# HB 19-1317

Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

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| **Drafting Number:** | LLS 19-0105 | **Date:** | May 15, 2019 |
| **Prime Sponsors:** | Rep. Kennedy; Weissman<br>Sen. Court | **Bill Status:** | Postponed Indefinitely |
| | | **Fiscal Analyst:** | Greg Sobetski \| 303-866-4105<br>Greg.Sobetski@state.co.us |

**Bill Topic:** INCOME TAX CREDIT & SENIOR PROPERTY TAX EXEMPTION

**Summary of Fiscal Impact:**

- ☒ State Revenue
- ☒ State Expenditure
- ☒ State Transfer
- ☐ TABOR Refund
- ☒ Local Government
- ☐ Statutory Public Entity

This bill sets the amount of the senior homestead exemption to zero for 2020 and future years, and creates a refundable income tax credit through 2029 for all senior taxpayers with adjusted gross income up to an inflation-adjusted $65,000. The bill decreases state revenue and state expenditures, requires state transfers, and decreases local government workload on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1**
**State Fiscal Impacts Under HB 19-1317**

| | | FY 2019-20 | FY 2020-21 | FY 2021-22 |
|---|---|---|---|---|
| **Revenue** | General Fund | ($65.5 million) | ($135.0 million) | ($143.6 million) |
| | **Total** | **($65.5 million)** | **($135.0 million)** | **($143.6 million)** |
| **Expenditures** | General Fund | - | ($145.1 million) | ($145.4 million) |
| | Centrally Appropriated | - | $0.3 million | $0.2 million |
| | **Total** | - | **($144.8 million)** | **($145.2 million)** |
| | **Total FTE** | **-** | **13.8 FTE** | **9.3 FTE** |
| **Transfers** | General Fund | - | - | ($8.0 million) |
| | Cash Fund | - | - | $8.0 million |
| | **Total** | **-** | **-** | **$0** |
| **TABOR Refund** | | - | - | Not estimated. |

## Summary of Legislation

This bill makes changes to tax expenditures available to senior citizens. Beginning in 2020, the bill reduces the value of the current law senior property tax exemption (senior homestead exemption) to zero and creates a refundable, means-tested income tax credit available between 2020 and 2029. The bill also creates the Senior Coloradans Trust Fund and authorizes ten years of annual transfers to the fund. These provisions are described in detail below.

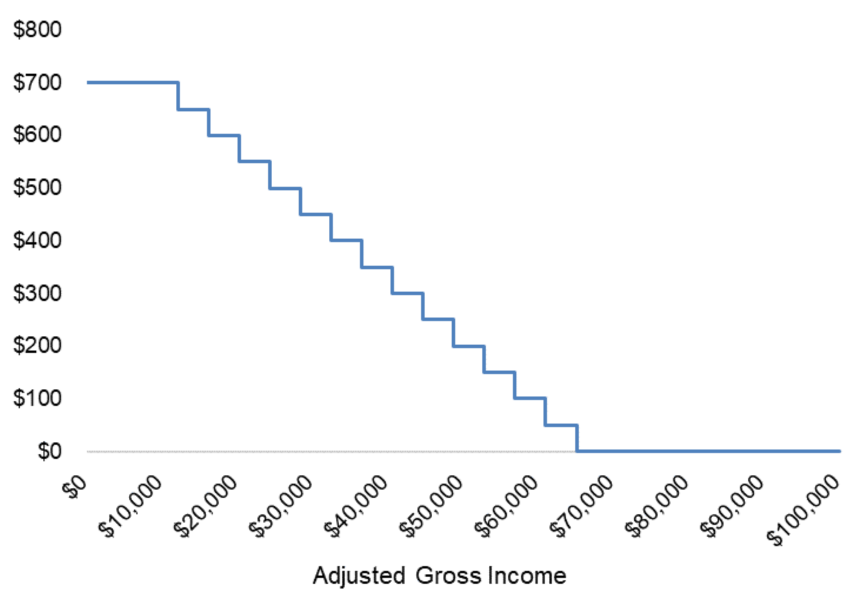
**Senior homestead exemption.** For 2020 and subsequent years, the bill reduces the actual value of a senior's home that qualifies for the 50 percent homestead exemption from $200,000 to zero. The bill repeals the requirement that county assessors notify taxpayers of their eligibility for the exemption, and relieves county assessors from any administrative responsibility associated with the exemption unless and until the General Assembly acts to increase the exemption amount from zero. The related disabled veterans property tax exemption is not affected.

