

FINAL
FISCAL NOTE

Drafting Number: LLS 10-1036
Prime Sponsor(s): Sen. Lundberg

Date: June 3, 2010
Bill Status: Postponed Indefinitely
Fiscal Analyst: Fiona Sigalla (303-866-3556)

TITLE: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE IMPOSITION OF SALES AND USE TAX ON TANGIBLE PERSONAL PROPERTY, AND, IN CONNECTION THEREWITH, VOIDING TWO ACTS ENACTED BY THE GENERAL ASSEMBLY AND SIGNED INTO LAW IN 2010, CODIFYING THE DEPARTMENT OF REVENUE'S SPECIAL REGULATION RELATED TO THE SALES OR USE TAX ATTRIBUTABLE TO SALES OF COMPUTER SOFTWARE, AND SPECIFYING THAT THERE SHALL BE NO SALES OR USE TAX LIABILITY FOR ANY COLORADO PURCHASES MADE BY A COLORADO PURCHASER FROM A RETAILER THAT DOES NOT HAVE A PHYSICAL PRESENCE IN THE STATE OF COLORADO.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue General Fund	(\$239.1 million)	(\$200.5 million)
State Expenditures General Fund	\$356,923	
FTE Position Change	6.5 FTE	
Effective Date: The bill was postponed indefinitely by the Senate State, Veterans and Military Affairs Committee on May 3, 2010.		
Appropriation Summary for FY 2010-2011: See the State Appropriations section.		
Local Government Impact: <i>Revenue decrease.</i> See the Local Government Impact section.		

Summary of Legislation

This concurrent resolution submits to the voters in November 2010 an amendment to Article X of the state constitution that would exempt certain items from sales tax and eliminate use tax for all items.

Exempted from the sales tax under this proposed amendment would be 1) computer software that is downloaded from the internet, and 2) software that is manually installed on a consumer's computer or electronic device by a vendor's representative.

The proposed amendment would also exempt from tax all purchases made by a Colorado purchaser from a retailer that does not have a physical presence in the State of Colorado. This eliminates all use taxes and the aviation sales and use tax.

This amendment would void HB 10-1192 and HB 10-1193. The amendment would require that all revenue collected pursuant to these bills and all use tax collected since March 1, 2010, be refunded to taxpayers.

State Revenue

State General Fund revenue will decrease \$239.1 million in FY 2010-11 and \$200.5 million in FY 2011-12. Because the measure must be approved by voters, the revenue decrease is conditional.

Revenue estimates for HB 10-1192 were taken from Legislative Council's fiscal note. Revenue estimates for the use tax were based on Legislative Council estimates for use tax in the March 2010 forecast. Revenue from the aviation use tax was assumed to grow by the same rate as the overall use tax. Revenue estimates for HB 10-1193 are based on an analysis of revenue from New York's Internet sales tax collections. No revenue is expected to be collected from out-of-state retailers under HB 10-1193 for FY 2009-10.

Table 1. Change in State General Fund Revenue Under SCR10-007*		
Provision	FY 2010-2011	FY 2011-2012
HB 1192 Computer Software		
Elimination	(\$16.6 million)	(\$24.1 million)
Refund	(\$11.7 million)	
HB 1193 Out-of-State Retailers		
Elimination	(\$0.8 million)	(\$4.9 million)
Refund	(\$3.1 million)	
Use Tax		
Elimination	(\$115.1 million)	(\$170.8 million)
Refund	(\$90.9 million)	
Aviation Use Tax		
Elimination	(\$0.5 million)	(\$0.7 million)
Refund	(\$0.4 million)	
Total Change in State Revenue	(\$239.1 million)	(\$200.5 million)

* Refund is for taxes paid from March 1, 2010 until effective date of the Amendment.

State Expenditures

Department of Revenue: \$356,923 General Fund and 6.5 FTE in FY 2010-11. If adopted by the voters, the amendment will cause the Department of Revenue to incur one-time expenses in FY 2010-11 to notify all sales and use tax account holders of the change in this concurrent resolution. The department will also incur expenses and temporary personnel costs to process refunds. Because the measure must be approved by voters, the costs are conditional.

Table 2. General Fund Expenditures Under SCR10-007	
Cost Components	FY 2010-11
Personal Services	\$276,367
FTE Temporary	6.5
Operating Expenses and Capital Outlay	\$5,590
Postage	\$67,874
Contract Services	\$7,092
TOTAL	\$356,923

Election Expenditure Impacts (For Informational Purposes Only)

This concurrent resolution 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 3 below identifies the anticipated costs for the 2010 Blue Book.

Table 3. Cost to Produce and Distribute the 2010 Blue Book to All Registered Voter Households	
Printing	\$400,000
Postage	\$450,000
Translation	\$20,000
Newspaper Publication (English & Spanish)	\$700,000
Total Cost (14 issues)	\$1,570,000
Average Cost per Issue	\$112,143

Local Government Impact

This concurrent resolution would result in an undetermined decrease in revenue for local government entities.

Elimination of the use tax will decrease revenues for special districts. The yearly decrease is estimated at \$21.9 million for RTD, \$2.5 million for the Scientific and Cultural Facilities District, and \$2.4 million for the Denver Football Stadium District .

State Appropriations

If voters approve the constitutional amendment referred under this measure, the Department of Revenue will require a General Fund appropriation of \$356,923 and 6.5 FTE in FY 2010-11.

Departments Contacted

Colorado Counties, Inc.
Revenue
RTD

Colorado Municipal League
Law