request pertains to “more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance filers.” Information regarding deductions is not reported on the Form DR 0021 and associated Form DR 0021D which are the minimum required components to administer oil and gas severance tax return processing. Deduction is reported, if at all, on Form DR 0021PD, a form that was not designed to reflect the degree of detail contemplated by the RFI, that CDOR is not able to require taxpayers to submit, and, if taxpayers do submit, CDOR does not have the current system capacity to data capture and store the information.

The decisions regarding the collection and capture of this information at any level in the past have been largely driven by resource constraints (costs to key or data capture information from paper, costs to store data in the Department’s system of record, etc.) and the relatively small populations of impacted filers compared to the historic audit coverage of the industry, which has in some years been as much as 75% of the collected amount and covers the majority of wells in the state. Additional data that is captured and stored systematically could in some cases improve the ease of administration of the tax, however due to costs for system changes as well as the requirement of taxpayers to “keep and preserve books, accounts, and records as may be necessary to determine the amount of liability”, capturing additional data on the return has remained a “nice to have” rather than a “necessary” consideration. Additional reporting requirements from the taxpayer also increase taxpayer



costs of compliance to report and file correctly and requiring redundant information from CDOR that the taxpayer files and reports elsewhere places additional burden on the industry and costs on the businesses. In order to support the request for additional reporting and return information from taxpayers, the Department recommends funding several administrative and system changes in the “Return and System Solutions” section of this report.

Potential Solutions and Resources Needed

Statutory Solutions

This section outlines CDOR’s recommendations for statutory changes that would enable more current, accurate and accessible data for decision makers, a more streamlined severance tax filing experience, as well as more automated administration of the severance tax.

Suggestions and Rationale for Statutory Changes	
<i>Suggested Section in C.R.S.</i>	<i>Description of change and rationale for the suggestion</i>
#1 39-7-101(4)	Mandate sharing of NERF data electronically from the counties with CDOR to (a) centralize the information and (b) help improve the correct assessment of tax and (c) streamline audit efficiency. Or consider centralized reporting from all the producers to CDOLA or DOR into a database system all of the assessors could access (and then share from CDOLA to CDOR if necessary.) This suggestion represents an opportunity (like a state managed GIS for sales tax boundaries) to invest in a centralized data repository that could be used by state and local agencies, as well as a repository for more complete deduction information.
#2 39-21-110	The fact that the original due date of a filing rather than the timely filing drives the payment of refund interest could result in variations in collection that are unexpected and difficult to budget for. CDOR has 90 days from the return due date to process returns prior to having to pay refund interest. This is a very large task in and of itself. Additionally, there is no clear guidance on how to treat taxpayers who file late (after the due date) or upon extension. The Income Tax refund interest statute is subject to different rules, one of which is that the state does not have to pay refund interest if a return has been selected for review and one which begins any interest calculations at the date of the receipt of the



Suggestions and Rationale for Statutory Changes	
<i>Suggested Section in C.R.S.</i>	<i>Description of change and rationale for the suggestion</i>
	<p>filing or return rather than the original due date of the return. Some severance tax returns are in excess of 200+ pages and often are more lengthy reviews. A change to this statute would result in less chance for variations in collections that are a result of interest being paid on late or amended filings.</p>
<p>#3 39-29-102(3)(a)</p>	<ul style="list-style-type: none"> ● Clarify in statute the General Assembly’s intent, scope, and definition of deductions allowed against “gross income”. ● Consider statutory changes regarding “related parties” and provide specific direction on what can be allowed to be considered an arm’s length transaction vs. a related party transaction, statute allows CDOR to define in rule however the Department had to modify the regulation as a result of the court decision. Statutory clarification defining related parties could allow the Department more direction to prevent related party pricing to avoid tax.
<p>#4 39-29-103(2) AND 39-29-105(2)</p>	<p>Eliminate the option to use cash or accrual methods to determine the credit allowed and just follow the federal rule for most taxes of cash accounting for purposes of establishing the credit. This change would avoid taxpayers who use accrual accounting getting the value of the credit before the payment that generates the credit is actually made in some cases. This nuance in filing, reporting, and qualifying for the credit complicates filing and can result in audit adjustments that make predicting the revenue flow of severance taxes challenging.</p>
<p>#5 39-29-111</p>	<ul style="list-style-type: none"> ● Codify the requirement that producers or first purchasers must file their withholding statements with the Department in addition to sending copies of withholding statements to the interest holder. This reporting requirement provides a check and balance system for refund claims by interest holders and reinforces the Department with a systematic tool rather than selection for audit to ensure that producers are withholding correctly. ● Consider conforming producer withholding requirements to similar standards as wage withholding requirements to include a penalty for failure to correct withholding documents and provide corrected documents to taxpayers.



