



**Legislative Council Staff**

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**Final Fiscal Note**

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**Drafting Number:** LLS 21-0998 **Date:** October 7, 2021  
**Prime Sponsors:** Sen. Hansen; Rankin **Bill Status:** Signed into Law  
Rep. McCluskie; Ransom **Fiscal Analyst:** Max Nardo | 303-866-4776  
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**Bill Topic:** **STATE SEVERANCE TAX TRUST FUND ALLOCATION**

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- Summary of Fiscal Impact:**
- State Revenue
  - State Expenditure
  - State Transfer
  - TABOR Refund
  - Local Government
  - Statutory Public Entity

The bill requires new metropolitan districts to pay the state for oil and gas severance tax property tax credits, and restructures the funding mechanism for nine grant programs currently financed with severance tax revenue. It increases state revenue and expenditures on an ongoing basis.

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**Appropriation Summary:** For FY 2021-22, the bill requires and includes appropriations of \$9.5 million.

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**Fiscal Note Status:** The fiscal note reflects the enacted bill.

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**Table 1  
State Fiscal Impacts Under SB 21-281**

		<b>Budget Year FY 2021-22</b>	<b>Out Year FY 2021-22</b>
<b>Revenue</b>		not estimated	not estimated
<b>Expenditures</b>	Cash Funds	at least \$9.5 million	at least \$9.5 million
	<b>Total Expenditures</b>	<b>at least \$9.5 million</b>	<b>at least \$9.5 million</b>
<b>Transfers</b>	General Fund	(\$9.5 million)	(\$9.5 million)
	Cash Funds	\$9.5 million	\$9.5 million
	<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>
<b>TABOR Refund</b>		-	-

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## **Summary of Legislation**

The bill requires new metropolitan districts to pay the state for the property tax credits on oil and gas severance taxes. The bill also eliminates automatic severance tax funding for nine existing grant programs and establishes alternative financing for six of these programs. Lastly, it directs several state agencies to recommend changes to the state's severance tax structure.

**Metropolitan districts.** Under current law, oil and gas operators receive a tax credit against state severance taxes equal to 87.5 percent of their property taxes. The bill requires new metropolitan districts to pay the state an amount equivalent to the total of these credits associated with their taxes.

**Severance tax grant programs.** Under current law, nine grant programs are financed from the Severance Tax Operational Fund. Each program receives funding annually following a statutory formula when sufficient revenue is available. This bill eliminates the current formula-based transfers for all nine programs and replaces it with the following:

- three programs remain funded by the Operational Fund in DNR, and are transitioned to discretionary annual funding subject to appropriation;
- three programs transition to discretionary annual funding from the Severance Tax Perpetual Base Fund, with annual transfers to their continuously appropriated cash funds determined by the Colorado Water Conservation Board (CWCB); and
- three programs are eliminated as severance tax recipients, with no replacement financing established by this bill.

A detailed display of the new funding for severance tax grant programs is shown in Table 2.

**Table 2**  
**Severance Tax Grant Programs—New Financing Under SB 21-281**

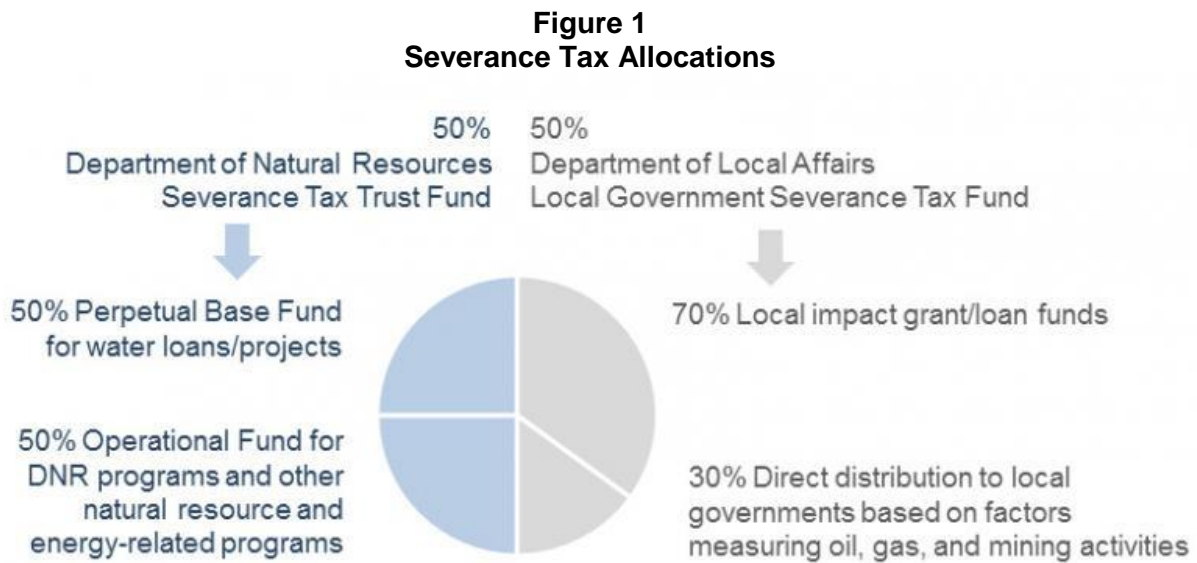
<b>Severance Tax Tier 2 Grant Program (current maximum funding amount)</b>	<b>New Fund Source</b>	<b>Discretionary Authority</b>	<b>Max. Amount Authorized</b>
<b>Species Conservation Trust Fund</b> (\$5.0 million)	Operational Fund	General Assembly – Annual Budget	\$5.0 million
<b>Aquatic Nuisance Species Program</b> (\$4.0 million)	Operational Fund	General Assembly – Annual Budget	\$4.0 million
<b>Soil Conservation District Grant Program.</b> Administered by Department of Agriculture. (\$0.45 million)	Operational Fund	General Assembly – Annual Budget	\$0.45 million
<b>Water Supply Reserve Fund</b> (\$10.0 million)	Severance Tax Perpetual Base Fund	CWCB	None specified
<b>Interbasin Compact Committee</b> (\$0.75 million)	Severance Tax Perpetual Base Fund	CWCB	None specified
<b>Water Efficiency Grant Program</b> (\$0.55 million)	Severance Tax Perpetual Base Fund	CWCB	None specified
<b>Low-Income Energy Assistance Programs (LEAP).</b> Administered by Department of Human Services, CO Energy Office, and Energy Outreach CO. (\$13.0 million)	None specified—see Background Section on HB 21-1105	-	-
<b>Forestry Grant Programs.</b> Administered by State Forest Service and Department of Public Safety. (\$2.5 million)	None specified	-	-
<b>Agriculture Value-added Grants.</b> Established by House Bill 21-1242, administered by the Department of Agriculture. (\$0.5 million)	None specified	-	-
<b>Annual Total: up to \$36.8 million</b>			

