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Legislative
Council
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MEMORANDUM

April 12, 2010

TO: Representative Priola and
Members of the House Finance Committee

FROM: Ron Kirk, Economics Section(303-866-4785)

SUBJECT: Fiscal Assessment of Proposed Amendment **HB1285_L.002**.

This memorandum is an assessment of the fiscal impact of the attached proposed amendment to **HB10-1285**. This fiscal assessment is for the impact of the bill with inclusion of this amendment only. Any other added amendment could influence the fiscal impact.

Summary of Proposed Amendment

This bill raises the fines on commercial motor vehicles and uses the additional fine revenue to fund an existing sales tax refund and income tax credit for commercial investment in Colorado. However, neither tax incentive is *available* because they are conditional upon the executive director of the Department of Revenue providing written notice to the revisor of statutes that a sustainable revenue source has been identified to pay for them. To date, a sustainable source of revenue has not been identified.

Amendment L.002 caps the tax incentives at the amount of new fine revenue generated by HB10-1285, thereby providing a sustainable revenue source for the incentives. The amendment also limits each tax incentive to truck tractors or semitrailers with a gross weight rating of fifty-four thousand pounds or greater designated as Class A personal property.

Fiscal Impact of Amendment

The fiscal note dated March 8, 2010, identified a state General Fund revenue reduction of \$3.5 million in FY 2009-10 and \$7.2 million in FY 2010-11. Amendment L.002 eliminates these reductions. The note also identified an expenditure impact of \$56,993 in FY 2009-10. This expenditure was based on the Department of Revenue's programming costs. Under Amendment L.002, these costs will occur in FY 2010-11, may increase because of the tracking requirements in the amendment, but will be reimbursed by money from the Commercial Vehicle Enterprise Tax Fund.

Commercial Vehicle Enterprise Tax Fund. The additional fine revenue generated by HB10-1285 is estimated at \$750,000 in FY 2010-11 and each year thereafter. However, it is expected that fine revenue may decrease over time. Each year, one-third of the additional fine revenue funds the state sales tax refund and two-thirds funds the investment tax credit in the bill. Fine revenue will be deposited in the Commercial Vehicle Enterprise Tax Fund.

Sales tax refund. As amended by L.002, effective tax years beginning 2011, state law allows for a partial refund of state sales and use taxes paid on Class A vehicles based on a prorated number of vehicle-miles driven in Colorado. The refund is based on a proration of annual specific ownership taxes paid on the vehicles and is authorized as follows:

- 33.3 percent in the calendar year in which the truck tractor is purchased;
- 33.3 percent in the second year after the purchase; and
- 33.3 percent in the third year after the purchase.

The Department of Revenue is required to track the amount of refunds each year and deny any refund claimed when total state sales tax refunds for the year exceeds one-third of the aggregate amount of fines collected in the given year.

Income tax credit. As amended by L.002, effective tax years beginning 2011, state law allows the purchase of commercial vehicles based in an enterprise zone to qualify for the enterprise zone investment tax credit. The amount of the credit is equal to 1.5 percent of the total qualified investment if the model year of the qualifying vehicle was sold as new during the income tax year.

The Colorado Economic Development Commission is required to track the amount of credits authorized each year and deny any credits claimed when total credits for the year exceeds two-thirds of the aggregate amount of fines collected in the given year.

Fiscal Assessment of Proposed Amendment HB1285_L.002.

Fiscal Year	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Additional Fine Revenue*	\$750,000	\$750,000	\$750,000	\$750,000
Sales Tax Refund	\$250,000	\$250,000	\$250,000	\$250,000
Investment Tax Credit	\$500,000	\$500,000	\$500,000	\$500,000

*Fine revenue is deposited into the Commercial Vehicle Enterprise Tax Fund.

Administration of tax incentives. The Economic Development Commission and Department of Revenue will likely administer sales tax refunds and investment tax credits in the bill on a first come, first authorized basis. Using an average purchase price of \$75,000 per vehicle, sales tax refunds on average would be \$725 and be authorized on 345 vehicle purchases. The investment tax credit using the same average purchase price would be \$1,125 and be authorized on 444 vehicle purchases.

