HB12-1029

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 12-0491	**Date:**	February 7, 2012
Prime Sponsor(s):	Rep. Holbert Sen. Scheffel	**Bill Status:**	House Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING AN ECONOMIC STIMULUS THROUGH A PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL PROPERTY, AND, IN CONNECTION THEREWITH, ENACTING THE "SAVE COLORADO JOBS ACT".

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016
State Revenue General Fund		up to $991,000	up to $2.0 million	up to $2.0 million
State Expenditures School Finance Impact* General Fund		 $28,774	up to $40.0 million $23,448	up to $40.0 million $23,448
FTE Position Change		0.6 FTE	0.4 FTE	0.4 FTE

Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.

Appropriation Summary for FY 2012-2013: None required.

Local Government Impact: Local governments would not be able to collect revenues from property taxes on business personal property purchased in 2013. This will result in a local government revenue reduction of up to $102.7 million per year in FY 2014-15 and FY 2015-16.

* *This expenditure would be from the General Fund.*

Summary of Legislation

Current law exempts from property taxes 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 have property. This bill exempts all business personal property that is purchased in 2013 from the levy and collection of property tax, with two exceptions. The bill specifies that the exemption does not apply to:

- locally assessed business personal property located within the boundaries of a local government that, prior to the bill's effective date has agreed to an incentive payment or credit with the taxpayer; or
- business personal property that is sold and leased back or repurchased by the taxpayer.

The bill also specifies how the exemption applies to a state-assessed public utility. The bill's exemption is applied prior to determining whether the per schedule business personal property tax exemption applies.

Background

Under current law, business personal property begins to be taxed in the year *after* it is first used. For example, new personal property first used in 2013 will appear on the tax rolls in 2014, and have taxes paid on it in 2015. Under this bill, personal property purchased in 2013 would be exempt from property taxes for the life of the property.

In 2011, business personal property represented slightly over $12.2 billion in statewide assessed value, or roughly 18 percent of all nonresidential property assessed value. Based on 2010 average county-wide mill levies, this value translates into approximately $886 million in local property taxes that will be collected in 2012.

State Revenue

Beginning in FY 2013-14, the decrease in property tax liability from the exemption of newly purchased 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 $2.0 million per year for FY 2014-15 and FY 2015-16. On an accrual accounting basis, $991,000 would be received in FY 2013-14.

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 local school district property tax revenue by an estimated $40.0 million per year in FY 2014-15 and FY 2015-16.

The first, direct impact results from exempting all business personal property purchased in 2013. Based on historical business investment rates, approximately $1.9 billion in assessed value would be exempted in 2013. Business investment rates are determined using industry figures for equipment stock and new capital investment. Based on a statewide average school operating mill levy, this would result in a reduction in school district property taxes of $40.0 million per year in

FY 2014-15 and FY 2015-16 that increases the state's contribution for a given level of public school funding. If the state chooses not to fund this reduction in the local share, the negative factor in the school finance formula would increase.

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 could decline in order to maintain the residential/ nonresidential assessed value ratio required by the State Constitution under the Gallagher Amendment. Although the projected assessed value reduction due to the full exemption of property purchased in 2013 is not enough to affect the RAR and cause this indirect impact, 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 nonresidential assessed values. This additional reduction in assessed value would further reduce school district property taxes and could increase the state's obligation for school finance. This would affect every county in the state, albeit to varying degrees. Many rural counties tend to be less dependent on property taxes paid on residential property, while mountain resort communities are more dependent.

Department of Local Affairs, Division of Property Taxation. In FY 2013-14, the division will incur additional annual administrative costs in the amount of $28,774 and 0.6 FTE. Costs are estimated to be $23,448 and 0.4 FTE in FY 2014-15.

The majority of these costs will be incurred by the state assessed section of the division. In 2011, just over 41 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. Additionally, because each piece of business personal property purchased in 2013 would be exempt from property tax, this property would need to be tagged and tracked during the time period it was in use.

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. These centrally appropriated costs are summarized in Table 1.

Table 1. Expenditures Not Included Under HB12-1029*

Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$4,917	$3,622
Supplemental Employee Retirement Payments	1,757	1,208
TOTAL	**$6,674**	**$4,830**

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

Local Government Impact

Under this bill, local government entities will be unable to collect property taxes on business personal property purchased in 2013. Local non-school operating property taxes are estimated to decline by up to $102.7 million per year in FY 2014-15 and FY 2015-16.

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 collect a specific amount of additional property tax revenue. 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 by the jurisdiction.

Finally, the bill prohibits access to this exemption for businesses that have already negotiated an incentive or credit with a local government. This provision will reduce the revenue loss to local governments by some amount. However, this amount has not been quantified.

School District Impact

This bill is estimated to reduce the local share of funding for public schools by up to $40.0 million per year in FY 2014-15 and FY 2015-16. This reduction will either be replaced by state aid or the negative factor in the school finance formula will grow, reducing overall funding for school districts. In addition, override levies approved by districts to provide a specific level of funding may increase to offset the drop in assessed values. In contrast, districts that approved a specific override mill levy will lose funding due to the decrease in assessed value. Finally, districts with bonded debt, which often have floating rates to produce a certain revenue level, will collect additional property taxes from taxpayers other than businesses that purchased personal property in 2013.

Pursuant to Section 22-32-143, C.R.S., as specified by House Bill 11-1277, school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: http://www.colorado.gov/lcs

State Appropriations

No state appropriations are required to implement this bill in FY 2012-13. State expenditures for school funding under the Public School Finance Act are expected to increase by up to $40.0 million per year beginning in FY 2014-15. The actual amount required would be determined following certification of mill levies in December 2013.

Departments Contacted

Division of Property Taxation