SB11-184

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 11-0829	**Date:**	March 9, 2011
Prime Sponsor(s):	Sen. Steadman Rep. Ferrandino	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Natalie Mullis (303-866-4778)

TITLE: CONCERNING TAX REPORTING.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012	FY 2012-2013
State Revenue			
Tax Amnesty Cash Fund		up to $10.1 Million	
General Fund and Various Other Cash Funds		up to $1.9 million	
Transfers or Diversions			
Transfer from the Tax Amnesty Cash Fund:			
1) to the General Fund		$51,336	
2) to the State Education Fund		up to $9.5 Million	
State Expenditures			
General Fund	$51,336	$0	$169,727
Cash Funds			
Tax Amnesty Cash Fund	0	615,042	0
FTE Position Change		1.6 FTE	2.0 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.			
Appropriation Summary for FY 2011-2012: See the State Appropriations section.			
Local Government Impact: Certain counties, municipalities, and special districts may receive additional revenue due to the amnesty program.			

Summary of Legislation

This bill requires the Department of Revenue to conduct a tax amnesty program and prepare an annual tax expenditure report. Each of these requirements is discussed below.

Tax Amnesty Program. During August and September, 2011, this bill would allow taxpayers to pay certain overdue taxes, including one-half of any interest due, without being subject to any fine or civil or criminal penalty otherwise provided for by law. In order to qualify, the taxpayer cannot have been billed for the overdue taxes before August 1, 2011, and the tax must have been due for returns or reports that were required to have been filed before December 31, 2010. The taxpayer would be subject to appropriate civil or criminal penalties if the taxpayer fails to pay the full amount of taxes due either during the amnesty period or an agreed-upon payment schedule or commits willful fraud in filing under the terms of the program. The amnesty program would apply to:

- income taxes;
- sales and use taxes;
- gasoline and special fuel taxes;
- cigarette taxes;
- taxes on tobacco products;
- severance taxes;
- county or municipal sales taxes collected by the Department of Revenue;
- certain local improvement district sales taxes;
- sales and use taxes imposed by the Regional Transportation District, the Denver Metropolitan Scientific and Cultural Facilities District, Metropolitan Football Stadium, and regional transportation authorities; and
- local marketing and promotion taxes and county lodging and rental taxes collected by the Department of Revenue.

Tax Expenditure Report. This bill requires the Department of Revenue to prepare an annual tax expenditure report on or before July 1 of each year, beginning in 2012. The bill applies to tax expenditures for the federal income tax and all state taxes, including but not limited to income, sales and use, excise, severance, motor fuel, and gaming taxes. The bill defines a tax expenditure as any provision that provides a:

- definition for gross tax or taxable income;
- deduction;
- exemption;
- credit; or
- differentiated rate for certain persons, types of income, transactions, or property that results in reduced tax revenue.

The bill requires the report to quantify the total impact on state revenue from all tax expenditures for the current year and the next three tax years. To the extent data are available, the report must include the following for each expenditure:

- a statutory citation or other legal authority;
- the year of enactment;
- a description of the tax expenditure;
- an estimate of the decrease on state revenue for the current year and the next three tax years;
- for tax expenditures created or extended in 2012 or later, a statement of the intended purpose of the tax expenditure;
- the effect on the distribution of the tax burden by income class and industry or business class, as appropriate; and
- the effect on the distribution of income.

The bill requires that legislation in 2012 or thereafter that creates or extends a tax expenditure include a legislative declaration stating the intended purpose of the tax expenditure. For purposes of determining the impact of each expenditure on the distribution of the tax burden and income, the bill requires that corporate and individual taxpayers be considered separately and specifies minimum requirements for income brackets.

The department is required to present each year's report to the House and Senate Finance Committees annually on or before the following February 1, and to publish the report on the department's web site.

State Revenue

State revenue is estimated to increase by up to $12 million in FY 2011-12 as a result of the tax amnesty program. Of this, up to $10 million is assumed to be collected via the income, sales, or use tax, with the remainder collected by various other tax sources. Although taxpayers may request payment arrangements to pay their liabilities, for purposes of this fiscal note it is assumed that all revenue will be collected on or before December 31, 2011.

The Department of Revenue last conducted a tax amnesty program in 2003. The $12 million figure is based on the $23 million collected during the 2003 amnesty, discounted for the following reasons. First, it has only been eight years since the last amnesty. In 2003, it had been 17 years since the most recent amnesty before that. Second, the department has a computer system and other programs in place that are better at encouraging a higher level of compliance than in the past. Finally, the revenue estimate was reduced by $3 million because the amnesty program will use staff resources that would have otherwise been used to research delinquent taxes, notify taxpayers of the delinquent taxes, and collect them. This revenue is not expected to be collected by the amnesty program because, in most cases, these taxpayers tend not to know they owe the tax before the department notifies them of it.

It should be noted that it is extremely difficult to predict the amount of revenue that would be generated by an amnesty program, and, while the $12 million figure is presented here as an upper bound, the actual amount could be below or above this amount.

State Transfers or Diversions

The bill requires that moneys received prior to January 1, 2012 related to the income, sales, or use tax that would have otherwise been deposited into the General Fund be distributed as shown in Table 1.

