

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1082.01 Ed DeCecco x4216

HOUSE BILL 16-1433

HOUSE SPONSORSHIP

Hamner and Rankin,

SENATE SPONSORSHIP

Steadman,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A RESERVE THAT INCLUDES STATE
102 SEVERANCE TAX REVENUE THAT IS A VOTER-APPROVED
103 REVENUE CHANGE TO THE CONSTITUTIONAL LIMITATION ON
104 STATE FISCAL YEAR SPENDING, AND, IN CONNECTION
105 THEREWITH, CREATING THE SEVERANCE TAX RESERVE FUND;
106 REQUIRING SEVERANCE TAX REVENUE THAT EXCEEDS AN
107 ANNUAL CAP TO BE DEPOSITED IN THE RESERVE; SEEKING VOTER
108 APPROVAL TO RETAIN AND SPEND THE SEVERANCE TAX REVENUE
109 DEPOSITED IN THE RESERVE; PERMITTING THE GENERAL
110 ASSEMBLY TO USE MONEY FROM THE RESERVE IF THERE IS
111 INSUFFICIENT MONEY TO PAY FOR PROGRAMS SUPPORTED BY
112 THE SEVERANCE TAX; AND REQUIRING ANY MONEY IN THE
113 RESERVE THAT EXCEEDS A RESERVE CAP TO BE TRANSFERRED

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

101
102

TO THE COLORADO WATER CONSERVATION BOARD
CONSTRUCTION FUND.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Beginning July 1, 2017, **section 1** of the bill caps the total amount of severance tax gross receipts that are deposited in the state severance tax trust fund and the local government severance tax fund. The amount of the cap is equal to \$180 million for the 2017-18 fiscal year, adjusted for inflation each fiscal year thereafter. The state treasurer is required to transfer any money above the cap to the severance tax reserve fund (reserve), which is created in **section 2**.

If the money in the state severance tax operational fund (operational fund) or the local government severance tax fund is insufficient to pay for a program supported by either fund, the general assembly may appropriate money from the reserve for the program or it may appropriate money from the reserve to the fund or, if applicable, to a cash fund that receives money from the operational fund. There is a cap on the amount of money in the reserve that is equal to 2 times the severance tax gross receipts cap. The state treasurer is required to transfer any money at the end of a fiscal year in the reserve that is above the reserve cap to the Colorado water conservation board construction fund. **Section 5** includes a conforming amendment to reflect that the Colorado water conservation board construction fund includes these transfers.

Section 3 requires the secretary of state to refer a ballot question to the voters at the election held on November 8, 2016, to seek voter approval for the state to retain and spend any severance tax revenue that is deposited in the reserve as a voter-approved revenue change to the constitutional limitation on state fiscal year spending. This voter-approved revenue change is conditioned on the state not repealing or reducing any of the existing severance tax exemptions or credits.

Section 4 makes an adjustment to the excess state revenues cap so that, if approved, the new voter-approved revenue change is not included in the accounting for the revenue change that the voters made when they approved Referendum C.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1.** In Colorado Revised Statutes, 39-29-108, **amend**
2 (2) (b) as follows:

3 **39-29-108. Allocation of severance tax revenues - definitions**
4 **- repeal.** (2) (b) (I) ~~Of the total gross receipts realized from the severance~~
5 ~~taxes imposed on minerals and mineral fuels under the provisions of this~~
6 ~~article after June 30, 2017~~ BEGINNING JULY 1, 2017, THE STATE
7 TREASURER SHALL CREDIT fifty percent ~~shall be credited~~ OF THE GROSS
8 RECEIPTS to the state severance tax trust fund created by section
9 39-29-109, and fifty percent ~~shall be credited~~ OF THE GROSS RECEIPTS to
10 the local government severance tax fund created by section 39-29-110;
11 EXCEPT THAT, IF THE GROSS RECEIPTS FOR A FISCAL YEAR EXCEED THE
12 PRESENT-NEEDS CAP FOR THE FISCAL YEAR, THEN THE STATE TREASURER
13 SHALL CREDIT ANY GROSS RECEIPTS FOR THE FISCAL YEAR THAT EXCEED
14 THE PRESENT-NEEDS CAP TO THE SEVERANCE TAX RESERVE CREATED BY
15 SECTION 39-29-110.5.

