

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.

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.** As used in this article, unless the context
5 otherwise requires:

6 (21) [REDACTED] 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; EXCEPT THAT
13 SALES AND PURCHASES OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM,
14 COKE, OR NUCLEAR FUEL, NOT INCLUDING FUEL PURCHASED FOR USE FOR
15 OFF-ROAD OR AGRICULTURAL PURPOSES, FOR USE IN PROCESSING,
16 MANUFACTURING, MINING, REFINING, IRRIGATION, CONSTRUCTION,
17 TELEGRAPH, TELEPHONE, AND RADIO COMMUNICATION, STREET [REDACTED]
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.

22

23 **SECTION 2.** 39-26-715 (2) (b), Colorado Revised Statutes, is

1 amended to read:

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

4 (b) [REDACTED] The storage, use, or consumption of electricity, coal, coke,
5 fuel oil, steam, nuclear fuel, or gas for use in processing, manufacturing,
6 mining, refining, irrigation, building construction, telegraph, telephone,
7 and radio communication, street and railroad transportation services, and
8 all industrial uses; EXCEPT THAT SUCH STORAGE, USE, OR CONSUMPTION,
9 NOT INCLUDING STORAGE, USE, OR CONSUMPTION FOR RAILROAD
10 TRANSPORTATION SERVICES, OR OF FUEL PURCHASED FOR OFF-ROAD OR
11 AGRICULTURAL PURPOSES, SHALL NOT BE DEEMED TO BE WHOLESALE
12 SALES AND SHALL NOT BE EXEMPT FROM STATE USE TAXATION FOR THE
13 PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012.

14 [REDACTED]

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

18 **39-21-122. Revenue impact of 2010 tax legislation - tracking**
19 **by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL
20 REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1190,
21 ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS
22 AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY
23 REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE
24 STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

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

1 **39-26-102.4. Inclusion of fuels used for industrial purposes in**
2 **state sales tax base - use revenues generated for**
3 **education.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
4 GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF
5 THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES
6 RESULTING FROM THE IMPOSITION OF TAXATION ON ITEMS PREVIOUSLY
7 EXEMPT FROM TAXATION BY HOUSE BILL 10-1190, ENACTED IN 2010, FOR
8 THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC
9 EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY
10 OTHER MONEYS USED FOR SAID PURPOSE.

11 **SECTION 5.** Part 1 of article 26 of title 39, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **39-26-127. Legislation modifying the state sales tax base - no**
15 **impact on local government sales tax bases - no expansion of local**
16 **authority to levy sales tax.** (1) NOTWITHSTANDING THE PROVISIONS OF
17 SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR
18 ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON,
19 EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX
20 ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE
21 PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR
22 RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT,
23 AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION
24 OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION,
25 SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY
26 OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE
27 RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

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

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

7 SECTION 6. Part 2 of article 26 of title 39, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **39-26-212. Legislation modifying the state use tax base - no**
11 **impact on local government use tax bases - no expansion of local**
12 **authority to levy use tax.** (1) NOTWITHSTANDING THE PROVISIONS OF
13 SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR
14 ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION
15 FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE
16 AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR
17 SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY
18 COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL
19 GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE
20 AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR
21 MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE
22 MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE
23 ENACTMENT OF ANY OF THE FOLLOWING BILLS:

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

25 (2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT
26 BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY,
27 MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL

1 GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY USE TAX.

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

5 **24-75-113. 2010 bills to increase state revenue - prohibition on**
6 **hiring of new state employees.** NO MONEYS DERIVED FROM THE
7 INCREASE IN STATE REVENUES RESULTING FROM THE PASSAGE OF HOUSE
8 BILL 10-1190, ENACTED IN 2010, SHALL BE APPROPRIATED FOR THE
9 PURPOSE OF FUNDING ADDITIONAL FULL TIME EQUIVALENT STATE
10 EMPLOYEES.

11 **SECTION 8. Appropriation.** In addition to any other
12 appropriation, there is hereby appropriated, out of any moneys in the
13 general fund not otherwise appropriated, to the department of revenue, for
14 allocation to the taxation business group, taxation and compliance
15 division, for the fiscal year beginning July 1, 2009, the sum of ninety-four
16 thousand three hundred twenty-two dollars (\$94,322) and 0.9 FTE, or so
17 much thereof as may be necessary, for the implementation of this act.

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