SB15-230

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 15-0858	**Date:**	April 6, 2015
Prime Sponsor(s):	Sen. Scheffel Rep. Williams	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Alex Schatz (303-866-4375)

BILL TOPIC: TELEPHONE COMPANY PROPERTY TAX VALUATION METHOD

Fiscal Impact Summary*	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
State Revenue	**$130,000**	**$380,000**	**$640,000**	**$890,000**	**$1,140,000**
General Fund	130,000	380,000	640,000	890,000	1,140,000
State Expenditures	**$2.4 million**	**$4.7 million**	**$7.1 million**	**$9.4 million**	**$11.8 million**
General Fund	2.4 million	4.7 million	7.1 million	9.4 million	11.8 million
FTE Position Change					
TABOR Set-Aside	$130,000	$380,000	$640,000	$890,000	$1,140,000
Appropriation Required: $2.4 million - Department of Education (FY 2015-16).					

* *This summary shows changes from current law under the bill for each fiscal year.*

Summary of Legislation

Under current law, the intangible property of state assessed public utilities, including telephone companies, is part of the assessed value of the company and subject to property taxation. This bill phases in an exemption from property taxation of all state assessed intangible personal property of telephone companies.

Starting in property tax year 2015, the bill exempts 20 percent of telephone company intangible property, with additional 20 percent increments in subsequent fiscal years, until all intangible property is exempt in 2019 and future property tax years.

For property tax year 2019 and future property tax years, the bill directs the state Property Tax Administrator (PTA) in the Department of Local Affairs (DOLA) to calculate a maximum unit value for each telephone company that is no more than the value of its tangible property according to the cost approach to appraised valuation. Intangible personal property subject to the bill includes goodwill, software, and other intangible property specified in Section 197(d) of the Internal Revenue Code.

Background

Property tax assessments. Property taxation is based on the assessed value of land, improvements, and certain personal property. Under Colorado law, nonresidential property is assessed at 29 percent of its actual value. Thus, the property of telecommunications companies and other public utilities with an actual value of $100,000 has an assessed value of $29,000.

Property tax is collected by various local taxing entities, including municipalities, counties, school districts, and special districts. Each local taxing entity establishes a mill rate that is multiplied by the assessed value of each property that is not tax exempt within the jurisdiction. One mill generates $1 for each $1,000 of value. Property taxes are collected in arrears, in the first half of the calendar year following the property tax year.

Based on the most recent data published by the Division of Property Taxation (DPT) in DOLA (for property tax year 2013), the statewide average total mill levy for local jurisdictions is 79.25 mills. The statewide average school operating mill levy is currently 20.432 mills. In the example of a $100,000 property, with $29,000 of assessed value, the annual property tax is $2,298. Of this amount, $593 is levied for school district operating revenue.

Valuation of state assessed public utilities. Under current law, the DPT determines the value of state assessed public utilities, including telephone companies, by first assessing the unit value of the company, including consideration of the company's tangible property, intangible property, capitalized operating revenue, and the market value of its outstanding securities. In 2013, state assessed property constituted approximately $6.3 billion of assessed value, with telephone companies accounting for $1.5 billion of this total assessed value.

Accounting statements for many companies include a value attributed to tangible plant, property, and equipment. While this tangible property is a component of a company's value, the process for developing a unit value for state assessed public utilities does not always require or result in the valuation of specific components. For example, the sales price of a telephone company that has recently been sold may used as a starting point for deriving a unit value. Once the DPT has developed a unit value for the assets of a telephone company, this total value is apportioned among all counties to fairly reflect the value of the company in each county.

State Revenue

The bill increases state General Fund revenue from corporate income tax starting in FY 2015-16. Affected companies currently realize income tax savings by deducting property taxes paid from taxable income. By reducing property tax liability, the bill increases these companies' taxable income. This increase is estimated in Table 1 for each year of the bill's stepped implementation.

Table 1. Impact of SB 15-230 on corporate income tax.*

Fiscal Year	Reduced liability for property taxes**	Effective increase in income tax liability***	Resulting increase in state income tax
FY 2015-16	$4,600,000	$2,700,000	$130,000
FY 2016-17	13,700,000	8,200,000	380,000
FY 2017-18	22,900,000	13,700,000	640,000
FY 2018-19	32,000,000	19,200,000	890,000
FY 2019-20	41,200,000	24,700,000	1,140,000

* Numerical values in Table 1 were rounded following calculation.
** Based on conversion of values in Table 2 to a fiscal year basis.
*** Based on 60 percent of corporate income taxpayers with net income.