16 (II) AS USED IN THIS PARAGRAPH (b):

17 (A) "GROSS RECEIPTS" MEANS THE AMOUNT OF THE GROSS
18 RECEIPTS REALIZED FROM THE SEVERANCE TAXES IMPOSED ON MINERALS
19 AND MINERAL FUELS UNDER THE PROVISIONS OF THIS ARTICLE.

20 (B) "PRESENT-NEEDS CAP" MEANS ONE HUNDREDEIGHTY MILLION
21 DOLLARS FOR THE 2017-18 FISCAL YEAR, AND FOR EACH FISCAL YEAR
22 THEREAFTER AN AMOUNT EQUAL TO THE CAP FOR THE PRIOR YEAR
23 ADJUSTED FOR INFLATION, WHICH IS EQUAL TO THE ANNUAL PERCENTAGE
24 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
25 LABOR STATISTICS, CONSUMER PRICE INDEX FOR
26 DENVER-BOULDER-GREELEY, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS
27 SUCCESSOR INDEX.

1 **SECTION 2.** In Colorado Revised Statutes, **add** 39-29-110.5 as
2 follows:

3 **39-29-110.5. Severance tax reserve fund - creation - allowable**
4 **uses - transfers of excess amount - definitions - repeal.** (1) AS USED IN
5 THIS SECTION:

6 (a) "RESERVE" MEANS THE SEVERANCE TAX RESERVE FUND
7 CREATED IN SUBSECTION (2) OF THIS SECTION.

8 (b) "RESERVE CAP" MEANS AN AMOUNT THAT IS EQUAL TO TWO
9 TIMES THE PRESENT-NEEDS CAP DEFINED IN SECTION 39-29-108 (2) (b) (I)
10 (B) FOR THE FISCAL YEAR.

11 (c) "TIER 2 CASH FUND" MEANS A CASH FUND IDENTIFIED IN
12 SECTION 39-29-109.3 (2).

13 (2) THE SEVERANCE TAX RESERVE FUND IS HEREBY CREATED IN
14 THE STATE TREASURY. THE RESERVE CONSISTS OF MONEY CREDITED TO
15 THE RESERVE IN ACCORDANCE WITH SECTION 39-29-108 (2) (b) (I). THE
16 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED
17 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE RESERVE TO THE
18 RESERVE.

19 (3) IF THERE IS AN INSUFFICIENT AMOUNT OF MONEY IN THE
20 SEVERANCE TAX OPERATIONAL FUND CREATED IN SECTION 39-29-109.3 OR
21 THE LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED IN SECTION
22 39-29-110 TO PAY FOR A PROGRAM SUPPORTED BY THE FUND, THEN THE
23 GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM THE RESERVE FOR
24 THE PROGRAM OR IT MAY APPROPRIATE MONEY FROM THE RESERVE TO THE
25 FUND OR, IF APPLICABLE, TO A TIER 2 CASH FUND.

26 (4) IF THE AMOUNT OF MONEY IN THE RESERVE AT THE END OF A
27 FISCAL YEAR EXCEEDS THE RESERVE CAP FOR THE FISCAL YEAR, THEN THE

1 STATE TREASURER SHALL TRANSFER THE MONEY THAT EXCEEDS THE
2 RESERVE CAP TO THE COLORADO WATER CONSERVATION BOARD
3 CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1), C.R.S.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 39-29-117 as
5 follows:

6 **39-29-117. Severance tax revenues - voter-approved revenue**
7 **change - definitions - repeal.** (1) AS USED IN THIS SECTION:

8 (a) "BALLOT ISSUE" MEANS THE QUESTION REFERRED TO VOTERS
9 IN SUBSECTION (2) OF THIS SECTION.

10 (b) "STATE SEVERANCE TAX REVENUE" MEANS THE TOTAL GROSS
11 RECEIPTS REALIZED FROM THE SEVERANCE TAXES IMPOSED ON MINERALS
12 AND MINERAL FUELS UNDER THE PROVISIONS OF THIS ARTICLE.

