Colorado Legislative Council Staff

HB16-1468

FISCAL NOTE

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 16-1286	**Date:**	May 9, 2016
Prime Sponsor(s):	Rep. Becker K.; Hullinghorst Sen. Steadman	**Bill Status:**	House SVMA
		Fiscal Analyst:	Greg Sobetski (303-866-4105)

BILL TOPIC: OIL AND GAS TRANSPORTATION MANUFACTURING AND PROCESSING COST DEDUCTIONS

Fiscal Impact Summary	FY 2015-2016 *(current year)*	FY 2016-2017	FY 2017-2018
State Revenue	**$5.1 million**	**$11.6 million**	**$18.8 million**
Cash Funds	5.1 million	11.6 million	18.8 million
State Expenditures			
Cash Funds	Increase - see State Expenditures section.		
TABOR Impact			$18.8 million
Appropriation Required: None.			
Future Year Impacts: Ongoing state revenue increase.			

Summary of Legislation

Pursuant to the Colorado Supreme Court's April 26, 2016, decision in *BP America v. Colorado Department of Revenue*, oil and gas producers may deduct any costs for transportation, manufacturing, and processing when valuing severed minerals for tax purposes. Beginning tax year 2016, the bill allows producers to deduct only their direct costs for the transportation, manufacturing, and processing of identifiable and measurable oil and gas.

Background

The Supreme Court decision allows oil and gas producers to deduct a broad array of costs, including those listed on the Netback Expense Report Forms (NERF) submitted by oil and gas producers to county assessors. These include direct costs and foregone returns on investment as a result of expenditures for the transportation, manufacturing, and processing of oil and gas. The decision allows producers to claim significantly larger deductions than allowed previously. Additionally, the decision results in increased state liability for severance tax refunds.

State Revenue

The bill increases state cash fund revenue by **$5.1 million in the current FY 2015-16**, **$11.6 million in FY 2016-17**, and **$18.8 million in FY 2017-18**. The estimate for FY 2015-16 represents a half-year impact. These amounts are credited in equal shares to the Severance Tax Trust Fund in the Department of Natural Resources (DNR) and the Local Government Severance Tax Fund in the Department of Local Affairs (DOLA).

Assumptions. It is assumed that the bill restores the severance tax deduction for transportation, manufacturing, and processing costs to the scope of its application prior to the Supreme Court's decision in *BP America v. Colorado Department of Revenue*. The Supreme Court decision is expected to reduce state severance tax revenue from oil and gas by 12.5 percent relative to the March 2016 Legislative Council Staff forecast, based on return on investment cases pending before the Department of Revenue Tax Conferree and NERF filings with county assessors. The bill restores this revenue. It is assumed that amended severance tax returns for tax year 2016 will increase state revenue for FY 2015-16 on an accrual accounting basis.

TABOR Impact

The bill increases state revenue from severance taxes, which will increase the amount required to be refunded under TABOR for FY 2017-18. TABOR refunds are paid out of the General Fund. A TABOR refund obligation is not expected for FY 2015-16 or FY 2016-17.

State Expenditures

The bill increases expenditures in the DNR and the DOLA by indeterminate amounts beginning in the current FY 2015-16. To the extent that reductions in severance tax revenue as a result of the Supreme Court decision under current law are addressed through reductions in DNR and DOLA programs, disbursements, and grants, the bill increases departmental expenditures by restoring these uses. The amount by which the bill increases state expenditures is not expected to exceed the amount by which it increases state cash fund revenue in any fiscal year.

Local Government Impact

To the extent that the bill increases state expenditures for local government disbursements and grants in the DOLA, it will increase local government revenue from state severance tax disbursements and grants.

Technical Note

The bill is expected to increase state tax revenue during years in which the state is expected to collect a TABOR surplus. This tax policy change may need to be referred to voters.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed. The new definitions for the severance tax deduction in the bill apply beginning in tax year 2016.

State and Local Government Contacts

Legislative Council Staff	Local Affairs
Natural Resources	Revenue