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. 10-0793.01 Jery Payne

HOUSE BILL 10-1285

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A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN FINES TO FUND TAX INCENTIVES FOR**
102 **COMMERCIAL VEHICLES.**

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.)

The bill raises the fines on overweight motor vehicles and uses the additional fine money to fund a sales tax refund and an income credit for commercial vehicle investment in Colorado. A semitrailer is added to the sales tax refund. The effective dates of the sales tax refund and the income tax credit are moved up to begin in 2010 instead of 2011 and the

phase-in of the income tax is accelerated to begin immediately. The bill clarifies that a motor vehicle registered in Colorado, subsequently registered in another state, then reregistered in Colorado is not subject to taxes and fees due during the time it was registered in another state.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-1-224. Commercial vehicle enterprise tax fund - creation. (1) THE COMMERCIAL VEHICLE ENTERPRISE TAX FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEYS COLLECTED AND TRANSMITTED TO THE FUND PURSUANT TO SECTION 42-4-1701 (4) (a) (II). THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE MONEYS IN THE FUND TO COVER THE COST OF THE SALES TAX REFUND CREATED BY SECTION 39-26-113.5, C.R.S., AND THE ACTUAL COST OF ADMINISTERING SECTIONS 39-26-113.5 AND 39-30-104 (1) (b), C.R.S. AFTER RECEIVING THE STATEMENT PURSUANT TO SECTION 39-30-104 (1) (b) (V), THE STATE TREASURER SHALL CREDIT THE TOTAL COST OF THE AMOUNT OF THE TAX CREDITS STATED THEREIN TO THE GENERAL FUND. ANY MONEYS REMAINING IN THE COMMERCIAL VEHICLE ENTERPRISE TAX FUND AT THE END OF THE FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND.

(2) (a) ON JULY 1, 2011, AND EACH JULY 1 THEREAFTER, THE DEPARTMENT SHALL ALLOCATE ONE-THIRD OF THE FUND BALANCE, NOT INCLUDING THE AMOUNT APPROPRIATED TO COVER THE ACTUAL COST OF ADMINISTERING SECTIONS 39-26-113.5 AND 39-30-104 (1) (b), C.R.S., TO MAKE THE SALES TAX REFUNDS GRANTED IN SECTION 39-26-113.5, C.R.S.

(b) ON JULY 1, 2011, AND EACH JULY 1 THEREAFTER, THE DEPARTMENT SHALL ALLOCATE TWO-THIRDS OF THE FUND BALANCE, NOT INCLUDING THE AMOUNT APPROPRIATED TO COVER THE ACTUAL COST OF ADMINISTERING SECTIONS 39-26-113.5 AND 39-30-104 (1) (b), C.R.S., TO OFFSET THE INCOME TAX CREDIT GRANTED IN SECTION 39-30-104 (1) (b), C.R.S. BY JANUARY 1, 2012, THE DEPARTMENT SHALL NOTIFY THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, C.R.S., OF THE AMOUNT ALLOCATED FOR SUCH PURPOSES.

SECTION 2. 42-3-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-3-104. Exemptions - specific ownership tax - registration - domicile and residency - rules - definitions. (11) A MOTOR VEHICLE OR COMMERCIAL VEHICLE THAT WAS REGISTERED IN COLORADO, SUBSEQUENTLY REGISTERED IN ANOTHER STATE, AND THEN REREGISTERED IN COLORADO IS NOT SUBJECT TO THE SPECIFIC OWNERSHIP TAX OR REGISTRATION FEES DURING THE PERIOD OF TIME THAT THE MOTOR VEHICLE WAS REGISTERED IN ANOTHER STATE; EXCEPT THAT THE OWNER OF A MOTOR VEHICLE WITH AN APPORTIONED REGISTRATION MAY BE LIABLE FOR THE PORTION OF THE MILES TRAVELED IN COLORADO.

