F I S C A L   I M P A C T   R E P O R T

SPONSOR	Terrazas/ Hemphill/ Diamond/ Sweetser/ Dow	**ORIGINAL DATE** **LAST UPDATED**	1/31/22	**HB**	146
SHORT TITLE	Distribution of Copper Tax			**SB**	
				ANALYST	Torres

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**	**FY25**	**FY26**		
	($525.0)	($540.0)			Recurring	General Fund
	$525.0	$540.0			Recurring	Counties

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
$101.7			$101.7	Nonrecurring	TRD Operating Budget

Parenthesis ( ) indicate expenditure decreases

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR)

SOURCES OF INFORMATION
LFC Files

Responses Received From
State Land Office
Taxation and Revenue Department

SUMMARY

Synopsis of Bill

House Bill 146 (HB 146) temporarily earmarks 15 percent of the revenue from the resource excise tax associated with the mining of copper for distribution to the counties where it is severed. The distributions occur in FY23 and FY24.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

The Taxation and Revenue Department and LFC used the historical Resource Excise Tax distributions to the general fund derived from copper mining to estimate the impact in the forecast period. TRD used the growth rates projected for the Resource Excise Tax from the most recent Consensus Revenue Estimating Group (CREG) December 2021 consensus forecast. The proposed 15 percent was applied against the projected revenues. Currently copper mining activities are occurring in Grant County.

The earmarking contained in this bill is an expense to the general fund. Establishing an earmark creates an expectation that the program will continue in future fiscal years, and reduces the ability of future Legislatures to comprehensively appropriate funds and set spending priorities.

SIGNIFICANT ISSUES

The State Land Office issues mining leases on state land. At present, there are roughly two outstanding leases for mining copper, which involve very little acreage (less than 3 acres) and no active mining. While there is a limited amount of current exploration activity directed to copper, no additional copper mining leases are anticipated at this time.

The Taxation and Revenue Department notes:

> A distribution from the Resource Excise Tax from the mining of copper to counties where it is extracted creates a precedent for other resources to be distributed to local governments. Minerals and natural resources such as coal, timber, potash, molybdenum, among others, are also subject to this tax. Creating this distribution could open the doors to similar distributions to counties from the Resource Excise Tax to where minerals are extracted. Local governments currently do not receive distributions from mining excise taxes, however, local governments receive local option Gross Receipts Tax (GRT) and local option compensating tax distributions associated with mining activities. There are also local government GRT rates imposed on mining activities, and this revenue is distributed to municipal and county revenue funds.
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> Implementation will have an overall moderate impact on Tax & Rev’s Administrative Services Division (ASD) requiring approximately 40 hours of effort. This requires updating the existing distributions in the GenTax system, including modifications to revenue and general ledger transactions and multiple revenue reports. Additionally, this will require a payment interface to include local governments on this distribution. Currently only the General Fund receives this distribution. The total estimated staff workload cost for ASD is $1,724.
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> This proposal will have a moderate impact on Tax & Rev’s Information Technology Division (ITD) of approximately 500 hours or about three months of workload and approximately $100,000 of contractual resources.

TECHNICAL ISSUES:

While copper mining activity is currently concentrated in one county, it is important to address amended returns that change the location code. Using a different location code could mean that a non-copper-producing county would receive a distribution. If an amended return reduces the amount of tax owed or changes the location code, a negative distribution to the county government fund for this tax program could occur. The tax rate is set by the state and per GASB 84[1] this is considered state sourced revenue. Therefore, the state general fund would absorb any negative distribution. A negative distribution is more likely to occur from amended returns because the Resource Excise Tax program is one of the state's smallest tax programs.

Additionally, amended returns from tax periods prior to the effective date are not addressed. It is recommended that the legislation be updated to indicate that it has no retroactive effect, by including the phrase "For tax years commencing on January 1, 2022, and prior…" on p. 2, line 24.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate.

IT/rl/acv

[1] Government Accounting Standards Board, statement no. 84 issued January 2017, provides guidance and establishes criteria for identifying fiduciary activities of all state and local governments.