

HB 18-1201



EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO

SEVERANCE TAX

PROTECTING IMPACTED COMMUNITIES AND DEPARTMENT OF NATURAL RESOURCES PROGRAMS

HB 18-1201: YOUR "YES" VOTE RESPECTFULLY REQUESTED

Background

The recent history of the severance tax in Colorado is reasonably well known to the General Assembly. Forty years ago — long before TABOR — the state adopted the statewide severance tax, in part, to compensate the state and political subdivisions for the lost wealth caused by severing Colorado's natural resources by mining and drilling. The law refers the severance tax as "a potential source of revenue," for which a "portion be made available to local governments to offset the impacts" created by energy extraction.

The fiscal note for HB 18-1201 refers to the manner in which severance tax is to be distributed to support Department of Natural Resources (DNR) environmental programs and energy impacted communities via Colorado Department of Local Affairs (DOLA) grants and direct distribution. In recent years, the state preserved existing programs during the recession years DOLA Energy Impact Funds totaling nearly \$400 million dollars. In 2015, severance tax revenue backfilled TABOR refunds when the state last exceeded its TABOR limit. In bad times and good, severance tax revenues are being used as a resource for purposes much different than the legislature declared 40 years ago.

Why HB 18-1201?

- The state is projected to slightly exceed its TABOR limit in FY 2018–2019 and then significantly in FY 2019–2020.
- After enterprising the Hospital Provider Fee last year (SB 17-267), the only likely source of revenue that will be used to backfill TABOR refunds will be severance taxes.
- Successful debrucing of severance taxes (confirmed by the fiscal note) will:
 - ensure that severance taxes reach DNR programs and energy impacted communities; and
 - lower the state's TABOR refund obligation and preserve General Fund for vital functions such as K–12, higher education, transportation, etc.
- To protect the state from attempting to backfill other programs with debruced revenue, the bill specifies that debrucing is nullified if:
 - severance tax revenue is diverted from original legislative intent (DNR and DOLA) or;
 - the tax or credit structure is altered.

What happens without HB 18-1201 or if a referred question is not successful?

HB 18-1201 alone will not change anything. The ultimate authority would be vested with voters in Colorado to determine whether or not severance tax revenue should be debruced. If the status quo is preserved, the state will exceed its TABOR limit next year and TABOR refunds will be issued out of the state's General Fund.

Based on the last ten years, CML is gravely concerned that severance tax revenues will again be diverted away from critical programs in DNR and DOLA and instead used to backfill TABOR refunds. For local governments currently and historically impacted by energy extraction, this would prevent revenues from being available to mitigate impacts or help communities continue to survive as Colorado's natural resources extraction declines and even disappears from some areas. For the state (and also to the benefit of municipalities, counties, and their citizens), vital water infrastructure programs in DNR, as well as Tier I and Tier II programs, would lose certainty of annual funding. That would be on the heels of the proposition in this session to backfill DNR with General Fund.

HB 18-1201 and changes in severance tax rates or credits

Whether or not the oil and gas industry is assessed a high enough effective severance tax rate is certainly open to debate. CML does not dispute that and has a position of support in our annual Policy Statement of increasing the effective tax rate. However, it is a completely moot point given the state's current fiscal conditions, as any revenue generated by an increase in tax rate or reduction of credits would only exacerbate the state's TABOR refund obligation.

The conditions are identical if HB 18-1201 is enacted an approved by voters or if it fails at any juncture. Any new revenue would push the state further over its TABOR revenue limit.

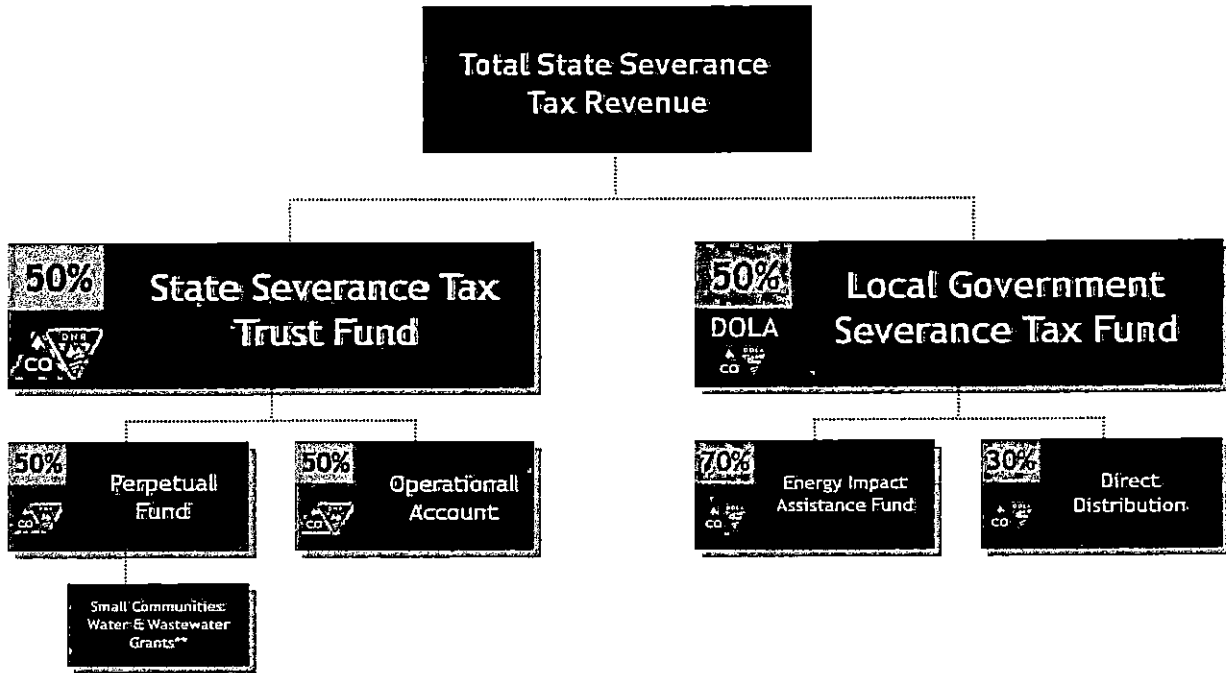
The debate over effective tax rate is a debate for another day. Local governments and the state need certainty now. HB 18-1201 asks the voters to provide it.

