

# HB05-1049 and SB05-101 Bill Analyses

For the Health District of Northern Larimer County Board of Directors

January 28, 2005

<u><b>HB05-1049</b></u>	<u><b>SB05-101</b></u>
<p><b>Bill Title:</b> Concerning the creation of a Colorado income tax credit to reimburse a taxpayer for a certain portion of the property taxes that the taxpayer pays to a school district for the taxpayer's use of business personal property tax</p> <p><b>Summary:</b> HB05-1049 creates a Colorado income tax credit in an amount equal to 50% of the business personal property taxes that the taxpayer claiming the credit paid during the income tax year to a school district for the operating portion of the property tax levy on personal property first used in a business on or after January 1, 2005.</p> <p><b>Sponsors:</b> House: McCluskey</p> <p><b>Committees:</b> Finance</p> <p><b>History:</b> Introduced in House 1/12; Assigned to Finance Committee</p> <p><b>Estimated Date of Next Action:</b> Not on committee calendar</p> <p><b>Date of Analysis:</b> January 25, 2005</p>	<p><b>Bill Title:</b> Concerning an increase in the exemption from property taxation for personal property</p> <p><b>Summary:</b> For property tax years commencing on or after 1/1/05, exempts property taxation on a percentage of business personal property tax used in a business. Establishes the exemption percentage for the tax year commencing Jan. 1 as 55% and increases the percentage each year thereafter until all business personal property tax first used is exempt. Exceptions are granted for those counties in which the assessed value of business personal property is 30% or more of the total assessed property.</p> <p><b>Sponsors:</b> House: May, McCluskey, Senate: Hillman, Lamborn</p> <p><b>Committees:</b> Finance and Appropriations</p> <p><b>History:</b> Introduced in House 1/21; Assigned to Finance &amp; Appropriations</p> <p><b>Estimated Date of Next Action:</b> Not on committee calendar</p> <p><b>Date of Analysis:</b> January 25, 2005</p>

## Background

In Colorado, taxable business personal property usually consists of any equipment that is used in an income-generating enterprise, including: machinery, furniture, computers, cable, pipelines, utility and phone lines, and similar assets. In 2004, business personal property levies created approximately \$634.4 million in locally collected property taxes, or 13.8% of the \$4.6 billion in property tax revenue collected statewide.<sup>1</sup>

Local governments collect business personal property taxes in much the same way that they collect real property taxes. Across the state, counties levy approximately 25% of all business personal property taxes, cities collect about 6% and school districts collect 54% (of which 43% is used to fund school district general obligations and 11% to fulfill bond obligations).<sup>2</sup>

## Why is this Business Personal Property Tax important?

According to the testimony of groups like the Governor's Office of Economic Development and International Trade and regional economic development organizations, business personal property tax (BPPT) dissuades certain businesses from settling in Colorado, thus, deterring economic development. In particular, they argue that businesses are increasingly taking into consideration operating costs in their decision to expand or relocate. For that reason, these groups argue that personal property tax relief is needed for Colorado to be competitive within the global economy.<sup>3</sup> Yet, other groups (for example, the Colorado Rural Economic Development Council and the Colorado Biosciences Association) believe that BPPT is not a key factor in the decision to expand or move. Rather, they argue that the business climate is gauged by

<sup>1</sup> Interim Committee on Economic Development-Business Personal Property Tax, Recommendations for 2005, RPN 532 (November 2004)

<sup>2</sup> Interim Committee on Economic Development-Business Personal Property Tax, Recommendations for 2005, RPN 532 (November 2004); see also SB05-101 Fiscal Note.

<sup>3</sup> Interim Committee on Economic Development-Business Personal Property Tax, Recommendations for 2005, RPN 532 (November 2004)

factors such as rising health care costs, housing costs, the presence of an educated workforce, and developed transportation networks.<sup>4</sup>

Importantly, as a special district within Colorado, the Health District is funded by property taxes. Annually, property tax contributes to 80% of the Health District's revenue, excluding grant revenue and lease payments (which are normally used for debt service). The Larimer County Assessors Office estimated that the Health District would receive \$447,000, or approximately 10% of its total property tax revenue from BPPT in 2004.<sup>5</sup>

## Overview of HB05-1049

HB05-1049 creates a state income tax credit equal to 50 percent of the amount of business personal property taxes paid to a school district for the operating portion of the district's tax levy, applicable to personal property first used in a business on or after January 1, 2005. The tax credit will become available on January 1, 2007. Several criteria affect eligibility:

- At least 50% of gross receipts must be from products that are produced in Colorado and sold to buyers outside the state;
- Or, in the case of service provision, services must be performed in Colorado by the taxpayer or the taxpayer's employees and 50% of gross receipts must be from services sold or provided by the taxpayer to persons outside Colorado;
- Taxpayers that lease taxable equipment are eligible; taxpayers who purchase personal property and then lease the property are not eligible for the tax credit;
- Counties must verify that the taxes paid on the property against which the credit is claimed reduces state aid to the school district; and
- Taxpayers are required to file this information in their income tax return to qualify for the credit.

HB05-1049 also prohibits taxpayers from claiming both the Business Personal Property Tax Credit and an income tax credit pursuant to TABOR for business personal property taxes paid if the amount claimed exceeds the amount paid in BPPT.