13 (2) AT THE ELECTION HELD ON NOVEMBER 8, 2016, THE
14 SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED ELECTORS OF
15 THE STATE FOR THEIR APPROVAL OR REJECTION THE FOLLOWING BALLOT
16 ISSUE: "MAY THE STATE ANNUALLY RETAIN AND SPEND ANY STATE
17 SEVERANCE TAX REVENUE THAT IS DEPOSITED IN A RESERVE FUND AS A
18 VOTER-APPROVED REVENUE CHANGE TO THE CONSTITUTIONAL LIMITATION
19 ON STATE FISCAL YEAR SPENDING AND USE THE RESERVE TO SUPPORT
20 LOCAL GOVERNMENTS IMPACTED BY THE SEVERANCE OF MINERALS, FOR
21 STATE PROGRAMS FUNDED FROM THE SEVERANCE TAX OPERATIONAL
22 FUND, AND FOR WATER-RELATED INFRASTRUCTURE PROJECTS, SO LONG AS
23 THE STATE DOES NOT REPEAL OR REDUCE ANY OF THE EXISTING
24 SEVERANCE TAX EXEMPTIONS OR CREDITS OR CHANGE HOW THE RESERVE
25 IS USED?"

26 (3) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
27 VOTE "YES/FOR", THEN FOR ALL FISCAL YEARS BEGINNING ON OR AFTER

1 JULY 1, 2016, THE STATE MAY RETAIN AND SPEND ANY MONEY THAT IS
2 DEPOSITED IN THE SEVERANCE TAX RESERVE FUND IN ACCORDANCE WITH
3 SECTION 39-29-108 (2) (b) (I) AS A VOTER-APPROVED REVENUE CHANGE
4 TO THE LIMITATION ON STATE FISCAL YEAR SPENDING THAT IS IMPOSED BY
5 SECTION 20 (7) OF ARTICLE X OF THE STATE CONSTITUTION.

6 (4) FOR PURPOSES OF SECTION 1-5-407 (5) (b), C.R.S., THE BALLOT
7 ISSUE IS A PROPOSITION. SECTION 1-40-106 (3) (d), C.R.S., DOES NOT
8 APPLY TO THE BALLOT ISSUE.

9 (5) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
10 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
11 JULY 1, 2017.

12 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
13 VOTE "YES/FOR", THEN THIS SUBSECTION (5) IS REPEALED, EFFECTIVE
14 JULY 1, 2017.

15 **SECTION 4.** In Colorado Revised Statutes, 24-77-103.6, **amend**
16 (6) (c) as follows:

17 **24-77-103.6. Retention of excess state revenues - general fund**
18 **exempt account - required uses - excess state revenues legislative**
19 **report.** (6) As used in this section:

20 (c) "State revenues" means state revenues not excluded from state
21 fiscal year spending, as defined in section 24-77-102 (17), BUT DOES NOT
22 INCLUDE ANY STATE SEVERANCE TAX REVENUE THAT THE STATE SPENDS
23 AND RETAINS AS A VOTER-APPROVED REVENUE CHANGE TO THE
24 LIMITATION ON STATE FISCAL YEAR SPENDING IN ACCORDANCE WITH
25 SECTION 39-29-117 (3), C.R.S.

26 **SECTION 5.** In Colorado Revised Statutes, 37-60-121, **amend**
27 (1) (a) as follows:

1 **37-60-121. Colorado water conservation board construction**
2 **fund - creation of - nature of fund - funds for investigations -**
3 **contributions - use for augmenting the general fund - funds created**
4 **- repeal.** (1) (a) There is hereby created a fund to be known as the
5 Colorado water conservation board construction fund, which shall consist
6 of all moneys which may be appropriated thereto by the general assembly
7 or which may be otherwise made available to it by the general assembly
8 ~~and~~ such charges that may become a part thereof under the terms of
9 section 37-60-119, AND AMOUNTS TRANSFERRED THERETO IN
10 ACCORDANCE WITH SECTION 39-29-110.5 (4), C.R.S. All interest earned
11 from the investment of moneys in the fund shall be credited to the fund
12 and become a part thereof. Such fund shall be a continuing fund to be
13 expended in the manner specified in section 37-60-122 and shall not
14 revert to the general fund of the state at the end of any fiscal year.

15 **SECTION 6. Effective date - applicability.** (1) Except as
16 otherwise provided in subsection (2) of this section, this act takes effect
17 upon passage.

18 (2) (a) Sections 1, 2, 4, and 5 of this act take effect only if, at the
19 November 2016 statewide election, a majority of voters approve the ballot
20 issue referred in accordance with section 39-29-117 (2), Colorado
21 Revised Statutes.

22 (b) If the voters at the November 2016 statewide election approve
23 a measure described in paragraph (a) of this subsection (2), then sections
24 1, 2, 4, and 5 of this act take effect on the date of the official declaration
25 of the vote thereon by the governor.

26 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.