The choice is clear — either there is an interest in ensuring that revenue collected to assist impacted communities and fund state water and environmental programs is sustained or we are comfortable with using those revenues to backfill the state budget every time the going gets tough. Preserving and promoting the sustainability of rural Colorado includes passing HB 18-1201 and asking voters to protect the one source of revenue specifically designed for that purpose.

HB 18-1201: YOUR "YES" VOTE RESPECTFULLY REQUESTED

April 4, 2018

Fiscal Year 2017-2018



MEMORANDUM



JOINT BUDGET COMMITTEE

TO Abbey Pizel, Colorado Fiscal Institute
 FROM Scott Thompson, JBC Staff (303-866-4957)
 DATE February 20, 2018
 SUBJECT Severance Tax and General Fund Transfers since FY 2001-02

Severance Tax Revenue Transfers to the General Fund					
Fiscal Year	Severance Tax Trust Fund		Local Government Severance Tax Fund	Direct Tier 2 Program Transfers	Total Severance Tax Transferred
	Operational Fund	Perpetual Base Fund			
2001-02	\$20,200,000	\$0	\$0	\$0	\$20,200,000
2002-03	6,877,398	0	0	0	6,877,398
2003-04	4,600,000	0	0	0	4,600,000
2004-05	0	0	0	0	0
2005-06 ^a	(7,900,000)	0	0	0	(7,900,000)
2006-07	0	0	0	0	0
2007-08	0	0	0	0	0
2008-09 ^b	0	35,000,000	7,500,000	0	42,500,000
2009-10	11,000,000	64,000,000	50,327,769	0	125,327,769
2010-11	0	16,000,000	70,000,000	0	86,000,000
2011-12	3,950,000	48,100,000	41,000,000	0	93,050,000
2012-13	0	0	0	0	0
2013-14	0	0	0	0	0
2014-15 ^c	4,056,683	4,056,683	8,113,366	0	16,226,732
2015-16 ^d	(14,200,000)	(14,200,000)	(28,400,000)	0	(56,800,000)
2016-17 ^d	(13,457,576)	(13,457,576)	(26,915,151)	0	(53,830,302)
2017-18 ^{e, f}	11,425,000	11,425,000	22,850,000	(10,000,000)	35,700,000
Total	\$26,551,506	\$150,924,108	\$144,475,984	(\$10,000,000)	\$311,951,597

^a Partial repayment of the FY 2001-02 transfer from the Operational Fund under H.B. 02-1394.

^b In FY 2008-09, there was an additional transfer of \$14,248,358 to the General Fund from the Local Government Mineral Impact Fund; however, this amount was repaid on July 1, 2009.

^c S.B. 15-255 transferred up to \$20.0 million in severance tax revenues to the General Fund. Current estimates indicate that the total transfer will be \$16.2 million in FY 2014-15. This table shows this funding as if it had actually been deposited to the funds where severance tax is normally allocated; however, the actual reduction was taken "off the top" before the funds received the money.

^d Transfers for both years with this annotation are the result of S.B. 16-218 (Severance Tax Refunds).

^e The \$45.7 million transfer in FY 2017-18 is scheduled to occur on June 30, 2018, however, there has only been a total of \$22 million in severance tax revenue collected thus far in FY 2017-18.

^f S.B. 17-259 Transferred approximately \$2.3 million General Fund to Wildfire mitigation programs, \$4.1 million for species conservation programs, and \$3.6 million for aquatic nuisance species programs typically funded with statutory transfers of severance tax.