In FY 2015-16, the bill's property tax exemption results in an aggregate increase of $4.6 million in the taxable income of affected companies in Colorado. Applying the state's 4.63 percent income tax rate, and assuming 60 percent of affected companies have taxable income, this is estimated to increase state General Fund revenue from income taxes by about $130,000 in FY 2015-16. Once the bill is fully implemented in FY 2019-20, the annual increase in state income tax revenue is estimated at $1.1 million.

TABOR Impact

This bill increases state revenue from income taxes, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

Starting in FY 2015-16, the bill increases state expenditures for school finance. The bill also increases workload for DOLA and the Judicial Department, especially in the fiscal years immediately following enactment.

School finance impact. Based on the average statewide school finance operating mill levy, the reduction in property taxes available for school finance will require additional state aid of $2.4 million in FY 2015-16, $4.7 million in FY 2016-17, $7.1 million in FY 2017-18, $9.4 million in FY 2018-19, and $11.8 million in FY 2019-20 and subsequent years when the bill is fully implemented.

DOLA - Division of Property Taxation. The bill increases workload for the DPT staff to update procedures for affected state assessed companies, as well as updating training and published materials. Ensuring that assessment practices are consistent with current law is consistent with the existing duties of the DPT. No change in resources is necessary to implement these updates.

The DPT will confer with legal counsel as part of currently budgeted workload to determine the need for rulemaking or other policies to clarify the implementation of the bill, and also to review any protests of state assessed valuations. Any need for additional legal resources will be addressed in the annual budget process.

DOLA - Board of Assessment Appeals. Disputes regarding the DPT's assessment decisions for state assessed property may be appealed to the Board of Assessment Appeals (BAA) in DOLA. While relatively few taxpayers are affected by the bill, appealed cases are likely to be complex and will increase workload for the BAA. The BAA will manage its docket within existing appropriations.

Judicial Department. Property tax protests may be appealed directly to the district court or, after a decision by the BAA, to the Court of Appeals. Cases related to the bill will increase workload of state courts by a minimal amount and will not require new appropriations.

Local Government Impact

In aggregate, the bill reduces local property tax revenue by an estimated $9.1 million in property tax year 2015, with increasing amounts each year until the full intangible exemption is implemented in property tax year 2019. The estimated $45.7 million reduction of local property tax revenue in 2019 will continue into future property tax years. The impact of the bill in these property tax years and intermediate years is shown in Table 2.

The bill reduces property tax collections for local governments based on the overall value of intangible assets owned by telecommunications companies and related public utilities within their jurisdiction. The bill affects all types of local taxing entities, including cities, towns, counties, special districts, and school districts. The following analysis of the effect of the bill on local taxing entities is organized according to the various types of companies affected by the bill.

Local property tax revenue - aggregate impact. For each fiscal year of the stepped implementation of the bill, Table 2 summarizes the overall impact on state assessed value and the resulting reduction in local property tax revenue. Detail regarding each affected industry classification of state assessed property is provided in narrative below.

Table 2. Reduction in total local property tax revenue under SB 15-230.

Property tax year	2015	2016	2017	2018	2019	Reduction of industry assessed value (percent)*
Intangible exemption	20%	40%	60%	80%	100%	
Telephone companies	$8,670,000	$17,350,000	$26,000,000	$34,700,000	$43,400,000	57.7
Rural telephone companies	90,000	190,000	280,000	380,000	470,000	11.1
Mobile telephone companies	100,000	200,000	300,000	410,000	510,000	1.4
Telephone resellers	280,000	560,000	830,000	1,100,000	1,390,000	98.9
Airlines and railroads	0	0	0	0	0	0.0
TOTAL	$9,140,000	$18,300,000	$27,410,000	$36,590,000	$45,770,000	
SCHOOL TOTAL**	$2,360,000	$4,720,000	$7,070,000	$9,430,000	$11,800,000	

* *Intangible property as a percentage of current total assessed value, by industry classification.*
** *Portion of total collected for school program property tax levy.*

Assumptions. The fiscal note incorporates the following assumptions:

- The intent of the bill is to create a valuation scheme for telecommunications companies that is analogous to treatment as locally assessed property. With this assumption, the fiscal note assumes that the value of affected state assessed property is estimated at the book value of the company's tangible property, also known as its plant, property, and equipment. Intangible property is calculated as the difference between unit value of an affected company and the value of its tangible property. Alternative interpretations of the difference between total assessed value and the value less intangible property may lead to additional fiscal impacts.

