

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0138.02 Ed DeCecco x4216

SENATE BILL 19-016

SENATE SPONSORSHIP

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Senate Committees

Agriculture & Natural Resources

House Committees

Energy & Environment

Finance

Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE METHODOLOGY TO DISTRIBUTE MONEY IN THE**
102 **SEVERANCE TAX OPERATIONAL FUND AFTER CORE**
103 **DEPARTMENTAL PROGRAMS ARE FUNDED WITHOUT CHANGING**
104 **THE TRANSFERS TO THE NATURAL RESOURCES AND ENERGY**
105 **GRANT PROGRAMS.**

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://leg.colorado.gov/>.)

Water Resources Review Committee. Money in the severance tax operational fund (operational fund) is primarily used for 2 purposes.

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

HOUSE
3rd Reading Unamended
March 11, 2019

HOUSE
2nd Reading Unamended
March 8, 2019

SENATE
3rd Reading Unamended
January 23, 2019

SENATE
2nd Reading Unamended
January 22, 2019

The general assembly annually appropriates money from the operational fund for several core departmental programs, which were previously described as "tier-one programs". If money remains after these appropriations and after a reserve requirement for the core departmental programs is satisfied, then the state treasurer transfers money to an array of funds that support natural resources and energy grant programs, which were previously described as "tier-two programs".

There is also a requirement that the reserve include an amount equal to 15% of the maximum transfers to natural resources and energy grant programs required by law, and this reserve is used for the transfers, if necessary.

The bill changes the distribution of the money in the operational fund as follows:

- ! Separates the reserve into the core reserve and the grant program reserve, while maintaining the overall purpose of each reserve;
- ! Increases the maximum grant program reserve to 100% of the maximum transfers to the natural resources and energy grant programs required by law, which currently is equal to \$36,378,072;
- ! Requires the state treasurer to make the transfers to the natural resources and energy grant programs on August 15 after a fiscal year and to base the transfers on actual revenue as opposed to estimated revenue. Money from the grant program reserve may be used for these transfers; and
- ! If all of the appropriations and transfers have been made and both reserves are full, then the state treasurer is required to transfer any money remaining in the operational fund to the severance tax perpetual base fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-29-109.3, **amend**
3 (2) introductory portion, (3)(a), and (7)(c); **repeal** (4) and (5); and **add**
4 (3.5) and (8) as follows:

5 **39-29-109.3. Severance tax operational fund - core reserve -**
6 **grant program reserve - definitions - repeal.** (2) Subject to the
7 requirements of subsections (3) and ~~(4)~~ (3.5) of this section, if the general
8 assembly chooses not to spend up to one hundred percent of the money

1 in the operational fund ~~as specified in subsection (1) of this section~~ ON
2 CORE DEPARTMENTAL PROGRAMS, the state treasurer shall transfer the
3 following amounts: ~~with the exception of the fiscal year commencing on~~
4 ~~July 1, 2018:~~

5 (3) (a) (I) ~~Except as provided in paragraph (b) of this subsection~~
6 ~~(3),~~ It is the intent of the general assembly that the operational fund
7 maintain a reserve equal to the current state fiscal year's operating
8 appropriations for the CORE DEPARTMENTAL programs, ~~specified in~~
9 ~~subsection (1) of this section plus fifteen percent of the current fiscal~~
10 ~~year's transfers specified in subsection (2) of this section. Moneys may be~~
11 ~~transferred from~~ WHICH RESERVE IS REFERRED TO IN THIS SECTION AS THE
12 "CORE RESERVE". IF SEVERANCE TAX REVENUES ARE LESS THAN
13 ANTICIPATED, THEN MONEY IN THE CORE RESERVE IS AVAILABLE TO
14 SUPPORT THE CORE DEPARTMENTAL PROGRAMS, BUT THE CORE RESERVE
15 IS NOT AVAILABLE FOR THE TRANSFERS TO THE NATURAL RESOURCES AND
16 ENERGY GRANT PROGRAMS.

17 (II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
18 OPERATIONAL FUND MAINTAIN A SECOND RESERVE THAT IS EQUAL TO THE
19 MAXIMUM AMOUNT OF THE TRANSFERS TO THE NATURAL RESOURCES AND
20 ENERGY GRANT PROGRAMS UNDER THIS SECTION, WHICH RESERVE IS
21 REFERRED TO IN THIS SECTION AS THE "GRANT PROGRAM RESERVE".
22 MONEY IN the GRANT PROGRAM reserve MAY BE USED to offset temporary
23 revenue reductions in the CORE DEPARTMENTAL programs ~~specified in~~
24 ~~subsection (1) of this section and to offset reductions~~ for TRANSFERS TO
25 NATURAL RESOURCES AND ENERGY GRANT programs; ~~specified in~~
26 ~~subsection (2) of this section, up to fifteen percent of the current fiscal~~
27 ~~year's transfers specified in subsection (2) of this section;~~ except that, if

1 the general assembly determines that transfers of moneys from the GRANT
2 PROGRAM reserve are needed during a state revenue crisis, the transfers
3 shall be a loan from the GRANT PROGRAM reserve to be repaid as soon as
4 ~~moneys are~~ MONEY IS available.

