

  
*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

**Drafting Number:** LLS 11-0358  
**Prime Sponsor(s):** Sen. Scheffel  
 Rep. Holbert

**Date:**  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING A PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL PROPERTY FIRST USED IN A BUSINESS IN A FUTURE PROPERTY TAX YEAR.

| <b>Fiscal Impact Summary</b>  | <b>FY 2011-2012</b> | <b>FY 2012-2013</b> | <b>FY 2013-2014</b>       | <b>Full Exemption*</b>      |
|---|---------------------|---------------------|---------------------------|-----------------------------|
| <b>State Revenue</b><br>General Fund  |                     | up to \$235,000     | up to \$470,000           | up to \$12.6 million        |
| <b>State Expenditures</b><br>School Finance Impact**<br>General Fund  |                     | \$30,377            | \$9.7 million<br>\$30,377 | \$260.1 million<br>\$30,377 |
| <b>FTE Position Change</b>  |                     | 0.6 FTE             | 0.6 FTE                   | 0.6 FTE                     |
| <b>Effective Date:</b> The bill was postponed indefinitely by the Senate Finance Committee on February 17, 2011.  |                     |                     |                           |                             |
| <b>Appropriation Summary for FY 2011-2012:</b> None required.   |                     |                     |                           |                             |
| <b>Local Government Impact:</b> Local governments would no longer be able to collect revenues from property taxes on a portion of any new business personal property. This will result in a local government revenue reduction of up to \$24.2 million in FY 2013-14. |                     |                     |                           |                             |

\* These totals show a 100 percent exemption for all personal property which will occur at some future point.  
 \*\* This expenditure could be from either the General Fund or the State Education Fund.

**Summary of Legislation**

The bill exempts from property tax an increasing percentage of all business personal property first used in a business in future property tax years. The exemption percentages, determined by the year in which the property is first used, are as follows:

- 25 percent in property tax years 2013 and 2014;
- 50 percent in property tax years 2015 and 2016;
- 75 percent in property tax years 2017 and 2018; and
- 100 percent in property tax years 2019 and thereafter.

The percent exempted remains constant over the life of the property.

Current law exempts 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. The exemption in this bill is applied prior to determining whether the per schedule business personal property tax exemption applies. The bill also specifies how the exemption applies to a state-assessed public utility.

## **Background**

Under current law, business personal property begins to be taxed the year *after* it is first used. For example, new personal property first used in 2011 will appear on the tax rolls in 2012, and have taxes paid on it in 2013. Under this bill, new personal property first used in 2013 would retain its 25 percent exemption for the life of the property. This will result in an increasing proportion of business personal property being exempted, with all new business personal property exempted after January 1, 2019.

In 2010, business personal property represented slightly under \$11.8 billion in statewide assessed value, or roughly 24 percent of all nonresidential property assessed value. Based on 2009 average county wide mill levies, this value translates into approximately \$823 million in local property taxes that will be collected in 2011.

## **State Revenue**

Beginning in FY 2013-14, the decrease in property tax liability from the partial exemption of new 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 \$470,000 for FY 2013-14 and will grow every year thereafter as the proportion of exempt business personal property increases. On an accrual accounting basis, one-half of this amount would be received in FY 2012-13. Once all personal property becomes fully exempt, income tax revenue will increase by an estimated \$12.6 million, measured in 2013 dollars.

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 \$9.7 million in FY 2013-14, and \$260.1 million when all personal property becomes fully exempt.

The first, direct impact results from exempting a portion of all new business personal property. Based on historical business investment rates, approximately \$485.4 million 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 an estimated \$9.7 million reduction in school district property taxes that must be replaced by state aid in FY 2013-14. Once all personal property becomes fully exempt, the reduction in school district property taxes that must be replaced by state aid is estimated to be \$260.1 million, measured in 2013 dollars.

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 must decline in order to maintain the residential/nonresidential assessed value ratio required by the state constitution under the Gallagher Amendment. Although the projected reduction due to the 25 percent exemption in 2013 is not enough to affect the RAR and cause this indirect impact, the increased exemption could at some future point result in a reduced RAR, and a corresponding reduction in residential property taxes. If all personal property was exempt in 2013, the RAR would fall from 7.96 to 6.42 percent. This additional reduction in assessed value would include both a reduction in school district property taxes that must be replaced by state aid, and a reduction in total non-school operating property taxes that would not be replaced. The estimated impact for the complete exemption of personal property does not include a RAR reduction. However, if the RAR did fall to 6.42 percent, it would have increased the state aid impact by an additional \$149 million.

***Department of Local Affairs, Division of Property Taxation.*** In FY 2012-13 and thereafter, the division will incur additional administrative costs in the amount of \$30,377 and 0.6 FTE.

The majority of these costs will be incurred by the State Assessed section of the division. In 2010, nearly 40 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 newly employed piece of personal property would have a different exemption level depending on when it was first used, all newly acquired personal 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. The centrally appropriated costs subject to this policy are summarized in Table 1.

| <b>Table 1. Expenditures Not Included Under SB11-026*</b>            |                   |                   |
|--|-------------------|-------------------|
| <b>Cost Components</b>   | <b>FY 2011-12</b> | <b>FY 2012-13</b> |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$4,337           | \$4,337           |
| Supplemental Employee Retirement Payments                            | \$1,601           | \$1,601           |
| Indirect Costs   | \$8,133           | \$8,133           |
| <b>TOTAL</b>   | <b>\$14,071</b>   | <b>\$14,071</b>   |

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

### **Local Government Impact**

Beginning in 2013, local government entities will be unable to collect property taxes on an increasing portion of new business personal property. Overall, local non-school operating property taxes are estimated to decline by up to \$24.2 million in the 2014 budget year. Once personal property is fully exempt, the reduction in non-school operating property taxes is estimated to be up to \$648.3 million, measured in 2013 dollars. This estimate does not include a RAR reduction. However, if the RAR did fall to 6.42 percent, it would have decreased local non-school operating property taxes by up to an additional \$371 million.

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, 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 to collect a specific amount of additional property tax revenue for school districts (known as a mill levy override). 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 under the override.

Finally, to the extent that the exemption contained in this bill spurs investment in personal property that would not have otherwise occurred, in the short term, local governments may receive additional property tax revenue that partially offsets the losses described above. This offset would only occur until the business personal property tax was completely phased out.

**State Appropriations**

No state appropriations are required to implement this bill in FY 2011-12. State expenditures for school funding under the Public School Finance Act are expected to increase by up to \$9.7 million beginning in FY 2013-14 and increase each year thereafter. The actual amount required would be determined following certification of mill levies in December 2014.

**Departments Contacted**

Property Tax Administrator