- Mill levies that contribute to the revenue of each specific local taxing entity may vary on a year to year basis. However, the statewide averages for the total local mill levy and the school program mill levy are expected to vary less overall and these current averages are therefore suitable for estimating the fiscal impact in the five-year period shown in this fiscal note.
- The bill affects all telecommunications-related businesses that are considered public utilities subject to state assessment for property taxation.
- Based on the concentration of telecommunication assets, especially intangible assets, in general proximity to customers, the bill's impacts are greater in urbanized areas.
- The bill does not change the workload of county assessors or treasurers, as all affected property is assessed by the state. While valuation and local tax collections will be reduced by the bill, local officials will administer property tax accounts in the same manner as under current law.

Property tax base - telephone companies. Traditional landline telephone companies have significant intangible value as a system, as supported, for example, by recent sales prices that substantially exceed the reported value of their tangible property. Based on an estimated $1.89 billion in actual value of intangible assets that exceeds the value of tangible property, state assessed value for telephone companies will be reduced by approximately $547 million when the full intangible exemption is implemented.

Property tax base - rural telephone companies. This category of traditional landline telephone companies is composed of cooperatives that serve areas largely outside major markets in Colorado, with less intangible value from customer lists, market share and similar assets. Based on an estimated $20.4 million in actual value of intangible assets that exceeds the value of tangible property, state assessed value for rural telephone companies will be reduced by approximately $5.9 million when the full intangible exemption is implemented.

Property tax base - mobile telephone companies. There are a significant number of wireless telephone providers in Colorado, but under current law a significant amount of their intangible value is already deducted for licenses issued by the Federal Communications Commission (FCC). Based on an estimated $22.1 million in actual value of intangible assets that exceeds the value of tangible property, state assessed value for mobile telephone companies will be reduced by approximately $6.4 million when the full intangible exemption is implemented.

Property tax base - telephone resellers. Companies that buy and resell telephone network access have very little tangible property in Colorado; a large percentage of their taxable value is reduced by the bill. Based on an estimated $60.4 million in actual value of intangible assets that exceeds the value of tangible property, state assessed value for telephone resellers will be reduced by approximately $17.5 million when the full intangible exemption is implemented.

Property tax base - airlines and railroads. The bill applies to airlines and railroads due to federal law that requires these industries to receive the benefit of any law that reduces property tax liability for another public utility. Under existing law, all affected airlines and railroads in

Colorado are currently assessed at a value less than the book value of tangible assets. Therefore, this fiscal analysis does not reflect a reduction in assessed value for these companies. The bill may reduce property tax collections from airlines and railroads in future fiscal years, but this is not an anticipated impact in the years evaluated for this fiscal note.

School District Impact

Based on reduced property tax revenue to school districts from intangible property of telecommunication companies, the bill reduces the local share of funding for public schools starting in FY 2015-16. Of the amount of local government revenue reduced by the bill, a portion is based on the mill levy for school district operations. This portion is shown as the school total in Table 2.

The school district revenue reduction is estimated as:

- $2.4 million in FY 2015-16;
- $4.7 million in FY 2016-17;
- $7.1 million in FY 2017-18;
- $9.4 million in FY 2018-19; and
- $11.8 million in FY 2019-20 and future fiscal years.

State funding may replace this reduction in revenue. To the degree total program funding is defined through a set value for the school finance negative factor, the bill increases state funding for school finance because of the reduction in local share.

The reduction in assessed valuation for telephone companies may also reduce school district revenue from special property tax levies; this additional reduction in school district revenue is not estimated based on wide variation in associated mill levies statewide.

State Appropriations

For FY 2015-16, the bill requires a General Fund appropriation of $2.4 million to the Department of Education.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Property Taxation	Local Affairs	Revenue
Judicial Department	Assessors	Law
Regulatory Agencies	Municipalities	Counties
Special Districts		