HB 18-1201

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number:	LLS 18-0845	**Date:**	August 13, 2018
Prime Sponsors:	Rep. Thurlow Sen. Coram	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Larson Silbaugh | 303-866-4720 Larson.Silbaugh@state.co.us

Bill Topic: SEVERANCE TAX VOTER-APPROVED REVENUE CHANGE

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure *(informational)*
☐ State Transfer
☒ TABOR Refund *(conditional)*
☐ Local Government
☐ Statutory Public Entity

This bill refers a measure to voters that would exempt severance taxes from the state's constitutional revenue and spending limit starting in FY 2019-20. If approved by voters, severance taxes would be exempt from the state revenue limit as long as severance tax credits or exemptions are not reduced and the severance tax distribution to local governments is not decreased.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill. The bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 18-1201

	FY 2018-19	FY 2019-20
Revenue	-	-
Expenditures	-	-
Transfers	-	-
TABOR Refund (Conditional)	-	($147.8 million)

Summary of Legislation

This bill refers a measure to voters at the November 2018 election to exempt severance taxes from the constitutional limit on state revenue and spending. If voters approve the measure, severance taxes are exempt from the spending limit unless the state reduces or eliminates any severance tax exemptions or credits, or reduces the percentage of state severance tax revenue allocated to local governments. If approved by voters, severance taxes would be exempt from the TABOR spending limit starting July 1, 2019.

Background

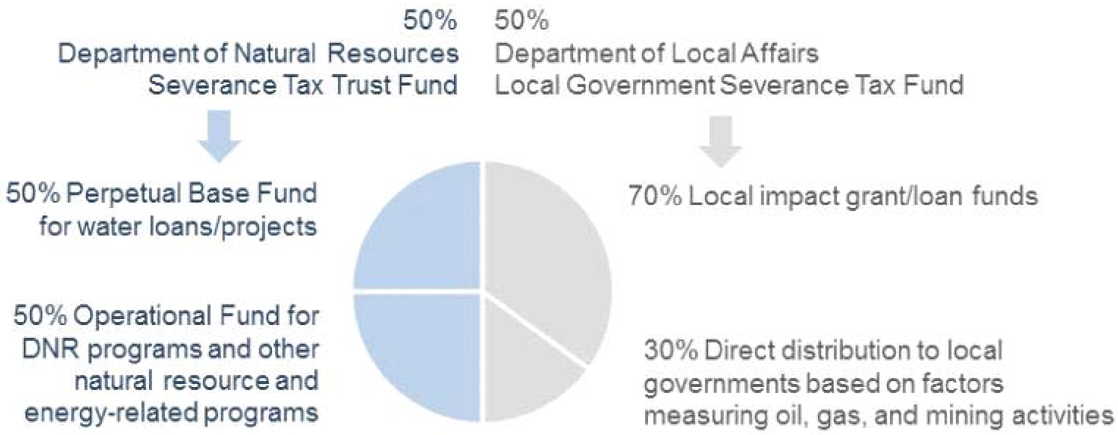
Severance tax exemptions and credits. Under current law, the state levies a severance tax on coal, metallic minerals, molybdenum, and oil and gas. Table 2 shows the exemptions and tax credits that apply to each of these natural resources.

Table 2
Severance Tax Exemption and Credits under Current Law

Mineral	Exemption	Credit
Coal	First 300,000 tons produced each quarter	50% of the severance tax liability for coal produced by underground mines or lignitic coal.
Oil and Gas	Production from wells with less than 15 barrels or 90,000 cubic feet per day	87.5% of property taxes paid
Metallic Minerals	First $19.0 million annually	Property taxes paid capped at 50% of state severance tax liability
Molybdenum	First 625,000 tons are exempt	None

Severance tax distributions. Severance tax is evenly divided between the Department of Local Affairs (DOLA) and the Department of Natural Resources (DNR). Figure 1 shows the severance tax distributions.

Figure 1
Severance Tax Distributions under Current Law



DOLA's severance tax revenue is credited to the Local Government Severance Tax Fund and distributed to local governments. Seventy percent is available for discretionary loans and grants to local governments socially or economically impacted by the mineral extraction industry. Local governments apply to DOLA for the loans and grants at three different times during the year. DOLA is assisted by a 12-member Energy and Mineral Impact Assistance Advisory Committee in making funding decisions. The money must be used for the planning, construction, and maintenance of public facilities, and for the provision of public services. The remaining 30 percent of the money received each fiscal year is distributed directly to local governments by August 31 of the following fiscal year based on the geographic location of energy industry employees, mine and well permits, and overall mineral production.

DNR's half is deposited into the Severance Tax Trust Fund, which is divided equally between the Severance Tax Perpetual Base Fund and the Severance Tax Operational Fund. The Perpetual Base Fund is used to finance loans for state water projects administered by the Colorado Water Conservation Board. The Operational Fund is used for programs administered by DNR, including the Colorado Oil and Gas Commission, the Avalanche Information Center, the Colorado Geological Survey, the Division of Reclamation, Mining and Safety, the Colorado Water Conservation Board, and the Division of Parks and Wildlife.

TABOR Refund

If approved by voters, this bill will remove severance taxes from the state revenue and spending limit starting in FY 2019-20. Based on the March 2018 Legislative Council Staff forecast, the state is expected to collect $147.8 million in severance taxes and have a TABOR surplus of $156.4 million in FY 2019-20. If voters approve the measure, the TABOR surplus will be reduced to $8.6 million in FY 2019-20. The FY 2019-20 TABOR surplus is set aside in the FY 2019-20 budget and refunded in FY 2020-21.

The measure reduces state revenue subject to TABOR, which will reduce the amount of money required to be refunded to taxpayers. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount.

State Expenditures

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2018 general election. While no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at $3.2 million in FY 2018-19. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost $2.1 million in FY 2018-19. Publication costs will increase by approximately $115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Effective Date

The bill was postponed indefinitely by the House Finance Committee on April 9, 2018.

State and Local Government Contacts

Counties	Local Affairs	Municipalities
Natural Resources	Secretary Of State	