5 (III) ~~This provision is~~ THE RESERVES CREATED IN THIS
6 SUBSECTION (3) ARE intended to mitigate the impact of fluctuations in the
7 amount of revenue credited to the fund from year to year so as to maintain
8 current levels of service for the CORE DEPARTMENTAL programs ~~specified~~
9 ~~in subsection (1) of this section~~ AND THE NATURAL RESOURCES AND
10 ENERGY GRANT PROGRAMS.

11 (3.5) (a) IF, AT THE END OF A FISCAL YEAR, THE CORE RESERVE
12 REQUIREMENT IS FULLY SATISFIED, THEN, ON AUGUST 15 FOLLOWING THE
13 END OF THE FISCAL YEAR, THE STATE TREASURER SHALL MAKE THE
14 TRANSFERS TO THE NATURAL RESOURCES AND ENERGY GRANT PROGRAMS
15 IN THE AMOUNTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. IF
16 NECESSARY, THE STATE TREASURER MAY USE MONEY IN THE GRANT
17 PROGRAM RESERVE TO SUPPLEMENT THE MONEY OTHERWISE AVAILBLE TO
18 MAKE THE TRANSFERS. IF THERE IS INSUFFICIENT MONEY IN THE
19 OPERATIONAL FUND FOR THE FULL TRANSFERS SPECIFIED IN SUBSECTION
20 (2) OF THIS SECTION, THEN THE STATE TREASURER SHALL
21 PROPORTIONALLY REDUCE THE TRANSFERS.

22 (b) IF THE GRANT PROGRAM RESERVE REQUIREMENT IS FULLY
23 SATISFIED AND THERE IS STILL MONEY IN THE OPERATIONAL FUND AS OF
24 THE END OF THE FISCAL YEAR, THEN, ON AUGUST 15 FOLLOWING THE END
25 OF THE FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER THE
26 REMAINDER TO THE SEVERANCE TAX PERPETUAL BASE FUND CREATED IN
27 SECTION 39-29-109 (2)(a).

1 (c) (I) NOTWITHSTANDING SUBSECTION (3.5)(a) OF THIS SECTION,
2 THE STATE TREASURER SHALL NOT MAKE ANY TRANSFERS ON AUGUST 15,
3 2019, UNLESS SEVERANCE TAX RECEIPTS ARE DEPOSITED IN THE
4 SEVERANCE TAX OPERATIONAL FUND DURING THE PRIOR FISCAL YEAR AND
5 THERE WAS SUFFICIENT MONEY IN THE CORE RESERVE SO THAT NO
6 TRANSFER WAS REQUIRED UNDER SUBSECTION (7)(c) OF THIS SECTION.

7 (II) THIS SUBSECTION (3.5)(c) IS REPEALED, EFFECTIVE JULY 1,
8 2020.

9 ~~(4) (a) Except as provided in subsections (4)(b) and (4)(c) of this~~
10 ~~section, all transfers specified in subsection (2) of this section shall be~~
11 ~~made by the state treasurer in three installments, as follows:~~

12 ~~(I) Forty percent on July 1;~~

13 ~~(II) Thirty percent on January 4;~~

14 ~~(III) Thirty percent on April 1.~~

15 ~~(b) (I) If the revenue estimate prepared by the staff of the~~
16 ~~legislative council in June of any fiscal year indicates that the amount of~~
17 ~~severance tax revenues to be credited to the operational fund in the next~~
18 ~~fiscal year as specified in section 39-29-109 (2)(b) is insufficient for the~~
19 ~~state treasurer to make the transfers set forth in subsection (2) of this~~
20 ~~section and to meet the reserve requirement specified in subsection (3) of~~
21 ~~this section, all transfers scheduled to be made on July 1 shall be~~
22 ~~proportionally reduced. The July 1 proportional reduction shall be~~
23 ~~calculated based on the size of the annual transfers as specified in~~
24 ~~subsection (2) of this section and shall be made to the extent necessary to~~
25 ~~cover forty percent of the projected shortfall between total moneys~~
26 ~~available in the operational fund and the sum of the total operating~~
27 ~~appropriations for the programs specified in subsection (1) of this section;~~

1 the total fiscal year's transfers specified in subsection (2) of this section;
2 and the reserve requirement specified in subsection (3) of this section;
3 except that up to one-third of the fifteen percent of the current fiscal
4 year's transfers specified as part of the reserve set forth in subsection (3)
5 of this section shall be used to offset any proportional reduction required
6 by this subparagraph (I) in any fiscal year.

