SB 24-159

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0656	**Date:**	July 9, 2024
Prime Sponsors:	Sen. Jaquez Lewis; Priola Rep. Boesenecker; Marvin	**Bill Status:**	Postponed Indefinitely
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Bill Topic: **MODIFICATION TO ENERGY & CARBON MANAGEMENT PROCESSES**

Summary of Fiscal Impact:

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

The bill would have required the state to phase out issuing new oil and gas permits before January 1, 2030, and would have prevented new permits for oil and gas after that date. It also would have modified rules for mitigating adverse environmental impacts from oil and gas operations. It would have impacted state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of $230,436 to the Department of Natural Resources.

Fiscal Note Status: The final fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate Agriculture and Natural Resources Committee on March 28, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 24-159

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2034-35
Revenue	Cash Funds	-	-	-	($305 million)
	Total Revenue	**-**	**-**	**-**	**($305 million)**
Expenditures	General Fund	$230,436	$550,714	$775,688	$305 million
	School Finance[1]	-	-	-	$171 million
	Centrally Appropriated	-	$19,208	$33,618	-
	Total Expenditures	**$230,436**	**$569,921**	**$809,307**	**$476 million**
	Total FTE	**1.0 FTE**	**3.0 FTE**	**3.8 FTE**	**-**
Transfers		-	-	-	-
Other Budget Impacts	GF Reserve	$34,566	$82,607	$116,353	not estimated
	TABOR Refunds	-	-	-	not estimated

[1] School Finance costs may be paid from the General Fund, State Education Fund, Public School Fund, or a combination of these sources.

Summary of Legislation

By July 1, 2027, the bill requires the Energy and Carbon Management Commission (ECMC) in the Department of Natural Resources (DNR) to adopt rules to cease issuing new permits for oil and gas before January 1, 2030. The ECMC must set criteria that allows for a consistent reduction in the number of permits issued and prioritizes reduction of new permits in disproportionately impacted communities. For a permit issued after July 1, 2024, any drilling, deepening, reentering, or recompletion operations must begin by December 31, 2032.

Under current law, if the ECMC determines that an oil and gas operation requires mitigation of adverse environmental impacts, it must issue an order requiring a responsible party to perform the mitigation. If the responsible party refuses or is identified after the state provides funds for the mitigation, the ECMC must sue the responsible party to recover the costs of the mitigation. The bill changes current law by:

- expanding mitigation to include mitigation of adverse environmental impacts as a result of any activity regulated by the ECMC;
- adding a prior owner or operator to the definition of "responsible party"; and
- allowing a current or prior owner or operator to be held jointly and severally liable for the costs of any mitigation.

By January 2028, the Office of Future of Work in the Department of Labor and Employment (CDLE) must present to the General Assembly recommendations for further study, evaluation, or action as a result of the bill's requirements.

Background

Oil and gas production. Oil and gas production in Colorado has expanded rapidly since 2010 with the adoption of horizontal drilling and hydraulic fracturing. Based on figures provided by the DNR, over the past six years about 92 percent of the state's oil production and 64 percent of natural gas production was produced from horizontal wells. In a typical horizontal oil well, 85 percent of its lifetime production is realized in the first 18-24 months of operation. As a result, a large portion of Colorado's ongoing oil and gas production is supported by new drilling activity.

Oil and gas employment. Oil and gas drilling employed about 1,100 employees in 2022 and the oil and gas extraction industry employed about 6,700 employees.

State Revenue

The bill is expected to decrease cash fund revenue by an estimated $305 million annually by FY 2034-35, and by larger amounts in later years as production continues to decline. The analysis assumes average annual production, assessed value, severance tax, and federal mineral lease revenue from FY 2018-19 to FY 2025-26 will be reduced by 60 percent by FY 2034-35. Average annual production is based on actual data through FY 2022-23 and the December 2023 Legislative Council Staff revenue and assessed value forecast. Revenue impacts are presented in

Table 2 by receiving funds and discussed below. Of the projected decrease in revenue by FY 2034-35, it is estimated that $144 million is subject to TABOR, with larger amounts in later years.