Table 1. Movement of Income, Sales, and Use Amnesty Tax Collections Under SB11-184 /a		
Time-line	**Requirement**	**Dollar Estimate**
August 1, 2011 *to* December 31, 2011	This money is required to be deposited into the newly created Tax Amnesty Cash Fund.	up to $10.1 million
FY 2011-12	The Department of Revenue's FY 2011-12 costs for administering the amnesty program and preparing the tax expenditure report are appropriated from the Tax Amnesty Cash Fund:	$615,042
December 31, 2011	Any money remaining in the Tax Amnesty Cash Fund is transferred to the State Education Fund: *except* that whatever amount already spent to date out of the General Fund to administer the tax amnesty program will be transferred to the General Fund:	up to $9.5 million $51,366 /b
January 1, 2012 *to* June 30, 2012	If any additional revenue is collected through the amnesty program during this time, that money will be transferred to the General Fund on June 30, 2012	/c

/a Revenue collected from other tax sources, estimated to be up to $1.9 million, are distributed based on current law.
/b This money backfills the General Fund for amnesty program expenses appropriated from the General Fund to the Department of Revenue for FY 2010-11.
/c Although taxpayers may request payment arrangements to pay their liabilities, for purposes of this fiscal note it is assumed that all revenue will be collected on or before December 31, 2011.

State Expenditures

***Department of Revenue* — $51,336 General Fund in FY 2010-11, $615,042 Cash Fund and 1.6 FTE in FY 2011-12, and $167,727 General Fund and 2.0 FTE in FY 2012-13.** Table 2 summarizes expenditures for Senate Bill 11-184. The cost components for the tax amnesty program and the tax expenditure report are summarized separately below.

Tax Amnesty Program — $51,336 General Fund in FY 2010-11, $352,558 Cash Fund in FY 2011-12, and $2,432 General Fund in FY 2012-13. In FY 2010-11, computer programming will be required to modify the department's GenTax system for the amnesty program and track amnesty returns. Temporary staff will be required in FY 2010-11 and FY 2011-12 to process returns, research the eligibility of and respond to protests on amnesty returns, and answer taxpayer questions. In FY 2011-12, it is anticipated that the Department of Revenue will contract with a marketing company in the amount of $240,000. The department will use in-house resources for brochure design, application design, and tax form changes. Postage, imaging, and data entry costs will occur in FY 2011-12 and FY 2012-13.

Tax Expenditure Report — $262,484 Cash Fund and 1.6 FTE in FY 2011-12 and $167,295 General Fund and 2.0 FTE in FY 2012-13 and each year thereafter. The department will need to develop a statistical input/output model to analyze the impact of state and local taxes on businesses. If the decision were made to purchase an "off the shelf" model, several options could be considered. For example, Regional Economic Models, Inc. (REMI) is one company that offers these models for a fee. According to REMI, a model specific to analyzing tax expenditures is currently priced at $136,000. In addition, annual maintenance costs of $27,200 per year would be necessary beginning in FY 2012-13 and each year thereafter. Other costs include the purchase of Bureau Labor Statistics data, which will cost $600 in FY 2011-12 and $165 each year thereafter.

The department will require 0.8 FTE Statistical Analyst III and 0.8 FTE Economist IV in FY 2011-12 and 2.0 FTE in FY 2012-13 and each year thereafter. These positions will be necessary to collect and analyze data, develop incidence and expenditure data using the statistical input/output model, and develop reports as required by the bill. Annual operating costs are estimated at $800 in FY 2011-12 and $1,000 each year thereafter, with a one-time capital cost of $10,060 for computers and office equipment.

Table 2. Department of Revenue Expenditures Under SB11-184

Cost Components	FY 2010-11	FY 2011-12	FY 2012-13
Tax Amnesty Program			
Personal Services - *Temporary Staff*	$12,096	$101,911	$0
FTE	0	0	0
Operating Expenses and Capital Outlay	39,240	250,647	2,432
Tax Expenditure Report			
Personal Services		$115,024	$138,030
FTE		1.6	2.0
Operating Expenses and Capital Outlay		147,460	29,265
TOTAL General Fund	**$51,336**	**$0**	**$169,727**
TOTAL Tax Amnesty Cash Fund	**0**	**615,042**	**0**
FTE	**0**	**1.6**	**2.0**

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 3.

Table 3. Expenditures Not Included Under SB11-184*		
Cost Components	**FY 2011-12**	**FY 2012-13**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$11,360	$14,200
Supplemental Employee Retirement Payments	5,324	7,528
TOTAL	**$16,684**	**$21,728**

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

Local Government Impact

Counties, municipalities, and special districts for which the department collects the following types of taxes or to which the following types of taxes are otherwise distributed may receive additional revenue due to the amnesty program:

- sales and use taxes;
- gasoline and special fuel taxes;
- cigarette taxes;
- severance taxes;
- local marketing and promotion taxes; and
- county lodging and rental taxes.

The department collected a total of $2.1 million in revenue for local governments during the 2003 amnesty program.

State Appropriations

An appropriation of $51,336 General Fund should be made to the Department of Revenue in FY 2010-11.

An appropriation of $615,042 and 1.6 FTE should be made from the Tax Amnesty Cash Fund to the Department of Revenue in FY 2011-12.

Departments Contacted

Revenue   Legislative Council Staff