SECTION 3. 42-4-1701 (4) (a) (II), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (a) (II) (A) ~~Any~~ A person convicted of violating section 42-4-507 or 42-4-508 shall be fined pursuant to this ~~subparagraph (II)~~ SUB-SUBPARAGRAPH (A), whether the defendant acknowledges the defendant's guilt pursuant to the procedure set forth in paragraph (a) of

subsection (5) of this section or is found guilty by a court of competent jurisdiction. ~~Any violation of~~ A PERSON WHO VIOLATES section 42-4-507 or 42-4-508 shall be punished by a fine and surcharge as follows:

~~**Excess Weight - Pounds**~~	~~**Penalty**~~	~~**Surcharge**~~
~~1 - 3,000~~	~~$ 15.00~~	~~$ 14.00~~
~~3,001 - 4,250~~	~~25.00~~	~~24.00~~
~~4,251 - 4,500~~	~~50.00~~	~~46.00~~
~~4,501 - 4,750~~	~~55.00~~	~~52.00~~
~~4,751 - 5,000~~	~~60.00~~	~~58.00~~
~~5,001 - 5,250~~	~~65.00~~	~~62.00~~
~~5,251 - 5,500~~	~~75.00~~	~~70.00~~
~~5,501 - 5,750~~	~~85.00~~	~~80.00~~
~~5,751 - 6,000~~	~~95.00~~	~~92.00~~
~~6,001 - 6,250~~	~~105.00~~	~~98.00~~
~~6,251 - 6,500~~	~~125.00~~	~~120.00~~
~~6,501 - 6,750~~	~~145.00~~	~~138.00~~
~~6,751 - 7,000~~	~~165.00~~	~~158.00~~
~~7,001 - 7,250~~	~~185.00~~	~~176.00~~
~~7,251 - 7,500~~	~~215.00~~	~~208.00~~
~~7,501 - 7,750~~	~~245.00~~	~~234.00~~
~~7,751 - 8,000~~	~~275.00~~	~~262.00~~
~~8,001 - 8,250~~	~~305.00~~	~~292.00~~
~~8,251 - 8,500~~	~~345.00~~	~~330.00~~
~~8,501 - 8,750~~	~~385.00~~	~~370.00~~
~~8,751 - 9,000~~	~~425.00~~	~~408.00~~
~~9,001 - 9,250~~	~~465.00~~	~~448.00~~
~~9,251 - 9,500~~	~~515.00~~	~~494.00~~

~~9,501 - 9,750~~	~~565.00~~	~~544.00~~
~~9,751 - 10,000~~	~~615.00~~	~~590.00~~
~~10,001 - 10,250~~	~~665.00~~	~~640.00~~
~~Over 10,250~~	~~$ 30.00~~	~~$ 28.00~~
	~~for each 250 pounds additional overweight, plus $ 665.00~~	~~for each 250 pounds additional overweight, plus $ 492.00~~
EXCESS WEIGHT - POUNDS	**PENALTY**	**SURCHARGE**
1 - 1,000	$ 20.00	$ 14.00
1,001 - 3,000	25.00	14.00
3,001 - 5,000	0.03 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	48.00
5,001 - 7,000	0.05 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	108.00
7,001 - 10,000	0.07 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	384.00
10,001 - 15,000	0.10 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	1,892.00
15,001 - 19,750	0.15 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	2,438.00
OVER 19,750	0.25 PER POUND OVERWEIGHT ROUNDED TO THE NEAREST DOLLAR	$ 28.00
		FOR EACH 250 POUNDS ADDITIONAL OVERWEIGHT, PLUS $ 492.00

(B) THE STATE, COUNTY, CITY, OR CITY AND COUNTY ISSUING A CITATION THAT RESULTS IN THE ASSESSMENT OF THE PENALTIES IN

SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) MAY RETAIN AND DISTRIBUTE THE FOLLOWING AMOUNT OF THE PENALTY ACCORDING TO THE LAW OF THE JURISDICTION THAT ASSESSES THE PENALTY, BUT THE REMAINDER OF THE PENALTY SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE COMMERCIAL VEHICLE ENTERPRISE TAX FUND CREATED IN SECTION 42-1-224:

EXCESS WEIGHT - POUNDS	**PENALTY RETAINED**
1 - 3,000	$ 15.00
3,001 - 4,250	25.00
4,251 - 4,500	50.00
4,501 - 4,750	55.00
4,751 - 5,000	60.00
5,001 - 5,250	65.00
5,251 - 5,500	75.00
5,501 - 5,750	85.00
5,751 - 6,000	95.00
6,001 - 6,250	105.00
6,251 - 6,500	125.00
6,501 - 6,750	145.00
6,751 - 7,000	165.00
7,001 - 7,250	185.00
7,251 - 7,500	215.00
7,501 - 7,750	245.00
7,751 - 8,000	275.00
8,001 - 8,250	305.00
8,251 - 8,500	345.00
8,501 - 8,750	385.00

