SB11-098

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 11-0699	**Date:**	February 10, 2011
Prime Sponsor(s):	Sen. King S.	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING THE PHASE-OUT OF THE PROPERTY TAX ON BUSINESS PERSONAL PROPERTY.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013	FY 2013-2014	Full Exemption*
State Revenue				
General Fund		up to $1.3 million	up to $2.5 million	up to $12.6 million
State Expenditures				
School Finance Impact**			$52 million	$260 million
General Fund		$9,611	$9,611	$9,611
FTE Position Change		0.2 FTE	0.2 FTE	0.2 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 2011-2012:				
Local Government Impact:				

* *These totals show a 100 percent exemption for all personal property which will occur at some future point.*
** *This expenditure could be from either the General Fund or the State Education Fund.*

Summary of Legislation

Beginning with the first odd-numbered property tax year after a year in which the total statewide assessed value of business personal property increases by at least 12 percent, the bill exempts from property tax an increasing percentage of all business personal property. The exemption percentages in the years following this growth threshold are as follows:

- 20 percent in property tax years 1-4;
- 40 percent in property tax years 5-8;
- 60 percent in property tax years 9-12;
- 80 percent in property tax years 13-16; and
- 100 percent in property tax years 17 and thereafter.

This exemption applies regardless of when the property was first purchased and put to use. The Property Tax Administrator is required to certify when the growth threshold is met and publish the exemption percentage applicable for each property tax year.

Current law exempts any business personal property with an actual value less than $5,500 that would otherwise appear on a single property tax schedule, and most taxpayers file a single schedule in each county that they own property. The exemption in this bill is applied prior to determining whether the per schedule business personal property tax exemption applies. The bill also specifies how the exemption applies to a state-assessed public utility.

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. Under this bill, once the 12 percent threshold growth rate for the statewide assessed value of business personal property is reached, all personal property, regardless of when it was first purchased and used, would increasingly be exempt from business personal property tax until full exemption was reached in year 17.

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. Table 1 provides information on the growth in personal property assessed values statewide over the last 10 years.

Table 1. Growth in Personal Property Assessed Value over the Last Decade

Property Tax Yr	Personal Property Assessed Value	Year-Over-Year Growth
2000	$7,611,165,248	
2001	8,070,731,319	6.0%
2002	8,181,909,773	1.4%
2003	8,181,652,057	0.0%
2004	8,132,102,910	-0.6%
2005	8,515,309,366	4.7%
2006	8,761,089,392	2.9%
2007	9,922,616,015	13.3%
2008	10,599,876,400	6.8%
2009	11,670,859,898	10.1%
2010	11,776,580,180	0.9%

As shown in Table 1, growth in personal property assessed values is volatile. However, the growth realized in one of the last four years would have triggered the exemption schedule contained in this bill. For this reason, this fiscal note assumes that the threshold will be reached sometime in the next four years. For illustrative purposes, we assume the threshold is reached in 2012.

State Revenue

Beginning in FY 2013-14, the decrease in property tax liability from the partial exemption of personal property will increase a company's state income tax liability by reducing the available property tax deduction. This revenue impact is estimated to be $2.5 million for FY 2013-14 and will grow thereafter as the proportion of exempt business personal property increases. On an accrual accounting basis, one-half of this amount would be received in FY 2012-13. Once all personal property becomes fully exempt in 2029, income tax revenue will increase by an estimated $12.6 million, 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 exemption for business personal property. This bill will reduce school district property tax revenue by an estimated $52 million in FY 2013-14, and $260 million in 2029 when all personal property becomes fully exempt.

The first, direct impact results from exempting a portion of all new business personal property. Based on historical business investment rates, approximately $2.6 billion in assessed value would be exempted in 2013. Based on a statewide average school operating mill levy, this would result in an estimated $52 million reduction in school district property taxes that must be replaced by state aid in FY 2013-14. Once all personal property becomes fully exempt, the reduction in school district property taxes that must be replaced by state aid is estimated to be $260 million, measured in 2013 dollars.

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 the 20 percent exemption in 2013 is not enough to affect the RAR and cause this indirect impact, the increased exemption could at some future point result in a reduced RAR, and a corresponding reduction in residential property taxes.

If all personal property was exempt in 2013, the RAR would fall from 7.96 to 6.42 percent. 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. The estimated impact for the complete exemption of personal property does not include a RAR reduction. However, if the RAR did fall to 6.42 percent, it would have increased the state aid impact by an additional $149 million.

Department of Local Affairs, Division of Property Taxation. In FY 2012-13 and thereafter, the division will incur additional administrative costs in the amount of $9,611 and 0.2 FTE.

The majority of 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. Currently, under this approach, no distinction is made between real and personal property; however such a distinction would be required under the provisions of the bill.

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 2.

Table 2. Expenditures Not Included Under SB 11-098*

Cost Components	**FY 2011-12**	**FY 2012-13**
Employee Insurance (Health, Life, Dental, and Short-term Disability)		$1,318
Supplemental Employee Retirement Payments		445
Indirect Costs		2,557
TOTAL		**$4,320**

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

Local Government Impact

Beginning in 2013, local government entities will be unable to collect property taxes on an increasing portion of business personal property. Overall, local non-school operating property taxes are estimated to decline by up to $129 million in the 2014 budget year. Once personal property is fully exempt, the reduction in non-school operating property taxes is estimated to be up to $648 million, measured in 2013 dollars. This estimate does not include a RAR reduction. However, if the RAR did fall to 6.42 percent, it would have decreased local non-school operating property taxes by up to an additional $371 million.

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 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 exempting new business personal property 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. This offset would only occur until the business personal property tax was completely phased out.

State Appropriations

No state appropriations are required to implement this bill in FY 2011-12. State expenditures for school funding under the Public School Finance Act are expected to increase by up to $52 million beginning in FY 2013-14 and increase each year thereafter. The actual amount required would be determined following certification of mill levies in December 2013.

Departments Contacted

Division of Property Taxation