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Fiscal Note

Drafting Number: LLS 23-0690 Date: February 8, 2023
Prime Sponsors: Rep. Winter T. Bill Status: House Finance
Sen. Pelton R. Fiscal Analyst: David Hansen | 303-866-2633
david.hansen@coleg.gov

Bill Topic: SEVERANCE TAX REVENUE DISTRIBUTION

- Summary of Fiscal Impact:
State Revenue (unchecked)
State Expenditure (checked)
State Transfer (checked)
TABOR Refund (unchecked)
Local Government (checked)
Statutory Public Entity (unchecked)

The bill changes the distribution of severance tax revenue. The bill requires that 60 percent of severance tax revenue be transferred to county governments, thereby reducing transfers of severance tax revenue to state cash funds. The bill increases state expenditures initially to implement the bill, but may reduce them over the long term. The bill is expected to increase local government revenue to some counties, and decrease revenue to other counties, cities, and special districts.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$541,945 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1103

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Severance Tax Operational Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers (Severance Tax Trust Fund, Local Govt. Severance Tax Fund, Total), and Other Budget Impacts (GF Reserve).

Summary of Legislation

Under current law, severance tax revenue is divided equally between 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). This bill requires that 60 percent of revenue generated within a county first be transferred to that same county. The bill requires counties to use the revenue only for building or improving roads, schools, or local infrastructure. The remaining revenue will then be divided equally between DNR and DOLA and further distributed based on existing statute.

Background

The state's severance tax is imposed on the production or extraction of metallic minerals, molybdenum, oil and gas, oil shale, and coal. Severance tax rates vary by type of mineral and depend on either income from production (oil, natural gas, and metallic minerals), tonnage produced (coal and molybdenum), or length of commercial operation (oil shale). Severance taxes are also influenced by various exemptions, credits, and deductions. Severance tax revenue is subject to TABOR. Under current law, 50 percent of severance tax revenue is transferred to the Department of Natural Resources (DNR) and 50 percent to the Department of Local Affairs (DOLA).

Severance Tax Trust Fund. Revenue credited to the fund is split 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 supports programs administered by 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. Other programs funded by the Operational Fund have included other water and agricultural programs, clean energy development, soil conservation, wildlife conservation, invasive species control, and low-income energy assistance.

Local Government Severance Tax Fund. Revenue credited to the fund is distributed to local governments. Seventy percent is available for discretionary loans and grants to local governments and political subdivisions socially or economically impacted by the mineral extraction industry. Organizations funded in 2022 included cities and counties, as well as fire protection districts, intergovernmental councils, transportation authorities, schools, health districts, water districts, public library districts, and sanitation districts. The grants and loans 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 in the Local Government Severance Tax Fund is distributed directly to local municipal and county governments based on geographic location of energy industry employees, mine and well permits, and overall mineral production.

State Transfers

Under current law severance tax revenue is distributed equally to the Severance Tax Trust Fund and the Local Government Severance Tax Fund. The bill will reduce severance tax revenue transferred to each fund by an estimated \$34.2 million in FY 2023-24 (half-year impact) and \$56.1 million each in FY 2024-25 and future years (Table 2). Estimates are based on the December 2022 Legislative Council Staff forecast. To the extent that severance tax revenue varies from the estimates in this analysis, transfer amounts will correspondingly increase or decrease.

Decreased revenue transferred to the Severance Tax Trust Fund will impact transfers to and spending from other cash funds including the Severance Tax Perpetual Base Fund and the Severance Tax Operational Fund. These cash funds support the Water Supply Reserve Fund, Interbasin Compact Committee Operation Fund, Water Efficiency Grant Program Cash Fund, the Colorado Oil and Gas Conservation Commission, Colorado Geological Survey, Avalanche Information Center, Division of Parks and Wildlife, and other state administered funds and programs.

Decreased revenue transferred to the Local Government Severance Tax Fund will impact both discretionary grants and loans and direct distributions by statutory formula. The Local Government Severance Tax Fund supports cities, counties, and special districts. In addition, reduced distributions from the fund may impact funding to the Department of Public Health and Environment for the Uranium Mill Tailings Remedial Action Program (about \$307,000 distributed in calendar year 2022), volunteer fire departments serving areas impacted by natural resource production, and other uses as determined by the General Assembly.

Table 2
Transfers to State Funds Under HB 23-1103
Dollars in Millions

Fiscal Year	Current Law		HB 23-1103		Change	
	2023-24	2024-25	2023-24	2024-25	2023-24	2024-25
Total Severance Tax Revenue ¹	\$227.8	\$187.1	\$227.8	\$187.1	\$0.0	\$0.0
Department of Natural Resources						
Perpetual Base Fund	\$56.9	\$46.8	\$39.9	\$18.7	(\$17.1)	(\$28.1)
Operational Fund	\$56.9	\$46.8	\$39.9	\$18.7	(\$17.1)	(\$28.1)
Department of Local Affairs						
Local Government Severance Tax Fund	\$113.9	\$93.5	\$79.7	\$37.4	(\$34.2)	(\$56.1)

¹ December 2022 Legislative Council Staff Forecast

State Expenditures

The bill increases state General Fund expenditures in the Department of Revenue by \$607,112 in FY 2023-24 and \$127,212 in FY 2024-25, with similar impacts in future years. Beginning in FY 2027-28, the bill may impact expenditures from the Severance Tax Operational Fund in the Department of Natural Resources by \$23.1 million, with similar impacts in future years. Expenditures are shown in Table 2 and detailed below.