Suggestions and Rationale for Statutory Changes	
<i>Suggested Section in C.R.S.</i>	<i>Description of change and rationale for the suggestion</i>
	<ul style="list-style-type: none"> Consider moving the requirement to complete 4th quarter withholding and annual reconciliation earlier than March 1 to improve the filing timelines and correct information. If taxpayers do not receive withholding statements until the first or second week of March and annual filing is due by April 15 there is little time to file correctly. Additionally, if there are delays in producers providing withholding reconciliations to CDOR the Department is unable to verify withholding for interest holders who file earlier. Producers or first purchasers who have employees are accustomed to providing employment withholding statements and reconciliations to the IRS, SSA and the state by January 31 for the prior year.
#6 39-29-112(1)	Mandate electronic filing of severance tax returns with CDOR (and fund and complete the subsequent development to create an electronic filing method). If all of the requisite data for reporting is provided by taxpayers in an electronic format directly to the Department, the significant reporting barrier of manual data entry costs and errors is removed.
#7 39-29-112(7)	If the general assembly needs complete information related to severance tax in order to make decisions, statute currently does not include reporting from individuals with less than \$250 withheld from all unit operators and for whom the \$250 minimum meets or exceeds the tax obligation. As a result, there are a large number of rent/royalty taxpayers who never file an actual return. When this exclusion from filing is combined with the previous bullet, it is likely that a large number of interest holders are not only not filing, and if they all submitted returns for prior periods be eligible for refunds of over withholding that is not currently captured or anticipated. To the extent that the producer or first purchaser submits DR 0021Ws to the Department, the Department has this information, just from a different source. If the submission and collection of data from DR 0021W's provided by producers or first purchasers were addressed (as in suggestion #5 above) this exclusion would not necessarily need changed.



Suggestions and Rationale for Statutory Changes	
<i>Suggested Section in C.R.S.</i>	<i>Description of change and rationale for the suggestion</i>
<p>#8 39-29-115(2)</p>	<p>Modify or add a penalty provision for failure to report to CDOR correctly. Even minor changes to tax reporting are adopted with varying rates of success and the suggested changes are substantial. Most taxpayers will voluntarily comply with the new reporting requirements however CDOR has no recourse to compel any serious standouts to report correctly on the filing. Consider borrowing language from 39-26-118(2) re: failure to “correctly account” for the tax. Include a requirement that if errors are discovered during an audit, the taxpayer is required to file an amended return to correct the errors. Taxpayers have similar requirements for federal severance audits.</p>
<p><i>For consideration, a simplification of the tax structure overall in order to create the easiest structure for filing and for reporting on information:</i></p>	
<p>#9 39-29-102(3) AND 39-29-111</p>	<p>Significant changes to reporting and liability structure of the tax so that the incidence of the tax is entirely on the producer and not interest or royalty holders at all. The withholding scheme convolutes where the tax liability ultimately rests, complicates reporting and filing significantly, and benefits the producers over the royalty holders by reducing overall the tax that is due on severance throughout the state at the current rates. Since a change like this has the potential to implicate TABOR by resulting in a revenue increase, this type of change is not included in the resource costs of this analysis. Careful review and potentially an adjustment and decrease in rates to account for an increase in taxable gross income could mitigate overall revenue increases, however that analysis has not been conducted by CDOR at this time.</p>