Bill's Revised Fiscal Impact with Amendment

If this amendment is adopted, the bill will be assessed as having a state fiscal impact. Transfers from the Commercial Vehicle Enterprise Tax Fund will be made to the General Fund to reimburse the state for the cost of the sales tax refund and the investment tax credit in HB10-1285. The programming costs incurred by the Department of Revenue will also be reimbursed by the fund, but the actual expenditures have yet not been estimated. Updated information will be provided in a revised fiscal note.



HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB10-1285 be amended as follows:

1 Amend printed bill, page 2, line 6, before "THE" insert "(1)"

2 Page 2, strike lines 9 through 17 and substitute "THE GENERAL ASSEMBLY
3 SHALL ANNUALLY APPROPRIATE THE MONEYS IN THE FUND TO COVER THE
4 COST OF THE SALES TAX REFUND CREATED BY SECTION 39-26-113.5,
5 C.R.S., AND THE ACTUAL COST OF ADMINISTERING SECTIONS 39-26-113.5
6 AND 39-30-104 (1) (b), C.R.S. AFTER RECEIVING THE STATEMENT
7 PURSUANT TO SECTION 39-30-104 (1) (b) (V), THE STATE TREASURER
8 SHALL CREDIT THE TOTAL COST OF THE AMOUNT OF THE TAX CREDITS
9 STATED THEREIN TO THE GENERAL FUND. ANY MONEYS REMAINING IN THE
10 COMMERCIAL VEHICLE ENTERPRISE TAX FUND AT THE END OF THE FISCAL
11 YEAR SHALL NOT REVERT TO THE GENERAL FUND.

12 (2) (a) ON JULY 1, 2011, AND EACH JULY 1 THEREAFTER, THE
13 DEPARTMENT SHALL ALLOCATE ONE-THIRD OF THE FUND BALANCE, NOT
14 INCLUDING THE AMOUNT APPROPRIATED TO COVER THE ACTUAL COST OF
15 ADMINISTERING SECTIONS 39-26-113.5 AND 39-30-104 (1) (b), C.R.S., TO
16 MAKE THE SALES TAX REFUNDS GRANTED IN SECTION 39-26-113.5, C.R.S.

17 (b) ON JULY 1, 2011, AND EACH JULY 1 THEREAFTER, THE
18 DEPARTMENT SHALL ALLOCATE TWO-THIRDS OF THE FUND BALANCE, NOT
19 INCLUDING THE AMOUNT APPROPRIATED TO COVER THE ACTUAL COST OF
20 ADMINISTERING SECTIONS 39-26-113.5 AND 39-30-104 (1) (b), C.R.S., TO
21 OFFSET THE INCOME TAX CREDIT GRANTED IN SECTION 39-30-104 (1) (b),
22 C.R.S. BY JANUARY 1, 2012, THE DEPARTMENT SHALL NOTIFY THE
23 COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION



1 24-46-102, C.R.S., OF THE AMOUNT ALLOCATED FOR SUCH PURPOSES.".

2 Page 6, strike lines 16 through 26 and substitute:

3 "SECTION 4. 39-26-113.5 (1) (a) and (1) (c), Colorado Revised
4 Statutes, are amended, and the said 39-26-113.5 is further amended BY
5 THE ADDITION OF A NEW SUBSECTION to read:

6 **39-26-113.5. Refund of state sales taxes for vehicles used in**
7 **interstate commerce - fund.** (1) (a) EXCEPT AS PROVIDED IN
8 SUBSECTION (3) OF THIS SECTION, for the calendar year commencing on
9 January 1, 2011, and for each calendar year thereafter, a taxpayer may
10 claim a refund of a percentage of all state sales and use taxes paid by the
11 taxpayer pursuant to this part 1 and part 2 of this article on the sale,
12 storage, or use of a model year 2010 or newer truck tractor OR
13 SEMITRAILER with a gross vehicle weight rating of ~~twenty-six~~ FIFTY-FOUR
14 thousand pounds or greater ~~designated as Class A personal property as~~
15 ~~specified in section 42-3-106 (2) (a), C.R.S.~~ THAT IS PURCHASED ON OR
16 AFTER JULY 1, 2011.

