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

SPONSOR Jennings **ORIGINAL DATE** 02/03/12 **LAST UPDATED** **HB**

SHORT TITLE Oil & Gas Proceeds & Entity Withholding Forms **SB** 169

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
Insignificant	Insignificant	Insignificant		

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with Senate Bill 212

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
joint analysis with Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 169 would Sections 7-3A-3 and 7-3A-7 of the Oil and Gas Proceeds and Pass-Through Entity Withholding Act. This Act requires withholding tax be paid by producers remitting oil and gas proceeds to out-of-state residents. Provisions of the Act apply to oil and gas producers who remit income to others and also to pass-through entities (PTEs), which are business entities that are not taxed as corporations but pass their income through to their owners.

- To distinguish in-state from out-of-state residents, an oil and gas payment remitter could rely on the address shown on the 1099-MISC or similar form, which are the federal income tax information reports used to report the oil and gas payments for federal income tax purposes.

- Every remitter would be required to file their annual statement of withholding in electronic format, and include a form 1099-MISC or similar form.

- The Tax Department would develop and adopt rules regarding filing of these required forms if the remitter is not able to file them in an electronic format.

- Remitters would be required to file an electronic report of remittees who have certified that the remittee is responsible for the remittee's own reporting and payment of tax due.

The effective date of the bill is not specified, therefore becoming effective 90 days following adjournment (May 16, 2012). The provisions would be applicable to taxable years beginning on or after January 1, 2012.

FISCAL IMPLICATIONS

The TRD explains the likely effect of the proposed legislation as follows.

The withholding requirement for oil and gas operators has been in place for several years, and generates between $30 and $40 million in payments annually. Provisions of this bill should not have a significant impact on these revenues because they merely clarify the reporting format to document these payments. Provisions of the Act applying to PTEs have only been in effect for one year. Although there has not been a significant amount collected in that year, this may be due to the fact that no penalties for non-payment applied to the program during the first year. When the current PTE requirements were adopted in 2010, it was estimated that they would increase revenues due to improved compliance from out-of-state residents. Although it is too early to say whether that compliance is likely to result under present law, the provisions of this bill should not reduce the law's potential for compliance gains. Thus, on net the bill should not significantly impact revenues.

The TRD further states that based on input received from taxpayers during the past year, the proposal should help to address a number of serious problems in present law that create compliance and administration burdens. Thus, the measure can be seen as "taxpayer friendly," but it should not materially undermine state revenue collection efforts.

The TRD reports no additional operating budget impact from the requirements of this bill.

SIGNIFICANT ISSUES

The TRD claims the changes from these amendments are generally designed to streamline compliance and administration of the Act.

ADMINISTRATIVE IMPLICATIONS

Form changes, processing procedures and systems changes will be needed for TRD to implement this, but many of these changes are required under present law. In general, the bill will help in the administration of the statute.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 212 addresses the same sections of statute, with conflicting amendments to Section 7-3A-3.

TECHNICAL ISSUES

The TRD notes that on page 7, line 20, the word "available" may cause confusion as to whether the electronic reports actually have to be filed. The language would be clearer without this word.

EWM:CH/amm:svb