HB10-1285

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 10-0793	**Date:**	March 8, 2010
Prime Sponsor(s):	Rep. Priola Sen. Tapia	**Bill Status:**	House Transportation and Energy
		Fiscal Analyst:	Ron Kirk (303-866-4785)

TITLE: CONCERNING AN INCREASE IN FINES TO FUND TAX INCENTIVES FOR COMMERCIAL VEHICLES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue			
General Fund *	($3.5 million)	($7.2 million)	($7.3 million)
Cash Funds			
Highway Users Tax Fund (HUTF)		$0.4 million	$0.4 million
Commercial Vehicle Enterprise Tax Fund		$0.8 million	$0.8 million
Transfers and Diversions			
Transfer from the Commercial Vehicle Enterprise Tax Fund to the General Fund		$0.8 million	$0.8 million
State Expenditures			
General Fund*	$56,993		
FTE Position Change			
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.			
Appropriation Summary for FY 2010-2011: See State Appropriations Section.			
Local Government Impact: None.			

* *General Fund impacts are contingent on the executive director of the Department of Revenue identifying a sustainable source of revenue to pay for the tax credits and refunds.*

Summary of Legislation

This bill raises the fines on commercial motor vehicles and uses the additional fine revenue to fund an existing sales tax refund and an existing income tax credit for commercial investment in Colorado. It also moves up by one year the five-year period for which the sales tax refund and the income tax credit are effective. Under current law, each are effective from 2011 through 2015. Under the bill, each would be effective in 2010 through 2014. The bill also expands the income tax credit.

Pursuant to HB 09-1298, the credits and refunds are conditional upon the executive director of the Department of Revenue providing written notice to the revisor of statues that a sustainable revenue source has been identified to pay for them.

Background

HB09-1298 created a sales tax refund for state sales and use taxes paid on Class A vehicles based on the proration of annual specific ownership taxes paid on the vehicles. It also expanded the enterprise zone 3 percent investment tax credit by including the purchase of commercial vehicles based in an enterprise zone. Class A vehicles include motor vehicles and trailers used in interstate commercial business to carry people or property.

Sales tax refund. Under current law, state sales and use taxes are paid on the purchase price of Class A personal property and annual specific ownership taxes are paid on these vehicles based on the prorated number of vehicle-miles driven in Colorado. State law allows for a partial refund of state sales and use taxes paid. The refund is based on a proration of annual specific ownership taxes paid on the vehicles and is phased in over a five-year period as follows:

- 10 percent in the calendar year in which the truck tractor is purchased;
- 15 percent in the second year after the purchase;
- 25 percent in the third year after the purchase;
- 25 percent in the fourth year after the purchase; and
- 25 percent in the fifth year after the purchase.

The refund is restricted to model year 2010 or newer truck tractors greater than 26,000 pounds and is available under current law for tax years 2011 through 2015. This bill moves the effective date of the sales tax refund up one year from tax years 2010 through 2014 and adds semitrailers to the commercial vehicles (Class A property) that are eligible for the sales tax refund.

Enterprise zone 3 percent investment tax credit. For income tax years 2011 through 2015, current law allows the purchase of commercial vehicles based in an enterprise zone to qualify for the enterprise zone investment tax credit. The vehicles must be licensed and registered in the state and housed or based in an enterprise zone for one year after purchase. To be eligible for the credit, the vehicle must be a 2010 model year or newer commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle weight rating of at least 16,000 pounds. The credit would apply to eligible vehicles as well as any parts associated with the vehicle at the time of purchase. The amount of the credit is based on the total qualified investment and is available over the five-year period as follows:

- 0.5 percent (of the total qualified investment) for income tax year 2011;
- 1.0 percent for income tax year 2012;
- 1.5 percent for income tax year 2013;
- 2.0 percent for income tax year 2014; and
- 3.0 percent for income tax year 2015.

This bill moves the effective date of the investment tax credit up one year from tax years 2010 through 2014 and replaces the phase-in schedule with an annual 3 percent rate each year.

Conditions for implementation. Both the sales tax refund and the investment tax credits are only made available if there is a sustainable source of revenue. To date, a sustainable source of revenue has not been identified.

State Revenues

The bill raises state revenue from fines and surcharges and may reduce General Fund revenue in the future, if a sustainable funding source for certain tax credits and refunds is identified. In total, fine and surcharge revenue is expected to ***increase $1.2 million per year*** beginning in FY 2010-11. Of this amount, $0.8 million will be credited to the Commercial Vehicle Enterprise Tax Fund and If a funding source is identified, the tax credits and refunds in this bill will reduce General Fund revenue by ***over $7 million per year***.

Fine revenue. This bill raises the fines on overweight motor vehicles and uses the additional revenue to fund the state sales tax refund and investment tax credit in the bill. Using FY 2008-09 department data, new penalty revenue is estimated at $750,000 per year beginning in FY 2010-11. Revenue will be deposited into the Commercial Vehicle Enterprise Tax Fund.

Surcharge revenue. The new fine structure in the bill will generate an estimated $0.4 million per year in new surcharge revenue beginning in FY 2010-11. This revenue will be split evenly between the Victims and Witnesses Assistance and Law Enforcement Fund and the Crime Victim Compensation Fund.

General Fund revenue. If a sustainable revenue source is identified, the bill will reduce state General Fund revenue from sales and income taxes by the amounts shown in Table 1, although the sales tax reduction may be minimally offset by new sales tax revenue from taxes and fees imposed on additional truck purchases. These impacts are conditional upon the Executive Director of the Department of Revenue providing written notice to the revisor of statutes that a sustainable source of revenue has been identified to implement the sales tax refund and income tax credit.

Table 1: Estimated General Fund Revenue Impacts for HB 10-1285 (in millions)

Year	FY 2009-10	FY 2010-11	FY 2011-12
Sales Tax Refund		$0.18	$0.32
Income Tax Credit	$3.49	$6.99	$6.99
Total Revenue Impact	$3.49	$7.17	$7.31

A number of factors were considered in the estimates in Table 1. These factors included the recession, the credit crunch, and the fact that a company must have a tax liability to claim the credit. It is also assumed that the economy will rebound in out-year estimates.

Under current law, investment tax credits in this bill are not refundable, meaning that a person must have a tax liability to claim the credit, but any unused portion may be carried forward for up to 12 years. This fiscal note assumes that all eligible taxpayers will be able to claim the credit in the first available year.

Transfers and Diversions

Penalty revenue. New penalty revenue of $0.8 million in FY 2010-11 and FY 2011-12 will be transferred from the Commercial Vehicle Enterprise Tax Fund to the General Fund to partially fund the state sales tax refund and income tax credit in the bill.

State Expenditures

Department of Revenue: $56,993 in FY 2009-10. The Department of Revenue will incur computer programming expenditures tied to both the current information system and the new Colorado Integrated Tax Architecture (CITA) system in FY 2009-10. The department estimates that programming changes to the Penalty Assessment System would be necessary in order to calculate the new penalty structure in the bill. Total programming costs of $56,993 are estimated based on 321 hours for an IT Pro III (39.23 per hour) and 600 hours for contract programmers ($74.00 per hour).

State Appropriations

The following appropriations are conditional upon the Executive Director of the Department of Revenue providing written notice to the revisor of statutes that a sustainable source of revenue has been identified to implement the provisions of HB10-1285.

In FY 2009-10, this bill requires an appropriation of $56,993 General Fund to the Department of Revenue in FY 2009-10.

Departments Contacted

Revenue Judiciary