



*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL**  
**CONDITIONAL FISCAL IMPACT**

**Drafting Number:** LLS 10-0725  
**Prime Sponsor(s):** Rep. Baumgardner  
 Sen. Kopp

**Date:** April 29, 2010  
**Bill Status:** House Finance  
**Fiscal Analyst:** Josh Abram (303-866-3561)

**TITLE:** SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 3 (1) (B) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING AN EXEMPTION FROM PROPERTY TAXATION FOR POSSESSORY INTERESTS IN REAL PROPERTY WITH SPECIFIED ACTUAL VALUES.

<b>Fiscal Impact Summary</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15 FY 2015-16</b>	<b>FY 2016-17 FY 2017-18</b>
<b>State Revenue</b>				
<b>State Expenditures</b>				
General Fund-School Finance Act	\$17,500	\$37,750	\$170,268*	\$287,382*
<b>FTE Position Change</b>				
<b>Effective Date:</b> Upon voter approval at the 2010 general election.				
<b>Appropriation Summary for FY 2010-2011:</b> None required; See State Appropriations section.				
<b>Local Government Impact:</b> See Local Government Impact section.				

\* 2-year total.

**Summary of Legislation**

This concurrent resolution submits a measure to the voters at the 2010 general election. The resolution proposes amending the constitution to create an exemption from property taxation for possessory interests in real property.

The resolution exempts a possessory interest from property taxation if the actual value of the interest is up to \$2,500 in tax year 2012, up to \$4,000 in property tax year 2013, up to \$5,500 in property tax years 2013 and 2014, and up to \$7,000 in property tax years 2017 and 2018. Beginning in property tax year 2019, the amount of the exemption is increased biennially by the amount of inflation. Possessory interests with an actual value greater than the specified exemption threshold are taxed at the full assessed value. Only those interests that have an actual value equal to or less than the threshold are exempt from the property tax.

## **Background**

A possessory interest is defined as a private property interest in government-owned property, or the right to the occupancy and use of any benefit in government-owned property granted under lease or other agreement. Examples of taxable possessory interests in Colorado include private operation of a farm or ranch on government land, or the operation of a recreational activity (such as skiing) on government land that generates revenue for the private possessor.

## **State Expenditures**

*School Finance Act.* If approved by the voters, this resolution is expected to increase state expenditures under the School Finance Act by \$17,500 in FY 2012-13, \$37,750 in FY 2013-14, \$85,134 in both FY 2014-15 and FY 2015-16, and \$143,691 in both FY 2016-17 and FY 2017-18. The state's share of public school total program funding will increase by the amount of local school operating property taxes foregone due to the bill's increasing exemption for possessory interests.

## **Local Government Impact**

If approved by the voters, local governments that are not at their revenue limit will lose property tax revenue because of the resolution's provision to provide an exemption for possessory interests in real property. Table 1 shows the maximum local property tax revenue loss for the different levels of actual values in each fiscal year(s). Table 1 assumes that all local governments are not at their revenue limit or have voted to exempt themselves from revenue limits, and all data are estimated based on the following:

- ▶ assessment values for possessory interests as reported by counties for calendar year 2009;
- ▶ average actual value of possessory interests in each county based on the number of leases in each county; and
- ▶ average county mill levy of 72.75 and average school district operating levy of approximately 20.

Averaging the total actual value of possessory interests across the number of property tax paying leases in a county may skew the data to include some lease holders who would not be exempt based on the actual value of their particular lease. A survey of each county would be necessary to obtain the data necessary to specify precise amounts of tax reductions and the number of leases affected.

<b>Table 1. County and School District Property Tax Reductions under HCR10-1005</b>				
	FY 2012-13 up to \$2,500	FY 2013-14 up to \$4,000	FY 2014-15 FY 2015-16 up to \$5,500	FY 2016-17 FY 2017-18 up to \$7,000
Total Number of Leases	2,650	1,143	1,090	186
Total Property Tax Decrease for Counties	(\$63,680)	(\$137,315)	(\$309,355)	(\$522,035)
Property Tax Decrease for Schools*	(\$17,500)	(\$37,750)	(\$85,050)	(\$143,500)

\* *Property tax collections for schools are a subset of the total property taxes collected by the counties. The amount of decreased property tax for schools is replaced by state expenditures under the School Finance Act. See State Expenditures section above.*

In addition, minor cost savings may occur in some counties due to a lighter workload, as the number of assessments would be reduced over time compared with the number of possessory interest valuations currently being prepared.

For local governments that consistently reach their revenue limit due to high assessed value growth, the impact of the bill will be felt through smaller decreases in the mill levy. For these governments, a portion of the money that would have been received from possessory interests in real property will instead be spread out over the remaining tax bills in the form of higher mill levies than would have occurred otherwise. The fiscal note does not anticipate that the magnitude of the loss in nonresidential assessed value will trigger a Gallagher Amendment change, which would reduce the residential assessment rate.

**Election Expenditure Impacts (For Informational Purposes Only)**

The bill refers a measure to the voters at the November 2010 general election. This measure will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill. Table 2 below identifies the anticipated costs for the 2010 Blue Book.

<b>Table 2. Cost to Produce and Distribute the 2010 Blue Book to All Registered Voter Households</b>	
Printing	\$400,000
Postage	\$450,000
Translation	\$20,000
Newspaper Publication (English & Spanish)	\$700,000
<b>Total Cost (14 issues)</b>	<b>\$1,570,000</b>
<b>Average Cost per Issue</b>	<b>\$112,143</b>

**State Appropriations**

No appropriation is required for FY 2010-11. Beginning in FY 2012-13, the Colorado Department of Education will require General Fund appropriations in the amounts and fiscal years identified in Table 1.

**Departments Contacted**

Local Affairs

Property Taxation