8,751 - 9,000	425.00
9,001 - 9,250	465.00
9,251 - 9,500	515.00
9,501 - 9,750	565.00
9,751 - 10,000	615.00
10,001 - 10,250	665.00
OVER 10,250	$ 30.00
	FOR EACH 250 POUNDS ADDITIONAL OVERWEIGHT, PLUS $ 665.00

SECTION 4. 39-26-113.5 (1) (a) and (1) (c), Colorado Revised Statutes, are amended, and the said 39-26-113.5 is further amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-113.5. Refund of state sales taxes for vehicles used in interstate commerce - fund. (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, for the calendar year commencing on January 1, 2011, and for each calendar year thereafter, a taxpayer may claim a refund of a percentage of all state sales and use taxes paid by the taxpayer pursuant to this part 1 and part 2 of this article on the sale, storage, or use of a model year 2010 or newer truck tractor OR SEMITRAILER with a gross vehicle weight rating of ~~twenty-six~~ FIFTY-FOUR thousand pounds or greater ~~designated as Class A personal property as specified in section 42-3-106 (2) (a), C.R.S.~~ THAT IS PURCHASED ON OR AFTER JULY 1, 2011.

(c) The total refund shall be claimed as follows:

(I) For the calendar year in which the truck tractor OR SEMITRAILER was purchased, stored, or used, ~~ten~~ THIRTY-THREE percent

of the total amount of the refund IF THE MODEL YEAR OF THE TRUCK TRACTOR OR SEMITRAILER WAS SOLD AS NEW DURING SUCH CALENDAR YEAR;

(II) For the first calendar year after the calendar year in which the truck tractor OR SEMITRAILER was purchased, stored, or used, ~~fifteen~~ THIRTY-THREE percent of the total amount of the refund IF THE MODEL YEAR OF THE TRUCK TRACTOR OR SEMITRAILER WAS SOLD AS NEW DURING SUCH CALENDAR YEAR; AND

(III) For the second calendar year after the calendar year in which the truck tractor OR SEMITRAILER was purchased, stored, or used, ~~twenty-five~~ THIRTY-THREE percent of the total amount of the refund IF THE MODEL YEAR OF THE TRUCK TRACTOR OR SEMITRAILER WAS SOLD AS NEW DURING SUCH CALENDAR YEAR.

(IV) ~~For the third calendar year after the calendar year in which the truck tractor was purchased, stored, or used, twenty-five percent of the total amount of the refund; and~~

(V) ~~For the fourth calendar year after the calendar year in which the truck tractor was purchased, stored, or used, twenty-five percent of the total amount of the refund.~~

(3) (a) THE DEPARTMENT OF REVENUE SHALL DENY A CLAIMANT THE SALES TAX REFUND OR A PORTION OF SUCH REFUND GRANTED IN THIS SECTION IF THE CLAIM RESULTS IN MORE THAN THE AMOUNT ALLOCATED FOR THE CREDIT PURSUANT TO SECTION 42-1-224, C.R.S.

(b) TO IMPLEMENT THIS SECTION, THE DEPARTMENT OF REVENUE SHALL TRACK THE AMOUNT OF THE REFUNDS GRANTED UNDER THIS SECTION.

SECTION 5. 39-26-712 (2), Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-26-712. Trailers and trucks. (2) The following shall be exempt from taxation under the provisions of part 2 of this article:

(c) THE STORAGE OR USE OF A NEW OR USED TRAILER, SEMITRAILER, TRUCK, TRUCK TRACTOR, OR TRUCK BODY IF THE VEHICLE HAS BEEN RELOCATED WITHIN THIS STATE, WAS USED IN INTERSTATE COMMERCE, AND THE OWNER CAN PROVIDE EVIDENCE OF THE VEHICLE BEING PREVIOUSLY REGISTERED IN ANOTHER STATE FOR AT LEAST SIX MONTHS.

