

Colorado Legislative Council Staff Fiscal Note
STATE and LOCAL
REVISED FISCAL IMPACT

(replaces fiscal note dated January 25, 2010)

Drafting Number: LLS 10-0737
Prime Sponsor(s): Rep. Pommer
 Sen. Heath

Date: February 2, 2010
Bill Status: Senate Finance
Fiscal Analyst: Jason Schrock (303-866-4720)

TITLE: CONCERNING THE NARROWING OF THE EXISTING EXEMPTION FROM THE STATE SALES AND USE TAXES FOR FOOD, AND, IN CONNECTION THEREWITH, SUBJECTING CANDY AND SOFT DRINKS TO THE STATE SALES AND USE TAXES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue General Fund	\$1.4 million	\$18.0 million	\$18.0 million
State Expenditures General Fund	\$95,892*		
FTE Position Change	0.9 FTE		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. Effective for sales occurring on or after May 1, 2010.			
Appropriation Summary for FY 2009-2010: See State Appropriations Section.			
Local Government Impact: See Local Government Impact Section.			

* No separate appropriation for \$1,570 of these funds is required because of ongoing appropriations to the Department of Revenue for computer programming provided in the Long Bill for new legislation.

Summary of Legislation

This reengrossed bill excludes the purchase of candy and soft drinks, including such purchases through vending machines, from the state sales tax exemption for purchases of food for off-premises consumption. Purchases of candy and soft drinks will be subject to the state sales tax starting May 1, 2010. Retail sellers of candy and soft drinks will not be subject to any penalties or interest imposed by the department as a result of any errors made relating to the elimination of the exemption on their sales tax returns prior to August 1, 2010.

The bill also authorizes the Department of Revenue to establish rules to provide a process, if necessary, for retailers and vending machine operators to estimate the amount of sales tax due on their sale of candy and soft drinks. The department is required to account for the revenue attributable to this bill, and to the extent information is available, make quarterly reports to the legislature about the revenue gain. The bill directs that none of the new revenue be used to fund additional state FTE.

The bill requires candy and soft drink purchases to be exempt from statutory local governments' sales tax, unless the local government expressly decides to subject candy and soft drinks to its sales tax. If a local government decides to tax candy and soft drinks, the effective date of such change must be either January 1 or July 1, and the local government must notify the Department of Revenue at least 45 days before the effective date.

State Revenue

This bill will increase General Fund revenue by \$1.4 million in FY 2009-10, \$18.0 million in FY 2010-11, and \$18.0 million in FY 2011-12. The revenue estimate for FY 2009-10 represents a partial-year impact. The revenue impact in FY 2011-12 is affected by the reimposition of the vendor fee. Under current law, vendors will begin retaining 3.33 percent of the taxes they collect on July 1, 2011, which will serve to reduce the sales tax amount remitted to the state.

The revenue estimates are based on data on the average amount of household expenditures in the western region of the United States on candy and soft drinks. This data was obtained from the Consumer Expenditure Survey published by the U.S. Bureau of Labor Statistics. According to the data, households in the western region spend an average of about \$300 annually on candy and soft drinks for off-premises consumption and through purchases from vending machines. The number of households in Colorado projected by the State Demography Office was also used to estimate the total statewide amount of household purchases on candy and soft drinks.

State Expenditures

Department of Revenue: \$95,892 and 0.9 FTE in FY 2009-10. The Department of Revenue will incur one-time expenses in FY 2009-10 to notify vendors that candy and soft drinks will be subject to the state sales tax. The department anticipates personnel costs to answer questions from vendors regarding the change. The department will also incur additional General Fund information technology costs to adjust the state's computer systems. No appropriation for these information technology costs is necessary because of ongoing appropriations to the department for computer programming provided in the Long Bill for new legislation. Table 1 summarizes costs incurred by the Department of Revenue.

Economies of scale. It should be noted that there are several pieces of legislation currently proposed that, if enacted, would affect sales and use tax account holders. If multiple bills are enacted, no separate appropriation may be required by this bill. The department will send one letter, two pages in length, to each sales and use tax account holder advising them of all enacted changes, rather than sending one notification for each legislative change.

It is assumed that the Department of Revenue can absorb the costs of providing information on the amount of money foregone by taxpayers to the extent that data are available using their current information systems.

Cost Components	FY 2009-2010
Information Technology Services	\$1,570
Personal Services	36,239
<i>FTE</i>	0.9
Operating Expenses	
Printing	5,999
Postage	52,084
TOTAL	\$95,892

Local Government Impact

State-collected local governments currently have the option to subject purchases of food for off-premises consumption, including candy and soft drinks, to their local sales tax. For those local jurisdictions that currently tax such purchases, this fiscal note assumes that the bill will require them to exempt candy and soft drinks from their sales tax starting May 1, 2010, resulting in a decline in revenue. Candy and soft drinks will remain exempt from all local sales tax unless local jurisdictions choose to eliminate the exemption. The earliest date in which a local government can apply its sales tax to candy and soft drinks would be July 1, 2010.

State Appropriations

For FY 2009-10, the bill requires a General Fund appropriation of \$94,322 and 0.9 FTE for the Department of Revenue. If multiple sales and use tax bills are enacted, no separate appropriation may be necessary for this bill.

Departments Contacted

Revenue