Colorado Legislative Council Staff

HB16-1433

REVISED FISCAL NOTE

(replaces fiscal note dated April 12, 2016)

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

Drafting Number:	LLS 16-1082	**Date:**	April 25, 2016
Prime Sponsor(s):	Rep. Hamner; Rankin Sen. Steadman	**Bill Status:**	House Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

BILL TOPIC: DE-BRUCE SEVERANCE TAX REVENUES FOR RESERVE FUND

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Transfers	See State Transfers section.	
State Expenditures	See State Expenditures section.	
TABOR Impact	See TABOR Impact section.	
Appropriation Required: None.		
Future Year Impacts: Potential future year impacts.		

Summary of Legislation

Beginning in FY 2017-18, this bill caps the total amount of severance tax receipts deposited in the severance tax trust fund and the local government severance tax fund at $180 million adjusted annually for inflation. Any money above the cap is to be transferred to the newly created severance tax reserve fund.

The bill specifies that if money in the severance tax operational fund or the local government severance tax fund is insufficient to pay for a program supported by either fund, the General Assembly may appropriate money from the reserve in support of the program. The amount of money that may be collected in the reserve fund is equal to twice the severance tax gross receipts cap. Any money in the reserve above the reserve cap is transferred at the end of each fiscal year to the Colorado Water Conservation Board Construction Fund.

The bill refers a ballot question to the voters at 2016 general election seeking voter approval for the state to retain and spend any severance tax revenue deposited in the reserve fund as a voter-approved revenue change to the TABOR limit. This voter-approved revenue change is conditioned on the state not repealing or reducing any of the existing severance tax exemptions or credits. This revenue change is not included in the previously approved Referendum C revenue change.

Background

Under current law, severance tax revenue received by the state is equally divided between the Severance Tax Trust Fund administered by the Department of Natural Resources and the Local Government Severance Tax Fund administered by the Department of Local Affairs. Money in the Severance Tax Trust Fund is equally divided between the Operational Fund and the Perpetual Base Fund. Money in the Local Government Severance Tax Fund is distributed to impacted local governments, with 70 percent allocated through energy impact assistance (EIA) grants and 30 percent allocated through a direct distribution formula.

Table 1 presents the March, 2016 Legislative Council Staff forecast for severance tax revenue, both in total and from oil and gas development. As the table shows, oil and gas activity is responsible for both the majority of revenue and almost all of its volatility.

Table 1. LCS March forecast for Severance Tax Revenue
(in millions)

	FY 2015-16	FY 2016-17	FY 2017-18
Oil and Gas	$72.2	$92.8	$150.1
Total	$86.8	$105.1	$163.1
Percent Oil and Gas	83.1%	88.3%	92.0%

Current law includes two significant tax expenditures for oil and gas operators. First, Colorado operators are allowed a tax credit equal to 87.5 percent of the property taxes paid or assessed on the prior year's oil or natural gas production as on offset to their current year's severance tax liability. Second, marginal or "stripper" wells, defined as oil wells with average daily production less than 15 barrels or gas wells with average daily production less than 90 thousand cubic feet (Mcf) are exempt from severance tax.

State Transfers

Under the March, 2016 Legislative Council Staff severance tax forecast, this bill would have no state transfer impact, as projected annual revenue is below the $180 million cap in each year of the forecast period.

For informational purposes only, the following illustrates the impact of House Bill 16-1433 in a hypothetical future year when gross severance tax revenue totals $240 million. Table 2 presents information on the allocation of severance tax revenue, both under current law and under the provision of this bill. This impact is conditional upon approval of this measure by voters in the 2016 general election.

Table 2. Comparison of $240 Million in Severance Tax Allocations *(in millions)*			
Cost Components	**Current Law**	**HB 16-1433**	**Difference**
Total Severance Tax Revenue	$240	$240	$0
DNR Programs	120	90	(30)
Operational Fund	60	45	(15)
Perpetual Base Fund	50	45	(5)
Small Comm W&W Grant Fund	10	0	(10)
DOLA Programs	120	90	(30)
EIA Grants	84	63	(21)
Direct Distributions	36	27	(9)
Severance Tax Reserve Fund	0	60	60

TABOR Impact

Under the March, 2016 Legislative Council Staff forecast, this bill would not have a TABOR impact through the end of the forecast period. However, in future years when severance tax revenue exceeds the cap, the bill would reduce revenue subject to TABOR (and potential TABOR refunds) by the amount of money deposited in the Severance Tax Reserve Fund. This impact is conditional upon approval of this measure by voters in the 2016 general election.

State Expenditures

Under the March, 2016 Legislative Council Staff forecast, this bill would have no state expenditure impact. To the extent that severance tax gross receipts exceed the cap in future years, state expenditures would be affected as illustrated in the State Transfers section above. Conversely, in low revenue years, these programs may receive more money than they otherwise would have if the General Assembly chooses to appropriate money from the reserve fund. While money in the reserve may be used to support programs funded by either the Operational Fund or the Local Government Severance Tax Fund, it should be noted that the bill is silent on how money in the reserve fund is to be allocated. This would be at the discretion of the General Assembly. These impacts are conditional upon approval of this measure by voters in the 2016 general election.

Election expenditure impact (existing appropriations). The bill includes a referred measure that will appear before voters at the November 2016 general election. Although no additional appropriation is required in this bill to cover election costs associated with this ballot measure, certain election costs to the state are appropriated as part of the regular budget process. First, state law requires that the state reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund. 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 (Blue Book) mailed to all registered voter households prior to the election paid from the Ballot Analysis Revolving Fund. As of this writing, there will be at least one citizen-initiated measure on the ballot at the 2016 election, which will trigger the ballot costs shown in Table 3 below for a single ballot measure. Costs in 2016 will increase by approximately $100,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Table 3. Projected Costs of a Single Statewide Ballot Measure Election in 2016	
Cost Component	**Amount**
County Reimbursement for Statewide Ballot Measures	$2,400,000
Ballot Information Booklet (Blue Book) & Newspaper Publication	$670,000
TOTAL	**$3,070,000**

Local Government Impact

Under the March, 2016 Legislative Council Staff forecast, this bill would not impact the amount of severance tax revenue distributed to local governments through at least FY 2017-18. However, in future years when severance tax revenue exceeds the $180 million cap, local governments would receive less money through reductions to EIA grants and direct distributions. Total reductions would be equal to half the amount transferred to the Severance Tax Reserve Fund. Conversely, in low revenue years, local governments could receive more money than they otherwise would have, assuming the General Assembly chooses to appropriate money from the reserve fund. These impacts are conditional upon approval of this measure by voters in the 2016 general election.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. Sections 1,2,4 and 5 of the bill take effect only if a majority of voters approve the ballot issue at the November 2016 general election. These sections become effective on the date of the official declaration of the vote by proclamation of the Governor.

State and Local Government Contacts

Local Affairs	Natural Resources	Legislative Council Staff
Counties	Municipalities	