SECTION 6. 39-30-104 (1) (b) (I), (1) (b) (II), and (1) (b) (IV), Colorado Revised Statutes, are amended, and the said 39-30-104 (1) (b) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

39-30-104. Credit against tax - investment in certain property - repeal. (1) (b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b), for income tax years commencing on or after January 1, 2011, ~~but before January 1, 2016~~ AND FOR EACH INCOME TAX YEAR THEREAFTER, a commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle weight rating of ~~sixteen~~ FIFTY-FOUR thousand pounds or greater that is model year 2010 or newer AND IS DESIGNATED AS CLASS A PERSONAL PROPERTY AS SPECIFIED IN SECTION 42-3-106 (2) (a), C.R.S., as well as any parts associated with the vehicle at the time of purchase, shall be deemed to be used solely and exclusively in an enterprise zone if it is licensed and registered within the state and predominantly housed and based at the taxpayer's business trucking facility within an enterprise zone for the twelve-month period following its purchase.

(II) The income tax credit for a qualified investment in a

commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle weight rating of ~~sixteen~~ FIFTY-FOUR thousand pounds or greater that is model year 2010 or newer AND IS DESIGNATED AS CLASS A PERSONAL PROPERTY AS SPECIFIED IN SECTION 42-3-106 (2) (a), C.R.S., as well as any parts associated with the vehicle at the time of purchase, shall be allowed ~~as follows:~~

~~(A) For the income tax year commencing on January 1, 2011,~~ an amount equal to ONE AND one-half of one percent of the total qualified investment IF THE MODEL YEAR OF THE COMMERCIAL TRUCK, TRUCK TRACTOR, TRACTOR, OR SEMITRAILER WAS SOLD AS NEW DURING SUCH INCOME TAX YEAR;

~~(B) For the income tax year commencing on January 1, 2012, an amount equal to one percent of the total qualified investment;~~

~~(C) For the income tax year commencing on January 1, 2013, an amount equal to one and one-half percent of the total qualified investment;~~

~~(D) For the income tax year commencing on January 1, 2014, an amount equal to two percent of the total qualified investment; and~~

~~(E) For the income tax year commencing on January 1, 2015, an amount equal to three percent of the total qualified investment.~~

(IV) ~~This paragraph (b) is repealed, effective January 1, 2017.~~ TO QUALIFY FOR THE TAX CREDIT GRANTED UNDER THIS PARAGRAPH (b), A CLAIMANT SHALL BE CERTIFIED BY THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, C.R.S.

(V) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL CERTIFY PEOPLE ELIGIBLE FOR THE INCOME TAX CREDIT GRANTED IN THIS PARAGRAPH (b) BUT SHALL NOT CERTIFY THE INCOME TAX CREDIT

GRANTED IN THIS PARAGRAPH (b) IF THE CERTIFICATION RESULTS IN MORE CREDITS BEING CLAIMED THAN ARE ALLOCATED PURSUANT TO SECTION 42-1-224, C.R.S.

(VI) TO IMPLEMENT THIS SECTION, THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL TRACK THE AMOUNT OF THE CREDITS AUTHORIZED AND, BY JANUARY 30 OF EACH YEAR, TRANSMIT TO THE STATE TREASURER A STATEMENT OF THE AMOUNT OF TAX CREDITS CERTIFIED PURSUANT TO THIS PARAGRAPH (b) FOR THE PREVIOUS YEAR.

(VII) NO LATER THAN SEPTEMBER 1, 2012, AND NO LATER THAN SEPTEMBER 1 OF EACH YEAR THEREAFTER THROUGH SEPTEMBER 1, 2014, THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT OF THE TAXPAYERS RECEIVING A CREDIT ALLOWED IN THIS PARAGRAPH (b) FOR THE PRECEDING CALENDAR YEAR OR ANY FISCAL YEAR ENDING IN THE PRECEDING CALENDAR YEAR AND ANY CREDITS DISALLOWED PURSUANT TO SUBPARAGRAPH (V) OF THIS PARAGRAPH (b). THE REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE TAXPAYER'S NAME;

(B) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION NUMBER;

(C) THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION; AND

(D) ANY ASSOCIATED TAXPAYER'S NAMES, COLORADO ACCOUNT NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY.

SECTION 7. Section 7 of chapter 417, Session Laws of Colorado 2009, is amended to read:

Section 7. **Effective date.** This act shall take effect upon passage. ~~except that sections 1 and 2 of this act shall not take effect unless a sustainable source of revenue has been identified for the implementation of sections 1 and 2 of this act and the revisor of statutes has received written notice from the executive director of the department of revenue to that effect.~~

SECTION 8. Specified effective date - applicability. This act shall take effect July 1, 2010, and shall apply to offenses committed on or after July 1, 2010, and vehicles purchased on or after July 1, 2011.

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