HB11-1263

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 11-0689	**Date:**	March 8, 2011
Prime Sponsor(s):	Rep. Priola Sen. Scheffel	**Bill Status:**	House Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING PROPERTY TAX EXEMPTIONS FOR BUSINESS PERSONAL PROPERTY.

Fiscal Impact Summary	FY 2011-12	FY 2012-13	FY 2013-14	FY 2020-21
State Revenue General Fund	$12,401	$43,594	$76,129	$344,965
State Expenditures School Finance Impact* General Fund	$2.6 million 23,976	$9.0 million 23,976	$15.7 million 23,976	$71.1 million 23,976
FTE Position Change	0.4 FTE	0.4 FTE	0.4 FTE	0.4 FTE
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.				
Appropriation Summary for FY 2011-12: See State Appropriations section.				
Local Government Impact: Local governments would no longer be able to collect property tax on business personal property valued at less than $14,000 and on value above the specified cap for state assessed public utilities. This will result in local government revenue reduction of $8.9 million in FY 2011-12 and $31.4 million in FY 2012-13.				

* *This amount can come from either the General Fund or the State Education Fund.*

Summary of Legislation

Under current law, the property tax exemption for business personal property on a single personal property schedule is $5,500 for property tax years 2011 and 2012, $7,000 for property tax years 2013 and 2014, and an inflation-adjusted amount every two years thereafter. This bill increases the exemption for property tax years 2013 and 2014 to $14,000, which in turn increases the future inflation-adjusted amount of the exemption.

For property tax years 2011 through 2021, the bill also caps a portion of the business personal property tax liability of a state assessed public utility at the actual value of the public utility's operating property and plant for the 2010 property tax year, plus an annual growth factor. The 2010 actual value is defined as the base year. The growth factor is set at 2.0 percent of the base valuation for each of the first five property tax years and 1.0 percent of the base valuation for the last five property tax years.

Background

Under current law, business personal property begins to be taxed the year *after* it is first used. For example, new personal property first used in 2011 will appear on the tax rolls in 2012, and have taxes paid on it in 2013.

In 2010, business personal property represented slightly under $11.8 billion in statewide assessed value, or roughly 24 percent of all nonresidential property assessed value. Based on 2009 average county- wide mill levies, this value translates into approximately $823 million in local property taxes that will be collected in 2011.

State Revenue

Beginning in FY 2011-12, this bill decreases property tax revenue by capping the actual value of personal property subject to property tax for public utilities. Starting in FY 2013-14, the bill further reduces property tax revenue by increasing the minimum exemption level to $14,000. The decrease in property tax liability will increase a company's state income tax liability by reducing the available property tax deduction. This revenue impact is estimated to be $12,401 for FY 2011-12, $43,594 for FY 2012-13, and $76,129 for FY 2013-14. On an accrual accounting basis, one-half of the FY 2011-12 amount would be received in FY 2010-11. In FY 2020-21, income tax revenue will increase by an estimated $344,965, measured in 2013 dollars.

To the extent that the exemption contained in this bill generates additional economic activity that would not have otherwise occurred, the state may receive additional sales and income tax revenue. Any potential increase in revenue, however, would be offset: 1) to the degree that tax savings realized by businesses are spent outside of Colorado; and 2) to the degree that reduced spending by local governments reduces economic activity in their communities.

State Expenditures

School Finance Act. The state's share of public school total program funding will increase by the amount of local property taxes foregone by increasing the minimum exemption for business personal property and capping the property tax liability for public utilities. This bill will reduce local school district property tax revenue by an estimated $2.6 million in FY 2011-12, $9.0 million in FY 2012-13, $15.7 million in FY 2013-14, and $71.1 million in FY 2020-21.

The first, direct impact results from capping personal property tax liability for state assessed public utilities. Based on roughly 600 existing public utility accounts and historical growth rates for personal property in this sector, a minimum of $127.9 million in assessed value would be exempted in 2011 and $449.9 million in 2012. To the extent that utilities have significant capital investments coming on line during this period, these numbers may underestimate the loss in assessed value. Beginning in 2013, raising the minimum exemption from $7,000 to $14,000 will result in an additional loss in assessed value of $80.2 million, an amount which will grow thereafter.

