HB09-1068

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL
CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 09-0431	**Date:**	January 27, 2009
Prime Sponsor(s):	Rep. Lambert Sen. Scheffel	**Bill Status:**	House Finance
		Fiscal Analyst:	Todd Herreid (303-866-2633)

TITLE: CONCERNING AN EXEMPTION FROM PROPERTY TAXATION FOR BUSINESS PERSONAL PROPERTY.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
State Expenditures General Fund appropriation to the Business Personal Property Reimbursement Fund General Fund - School Finance Act*	Conditional Expenditure Increase Conditional Expenditure Increase	
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: 90 days after final adjournment of the General Assembly (August 4, 2009, if adjournment is May 6, 2009), unless a referendum petition is filed.		
Appropriation Summary for FY 2009-2010: None required.		
Local Government Impact: See Local Government Impact section.		

* *School Finance Act expenditures could be from the General Fund, State Education Fund, or a combination of both.*

Summary of Legislation

Under current law, a business is exempt from paying property taxes on its personal property if the actual value of the property in any particular county is less than $4,000. This bill provides a mechanism for reducing personal property taxes over a number of years for businesses that sell goods and services outside of Colorado, while at the same time providing an offset for cities, counties, and special districts that lose property tax revenue. Money to reimburse local governments will come from the General Fund. However, the property tax reduction is only triggered if there is sufficient revenue to allow General Fund appropriations to grow by the 6 percent limit. As a result, the bill is assessed as having a conditional fiscal impact.

By June 1 of each year, county treasurers must certify to the State Treasurer the amount of property tax losses incurred from the business personal property tax exemption. By June 30, the State Treasurer must distribute funds in the Business Personal Property Tax Reimbursement Fund to counties that lost revenue. County treasurers are required to allocate the money to local governments in the county, with the exception of school districts. If the total tax revenue loss exceeds the amount of money in the reimbursement fund, counties will receive a prorated share of the money.

State Expenditures

When there is sufficient revenue to allow 6 percent General Fund appropriations growth, the state will incur two additional costs under the bill:

- General Fund money will be appropriated into the Business Personal Property Tax Reimbursement Fund; and
- School Finance Act expenditures will increase.

First, the bill requires the legislature to appropriate 0.07 percent of the prior year's General Fund appropriation into the Business Personal Property Tax Reimbursement Fund. This percentage is referred to as a unit of business personal property tax relief. In succeeding years, this percentage is increased by equal amounts such that in the eighth eligible year, the appropriation must equal 0.56 percent. For example, if General Fund appropriations amounted to $7.0 billion in the prior year, the legislature would have to appropriate $4.9 million into the reimbursement fund in the first year ($7 billion x 0.07%). Based on the December 2008 Legislative Council Staff revenue forecast, there will not be sufficient revenue to allow 6 percent appropriations growth until FY 2010-11, at the earliest. However, it could be pushed further into the future to the degree that economic conditions are worse than expected or current budget decisions make it more difficult to reach 6 percent appropriations growth in FY 2010-11 or subsequent years.

Second, the state will incur additional costs under the School Finance Act when local school districts see a loss in property tax revenue. The property tax exemption in the first eligible tax year, which is 2011, is equal to 12.5 percent (or 1/8th) of a company’s proportion of out-of-state sales. The exempt percentage grows in subsequent years until it is equal to 100 percent of a company's proportion of out-of-state sales. For example, if a company sells 40 percent of its goods outside of Colorado, they can exempt 5 percent of business personal property from taxation in the first eligible year (12.5% x 40%) and 40 percent in the eighth eligible year (100% x 40%). The increase in School Finance Act expenditures is not expected to occur until FY 2012-13, at the earliest. Assuming that 25 percent of business personal property taxes could be exempt, the school backfill expense would grow from about $6 million in the first year of the exemption to $52 million by the eighth year of the exemption. If the average percentage of out-of-sales was larger or smaller, the school backfill requirement would change correspondingly.

In addition, the bill could cause a decrease in the residential assessment rate under the Gallagher Amendment to the state constitution, which would raise the school backfill requirement for the state. Although this is not anticipated in the next four years, it could happen in the future with the reduction in nonresidential assessed values. Gallagher requires the residential assessment rate to be adjusted to maintain a relatively constant ratio between residential and nonresidential assessed values.

Local Government Impact

Local governments could see a reduction in property tax revenue. While some or all of this could be offset by reimbursement payments from the state, it is expected that the loss would exceed the payments from the state. Ultimately, the loss depends on the percentage of out-of-state sales for the largest business personal property taxpayers. If about 8 percent of business personal property becomes exempt under this bill, then the state appropriation would be approximately sufficient to offset local property tax revenue losses. However, if out-of-state sales account for a larger fraction, local governments will see a loss in revenue. If 25 percent of business personal property became exempt under the bill, local governments would see a net loss of about $10 million in the first year of implementation, which would grow over time.

Departments Contacted

Local Affairs