### Reasons to support HB05-1049:

- HB05-1049 does not propose an exemption. Businesses would still pay BPPT; therefore, no additional General Fund dollars would be appropriated to backfill revenue to school districts. Rather, businesses would be able to claim an income tax credit of up to 50% of the operating portion paid to the local school district.
- As 80% of the Health District's revenue is derived from property taxes, increased economic development stimulated by the business personal property tax refund may have the overall effect of increasing the tax base (business and personal) in Larimer County, and, therefore, generating more revenue for Health District operations.

### Reasons to oppose HB05-1049:

- According to the Independence Institute, Colorado's business climate is rated as one of the best in the country.<sup>6</sup> Therefore, it may be a mistake to change the tax law in favor of business at the possible expense of revenue to the state from business income tax, and loss of state services.
- As groups like the Colorado Rural Economic Development Council discern, economic development is not generated by tax incentives exclusively, but requires an overall assessment of the operating environment within the state. Thus, the impact of the income tax credit may be inflated when considered outside the context of workforce development, health care, etcetera.
- At present, a fiscal note has not been produced for HB05-1049. Although the fiscal note for HB04-1453 (which contains identical language) indicates minimal impact on General Fund expenditures as well as local government expenditures, a current assessment of the fiscal impact of HB05-1049 has not been completed.

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<sup>4</sup> Ibid

<sup>5</sup> SB04-001 and HB04-1136 Bill Analyses for the Health District Board of Directors (February 2004)

<sup>6</sup> Ibid

## Overview of SB05-101

Citing the fiscal crisis apparent in Colorado and the need to encourage economic development within the State, SB05-101 seeks to exempt part or all of business personal property used in a business after January 1, 2005 from tax collection. Exemption will begin with 55% of all business personal property first used in the 2005 property tax year, and increase three percentage points each year thereafter, applying only to new or unused property in that year, and extending through the life of the property. As the fiscal note for this legislation explains, this translates into business personal property being taxed the year after it is first used. However, business personal property will retain the exemption percentage set at the first year of its use for its lifespan, even on its depreciated value in subsequent year - the end result being a rising proportion of business personal property being exempted, with all such property being exempted after January 1, 2020.<sup>7</sup>

### Reasons to Support SB05-101

- According to the fiscal note for this bill, the reduction in the amount of business personal property taxes levied could possibly be offset by economic development and investment incited by the exemption, thus, increasing the overall tax base within the State.
- SB05-101 may not result in an immediate loss in revenue, as it does not exempt existing business personal property; instead, in line with its directive to encourage new economic development, the exemption is intended for new business personal property only.
- According to the Independence Institute, the BPPT in Colorado is among the highest in the United States.<sup>8</sup>

### Reasons to Oppose SB05-101:

- SB05-101 would reduce available revenue for the Health District and other local governments by exempting a growing share of business personal property from taxation. Concurrently, the Residential Assessment Rate (RAR) would decrease beginning in 2007. In other words, to maintain the 45% residential/55% non-residential RAR calculation mandated under the Gallagher Amendment, the RAR would need to increasingly decline as business personal property is exempted. In FY 2007-08, this adjustment would amount to a \$1.15 billion reduction in statewide residential assessed value.<sup>9</sup>
- As a result, the FY 2007-08 impact would potentially be a \$23.3 million reduction in school district property taxes that must be backfilled by the state, and a \$44.8 million decrease in non-school property taxes that would not be backfilled by the state.<sup>10</sup> Allocation of General Fund dollars to school districts to fill the gap in education spending (which is mandated by Amendment 23) must be extracted from other sources; namely, higher education, non-Medicaid health care and other programs lacking statutory protection, which have already been hit hard by cuts in recent years. Tax dollars not backfilled by the State could result in reduction or elimination in programs at the state and local government level that directly impact the health of the residents of the Health District.
- As the fiscal note for SB05-101 states, local governments like the Health District would no longer be able to collect property taxes on a percentage of all new business personal property. Coupled with the reduced RAR, the potential impact, in terms of reduced revenues to operate programs and services, could be devastating for the Health District, as property tax contributes to 80% of the revenue funding the Health District. Overall, Colorado Legislative Council staff estimates a decline of up to \$26.2 million in local non-school property taxes for FY 2007-08.<sup>11</sup>

### Board Position:

- The Board strongly opposes SB04-101.
- The Board takes a neutral position on HB05-1049.

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### About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. Analyses are based on bills or issues at the time of their consideration by the Board and are accurate to the best of staff knowledge. It is suggested that people check to see whether a bill has changed during the course of a legislative session by visiting the Colorado General Assembly web page at [www.state.co.us/gov\\_dir/stateleg.html](http://www.state.co.us/gov_dir/stateleg.html). To see whether the Health District Board of Directors took a position on this or other policy issues, please visit [www.healthdistrict.org/policy](http://www.healthdistrict.org/policy).

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<sup>7</sup> SB05-101 Fiscal Note

<sup>8</sup> SB04-001 and HB04-1136 Bill Analyses for the Health District Board of Directors (February 2004)

<sup>9</sup> SB05-101 Fiscal Note

<sup>10</sup> Ibid

<sup>11</sup> Ibid

**About the Health District**

The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. Their mission is to improve the health of the community.

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