HB 24-1367

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0148	**Date:**	July 11, 2024
Prime Sponsors:	Rep. Kipp Sen. Winter F.	**Bill Status:**	Deemed Lost
		Fiscal Analyst:	David Hansen | 303-866-2633 david.hansen@coleg.gov

Bill Topic: **REPEAL SEVERANCE TAX EXEMPTION FOR STRIPPER WELLS**

Summary of Fiscal Impact:

☒ State Revenue ☒ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

The bill would have repealed the severance tax exemption for stripper wells beginning in tax year 2025. It increased state and local revenue on an ongoing basis beginning in FY 2024-25 and increased state expenditures in FY 2025-26 only.

Appropriation Summary: No appropriation was required.

Fiscal Note Status: The final fiscal note reflects the introduced bill. The bill was deemed lost in the House Appropriations committee on May 9, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1367

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Cash Funds	$9.8 million	$20.2 million
	Total Revenue	**$9.8 million**	**$20.2 million**
Expenditures	General Fund	-	$28,824
	Total Expenditures	**-**	**$28,824**
Transfers	Decarbonization Tax Credits Administration Fund	($1.0 million)	($2.1 million)
	General Fund	$1.0 million	$2.1 million
	Net Transfer	**$0**	**$0**
Other Budget Impacts	General Fund Reserve	-	$4,324
	TABOR Refund	$9.8 million	$20.2 million

Summary of Legislation

The bill repeals a severance tax exemption for small, low-producing oil and gas wells, commonly known as stripper wells, beginning with the 2025 tax year.

Background

Stripper wells. Current law exempts oil and gas produced from small, low-producing wells, often referred to as the stripper well exemption. The exemption applies to oil wells with an average daily production of less than 15 barrels per day and gas wells with an average daily production of less than 90,000 cubic feet, or 90 MCF. In 2022, stripper wells comprised about 6 percent of Colorado's oil production and about 13 percent of the state's gas production.

Ad valorem credit. Oil and gas severance taxpayers may claim a credit of 87.5 percent of the ad valorem taxes, or property taxes, assessed or paid to a local government to offset severance tax liability. In 2022, an estimated $196.2 million in credits were claimed.

Severance tax volatility. Severance tax revenue is more volatile than other revenue sources due to fluctuations in the oil and gas sector as well as volatility due to Colorado's tax structure based on the ad valorem credit. The LCS Online Tax Handbook provides a history of severance tax revenue since FY 2002-03.

Severance tax distribution. Under current law, severance tax revenue is distributed to the Decarbonization Tax Credits Administration Fund, the Department of Natural Resources (DNR), and the Department of Local Affairs (DOLA). Under House Bill 23-1272, increases in severance tax revenue attributable to a reduction in the amount that can be claimed for the ad valorem tax credit is credited to the Decarbonization Tax Credits Administration Fund for tax years 2024 and 2025. Money in the fund is transferred to the General Fund for use in administering and implementing decarbonization tax credits. For the remaining severance tax revenue, 50 percent is distributed to DNR and 50 percent to DOLA. Revenue to DNR is credited to the Severance Tax Perpetual Base Fund and the Severance Tax Operational Fund. The funds support programs that finance loans for state water projects, the Colorado Oil and Gas Conservation 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, among other programs. Revenue to DOLA's Local Government Severance Tax Fund is distributed directly to local governments, as well as through discretionary loans and grants to local governments and political subdivisions.

State Revenue

The bill will increase severance tax revenue to the Decarbonization Tax Credits Administration Fund, the Severance Tax Perpetual Base Fund, the Severance Tax Operational Fund, and the Local Government Severance Tax Fund by an estimated $9.8 million in FY 2024-25 (half-year impact) and $20.2 million in FY 2025-26, and similar amounts in subsequent years depending on market factors and taxpayer behavior, as shown in Table 2. Severance tax revenue is subject to TABOR.

The March 2024 Legislative Council Staff Forecast projects severance tax on oil and gas will total $227.1 million in FY 2025-26. Since 2019, severance tax revenue has ranged from a low of about $570,000 in FY 2020-21 to a high of $347.1 million in FY 2022-23. The analysis assumes the stripper well exemption comprises a similar percentage of oil and gas severance tax revenue as it does of the value of oil and gas production from 2011 to 2023, about 8.3 percent. To the extent stripper wells are shuttered with repeal of the exemption, comprise a declining share of oil and gas production, or have a lower average tax rate than nonexempt production, the revenue increase will be less than estimated.

Table 2
Revenue Under HB 24-1367

	FY 2024-25	FY 2025-26
Decarbonization Tax Credits Administration Fund	$1.04 million	$2.27 million
Severance Tax Perpetual Base Fund	$2.20 million	$4.47 million
Severance Tax Operational Fund	$2.20 million	$4.47 million
Local Government Severance Tax Fund	$4.40 million	$8.94 million
Total Revenue	**$9.8 million**	**$20.2 million**

State Transfers

The bill requires an increased transfer from the Decarbonization Tax Credits Administration Fund to the General Fund, estimated at $1 million in FY 2024-25 (half-year impact) and $2.1 million in FY 2025-26 and FY 2026-27.

State Expenditures

The bill increases state expenditures in the Department of Revenue by $28,824 in FY 2025-26 only, paid from the General Fund. The bill also increases workload in the Department of Natural Resources and the Department of Local Affairs. Expenditures are shown in Table 3 and detailed below.

Table 3
Expenditures Under HB 24-1367

	FY 2024-25	FY 2025-26
Department of Revenue		
GenTax Programming	-	$16,223
User Acceptance Testing	-	$2,880
ISD Development Support	-	$6,300
Form Updates – DPA	-	$3,422
Total Cost	**$0**	**$28,824**

Department of Revenue. The bill will require GenTax programming hours in FY 2025-26 to eliminate the stripper well exemption, and accompanying ISD development support and user acceptance testing, as shown in Table 2. Programming is estimated to require 70 hours at $231.75 per hour for the department's vendor. User acceptance testing is estimated to require 90 hours at $32 per hour, and ISD development and testing support assumes 180 hours at $35 per hour. Additionally, the bill requires form updates of $3,422 reappropriated to the Department of Personnel and Administration.

The fiscal note assumes repealing the stripper well exemption will require fewer than 2,300 additional severance tax returns. If the exemption results in more than 2,300 returns, the department will require additional personnel services to manage the additional workload.

Department of Natural Resources. Repealing the stripper well exemption may increase costs for the Orphaned Well program if it results in an influx of orphaned wells, increasing workload and expenditures for the Energy and Carbon Management Commission within the Department of Natural Resources.

Department of Local Affairs. Increased revenue from the repealing the stripper well exemption may increase workload and costs to administer and award grants from the Local Government Severance Tax Fund.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

The bill will increase revenue for counties, cities, special districts, and other local districts by increasing severance tax distributions to the Department of Local Affairs.

A portion of this revenue, estimated at $3.4 million in FY 2024-25 (half-year impact) and $7.1 million in FY 2025-26, will be available for discretionary loans and grants to local governments and political subdivisions socially or economically impacted by the mineral extraction industry.

Another portion of this revenue, estimated at $1.5 million in FY 2024-25 (half-year impact) and $3.0 million in FY 2025-26, will be available for direct distribution to local municipal and county governments based on geographic location of energy industry employees, mine and well permits, and overall mineral production.

Effective Date

The bill takes effect January 1, 2025, assuming no referendum petition is filed, except that a conforming amendment regarding penalties and interest takes effect January 1, 2026.

State and Local Government Contacts

Counties	Information Technology	Local Affairs
Natural Resources	Public Health and Environment	Revenue

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.