**Income tax credit.** For tax years 2020 through 2029, the bill creates a refundable income tax credit available to full-year Colorado residents who are at least 65 years old as of the end of the tax year, and whose adjusted gross income falls below an inflation-adjusted cap. Determinants of the credit are set in statute for tax year 2020 and adjusted by the Denver-Aurora-Lakewood consumer price index for 2021 and subsequent years. In 2020, for taxpayers with adjusted gross income:

- up to $12,000, the credit is $700;
- between $12,000 and $65,000, the credit depends on where their income falls within 13 income range groups; and
- over $65,000, the credit is not available.

Figure 1 presents credit values expected for tax year 2020 according to taxpayer adjusted gross income. As examples, the credit for a senior taxpayer with adjusted gross income of $35,000 would be $400, and the credit for a senior taxpayer with adjusted gross income of $50,000 would be $200.

**Figure 1**
**2020 Credit Amounts Under HB 19-1317**



The credit in the bill is the same whether the taxpayer claiming the credit files jointly or singly. For taxpayers who are married and file separately, only one spouse may claim the credit. The amount by which the credit exceeds a taxpayer's income tax liability is refunded to the taxpayer, and the bill excludes the refunded amount from determination of the taxpayer's eligibility for public assistance benefits to the extent permitted by federal law. Additionally, the refunded amount is deducted from federal taxable income for the purpose of determining the taxpayer's Colorado taxable income in the following year.

The Department of Revenue is required to report the amount of credits allowed for a tax year to the State Treasurer by June 15 of the succeeding tax year.

**Credit Stabilization Cash Fund.** The bill creates the Credit Stabilization Cash Fund (stabilization fund). For FY 2021-22 through FY 2029-30, the bill authorizes transfers between the General Fund and the stabilization fund as follows:

- if the amount of tax credits allowed is less than the amount of reimbursements paid to counties for the senior homestead exemption for 2020, adjusted for inflation and population growth, then the amount of the difference is transferred from the General Fund to the stabilization fund; or
- if the amount of tax credits allowed is greater than the amount of reimbursements paid to counties for the senior homestead exemption for 2020, adjusted for inflation and population growth, then the amount of the difference is transferred from the stabilization fund to the General Fund.

## Background

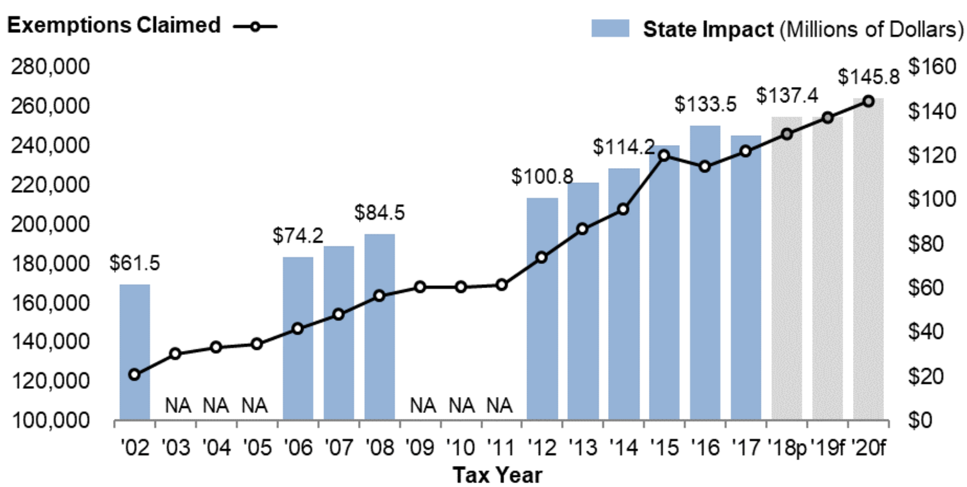
The senior homestead exemption was added to the Colorado Constitution following the passage of Referendum A in 2000, and took effect in 2002. It exempts 50 percent of the first $200,000 of a home's actual value from property taxation. The constitution empowers the General Assembly to adjust the $200,000 value to which the exemption applies, and requires that the state reimburse local governments for their property tax loss resulting from the exemption. A similar exemption for disabled veterans was added following the passage of Referendum E in 2006 and took effect in 2007; however, the disabled veterans exemption is not affected by HB 19-1317.

**Example.** For a qualified senior who owned a home in 2018 determined to have actual value of $350,000, property tax is imposed as if the home were worth $250,000, because 50 percent of the first $200,000 is exempt from taxation. The property's assessed value is $18,000, determined by multiplying the property's taxable value by the state residential assessment rate, which was 7.20 percent in 2018. The senior's property taxes are determined by the local mill levies imposed by the county, municipality, school district, and special districts. If these levies summed to 90 mills, the senior would owe $1,620 in property tax, and the homestead exemption would have reduced the senior's tax liability by $648.