17 (c) The total refund shall be claimed as follows:

18 (I) For the calendar year in which the truck tractor OR
19 SEMITRAILER was purchased, stored, or used, ~~ten~~ THIRTY-THREE percent
20 of the total amount of the refund IF THE MODEL YEAR OF THE TRUCK
21 TRACTOR OR SEMITRAILER WAS SOLD AS NEW DURING SUCH CALENDAR
22 YEAR;

23 (II) For the first calendar year after the calendar year in which the
24 truck tractor OR SEMITRAILER was purchased, stored, or used, ~~fifteen~~
25 THIRTY-THREE percent of the total amount of the refund IF THE MODEL
26 YEAR OF THE TRUCK TRACTOR OR SEMITRAILER WAS SOLD AS NEW DURING
27 SUCH CALENDAR YEAR; AND

28 (III) For the second calendar year after the calendar year in which
29 the truck tractor OR SEMITRAILER was purchased, stored, or used,
30 ~~twenty-five~~ THIRTY-THREE percent of the total amount of the refund IF
31 THE MODEL YEAR OF THE TRUCK TRACTOR OR SEMITRAILER WAS SOLD AS
32 NEW DURING SUCH CALENDAR YEAR.

33 (IV) ~~For the third calendar year after the calendar year in which~~



1 the truck tractor was purchased, stored, or used, twenty-five percent of the
2 total amount of the refund; and

3 (V) ~~For the fourth calendar year after the calendar year in which~~
4 ~~the truck tractor was purchased, stored, or used, twenty-five percent of the~~
5 ~~total amount of the refund.~~

6 (3) (a) THE DEPARTMENT OF REVENUE SHALL DENY A CLAIMANT
7 THE SALES TAX REFUND OR A PORTION OF SUCH REFUND GRANTED IN THIS
8 SECTION IF THE CLAIM RESULTS IN MORE THAN THE AMOUNT ALLOCATED
9 FOR THE CREDIT PURSUANT TO SECTION 42-1-224, C.R.S.

10 (b) TO IMPLEMENT THIS SECTION, THE DEPARTMENT OF REVENUE
11 SHALL TRACK THE AMOUNT OF THE REFUNDS GRANTED UNDER THIS
12 SECTION.

13 **SECTION 5.** 39-26-712 (2), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **39-26-712. Trailers and trucks.** (2) The following shall be
16 exempt from taxation under the provisions of part 2 of this article:

17 (c) THE STORAGE OR USE OF A NEW OR USED TRAILER,
18 SEMITRAILER, TRUCK, TRUCK TRACTOR, OR TRUCK BODY IF THE VEHICLE
19 HAS BEEN RELOCATED WITHIN THIS STATE, WAS USED IN INTERSTATE
20 COMMERCE, AND THE OWNER CAN PROVIDE EVIDENCE OF THE VEHICLE
21 BEING PREVIOUSLY REGISTERED IN ANOTHER STATE FOR AT LEAST SIX
22 MONTHS."

23 Renumber succeeding sections accordingly.

24 Strike pages 7 and 8 and substitute "Colorado Revised Statutes, are
25 amended, and the said 39-30-104 (1) (b) is further amended BY THE
26 ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

27 **39-30-104. Credit against tax - investment in certain property**
28 **- repeal.** (1) (b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS
29 PARAGRAPH (b), for income tax years commencing on or after January 1,
30 2011, ~~but before January 1, 2016~~ AND FOR EACH INCOME TAX YEAR
31 THEREAFTER, a commercial truck, truck tractor, tractor, or semitrailer with
32 a gross vehicle weight rating of ~~sixteen~~ FIFTY-FOUR thousand pounds or



1 greater that is model year 2010 or newer AND IS DESIGNATED AS CLASS A
2 PERSONAL PROPERTY AS SPECIFIED IN SECTION 42-3-106 (2) (a), C.R.S., as
3 well as any parts associated with the vehicle at the time of purchase, shall
4 be deemed to be used solely and exclusively in an enterprise zone if it is
5 licensed and registered within the state and predominantly housed and
6 based at the taxpayer's business trucking facility within an enterprise zone
7 for the twelve-month period following its purchase.

