HB09-1038

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 09-0440	**Date:**	January 8, 2009
Prime Sponsor(s):	Rep. Lundberg	**Bill Status:**	House Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING A LIMITED EXEMPTION FROM THE STATE SEVERANCE TAX FOR PRODUCTION FROM A PRIMARY COMMERCIAL OIL SHALE FACILITY.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue	$0	$0
State Expenditures	$0	$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: 90 days after adjournment (August 4, 2009 if adjournment is May 5, 2009), unless a referendum petition is filed.		
Appropriation Summary for FY 2009-2010: None required.		
Expenditures Not Included for FY 2009-10: None.		
Local Government Impact: Local governments could receive less severance tax money in the form of Energy Impact Assistance grants and direct distributions.		

Summary of Legislation

This bill exempts an additional 20 percent of oil shale production occurring at a "primary commercial oil shale facility" before January 1, 2021, from the state severance tax. The bill defines a primary commercial oil shale facility as a facility where:

- facility construction was started before January 1, 2012; and
- 25 percent of the average number of employees who worked at the facility during the current year were employed at the facility on January 1, 2012.

The bill is repealed on January 1, 2022.

Background

Under current law, the state imposes a severance tax on commercial oil shale production at the rate of 4 percent of gross proceeds, subject to 4 specific caveats. First, all production occurring during the first 180 days of operation at commercial oil shale facilities is exempt from the tax. Second, the tax is phased in at the rate of 1 percent for the first year after the exemption period, 2 percent for the second year, 3 percent for the third, and 4 percent thereafter. Third, at any time, the production of the first 10,000 barrels per day of shale oil is tax exempt. Fourth, in the calculation of gross proceeds, oil shale operators are allowed to deduct all direct and indirect costs of equipment and machinery, processing, refining and transporting the product, and all royalty payments.

State Revenue

Current statutory provisions already exempt the gross proceeds from the first 180 days of oil shale production after facility construction from state severance tax liability. In addition, proceeds from the first 3.65 million barrels of shale oil annually produced are also exempt from this tax. To date, there has been no commercial oil shale production in Colorado, and no facilities exist or are expected to be built that are capable of producing at this level. In addition, the commercial viability of oil shale production is dependent on the price of conventional oil resources, which has fallen substantially in recent months. While it is possible that this bill could reduce state revenue by increasing the exemption threshold, such an impact is conditional on the development of a qualifying facility with a production capacity at or above these threshold levels. Such development would likely be predicated on the return of conventional oil prices to sufficiently high levels.

In any event, because of the bill's requirements, such an impact could not occur until after January 1, 2012.

Local Government Impact

Local governments in energy impacted areas currently receive half of all state severance tax revenue through either the Energy Impact Assistance Fund (EIAF) grant program or direct distribution. Currently, there is no severance tax collected from oil shale, as there has been no commercial production in Colorado. While it is possible that this bill could reduce revenue received by local governments by increasing the exemption threshold, such an impact is conditional on the development of a qualifying facility with sufficient production capacity which would likely require the return of conventional oil prices to sufficiently high levels. Such an impact could not occur until after January 1, 2012.

Departments Contacted

Natural Resources   Local Affairs   Revenue