Return and System Solutions

Suggestions and Rationale for Return and System Changes	
<i>Corresponding Statutory Updates for Support (if applicable)</i>	<i>Description of change and rationale for the suggestion</i>
See #1 & #6 in the “Statutory Solutions” section	Modify the DR 0021 and the DR 0021PD to enumerate taxpayer reporting of more of the NERF deductions that statute and the court decision allow for more granular reporting data to be collected on the filings. Require and capture (electronically) the DR 0021PD and use the data from that form to feed into the DR 0021 at an aggregate level.
See #1, #4, & #6 in the “Statutory Solutions” section	Make updates to the audit working papers (audit program functionality) in GenTax to operate more like the retail marijuana tax working papers and have a number of fields from the DR 0021 that are updated upon audit adjustments in the RETURN document in addition to the financials that post on the account for billing. If the return document is not updated by audit adjustments, reporting for accounts that have been audited and adjusted will not accurately represent credit, exemption, or deduction information as requested in the RFI.
See #5, #6, & #7 in the “Statutory Solutions” section	Make changes to the annual withholding reconciliation for OGW to behave more like the DR 1093 for wages and adjust annual reporting requirements and rules to align that process more closely with the wage withholding process. Withholding functions best in a system of checks and balances, where the withholder is compelled to correctly report withholding against filing or claims for refund from the party withheld.
See #1, #5, #6, & #7 in the “Statutory Solutions” section	The only data currently electronically captured and stored in GenTax for oil and gas severance is from the DR 0021 and the DR 0021D, and limited fields from those return forms. Expand the data stored and collected as indicated in the table above, including mapping the data to return tables and supporting tables to allow for reporting out of the system.
See #3, #5, & #6 in the “Statutory Solutions” section	<ul style="list-style-type: none"> Adding verbiage that DR 21D is required with the return and modify the form to include a column to report withholding. Require that each DR 21W should be separately listed on the DR 21D. Capture the additional withholding data and complete any



Suggestions and Rationale for Return and System Changes	
<i>Corresponding Statutory Updates for Support (if applicable)</i>	<i>Description of change and rationale for the suggestion</i>
	<p>math rule changes that should be completed as a result of the extra step to automate withholding comparisons. This way, if discrepancies occur, CDOR can identify and correct specific withholding statements. Poor tracking could cause allowance of ad valorem when no income may have been present on any given DR 21W due to limited information.</p> <ul style="list-style-type: none"> • Require the DR 21AS with any severance tax filing (when applicable.) This information helps CDOR identify parent/subsidiary entities that are required to file a combined severance return.



Additional Resources Required to Implement Suggested Solutions

Additional Vendor System Development and Testing Cost Resources:

The suggestions presented in this document require a number of changes and modifications to the severance tax returns, filing processes, and audit processes in order for CDOR to systematically collect and report the information requested as part of this RFI. The review team developed requirements and a scoping document⁵ for changes and modifications based on the suggested solutions and CDOR’s software vendor Fast Enterprises provided a level of effort estimate for the vendor development costs to update the Department’s GenTax system for the new return functionality and processes.

Activity	Hours/Cost
Design/Analysis	40
Development	450
Unit Testing	80
Change Management	20
Total Hours	590
Hourly Rate	\$250
Total Cost	\$147,500

Additional Staff Resources:

The workload estimates for additional staff resources in this RFI response are developed consistently with the workload methodologies that are used by CDOR to estimate workload for fiscal note purposes.

Mineral Audit

The changes suggested require the mineral audit section to make adjustments to returns on a much more detailed (well by well) basis in the system. Current audit practices involve a detailed investigation of taxpayer activity and statements; however return data is not updated upon completion of an audit. Rather, financial adjustments are made to the

⁵ The scoping document and vendor response detail can be provided, but is not included in this RFI response for brevity and readability.



“bottom line” only in order to reflect the net adjustments made to the taxpayer’s liability. To complete an overhaul of the audit working paper and increase the data points that are corrected after a taxpayer audit to reflect accurately in reporting, the mineral audit section would require some staffing changes to reflect the additional work.

The mineral audit section’s current work consists of work that is focused on audit of the state severance tax, in addition to staff that performs joint audit work with the federal government using federal funding on federal severance. The work of each group is different, and both are currently managed by a single level of management. In order to develop the updated audit program and protocols to track and report the information at the level of detail required to report credits and exemptions, the internal controls and reviews for the additional level of complexity exceeds the capacity of the existing team and management structure. In order to implement the next level of reporting, the mineral audit section has developed the following staffing recommendations:

- Add one new Admin Assistant II position to assist with the data entry and input of detailed, well-by-well adjustments into the reporting database to ensure correct information about credits and deductions and to research reporting question from the Office of Research and Analysis
- Upgrade a current Auditor III position that acts as a team lead for the state mineral audit program to an Auditor IV to allow for additional management responsibilities of the new admin position and for the additional job responsibilities of developing the enhancements to the state audit program.
- Upgrade a current Auditor III position that acts as a team lead for the federal severance program to an Auditor IV to shift and adjust the supervisory workload of the remainder of section and to balance the supervisory responsibilities of each group’s work.
- Upgrade the existing mineral audit section manager position from an Auditor IV level position to an Auditor V position to accommodate appropriate levels of supervision because of the necessary upgrades of the other two positions.