**Severance tax working group.** The departments of Revenue, Natural Resources, Local Affairs, and the Office of State Planning and Budgeting are directed to analyze the data collection, tax structure, tax expenditures, and allocation of severance taxes and submit written recommendations for any changes to the Joint Budget Committee by December 15, 2021.

**Operational Fund reserves.** The Operational Fund reserve is increased to twice the current fiscal year’s appropriations. The reserve for Operational Fund grant programs is repealed.

## Background

**Severance tax revenue.** State severance tax revenue is allocated as shown in Figure 1. Revenue increases attributable to the bill are also distributed according to these allocations.



**Operational Fund expenditures.** Under current law, the distribution of revenue from the fund is based on a statutory formula which first directs revenue via discretionary annual appropriation to core programs (formerly known as “Tier 1” programs) that support permanent staff and ongoing operations at the DNR and the Colorado Geological Survey. It then requires that the Operational Fund maintain a reserve equal to 100 percent of core program appropriations. When there is available revenue in excess of these core program obligations, it is distributed proportionally across a collection of natural resources and energy grant programs (formerly known as “Tier 2” programs) up to a maximum amount specified in statute, as shown in Table 2 above. Under current law and the most recent severance tax revenue forecast from Legislative Council Staff, grant programs are not projected to receive any distributions from the Operational Fund until FY 2024-25 at the earliest.

**Metropolitan district.** A Metropolitan District is a local governmental entity formed to finance or provide a public improvement; the district is often a subdivision developer. Metro districts must provide at least two of ten specified purposes, such as water, sanitation, fire protection, or street improvement. Metro districts can impose property taxes and issue debt. Colorado currently has an estimated 1,757 metropolitan districts in operation, the majority of which were formed after 1980.

**LEAP Funding / House Bill 21-1105.** HB 21-1105 creates an alternative fuel assistance financing program and repeals severance tax grant transfers to the LEAP programs. Currently these programs receive up to \$13.0 million per year from the Operational Fund. These programs are administered by the Department of Human Services, Energy Outreach Colorado, and the Colorado Energy Office.

## **State Revenue**

State Revenue will increase from payments from new metropolitan districts equivalent to property tax credits taken against severance taxes. Because the formation of new districts and their tax structures cannot be determined, this revenue is not estimated.

## **State Transfers**

In both FY 2021-22 and FY 2022-23, the bill transfers \$9.5 million from the General Fund to the Severance Tax Operational Fund. This transfer amount is equivalent to the authorized amounts for the three programs that continue to be financed by the Operational Fund.

## **State Expenditures**

In the long term, total state expenditures in the DNR are expected to increase by the amounts DNR and DOLA receive from newly created metropolitan districts associated with the severance tax credit.

In the short term, expenditures are anticipated to increase by the amount transferred from the General Fund and other newly authorized transfers as follows:

- *Operational Fund programs.* Because transfers from the General Fund are associated with the amounts authorized for these three programs, the fiscal note assumes these specific amounts will be appropriated and spent. Expenditures for the three programs will cumulatively increase by \$9.5 million in each of FY 2021-22 and FY 2022-23.
- *Perpetual Base Fund programs.* Expenditures are assumed to increase in the three programs newly financed by the Perpetual Base Fund beginning in FY 2021-22, though amounts are not estimated. The CWCB determines the amounts to be transferred to these programs. For informational purposes, these programs are collectively eligible to receive up to \$11.3 million annually under the current formula. The current Perpetual Base Fund balance is about \$422 million.

**Other state agencies.** Workload for the agencies involved in the severance tax working group can be accomplished within existing appropriations.

## **Special Districts**

The bill increases costs for new metropolitan districts to pay the state for oil and gas property taxes deductions on severance taxes.

## **Effective Date**

This bill was signed into law by the Governor and took effect on June 18, 2021.

## **State Appropriations**

For FY 2021-22, the bill requires appropriations of \$9,456,005 from the Severance Tax Operational Fund. This includes:

- \$5,000,000 to the Species Conservation trust Fund;
- \$4,006,005 to the Division of Parks and Wildlife Aquatic Nuisance Species Fund; and
- \$450,000 to the Conservation District Grant Fund.

## **State and Local Government Contacts**

Natural Resources  
Human Services  
Counties

Local Affairs  
Agriculture  
Municipalities

Special Districts  
Revenue