Based on the statewide average school operating mill levy, this would result in an estimated $2.6 million reduction in school district property taxes that must be replaced by state aid in FY 2011-12 and an additional $9.0 million in FY 2012-13. In FY 2020-21, the last year of the 10-year period where the bill caps public utility personal property tax liability, the reduction in school district property taxes that must be replaced by state aid is estimated to be $71.1 million.

A second, indirect impact potentially results from a drop in the residential assessment rate (RAR). Because a portion of business personal property will no longer be counted as nonresidential property in the RAR calculation, the RAR must decline in order to maintain the residential/nonresidential assessed value ratio required by the state constitution under the Gallagher Amendment. Although the projected reduction due to this bill is not enough to affect the RAR and cause this indirect impact based on current projections, the increased exemption could trigger this impact if actual personal property purchases are higher than projected or there is an increase in the ratio of residential to non-residential assessed values. This additional reduction in assessed value would include both a reduction in school district property taxes that must be replaced by state aid, and a reduction in total non-school operating property taxes that would not be replaced. This would affect every county in the state, albeit to varying degrees. Many rural counties tend to be less dependent on residential property, while mountain resort communities are more dependent.

Department of Local Affairs, Division of Property Taxation. In FY 2011-12 and thereafter, the division will incur additional administrative costs in the amount of $23,976 and 0.4 FTE.

These costs will be incurred by the State Assessed section of the division. In 2010, nearly 40 percent of the total value of personal property was state assessed. Typically, state assessed property is valued using the unitary valuation approach, where the value of the whole company is apportioned geographically depending on the company's operations.

Additionally, capping the amount of actual value that would be included in a utility's property tax liability would require the division to:

- track the value cap and compare it to current value for each of the 600 utility accounts;
- establish a system for tracking and monitoring new public utilities and mergers and acquisitions; and
- track changes in the value cap resulting from appeals.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 1.

Table 1. Expenditures Not Included Under HB11-1263*		
Cost Components	**FY 2011-12**	**FY 2012-13**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$2,796	$2,796
Supplemental Employee Retirement Payments	$1,110	$1,110
Indirect Costs	$6,265	$6,265
TOTAL	**$10,171**	**$10,171**

**More information is available at: http://colorado.gov/fiscalnotes*

Local Government Impact

Beginning in 2011, local government entities will be unable to collect property taxes on business personal property above the specified cap for state assessed utilities. In 2013, the minimum personal property exemption will increase from $7,000 to $14,000, adjusted for inflation thereafter. Overall, local non-school operating property taxes are estimated to decline by up to $6.3 million in FY 2011-12, $22.4 million in FY 2012-13, and $39.1 million in FY 2013-14. In FY 2020-21, the reduction in non-school operating property taxes is estimated to be up to $177.2 million, measured in 2013 dollars. This estimate does not include a RAR reduction, which could increase the reduction substantially.

It should be noted that this number represents a maximum amount. The loss will be smaller for local governments that have not received voter approval to retain property taxes above their constitutional limit and have collected an amount above this limit. In these cases, the exemption of new personal property will cause smaller decreases in the local government's mill levy than would have occurred otherwise to prevent property taxes from exceeding the limit.

Further, an additional impact occurs if the local government has received voter approval and imposed a specific mill levy to repay outstanding general obligation debt or to collect a specific amount of additional property tax revenue for school districts (known as a mill levy override). In such cases, a reduction in assessed value from the provisions in this bill and potentially decreasing the RAR will result in higher mill levies being imposed on all real property owners in the jurisdiction, in order to repay the debt or generate the revenue authorized under the override.

Finally, to the extent that the exemption contained in this bill spurs investment in personal property that would not have otherwise occurred, in the short term, local governments may receive additional property tax revenue that partially offsets the losses described above.

School District Impact

In years, such as FY 2011-12, when the state budget stabilization factor is in place, the loss in local property taxes for school districts may result in the application of a larger budget stabilization factor and not an increase in the state's contribution to school finance. In this scenario, school districts would thus bear the loss of any local property tax revenue arising from this bill.

State Appropriations

Implementation of this bill requires a General Fund appropriation increase of $2.6 million in FY 2011-12 for school funding under the Public School Finance Act. In addition, the Department of Local Affairs will require a General Fund appropriation of $23,976 and authorization for 0.4 FTE.

Departments Contacted

Property Tax Administrator