JOINT
BUDGET
COMMITTEE

STAFF BUDGET BRIEFING
FY 2020-21

DEPARTMENT OF NATURAL RESOURCES

(Division of Reclamation, Mining, and Safety,
Oil and Gas Conservation Commission,
State Board of Land Commissioners, and Severance Tax Policy)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
ALFREDO KEMM, JBC STAFF
DECEMBER 9, 2019

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR · DENVER · COLORADO · 80203
TELEPHONE: (303) 866-2061 · TDD: (303) 866-3472

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DEPARTMENT OF NATURAL RESOURCES

(Division of Reclamation, Mining, and Safety, Oil and Gas Conservation Commission, State Board of Land Commissioners, and Severance Tax Policy)

DEPARTMENT OVERVIEW

The Department of Natural Resources is responsible for developing, protecting, and enhancing Colorado's natural resources for the use and enjoyment of the State's present and future residents and visitors. The Department is comprised of the following divisions:

- The DIVISION OF RECLAMATION, MINING, AND SAFETY (DRMS) regulates development and reclamation at mining sites, reclaims abandoned mine sites, and provides safety training for mine operators and employees.

- The OIL AND GAS CONSERVATION COMMISSION (OGCC) promotes the exploration, development, and conservation of Colorado's oil and natural gas resources by issuing permits, conducting inspections, pursuing enforcement actions, and engaging in public outreach efforts.

- The STATE BOARD OF LAND COMMISSIONERS (State Land Board or Land Board) manages agricultural, commercial, mineral, and other leases on state-owned lands to generate reasonable and consistent revenue for public schools and other trust beneficiaries over time.

The four remaining divisions (THE EXECUTIVE DIRECTOR'S OFFICE, THE DIVISION OF PARKS AND WILDLIFE, THE COLORADO WATER CONSERVATION BOARD, and THE WATER RESOURCES DIVISION) are included in a separate staff briefing.

This packet also includes an overview discussion of STATEWIDE SEVERANCE TAX POLICY.

DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	$30,864,532	$32,005,418	$43,464,597	$35,196,322
Cash Funds	230,795,872	238,857,665	260,148,716	244,267,527
Reappropriated Funds	6,932,593	7,933,687	7,523,560	7,203,854
Federal Funds	26,699,468	26,568,474	26,682,640	26,812,949
TOTAL FUNDS	**$295,292,465**	**$305,365,244**	**$337,819,513**	**$313,480,652**
Full Time Equiv. Staff	1,458.6	1,464.5	1,495.9	1,512.9

*Requested appropriation.

DIVISION OF RECLAMATION MINING AND SAFETY: RECENT APPROPRIATIONS

Funding Source	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	$0	$0	$0	$0
Cash Funds	4,460,425	4,502,244	4,595,005	4,658,880
Federal Funds	3,488,792	3,391,838	3,377,748	3,354,530
TOTAL FUNDS	**$7,949,217**	**$7,894,082**	**$7,972,753**	**$8,013,410**
Full Time Equiv. Staff	67.9	65.8	65.8	64.8

*Requested appropriation.

OIL AND GAS CONSERVATION COMMISSION: RECENT APPROPRIATIONS

Funding Source	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	$0	$0	$0	$0
Cash Funds	12,370,025	17,950,270	20,516,512	19,998,229
Federal Funds	101,129	100,289	96,559	100,255
TOTAL FUNDS	**$12,471,154**	**$18,050,559**	**$20,613,071**	**$20,098,484**
Full Time Equiv. Staff	110.3	116.3	140.3	147.3

*Requested appropriation.

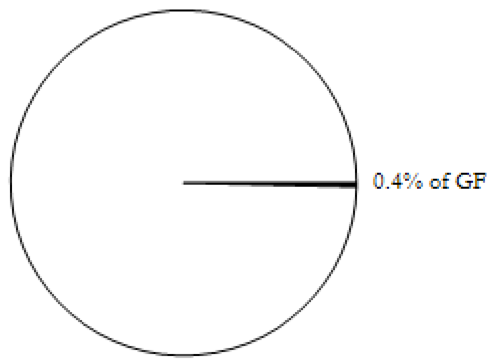
STATE BOARD OF LAND COMMISSIONERS: RECENT APPROPRIATIONS

Funding Source	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21 *
General Fund	$0	$0	$0	$0
Cash Funds	4,864,096	4,956,149	5,039,461	5,120,601
Reappropriated Funds	225,000	225,000	225,000	225,000
Federal Funds	0	0	0	0
TOTAL FUNDS	**$5,089,096**	**$5,181,149**	**$5,264,461**	**$5,345,601**
Full Time Equiv. Staff	41.0	42.0	42.0	42.0

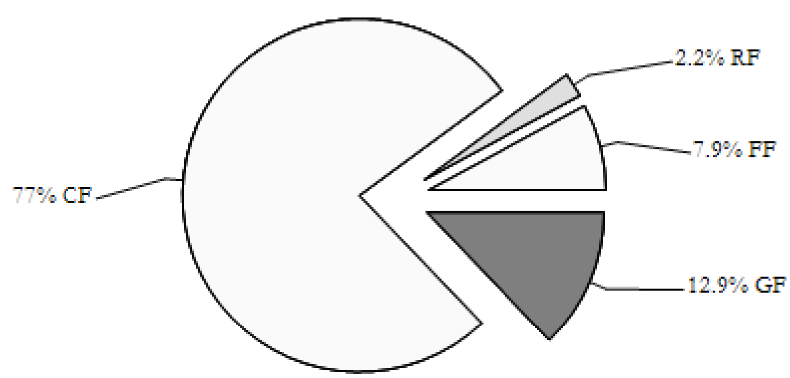
*Requested appropriation.