Table 2
State Revenue Impacts Under SB 24-159

	Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2034-35
Severance Tax Cash Funds			
Severance Tax Perpetual Base Fund	-	-	($31.5 million)
Severance Tax Operational Fund	-	-	($31.5 million)
Local Government Severance Tax Fund	-	-	($63 million)
Severance Tax Subtotal	**-**	**-**	**($126 million)**
Energy And Carbon Management Cash Fund			
Oil and Gas Conservation Levy	-	-	($18 million)
ECMC Subtotal	**-**	**-**	**($18 million)**
Federal Mineral Lease Cash Funds			
Local Government Permanent Fund	-	-	($1 million)
Higher Education FML Revenues Fund	-	-	($1 million)
State Public School Fund	-	-	($32 million)
Colorado Water Conservation Board Construction Fund	-	-	($7 million)
Local Government Mineral Impact Fund	-	-	($28 million)
Federal Mineral Lease Subtotal	**-**	**-**	**($69 million)**
State Land Board			
School Permanent Fund	-	-	($92 million)
Land Board Subtotal	**-**	**-**	**($92 million)**
Total Revenue	**-**	**-**	**($305 million)**

Severance tax. The bill will reduce state severance tax revenue by an estimated $126 million by FY 2034-35, and larger amounts in later years. Severance tax revenue is subject to TABOR. Under current law, 50 percent of severance tax revenue is distributed to the DNR and 50 percent to the Department of Local Affairs (DOLA). Revenue distributed to the DNR is used to fund loans for state water projects, the ECMC, the Avalanche Information Center, the Colorado Geological Survey, and partial funding of Colorado Parks and Wildlife (CPW). Other programs supported by severance taxes include water and agricultural programs, clean energy development, soil conservation, wildlife conservation, invasive species control, and low-income energy assistance. Revenue distributed to DOLA is allocated to local governments socially or economically impacted by the mineral extraction industry.

Oil and gas conservation levy. The bill will reduce revenue to the Energy and Carbon Management Cash Fund from the oil and gas conservation levy by an estimated $18 million by FY 2034-35, and larger amounts in later years. The ECMC is primarily funded by the $0.0017 surcharge on the market value of oil and natural gas. In addition to oil and gas permitting and regulations, the ECMC also regulates the development and production of geothermal resources, capture and sequestration of carbon, and the underground storage of natural gas. The oil and gas conservation levy is subject to TABOR.

Federal mineral lease revenue. The bill will reduce revenue to several cash funds from federal mineral lease revenue by an estimated $69 million by FY 2034-35, and larger amounts in later years. Federal mineral lease revenue is the portion of the state's money the federal government collects from mineral production on federal lands. Collections are determined by the value of production and royalties. The ECMC currently permits wells on federal land, however, the BLM may continue permitting wells in the absence of state permitting, which may reduce the impacts estimated in this analysis. Federal mineral lease revenue is TABOR exempt.

State Land Board leases and royalties. The bill will reduce revenue from State Land Board leases and royalties by $92 million by FY 2034-35, and larger amounts in later years, based on data from the DNR. According to the department, the State Land Board generates average annual revenue of approximately $153 million from oil and gas royalties and leases. These funds are distributed to the Public School Capital Construction Assistance Fund, which supports the Building Excellent Schools Today (BEST) grant program, and the School Trust Permanent Fund. The board must provide the greater of $40 million or 50 percent of revenues from income and mineral royalties. Royalties are TABOR exempt.

Other revenue. The CPW received revenue from compensatory mitigation payments by operators for new oil and gas permits which impacts the Wildlife Cash Fund. The CPW also receives royalties from oil and gas development on CPW properties and impacts the Parks and Wildlife for Future Generations Trust Funds. Revenue impacts to the Colorado Parks and Wildlife are not estimated. Royalties are TABOR exempt.

Income tax revenue. To the extent the bill reduces employment in the oil and gas sector in Colorado, income tax revenue, which is deposited into the General Fund, will decrease in the 2030's and future years. Any decrease will be offset to the extent that workers become employed in other industries within the state.