**Eligibility.** To qualify for the senior homestead exemption, a taxpayer must be at least 65 years old as of January 1 of the tax year and must have occupied his or her home as a primary residence for at least 10 years. Surviving spouses of qualifying seniors are eligible to continue claiming the exemption, provided that they continue to occupy the home as a primary residence.

**State expenditure impact.** Figure 2 presents a history of the senior homestead exemption and the March 2019 Legislative Council Staff (LCS) forecast for the exemption through tax year 2020. The property tax reduction in a given property tax year determines the state reimbursement for the fiscal year comprising the first half of the following calendar year, when property taxes are paid. Thus, the exemption for property tax year 2002 determined the state reimbursement expenditure for FY 2002-03, and so on. Reimbursements are paid from the General Fund. As shown, exemptions were not available for 2003 through 2005 or for 2009 through 2011, when the General Assembly exercised its constitutional authority to set the exemption amount at zero to address budget shortfalls.

**Figure 2**
**History and Forecast of Senior Homestead Exemption**




*Source: Department of Local Affairs and March 2019 Legislative Council Staff Forecast.*
*"p" denotes preliminary; "f" denotes forecast.*

**TABOR refund mechanism.** Under current law for FY 2017-18 and subsequent fiscal years, reimbursements to local governments for the senior homestead exemption and disabled veteran property tax exemption are the first mechanisms used to refund a state TABOR refund obligation. The state will refund $31.5 million from the FY 2017-18 TABOR refund obligation via reimbursements for 2018 exemptions, correspondingly reducing the FY 2018-19 state General Fund obligation for reimbursements. Under the March 2019 LCS forecast, the state is expected to refund an anticipated FY 2018-19 TABOR surplus of $64.8 million via reimbursements for 2019 exemptions, correspondingly reducing the FY 2019-20 state General Fund obligation for reimbursements.

## Assumptions

**Residential assessment rate.** Under current law, the residential assessment rate is 7.20 percent until changed by the General Assembly. This fiscal note assumes the December 2018 LCS forecast for the residential assessment rate, 6.78 percent for 2019 and 2020. The assumed 6.78 percent rate was used in the March 2019 LCS forecast, which is assumed in this fiscal note. If the residential assessment rate is higher than 6.78 percent, reimbursements for the senior homestead exemption will be greater than assumed. In this scenario, the bill will decrease General Fund expenditures to a greater extent than estimated and require higher levels of transfers from the General Fund to the Credit Stabilization Cash Fund than estimated.

## State Revenue

The bill is expected to decrease state revenue by $65.5 million in FY 2019-20, $135.0 million in FY 2020-21, $143.6 million in FY 2021-22, and larger amounts in subsequent years. The estimate for FY 2019-20 represents a half-year impact for tax year 2020 on an accrual accounting basis. The bill reduces individual income tax revenue, which is subject to TABOR.

**Population.** Table 2 presents estimates of the senior taxpayer population for 2020. The State Demography Office estimates that about 874,000 seniors will live in Colorado in 2020. Based on individual income tax filing data for 2015, it is assumed that these seniors would account for about 566,000 tax returns if all were to file taxes, because each senior income tax return accounts for an average of 1.54 seniors. Under current law, a portion of this population is expected not to file income tax returns, representing taxpayers with no state income tax liability. The bill is expected to induce a subset of this population to file tax returns in order to access the income tax credit. In total, about 80 percent of eligible taxpayers are expected to file returns and claim the credit.

**Table 2**
**2020 Senior Income Tax Filing Populations Under Current Law and HB 19-1317**

| | **2020 Estimate** |
|---|---|
| **Total Senior Population** | **873,673** |
| **Estimated Possible Tax Returns*** | **566,191** |
| Tax Returns Expected Under Current Law | |
| *AGI below $12,000* | *60,781* |
| *AGI between $12,000 and $65,000* | *182,313* |
| *AGI above $65,000* | *224,362* |
| Subtotal | 467,456 |
| Induced to file under HB 19-1317 | 24,761 |
| Total Tax Returns Expected Under HB 19-1317 | |
| *AGI below $12,000* | *85,542* |
| *AGI between $12,000 and $65,000* | *182,313* |
| *AGI above $65,000* | *224,362* |
| **Total** | **492,217** |

*Source: State Demography Office, Department of Revenue, and Legislative Council Staff Calculations.*
AGI = adjusted gross income.
*Assumes one filing per 1.54 seniors, consistent with income tax returns for 2015.