7 (H) If the revenue estimate prepared by the staff of the legislative
8 council in December of any fiscal year indicates that the amount of
9 severance tax revenues credited to the operational fund as specified in
10 section 39-29-109 (2)(b) is insufficient for the state treasurer to make the
11 transfers set forth in subsection (2) of this section and to meet the reserve
12 requirement specified in subsection (3) of this section, all transfers
13 scheduled to be made on January 4 of the fiscal year shall be
14 proportionally reduced. The January 4 proportional reduction shall be
15 calculated based on the size of the annual transfers as specified in
16 subsection (2) of this section and shall be made to the extent necessary to
17 cover seventy percent of the projected shortfall between total moneys
18 available in the operational fund and the sum of the total operating
19 appropriations for the programs specified in subsection (1) of this section;
20 the total fiscal year's transfers specified in subsection (2) of this section;
21 and the reserve requirement specified in subsection (3) of this section;
22 except that up to one-third of the fifteen percent of the current fiscal
23 year's transfers specified as part of the reserve set forth in subsection (3)
24 of this section shall be used to offset any proportional reduction required
25 by this subparagraph (H) in any fiscal year.

26 (H) If the revenue estimate prepared by the staff of the legislative
27 council in March of any fiscal year indicates that the amount of severance

1 tax revenues credited to the operational fund as specified in section
2 39-29-109 (2)(b) is insufficient for the state treasurer to make the
3 transfers set forth in subsection (2) of this section and to meet the reserve
4 requirement specified in subsection (3) of this section, all transfers
5 scheduled to be made on April 1 of the fiscal year shall be proportionally
6 reduced. The April 1 proportional reduction shall be calculated based on
7 the size of the annual transfers as specified in subsection (2) of this
8 section and shall be made to the extent necessary to cover the projected
9 shortfall between total moneys available in the operational fund and the
10 sum of the total operating appropriations for the programs specified in
11 subsection (1) of this section, the total fiscal year's transfers specified in
12 subsection (2) of this section, and the reserve requirement specified in
13 subsection (3) of this section; except that any moneys remaining of the
14 fifteen percent of the current fiscal year's transfers specified as part of the
15 reserve set forth in subsection (3) of this section shall be used to offset
16 any proportional reduction required by this subparagraph (III) in any
17 fiscal year.

18 (IV) If proportional reductions are made to either the July 1 or
19 January 4 installments, the April 1 installment may be increased to offset
20 proportional reductions made earlier in the current fiscal year to the
21 maximum extent allowable under the revenue estimate prepared by the
22 staff of the legislative council in March of any fiscal year. The April 1
23 installment shall only be increased if the revenue estimate indicates that
24 the amount of severance tax revenues credited to the operational fund as
25 specified in section 39-29-109 (2)(b) is sufficient to fund the increased
26 installments and still meet the reserve requirement specified in subsection
27 (3) of this section.

1 ~~(c) Repealed.~~

2 ~~(d) Due to decreases in state severance tax revenue, the state~~
3 ~~treasurer shall not make any transfers specified in subsection (2) of this~~
4 ~~section for the fiscal year commencing on July 1, 2018, unless severance~~
5 ~~tax receipts are deposited in the severance tax operational fund during the~~
6 ~~fiscal year and there is sufficient money in the operational fund reserve~~
7 ~~so that no transfer is required under subsection (7)(c) of this section.~~

8 ~~(5) In addition to the distributions specified in paragraph (a) of~~
9 ~~subsection (4) of this section, if there were any proportional reductions~~
10 ~~required in a fiscal year as specified in paragraph (b) of said subsection~~
11 ~~(4), after the reserve specified in subsection (3) of this section is made~~
12 ~~whole if any portion of the reserve was used as specified in paragraph (b)~~
13 ~~of subsection (4) of this section to offset any proportional reduction~~
14 ~~required by said paragraph (b) of subsection (4), the state treasurer shall~~
15 ~~make proportional distributions on August 20 of the following fiscal year~~
16 ~~to the programs specified in subsection (2) of this section if the revenues~~
17 ~~actually received in the operational fund for the previous fiscal year were~~
18 ~~sufficient for the state treasurer to more fully make the transfers set forth~~
19 ~~in subsection (2) of this section and to fully meet the reserve requirement~~
20 ~~specified in subsection (3) of this section.~~

21 ~~(7) The state treasurer shall transfer the following amounts from~~
22 ~~the general fund to the operational fund:~~

23 ~~(c) On July 1, 2019, an amount equal to the portion of the~~
24 ~~operational fund CORE reserve required by subsection (3)(a) of this~~
25 ~~section for the operating appropriations for the fiscal year commencing~~
26 ~~on July 1, 2019, for the programs specified in subsection (1) of this~~
27 ~~section or fourteen million two hundred fourteen thousand eight hundred~~

1 fifty-four dollars, whichever amount is less.

2 (8) AS USED IN THIS SECTION:

3 (a) "CORE DEPARTMENTAL PROGRAMS" MEANS THE PROGRAMS
4 SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

5 (b) "TRANSFERS TO THE NATURAL RESOURCES AND ENERGY GRANT
6 PROGRAMS" MEANS THE TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS
7 SECTION.

8 **SECTION 2. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.