Mineral Audit Staffing Adjustment Plan

Description	Position Number	Current Classification	New Classification	Current per month	New per month	Fiscal Year '19 Impact
Reclassification	279	AUDITOR IV	AUDITOR V	\$9,090	\$9,999	\$10,908
Reclassification	1989	AUDITOR III	AUDITOR IV	\$7,307	\$8,038	\$8,768
Reclassification	153	AUDITOR III	AUDITOR IV	\$6,352	\$7,082	\$8,760
New Position	N/A	N/A	ADMIN ASSISTANT II	\$0	\$2,839	\$34,068
			Total Salary	\$22,749	\$27,958	\$62,504



Mineral Audit Staffing Adjustment Plan

PERA	10.40%	\$2,366	\$2,908	\$6,500
AED	5.00%	\$1,137	\$1,398	\$3,125
SAED	5.00%	\$1,137	\$1,398	\$3,125
Medicare	1.45%	\$330	\$405	\$906
STD	0.19%	\$43	\$53	\$119
Health-Life-Dental	\$780	\$2,340	\$3,120	\$9,360
Total Benefits		\$7,354	\$9,282	\$23,136
Operating for New Position		\$0	\$83	\$1,000

Office of Research and Analysis

In order to provide reporting support on the new data that would be collected by CDOR, the Office of Research and Analysis (ORA) has estimated the following hours of new workload based upon assumptions for level of effort using historical tracking of staff time for new reporting. All ORA expenditure costs are based on a Statistical Analyst III salary (\$40/hr). ORA assumes that an annual report is adequate for purposes of providing additional information to the General Assembly, however if more frequent or ad hoc reporting is anticipated, ongoing costs increase proportionally for report preparation and analysis.

Initial Fiscal Year (Fiscal year ending during the first tax year affected):

- \$19,200 - 480 hours for setting up the data mapping tickets and testing the data mapping and configuration of the database:
 - 40 hours for planning, meetings, and initial set up of tickets and mapping structure
 - 120 hours (8 hours per field for approximately 15 fields) for testing the mapping of fields on DR 0021PD
 - 80 hours (8 hours per field for approximately 10 fields) for testing the mapping of newly captured and added fields on DR 0021D
 - 40 hours (8 hours per field for approximately 5 fields) for testing the mapping of new aggregate fields on DR 0021
 - 200 hours (8 hours per field for approximately 25 fields) for miscellaneous fields on other severance forms that may need to be mapped (DR 0021S, DR 00020, DR 0020A, DR 0022, DR 0456, DR 0461, DR 0020E).

Second Fiscal Year:

- \$3,200 - 80 hours to initially set up the reporting methodology and produce the first report

Ongoing:



- \$320 - 8 hours per year to produce annual reports

Systems Support Office - Business Analyst and Business Testing Resources

The changes recommended in the RFI to generate new data for reporting will require GenTax programming (noted above) to be tested by Department personnel in several divisions to ensure the system is functioning properly. Every change to GenTax requires some amount of end user acceptance testing to ensure that the changes are made correctly and that all transactions and account activities post correctly. The changes recommended in the RFI are one-time changes and there is no ongoing cost for testing. Any future testing needs would be a result of other changes to severance tax law.

The Systems Support Office estimated both business analyst workload and end-user workload for testing and documentation as a result of changes based on the requirements developed in the scoping document.

Business Analyst workload typically includes meeting with the end-users and developers, developing formal scope of work, analyzing proposed changes for integration needs with existing system modules, planning/developing/creating test scenarios and packages, managing user acceptance testing, creating change log documentation, and creating end-user training materials. End-User testing workload typically includes meeting with the business analysts and developers to establish details for processes and scope of work, testing and retesting scenarios and documenting results, opening tickets for issues discovered during testing, affirming successful end-user testing, and receiving training on the system updates.

For fiscal note purposes, the Department typically categorizes end-user and business analyst resource hours in corresponding personal services dollars in order to hire temporary staff to back-fill the more standardized duties of existing staff when they are assigned legislative project implementations.

Total Business Analyst Hours	2,139	Total End-User Testing Hours	1,996	Total Hours	4,135
Business Analyst Temporary Rate (\$25.50/hour)	\$54,545	End-User Temporary Rate (\$23.99/hour)	\$47,884	Total Personal Services Dollars	\$102,429