**Table 3
Expenditures Under HB 23-1103**

	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	\$225,475	\$91,531
Operating Expenses	\$5,670	\$2,160
Capital Outlay Costs	\$33,350	-
GenTax Programming	\$225,000	-
User Acceptance Testing	\$45,058	-
Office of Research and Analysis	\$7,392	\$7,328
Centrally Appropriated Costs ¹	\$65,167	\$26,193
Total	\$607,112	\$127,212
Total FTE	4.0 FTE	1.6 FTE

Department of Revenue

The Department of Revenue will have costs for additional staff, computer system changes, and ongoing research and data management, as outlined below.

Staffing. The Department of Revenue will initially require 4.0 FTE in FY 2023-24 to make changes to the electronic filing system, and update filing requirements to include additional data for each producing location. Personal services costs in the first year are prorated to a September 2023 start based on the bill’s effective date. Beginning in FY 2024-25 and future years, 1.6 FTE for taxpayer services staff is required to ensure accuracy of filings, correct data, and provide oversight.

IT system changes. The bill will require 1,000 hours of GenTax programming billed at a rate of \$225 per hour, resulting in a one-time cost of \$225,000. Support and user acceptance testing for the changes will require 1,788 hours billed at a rate of \$25.20 per hour for a one-time cost of \$45,058.

Office of Research and Analysis. The office will incur ongoing costs of an estimated \$7,392 annually for data management and reporting related to changes under the bill.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Department of Natural Resources

As described above, the bill will decrease revenue transferred to the Severance Tax Operational Fund. The fund supports employment and projects within the department as noted above. Based on about \$154.8 million in average annual severance tax revenue collected from FY 2011-12 to FY 2021-22, the bill will reduce transfers to the fund by \$23.1 million each year beginning FY 2025-26.¹ The department estimates that existing operations supported by the fund could be sustained by fund reserves until FY 2027-28, at which point operations would need to be scaled back or other sources of funding made available. Impacts to state expenditures from reduced transfers under the bill will depend on actual future revenue collections and decisions by the General Assembly concerning these programs.

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.

Local Government

The bill will increase revenue for counties overall and decrease revenue for cities, special districts, and other local governments. The bill will also reduce revenue for utilities and water providers that benefit from grants through the Colorado Water Conservation Board. For counties as a whole, the bill is expected to increase severance tax distributions by nearly 240 percent, including \$54.6 million in FY 2023-24 (half-year impact) and \$89.7 million in FY 2024-25, as shown in Table 4. The impact to counties assumes direct transfers under the bill and estimated distributions from the Local Government Severance Tax Fund under the bill. Distributions from the Local Government Severance Tax Fund assume discretionary and formula-driven distributions to counties represent about 40 percent of distributions, the same proportion reported by the Department of Local Affairs for 2022.

It should be noted that the largest increases in revenue are expected for counties where natural resource producers generate significant amounts of severance tax revenue. However, others may experience a decrease. The distribution under the bill will depend on production, prices, credits, exemptions, and deductions in each county and cannot be estimated based on available information.

The bill will decrease revenue for cities, special districts, and other political subdivisions by 60 percent, or \$20.5 million in FY 2023-24 and \$33.6 million in FY 2024-25. The distribution under the bill will depend on grant applications and awards and cannot be estimated based on available information.

¹ A forecast of state revenue is not available beyond FY 2024-25.

Table 4
Transfers to Local Governments Under HB 23-1103
Dollars in Millions

Fiscal Year	Current Law		HB 23-1103		Change	
	2023-24	2024-25	2023-24	2024-25	2023-24	2024-25
Counties						
Direct Transfers to Counties ¹	\$0.0	\$0.0	\$68.3	\$112.3	\$68.3	\$112.3
Local Government Severance Tax Fund ²	\$45.7	\$37.5	\$32.0	\$15.0	(\$13.7)	(\$22.5)
Counties Total	\$45.7	\$37.5	\$100.3	\$127.3	\$54.6	\$89.7
Other Local Governments³						
Local Government Severance Tax Fund ²	\$68.2	\$56.0	\$47.7	\$22.4	(\$20.5)	(\$33.6)

¹ Specific county impacts will depend on severance tax revenue generated in each county.

² Based on percentage distribution of discretionary and direct distributions in 2022.

³ Includes municipalities, fire districts, health districts, transportation authorities, library districts, water, and sanitation districts, among others.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. Except the updated distribution of severance tax begins January 1, 2024.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$541,945 to the Department of Revenue, and 4.0 FTE.

State and Local Government Contacts

Counties	Information Technology	Local Affairs
Municipalities	Natural Resources	Revenue
Special Districts	Treasury	