

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 7, 2011)

Drafting Number: LLS 11-0075	Date: March 14, 2011
Prime Sponsor(s): Rep. Bradford Sen. Cadman	Bill Status: Senate Transportation
	Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING THE PAYMENT OF SPECIFIC OWNERSHIP TAX ON SPECIAL MOBILE MACHINERY.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures School Finance Impact	Increase - see State Expenditures section*	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

**This expenditure could be from either the General Fund or the State Education Fund.*

Summary of Legislation

This revised fiscal note is provided based on updated information. As amended by the House, this bill does the following:

- extends the amount of time from 24 hours to 72 hours that farm equipment meeting the definition of special mobile machinery (SMM) can be used for non-agricultural purposes before it is required to be registered as Class F personal property and pay specific ownership tax (SOT);
- reduces the amount of administrative penalties that may be assessed for non-payment of SOT to the lesser of \$500 or double the SOT due; and
- changes the payment methodology for SMM in the "2 percent rental SOT" program.

2 percent rental SOT program. Under current law, equipment dealers obtain tabs for each piece of SMM that is covered under the program. The dealer is then responsible for tracking the use of equipment and reporting monthly to the counties in which the SMM is used. With the report, the dealer remits 2 percent of the rental or lease payment, and has permission to recover this amount from the individual or business renting the equipment. HB11-1093 changes program requirements so that the reporting and SOT payment are made annually and only to the county in which the SMM is registered.

Background

Under current law, out-of-state vehicles with SMM that operate in Colorado for less than 1 month per year can pay SOT at a port of entry operated by the Department of Revenue (DOR). All other transactions are processed at county clerk and recorder offices. If SOT is collected at a port of entry, the state retains \$0.50 of each transaction, which is credited to the Colorado State Titling and Registration (CSTAR) account in the Highway Users Tax Fund (HUTF), and the remainder is distributed to the county. Ports of entry do not currently assess administrative penalties for non-payment of SOT. As such, the fiscal note assumes state revenue will not be affected by this bill.

Owners that participate in the 2 percent rental SOT program may pro-rate payments if their equipment is used in multiple counties within a given month. However, due to varying interpretations of the rule and associated forms, in practice, some owners have not pro-rated these payments. The amount of overpayments has not been estimated.

State Expenditures

School Finance Act. The bill is expected to reduce SOT each year, starting in the current fiscal year, FY 2010-11. This reduction is based on two factors:

- the number of farm vehicles that meet the definition of SMM that will avoid an assessment of SOT provided they are used for non-agricultural purposes for less than 72 hours; and
- requiring SMM in the 2 percent rental program to be assessed SOT only once and in the county where the equipment is registered, rather than possibly multiple times based on the counties in which it is used.

Under the School Finance Act, SOT provides a source of local funding that offsets the need for state aid and the state is required to backfill any reduction in such funding in the next fiscal year. Approximately 29 percent of SOT collections are distributed to school district funding under the act. While all counties were canvassed for the purposes of this fiscal note, no data on the change in registrations or modification of the 2 percent rental SOT program were available, although the fiscal note assumes these amounts are minimal and based solely on owners who have not been prorating monthly payments. Any increase in state expenditures resulting from this bill will not occur until FY 2011-12.

To the degree that participating SMM owners are prorating payments to the counties where the equipment is used, the bill will cause a shift in school district SOT collections from the district where the equipment is used to the school district where the SMM owner is located. For most districts, this will not cause a net increase in the state backfill requirement for school finance because the loss in SOT in one district is offset by a gain in SOT in another district. However, if the SMM owner is located in a school district that receives no state aid and the SMM user is located in a school district that receives state aid, the bill could increase state expenditures for school finance. In this scenario, the SOT increase for a school district does not lower the state's backfill requirement, while

the loss in SOT for another district will increase the state backfill. In FY 2010-11, eight school districts in primarily rural or mountain counties (Clear Creek, Grand, Gunnison, Park, Pipkin, Rio Blanco, Routt, and Summit) received no state aid for school finance. Since most SMM owners are likely to be located in the urban areas of the state, the impact of this scenario is also expected to be minimal.

Local Government Impact

Administrative penalties. By modifying the manner in which administrative penalties are assessed on SMM, this bill reduces the amount of revenue collected by and distributed to counties. This amount has not been estimated.

Registration of farm equipment as special mobile machinery. The bill extends the period of time in which farm equipment can be used for non-agricultural purposes before it is required to be registered as Class F personal property. This provision will reduce the amount of SOT revenue collected from these vehicles, although this amount has not been quantified. SOT is distributed to local governments in proportion to property taxes collected by each entity within the county.

2 percent rental program. This bill reduces the number of counties that will receive SOT payments for certain SMM operated within their county. This amount has not been estimated.

State Appropriations

For FY 2011-12, the Department of Education will require moneys under the School Finance Act. This amount has not been estimated.

Departments Contacted

Revenue