Timing of oil and gas-related revenue reductions. The timing of revenue changes may differ from this analysis in several ways. First, to the extent that oil and gas producers shift planned production into earlier years, revenue may temporarily increase relative to current law. Alternatively, revenue may decrease sooner than estimated if producers shift resources away from Colorado earlier than expected in anticipation of the bill's phasing out of new permits.

State Expenditures

The bill increases state General Fund expenditures by $230,000 in FY 2024-25 and $570,000 in FY 2025-26, in multiple departments. In future years, the bill increases state spending from the General Fund or other sources to replace lost revenue from oil and gas activities, assuming these programs will be funded at current levels in the future. By 2034-35, this backfill, as well as the bill's impact on the state share of school finance, will increase costs by up to $476 million, and larger amounts in later years. Expenditures are shown in Table 3 and detailed below.

Table 3
Expenditures Under SB 24-159

	FY 2024-25	FY 2025-26	FY 2026-27	FY 2034-35
Department of Education				
State Share of School Finance[1]	-	-	-	$171 million
CDE Subtotal	**-**	**-**	**-**	**$171 million**
General Fund Backfill (Various Departments)				
Energy and Carbon Management Cash Fund	-	-	-	$18 million
Federal Mineral Lease Cash Funds	-	-	-	$69 million
Severance Tax Funded Programs	-	-	-	$126 million
State Land Board Funds	-			$92 million
Backfill Subtotal	**-**	**-**	**-**	**$305 million**
Dept. of Labor and Employment (CDLE)				
Personal Services	-	-	$23,098	-
Operating Expenses	-	-	-	-
Capital Outlay Costs	-	-	-	-
Vendor Contract	-	-	$400,000	-
Centrally Appropriated Costs[2]	-	-	$5,676	-
FTE – Personal Services	-	-	0.3 FTE	-
CDLE Subtotal	**-**	**-**	**$428,774**	**-**
Department of Natural Resources (DNR)				
Legal Services	$230,436	$230,436	$230,436	-
FTE – Legal Services	1.0 FTE	1.0 FTE	1.0 FTE	-
DNR Subtotal	**$230,436**	**$230,436**	**$230,436**	**-**
Public Health and Environment (CDPHE)				
Personal Services	-	$81,892	$113,564	-
Operating Expenses	-	$1,280	$1,920	-
Capital Outlay Costs	-	$6,670	$6,670	-
Legal Services	-	$230,436	$230,436	-
Centrally Appropriated Costs[2]	-	$19,208	$27,942	-
FTE – Personal Services	-	1.0 FTE	1.5 FTE	-
FTE – Legal Services	-	1.0 FTE	1.0 FTE	-
CDPHE Subtotal	**-**	**$339,485**	**$380,533**	**-**
Total Costs	**$230,436**	**$569,921**	**$809,307**	**$476 million**
Total FTE	**1.0 FTE**	**3.0 FTE**	**3.8 FTE**	**-**

[1] Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.

[2] Centrally appropriated costs are not included in the bill's appropriation.

Backfill to Affect Funds and School Finance

This fiscal note assumes that state backfill will be provided to funds affected by a reduction in oil and gas production to continue programs at current funding levels. This backfill is assumed to come from the General Fund, but the source and amount of any backfill to affected programs must be determined by the General Assembly. The bill also affects the state aid obligation for school finance. This fiscal note uses FY 2034-35 to represent the bill's anticipated impacts. However, these funds may need support by FY 2030-31 or potentially sooner once the bill's permitting restrictions begin affecting revenue streams.

General Fund backfill. By FY 2034-35, the bill requires a General Fund backfill of $305 million to support cash funds and programs affected by the decline in oil and gas production, as discussed in the Revenue section above. The General Assembly could also choose to allow programs and services supported with revenue from oil and gas permitting and production to sunset along with the eliminated revenue, or could identify or create alternate means of funding these programs. As noted in the State revenue section, the impact of Federal Mineral Lease revenue under the bill depends on federal permitting. Any new drilling activity on federal lands may reduce the amount of backfill estimated in this analysis.