8 (II) The income tax credit for a qualified investment in a
9 commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle
10 weight rating of ~~sixteen~~ FIFTY-FOUR thousand pounds or greater that is
11 model year 2010 or newer AND IS DESIGNATED AS CLASS A PERSONAL
12 PROPERTY AS SPECIFIED IN SECTION 42-3-106 (2) (a), C.R.S., as well as
13 any parts associated with the vehicle at the time of purchase, shall be
14 allowed as follows:

15 ~~(A) For the income tax year commencing on January 1, 2011, an~~
16 ~~amount equal to ONE AND one-half of one percent of the total qualified~~
17 ~~investment IF THE MODEL YEAR OF THE COMMERCIAL TRUCK, TRUCK~~
18 ~~TRACTOR, TRACTOR, OR SEMITRAILER WAS SOLD AS NEW DURING SUCH~~
19 ~~INCOME TAX YEAR;~~

20 ~~(B) For the income tax year commencing on January 1, 2012, an~~
21 ~~amount equal to one percent of the total qualified investment;~~

22 ~~(C) For the income tax year commencing on January 1, 2013, an~~
23 ~~amount equal to one and one-half percent of the total qualified~~
24 ~~investment;~~

25 ~~(D) For the income tax year commencing on January 1, 2014, an~~
26 ~~amount equal to two percent of the total qualified investment; and~~

27 ~~(E) For the income tax year commencing on January 1, 2015, an~~
28 ~~amount equal to three percent of the total qualified investment.~~

29 (IV) ~~This paragraph (b) is repealed, effective January 1, 2017. TO~~
30 ~~QUALIFY FOR THE TAX CREDIT GRANTED UNDER THIS PARAGRAPH (b), A~~
31 ~~CLAIMANT SHALL BE CERTIFIED BY THE COLORADO ECONOMIC~~
32 ~~DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, C.R.S.~~

33 (V) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL



1 CERTIFY PEOPLE ELIGIBLE FOR THE INCOME TAX CREDIT GRANTED IN THIS
2 PARAGRAPH (b) BUT SHALL NOT CERTIFY THE INCOME TAX CREDIT
3 GRANTED IN THIS PARAGRAPH (b) IF THE CERTIFICATION RESULTS IN MORE
4 CREDITS BEING CLAIMED THAN ARE ALLOCATED PURSUANT TO SECTION
5 42-1-224, C.R.S.

6 (VI) TO IMPLEMENT THIS SECTION, THE COLORADO ECONOMIC
7 DEVELOPMENT COMMISSION SHALL TRACK THE AMOUNT OF THE CREDITS
8 AUTHORIZED AND, BY JANUARY 30 OF EACH YEAR, TRANSMIT TO THE
9 STATE TREASURER A STATEMENT OF THE AMOUNT OF TAX CREDITS
10 CERTIFIED PURSUANT TO THIS PARAGRAPH (b) FOR THE PREVIOUS YEAR.

11 (VII) NO LATER THAN SEPTEMBER 1, 2012, AND NO LATER THAN
12 SEPTEMBER 1 OF EACH YEAR THEREAFTER THROUGH SEPTEMBER 1, 2014,
13 THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL PROVIDE
14 THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT OF THE
15 TAXPAYERS RECEIVING A CREDIT ALLOWED IN THIS PARAGRAPH (b) FOR
16 THE PRECEDING CALENDAR YEAR OR ANY FISCAL YEAR ENDING IN THE
17 PRECEDING CALENDAR YEAR AND ANY CREDITS DISALLOWED PURSUANT
18 TO SUBPARAGRAPH (V) OF THIS PARAGRAPH (b). THE REPORT SHALL
19 CONTAIN THE FOLLOWING INFORMATION:

20 (A) THE TAXPAYER'S NAME;

21 (B) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL
22 EMPLOYER IDENTIFICATION NUMBER;

23 (C) THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION; AND

24 (D) ANY ASSOCIATED TAXPAYER'S NAMES, COLORADO ACCOUNT
25 NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL
26 SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS
27 ALLOCATED FROM A PASS-THROUGH ENTITY.

28 **SECTION 7.** Section 7 of chapter 417, Session Laws of Colorado
29 2009, is amended to read:

30 Section 7. **Effective date.** This act shall take effect upon passage.
31 ~~except that sections 1 and 2 of this act shall not take effect unless a~~
32 ~~sustainable source of revenue has been identified for the implementation~~
33 ~~of sections 1 and 2 of this act and the revisor of statutes has received~~



1 ~~written notice from the executive director of the department of revenue~~
2 ~~to that effect.~~

3 **SECTION 8. Specified effective date - applicability.** This act
4 shall take effect July 1, 2010, and shall apply to offenses committed on
5 or after July 1, 2010, and vehicles purchased on or after July 1, 2011.

6 **SECTION 9. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety."

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