

## CHAPTER 68

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**TAXATION**


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## SENATE BILL 19-016

BY SENATOR(S) Donovan and Coram, Cooke, Court, Crowder, Gardner, Ginal, Marble, Priola, Rankin, Scott, Sonnenberg, Tate, Todd, Woodward, Zenzinger;  
also REPRESENTATIVE(S) Esgar and Saine, Roberts, Arndt, Catlin, Gray, Hansen, Herod, Kipp, McCluskie, Sandridge, Snyder, Titone, Valdez D., Becker.

## AN ACT

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

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

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

**39-29-109.3. Severance tax operational fund - core reserve - grant program reserve - definitions - repeal.** (2) Subject to the requirements of subsections (3) and ~~(4)~~ **(3.5)** of this section, if the general assembly chooses not to spend up to one hundred percent of the money in the operational fund ~~as specified in subsection (1) of this section~~ ON CORE DEPARTMENTAL PROGRAMS, the state treasurer shall transfer the following amounts: ~~with the exception of the fiscal year commencing on July 1, 2018:~~

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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

## NATURAL RESOURCES AND ENERGY GRANT PROGRAMS.

(II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE OPERATIONAL FUND MAINTAIN A SECOND RESERVE THAT IS EQUAL TO THE MAXIMUM AMOUNT OF THE TRANSFERS TO THE NATURAL RESOURCES AND ENERGY GRANT PROGRAMS UNDER THIS SECTION, WHICH RESERVE IS REFERRED TO IN THIS SECTION AS THE "GRANT PROGRAM RESERVE". MONEY IN THE GRANT PROGRAM RESERVE MAY BE USED TO OFFSET temporary revenue reductions in the CORE DEPARTMENTAL programs ~~specified in subsection (1) of this section and to offset reductions~~ for TRANSFERS TO NATURAL RESOURCES AND ENERGY GRANT programs; ~~specified in subsection (2) of this section, up to fifteen percent of the current fiscal year's transfers specified in subsection (2) of this section;~~ except that, if the general assembly determines that transfers of moneys from the GRANT PROGRAM reserve are needed during a state revenue crisis, the transfers shall be a loan from the GRANT PROGRAM reserve to be repaid as soon as moneys are MONEY IS available.

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

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

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

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

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

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

- ~~(I) Forty percent on July 1;~~
- ~~(II) Thirty percent on January 4;~~
- ~~(III) Thirty percent on April 1.~~

~~(b) (I) If the revenue estimate prepared by the staff of the legislative council in June of any fiscal year indicates that the amount of severance tax revenues to be credited to the operational fund in the next fiscal year as specified in section 39-29-109 (2)(b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on July 1 shall be proportionally reduced. The July 1 proportional reduction shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section and shall be made to the extent necessary to cover forty percent of the projected shortfall between total moneys available in the operational fund and the sum of the total operating appropriations for the programs specified in subsection (1) of this section, the total fiscal year's transfers specified in subsection (2) of this section, and the reserve requirement specified in subsection (3) of this section; except that up to one-third of the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this subparagraph (I) in any fiscal year.~~

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

~~(III) If the revenue estimate prepared by the staff of the legislative council in March of any fiscal year indicates that the amount of severance tax revenues credited to the operational fund as specified in section 39-29-109 (2)(b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on April 1 of the fiscal year shall be proportionally reduced. The April 1 proportional reduction shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section and shall be made to the extent necessary to cover the projected shortfall between total moneys available in the operational fund and the sum of the total operating appropriations for the programs specified in subsection (1) of this section, the total~~

fiscal year's transfers specified in subsection (2) of this section, and the reserve requirement specified in subsection (3) of this section; except that any moneys remaining of the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this subparagraph (III) in any fiscal year.

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

~~(c) Repealed.~~

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

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

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

(c) On July 1, 2019, an amount equal to the ~~portion of the operational fund~~ CORE reserve ~~required by subsection (3)(a) of this section~~ for the operating appropriations for the fiscal year commencing on July 1, 2019, for the programs specified in subsection (1) of this section or fourteen million two hundred fourteen thousand eight hundred fifty-four dollars, whichever amount is less.

(8) AS USED IN THIS SECTION:

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

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

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

Approved: April 1, 2019