School finance. The bill decreases property tax collections from school district total program levies, requiring an equivalent increase in the state share of total program funding for school finance. The state aid obligation is expected to increase by $171 million in FY 2034-35, and larger amounts in later years. Under current law, changes in the state aid obligation may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these based on decisions made by the General Assembly.

Other State Agency Costs

Labor and Employment. In FY 2026-27 only, the bill increases expenditures in the Office of Future Work in the CDLE to provide the required recommendations on further evaluation, study, or action related to the bill by January 1, 2028.

- **Staff.** The office requires 0.3 FTE to select a vendor to conduct the study, coordinate with the Office of Just Transition in the CDLE, oversee the vendor contract, and review drafts and final products. This fiscal note assumes a July 2026 start date, and includes standard operating and capital outlay costs.

- **Vendor contract.** The office requires $400,000 to contract with a third party to assist with recommendations and perform broader economic impact analyses on potential job losses and just transition implications. The cost reflects the size and scope of the required study as well as prior studies and contracts purchased by the department.

Natural Resources. The DNR requires 1,800 hours of legal services starting in FY 2024-25 to support the ECMC with anticipated legal counsel. The bill will also increase enforcement workload related to expanding the definition of responsible party.

Public Health and Environment. The bill increases expenditures in the CDPHE for rulemaking and support staff as well as legal services.

- **Staff.** The CDPHE requires 1.0 FTE starting in July 2025 for an environmental protection specialist to manage and support rulemaking activities for the Air Quality Control Council (AQCC) and coordinate with the ECMC on planning and analysis needs. It also requires 0.5 FTE for a policy advisor to manage the AQCC rulemaking processes in FY 2026-27 and FY 2027-28. Standard operating and capital outlay costs are included.

- **Legal Services.** The CDHE requires 1,800 hours of legal services in FY 2025-26 and FY 2026 27 to assist the Air Pollution Control Council (APCC) in accommodating the new oil and gas regulations and changes to permitting programs. Legal services will also assist the CDPHE on how its environmental justice program and the EnviroScreen mapping tool interact with the bill's requirements.

Judicial Department. The bill may increase the number of civil cases by expanding language concerning responsible parties and making prior owners or operators of oil and gas entities subject to liability. However, the fiscal note assumes the ECMC will resolve most cases before going to court and any increase in cases will be absorbable within current resources.

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 2.

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. Since it is unsure the form of any future backfill may take (i.e., transfers vs appropriations), the reserve requirement for FY 2034-35 has not been estimated.

Local Government

The bill will reduce local government revenue, including school districts, by a net amount of $375 million annually by FY 2034-35, and larger amounts in later years, from reduced property tax revenue from oil and gas production, as shown in Table 4. The total loss in property tax from reduced assessed values will be partially offset by increased state aid to school districts through the school finance formula.

Table 4
Local Government Revenue Impacts of SB 24-159

	FY 2024-25 Property Tax Year 2024 Collected in 2025	FY 2025-26 Property Tax Year 2025 Collected in 2026	FY 2034-35 Property Tax Year 2034 Collected in 2025
Property Tax Revenue	-	-	($546 million)
School Districts – State Aid	-	-	$171 million
Net Revenue Impact	**-**	**-**	**($375 million)**

Property tax revenue. Lower assessed value from lower oil and gas production is expected to reduce local property taxes by $546 million by FY 2034-35, and larger amounts in later years. The analysis assumes 2022 weighted average mill levies, excluding municipalities, metro areas, and other districts associated with more urban development. In 2023, the top five oil and gas producing counties comprised about 90 percent of the state's assessed value of real oil and gas property, including Weld County (72.9 percent), Garfield (8.7 percent), Adams (4.4 percent), La Plata (2.2 percent), and Rio Blanco (2.2 percent).

State aid to school districts. The bill will increase the required amount of state aid to school districts by $171 million by FY 2034-35, and larger amounts in later years, as a result of reduced property tax revenue from total program levies.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $230,436 to the Department of Natural Resources, the entire amount of which is reappropriated to the Department of Law with 1.0 FTE.

State and Local Government Contacts

Counties	District Attorneys	Education
Judicial	Labor	Law
Local Affairs	Natural Resources	Public Health

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.