**Credit amounts.** For tax year 2020, the bill is expected to allow full $700 credits on 85,542 tax returns, representing 132,000 seniors, and reducing state income tax revenue by $59.9 million. The bill is expected to allow partial credits worth between $50 and $650 on 182,313 returns, representing 281,000 seniors, and reducing state income tax revenue by $71.0 million. The total revenue impact for 2020 is accrued across FY 2019-20 and FY 2020-21. For tax year 2021 and subsequent years, credit amounts are expected to grow with inflation and growth in the senior population.

These estimates assume that the distribution of income among seniors has remained similar to that in 2015, and that incomes have increased by the rate of inflation. To the extent that the population of seniors with adjusted gross income in excess of $65,000 in 2020 dollars has grown more quickly than the population of seniors with adjusted gross income of less than $65,000 in 2020 dollars, the revenue impact will be less than estimated. If more than 80 percent of eligible seniors claim the credit, the revenue impact will be greater than estimated.

## State Transfers

The bill is expected to require transfers from the General Fund to the Credit Stabilization Cash Fund of $8.0 million in FY 2021-22 and $4.4 million in FY 2022-23. For years beyond FY 2022-23, the bill is first expected to require smaller transfers from the General Fund to the stabilization fund, and then to require transfers from the stabilization fund to the General Fund. These estimates assume the March 2019 LCS forecast, which anticipates that the state will pay reimbursements for the senior homestead exemption of $137.4 million in FY 2019-20. Table 3 computes the transfer required between the General Fund and the stabilization fund. Amounts transferred to the stabilization fund remain in the fund and are used to reimburse the General Fund for the income tax revenue loss when the tax credit in the bill exceeds the credit stabilization amount.

**Table 3**
**Transfers Required Under HB 19-1317**

| **Tax Year** | **2019** | **2020** | **2021** | **2022** |
|---|---|---|---|---|
| Senior Homestead Exemption | $137.4 million | | | |
| Population Growth Adjustment* | | 1.3% | 1.3% | 1.3% |
| Inflation Adjustment* | | 2.2% | 2.2% | 2.2% |
| Credit Stabilization Amount | | $142.2 million | $147.2 million | $152.3 million |
| Income Tax Credit | | $130.9 million | $139.2 million | $148.0 million |
| Stabilization amount minus credit | | $11.3 million | $8.0 million | $4.4 million |

| **Fiscal Year** | **FY 2019-20** | **FY 2020-21** | **FY 2021-22** | **FY 2022-23** |
|---|---|---|---|---|
| Transfer from GF to Stabilization Fund | | - | $8.0 million | $4.4 million |
| Transfer from Stabilization Fund to GF | | - | $0 | $0 |

* Estimates for inflation and population growth are not available for 2022. For the purposes of this table, inflation and population growth is assumed to continue at the same rate as for 2020 and 2021.

Under HB 16-1161, the amount by which the appropriation for senior homestead exemption and disabled veteran property tax exemption reimbursements exceeds actual reimbursements due to local governments is transferred in shares of 95 percent to the Older Coloradans Cash Fund in the Department of Human Services and 5 percent to the Veterans Assistance Grant Program Cash Fund in the Department of Military and Veterans Affairs. Beginning in FY 2020-21, the bill potentially decreases transfers from the General Fund to these funds. Because the amount of the overage cannot be forecast, the amounts by which transfers are reduced is indeterminate.

## State Expenditures

The bill is not expected to affect state expenditures for FY 2019-20, and is expected to decrease General Fund expenditures by $144.8 million in FY 2020-21 and $145.2 million in FY 2021-22. While expenditures are expected to decrease on net, the bill increases state personnel requirements by 13.8 FTE in FY 2020-21 and 9.3 FTE in FY 2021-22 and subsequent years. Expenditures are summarized in Table 4 and detailed below.

**Table 4**
**Expenditures Under HB 19-1317**

| Cost Components | FY 2019-20 | FY 2020-21 | FY 2021-22 |
|---|---|---|---|
| **Department of the Treasury** | | | |
| Homestead Exemption Reimbursements | - | ($145.8 million) | ($145.8 million) |
| **Treasury (Subtotal)** | **-** | **($145.8 million)** | **($145.8 million)** |
| **Department of Revenue** | | | |
| Personal Services | - | $650,687 | $440,510 |
| Operating Expenses and Capital Outlay Costs | - | $86,491 | $8,835 |
| Computer Programming and Form Changes | - | $14,080 | - |
| Centrally Appropriated Costs* | - | $281,314 | $183,092 |
| FTE – Personal Services | - | 13.8 FTE | 9.3 FTE |
| **Revenue (Subtotal)** | **-** | **$1,032,572** | **$632,437** |
| **Total** | **-** | **($144.8 million)** | **($145.2 million)** |
| **Total FTE** | **-** | **13.8 FTE** | **9.3 FTE** |

