

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0736.01 Jason Gelender

HOUSE BILL 10-1190

HOUSE SPONSORSHIP

Pommer,

SENATE SPONSORSHIP

Heath,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE SUSPENSION OF THE EXEMPTION FROM THE STATE**
102 **SALES AND USE TAXES FOR FUELS USED FOR INDUSTRIAL**
103 **PURPOSES, AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

For the period commencing March 1, 2010, and ending June 30, 2012, the bill suspends the exemption from the state sales and use taxes for the storage, use, or consumption of electricity, coal, coke, fuel oil, steam, nuclear fuel, or gas for use in processing, manufacturing, mining,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 10, 2010

SENATE
Amended 2nd Reading
February 8, 2010

HOUSE
Amended 3rd Reading
February 3, 2010

HOUSE
Amended 2nd Reading
February 1, 2010

refining, irrigation, building construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses and makes conforming amendments to prevent the suspension of the exemption from affecting county, municipal, and other local government or political subdivision sales and use taxes.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-26-102 (21), Colorado Revised Statutes, is
3 amended to read:

4 **39-26-102. Definitions - repeal.** As used in this article, unless
5 the context otherwise requires:

6 (21) (a) Sales and purchases of electricity, coal, gas, fuel oil,
7 steam, coke, or nuclear fuel, for use in processing, manufacturing,
8 mining, refining, irrigation, construction, telegraph, telephone, and radio
9 communication, street and railroad transportation services, and all
10 industrial uses, and newsprint and printer's ink for use by publishers of
11 newspapers and commercial printers shall be deemed to be wholesale
12 sales and shall be exempt from taxation under this part 1.

13 (b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
14 THIS SUBSECTION (21), SALES AND PURCHASES OF ELECTRICITY, COAL,
15 GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN PROCESSING,
16 MANUFACTURING, MINING, REFINING, IRRIGATION, CONSTRUCTION,
17 TELEGRAPH, TELEPHONE, AND RADIO COMMUNICATION, STREET
18 TRANSPORTATION SERVICES, AND ALL INDUSTRIAL USES SHALL NOT BE
19 DEEMED TO BE WHOLESALE SALES AND SHALL NOT BE EXEMPT FROM
20 STATE SALES TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010,
21 AND ENDING JUNE 30, 2012; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT
22 APPLY TO SALES AND PURCHASES OF:

23 (A) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

1 (B) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR
2 FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

3 (C) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE
4 IN GENERATING ELECTRICITY.

5 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2012.

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7 **SECTION 2.** 39-26-715 (2) (b), Colorado Revised Statutes, is
8 amended to read:

9 **39-26-715. Fuel and oil - repeal.** (2) The following shall be
10 exempt from taxation under the provisions of part 2 of this article:

11 (b) (I) The storage, use, or consumption of electricity, coal, coke,
12 fuel oil, steam, nuclear fuel, or gas for use in processing, manufacturing,
13 mining, refining, irrigation, building construction, telegraph, telephone,
14 and radio communication, street and railroad transportation services, and
15 all industrial uses.

16 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF
17 THIS PARAGRAPH (b), THE STORAGE, USE, OR CONSUMPTION DESCRIBED IN
18 SAID SUBPARAGRAPH (I), SHALL NOT BE EXEMPT FROM STATE USE
19 TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING
20 JUNE 30, 2012; EXCEPT THAT THIS SUBPARAGRAPH (II) SHALL NOT APPLY
21 TO THE STORAGE, USE, AND CONSUMPTION:

22 (A) FOR RAILROAD TRANSPORTATION SERVICES;

23 (B) OF DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

24 (C) OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR
25 NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

26 (D) OF COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR
27 USE IN GENERATING ELECTRICITY.

1 (III) SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND THIS
2 SUBPARAGRAPH (III) ARE REPEALED, EFFECTIVE JULY 1, 2012.

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4 **SECTION 3.** Part 1 of article 21 of title 39, Colorado Revised
5 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
6 read:

7 **39-21-122. Revenue impact of 2010 tax legislation - tracking**
8 **by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL
9 REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1190,
10 ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS
11 AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY
12 REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE
13 STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

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16 **SECTION 4.** Part 1 of article 26 of title 39, Colorado Revised
17 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
18 read:

19 **39-26-127. Legislation modifying the state sales tax base - no**
20 **impact on local government sales tax bases - no expansion of local**
21 **authority to levy sales tax.** (1) NOTWITHSTANDING THE PROVISIONS OF
22 SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR
23 ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON,
24 EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX
25 ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE
26 PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR
27 RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT,

1 AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION
2 OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION,
3 SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY
4 OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE
5 RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

6 (a) HOUSE BILL 10-1190, ENACTED IN 2010.

7 (2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT
8 BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY,
9 MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL
10 GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY SALES
11 TAX.

12 SECTION 5. Part 2 of article 26 of title 39, Colorado Revised
13 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
14 read:

15 **39-26-212. Legislation modifying the state use tax base - no**
16 **impact on local government use tax bases - no expansion of local**
17 **authority to levy use tax. (1) NOTWITHSTANDING THE PROVISIONS OF**
18 **SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR**
19 **ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION**
20 **FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE**
21 **AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR**
22 **SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY**
23 **COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL**
24 **GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE**
25 **AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR**
26 **MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE**
27 **MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE**

1 ENACTMENT OF ANY OF THE FOLLOWING BILLS:

2 (a) HOUSE BILL 10-1190, ENACTED IN 2010.

3 (2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT
4 BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY,
5 MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL
6 GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY USE TAX.

7 **SECTION 6.** Part 1 of article 75 of title 24, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **24-75-113. 2010 bills to increase state revenue - prohibition on**
11 **hiring of new state employees.** NO MONEYS DERIVED FROM THE
12 INCREASE IN STATE REVENUES RESULTING FROM THE PASSAGE OF HOUSE
13 BILL 10-1190, ENACTED IN 2010, SHALL BE APPROPRIATED FOR THE
14 PURPOSE OF FUNDING ADDITIONAL FULL TIME EQUIVALENT STATE
15 EMPLOYEES.

16 **SECTION 7. Appropriation.** In addition to any other
17 appropriation, there is hereby appropriated, out of any moneys in the
18 general fund not otherwise appropriated, to the department of revenue, for
19 allocation to the taxation business group, taxation and compliance
20 division, for the fiscal year beginning July 1, 2009, the sum of ninety-four
21 thousand three hundred twenty-two dollars (\$94,322) and 0.9 FTE, or so
22 much thereof as may be necessary, for the implementation of this act.

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