HB10-1190

Colorado Legislative Council Staff Fiscal Note

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated February 4, 2010)

Drafting Number:	LLS 10-0736	**Date:**	February 5, 2010
Prime Sponsor(s):	Rep. Pommer Sen. Heath	**Bill Status:**	Senate Second Reading
		Fiscal Analyst:	Marc Carey (303 866-4102) Fiona Sigalla (303 866-3556)

TITLE: CONCERNING THE SUSPENSION OF THE EXEMPTION FROM THE STATE SALES AND USE TAXES FOR FUELS USED FOR INDUSTRIAL PURPOSES, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue General Fund	$7.2 million	$37.6 million	$40.2 million
State Expenditures General Fund	$95,892*		
FTE Position Change	0.9 FTE		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. Effective for sales occurring on or after March 1, 2010.			
Appropriation Summary for FY 2010-2011: See the State Appropriation Section.			
Local Government Impact: None.			

* *No separate appropriation for $1,570 of these funds is required because of ongoing appropriations to the Department of Revenue for computer programming provided in the Long Bill for new legislation.*

Summary of Legislation

As amended in the Senate Appropriations Committee on February 5, 2010, this bill temporarily eliminates the sales and use tax exemption for storage, use, or consumption of energy used for industrial purposes. From March 1, 2010, until June 30, 2012, the sales and use tax will apply to electricity, coal, coke, fuel oil, steam, nuclear fuel or natural gas for use in processing, manufacturing, mining, refining, irrigation, construction, telephone and radio communication, and street transportation services. This bill was amended in the House to exclude the storage, use, or consumption of fuel purchased for railroad transportation services, or purchased for off-road or agricultural purposes.

The amended bill requires the Department of Revenue to account for all revenue attributable to this bill, and to the extent information is available, make quarterly reports to the General Assembly regarding the net revenue gain. The bill specifies that the General Assembly appropriate at least 40 percent of any estimated net revenue increase to fund preschool through twelfth grade education, and prohibits the use of any of this money to fund additional state FTE.

State Revenue

This bill temporarily suspends the existing tax exemption for energy used for industrial purposes. The bill will result ***in additional General Fund revenue to the state of $7.2 million in FY 2009-10, $37.6 million in FY 2010-11, and $40.2 million in FY 2011-12.*** The revenue estimate for FY 2009-10 represents a partial-year impact. The revenue impact grows at a slower rate than expectations for growth in industrial energy use in FY 2011-12 because, under current law, vendors will begin retaining 3.33 percent of the taxes they collect starting July 1, 2011.

Revenue estimates were developed using region four, fuel-specific data for the industrial sector from the federal Energy Information Administration (EIA). Data included price and consumption forecasts for coal, natural gas, distillate fuel oil, liquified petroleum gas, motor gasoline, and other petroleum products by industry. Agriculture was excluded from the industrial sector. Region four data was apportioned for Colorado. For the transportation sector, Colorado-specific 2007 consumption data from the EIA was assumed to grow through 2012 at the same rate as U.S. industrial production, as published by the Federal Reserve Board. Railroads were excluded from the transportation sector, as well as all distillate fuel oil used in the transportation industry. Electricity generation was assumed to be not covered by the bill and therefore is not included in this estimate.

This revenue estimate has been modified to exclude agriculture and railroads, as amended in the House. Changes in the revenue estimate are also the result of the availability of improved data that allowed refinement of included fuels. This estimate (and prior estimates) do not include revenue generated from sales of fuel used by the telephone, radio and TV broadcasting sectors because these data are not available. Revenue estimates will be updated as additional data becomes available.

State Expenditures

Department of Revenue: $95,892 and 0.9 FTE in FY 2009-10. The Department of Revenue will incur one-time expenses in FY 2009-10 to notify vendors of the elimination of the state sales tax exemption on industrial fuel usage. The department anticipates personnel costs to answer questions from vendors regarding the change. The department will also incur additional information technology costs to adjust the state's computer systems. No appropriation for these information technology costs is necessary because of ongoing appropriations to the department for computer programming provided in the Long Bill for new legislation. Table 1 summarizes costs incurred by the Department of Revenue.

Table 1. Expenditures Under HB 10-1190	
Cost Components	**FY 2009-2010**
Information Technology Services	$1,570
Personal Services	36,239
FTE	*0.9*
Operating Expenses	
Printing	5,999
Postage	52,084
TOTAL	**$95,892**

Economies of Scale. It should be noted that there are several pieces of legislation currently proposed that, if enacted, would affect sales and use tax account holders. If multiple bills are enacted, no separate appropriation may be required by this bill. The department will send one letter, two pages in length, to each sales and use tax account holder advising them of all enacted changes, rather than sending one notification for each legislative change.

State Appropriations

For FY 2009-10, the bill appropriates $94,322 General Fund and 0.9 FTE to the Department of Revenue. If multiple sales and use tax bills are enacted, no separate appropriation may be necessary for this bill.

The reengrossed bill also specifies that at least 40 percent of the net revenue gain be appropriated to fund preschool through twelfth grade public education. This money must supplement and not supplant other funds used for this purpose. As a result, school districts will receive additional funding estimated at $2.9 million in FY 2009-10 and $15.0 million in FY 2010-11.

Departments Contacted

Natural Resources   Regulatory Agencies   Revenue