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

**Senior homestead exemption.** Beginning in FY 2020-21, the bill eliminates General Fund expenditures to reimburse local governments for their property tax loss attributable to the senior homestead exemption. For FY 2020-21, reimbursements are forecast at $145.8 million. Reimbursements have not been forecast beyond FY 2020-21 and will depend in part on the residential assessment rate set for the 2021-2022 reassessment cycle. Because a forecast is not available for FY 2021-22, Table 1 and Table 4 each reproduce the FY 2020-21 value.

**Department of Revenue.** The bill increases General Fund expenditures for the department to administer the income tax credit and communicate with taxpayers by $1.0 million and 13.8 FTE in FY 2020-21 and $0.6 million and 9.3 FTE in FY 2021-22 and subsequent years.

*Ongoing expenses.* Ongoing expenses are for department personnel and associated operating expenses. These include 4.1 FTE for income tax return processing and 4.0 FTE for call center support in the Taxpayer Services Division, and 1.2 FTE for personnel in the Tax Audit and Compliance Division. Workload expectations for tax return processing and tax audit and compliance enforcement is based on the number of tax returns on which the income tax credit is expected to be claimed, as shown in Table 2.

*Start up costs.* One-time expenditures in FY 2020-21 assume that twice as many taxpayers will utilize the call center while preparing returns for tax year 2020 when the credit first becomes available, and that twice as many credits claimed will require review by department staff. Personnel costs for FY 2020-21 are prorated for the General Fund paydate shift and assume a September 2020 start date. Table 4 also includes capital costs associated with new staff in this year.

Start up costs also include expenditures of $14,080 to program and test changes to the Department of Revenue's GenTax software system and make related changes to tax forms. Programming costs are estimated at $4,000, representing 16 hours of contract programming at a rate of $250 per hour. Costs for testing at the department are estimated at $7,680, representing 320 hours of testing at a rate of $24 per hour. Form change costs are estimated at $2,400 for two forms. Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports so that the department can access and document tax statistics related to the new tax policy. These costs are estimated at $5,751 and included on the personal services line of Table 4 for FY 2020-21.

**Department of Local Affairs.** Workload in the department's Division of Property Taxation will decrease as the department is no longer required to train and oversee county assessors' administration of the senior homestead exemption. Under current law, the division has an allocation of 0.5 FTE for administration and oversight of the senior homestead and disabled veteran property tax exemptions. The bill is expected to reduce division workload by 0.3 FTE beginning in FY 2022-23, after a wind-down period immediately following the exemption's repeal. The division is expected to continue to require 0.2 FTE to administer and oversee the disabled veteran property tax exemption.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, supplemental employee retirement payments, and leased space, are estimated to be $281,314 in FY 2020-21 and $183,092 in FY 2021-22.

**TABOR refunds.** The bill is expected to reduce state revenue subject to TABOR beginning in FY 2019-20, potentially reducing or eliminating future state TABOR refund obligations. For FY 2020-21 and subsequent years when the state refunds a TABOR surplus, the bill reduces the amount refunded via the property tax reimbursement mechanism, potentially increasing the amount refunded by the six-tier sales tax refund mechanism and/or the temporary income tax rate reduction. The state is not expected to collect a TABOR surplus in FY 2020-21, and a forecast of state revenue subject to TABOR is not available beyond FY 2020-21.

## Local Government

The bill decreases county assessor workload beginning for the 2020 property tax year. Under current law, county assessors are required to administer the exemption and report the amount of property tax loss to the Division of Property Taxation in the state's Department of Local Affairs. Counties may choose to accommodate the workload decrease by reducing expenditures in their assessors' offices or by devoting assessors' resources to other matters. County assessors will continue to be responsible for administration of the disabled veteran property tax exemption.

Local government revenue is not expected to change on net; however, local government revenue from property taxes will increase, while revenue from state disbursements will decrease. By default, both sources of revenue are subject to local government TABOR limits. For jurisdictions where voters have exempted one of these sources of revenue, but not the other, local obligations for TABOR refunds may increase or decrease.

## Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on April 18, 2019.

## State and Local Government Contacts

| | |
|---|---|
| Assessors | Counties |
| Human Services | Information Technology |
| Legislative Council Staff Economics Section | Local Affairs |
| Military Affairs | Personnel |
| Property Tax Division | Revenue |