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

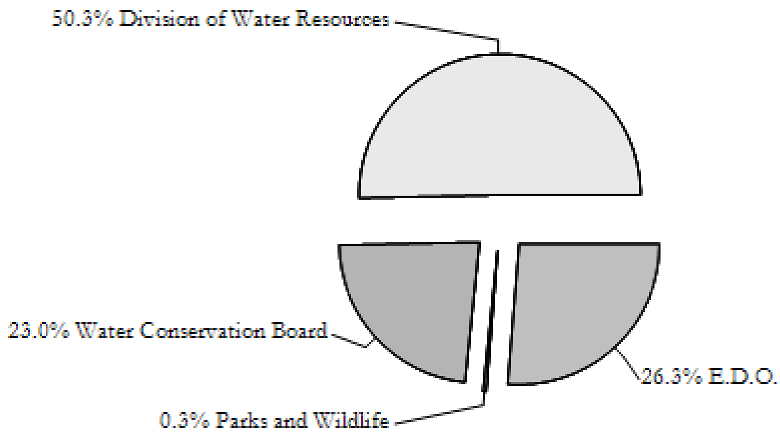


Department Funding Sources

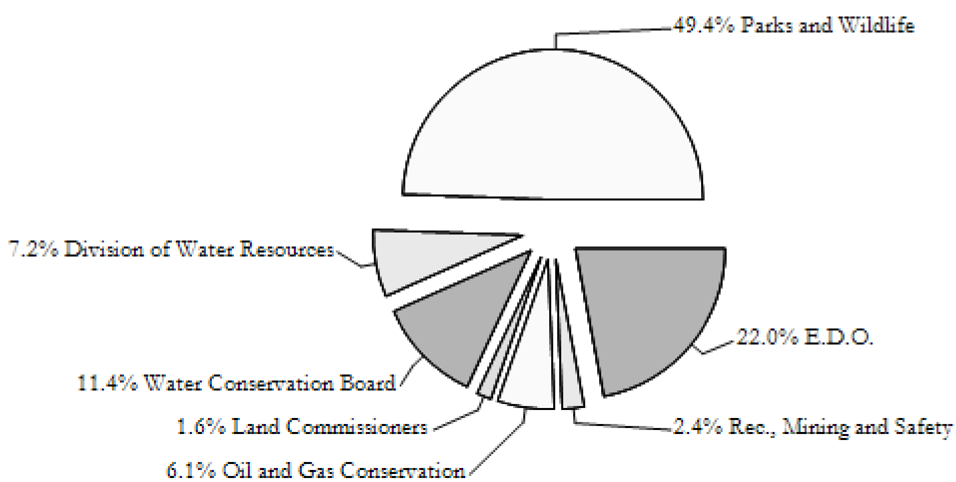


All charts are based on the FY 2019-20 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2019-20 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

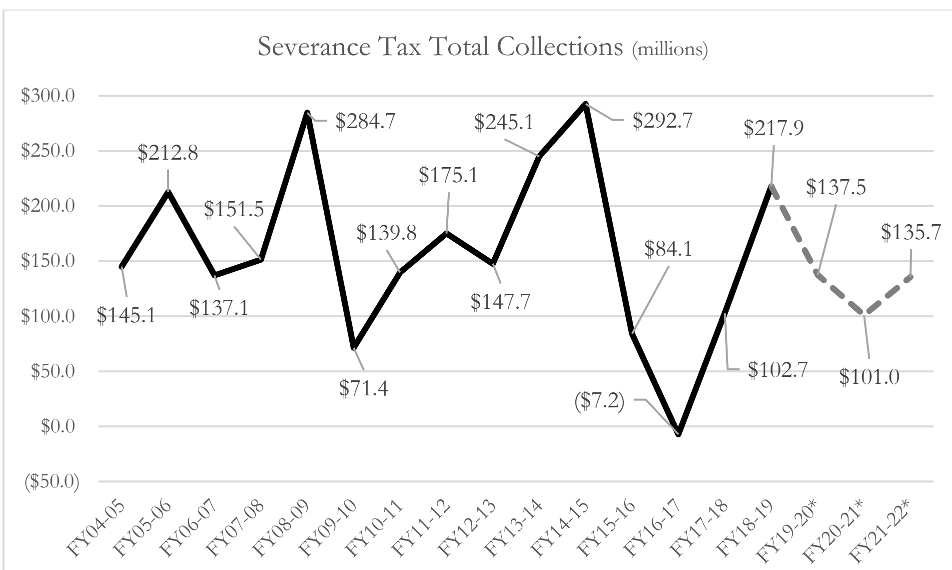
Funding for the Department of Natural Resources in FY 2019-20 consists of 11.2 percent General Fund, 77.9 percent cash funds, 2.3 percent reappropriated funds, and 8.6 percent federal funds.

Funding for the divisions covered in this briefing packet consists of 89.0 percent cash funds, 0.7 percent reappropriated funds, and 10.3 percent federal funds in FY 2019-20. These divisions did not receive General Fund appropriations in FY 2019-20 and have not requested General Fund appropriations in FY 2020-21. Some of the major factors driving the Department's budget are discussed below.

SEVERANCE TAX REVENUE (OPERATIONAL FUND)

Colorado levies a tax on the severance of non-renewable resources including oil and gas, coal, molybdenum, and metallic minerals. The Department administers 50.0 percent of total severance tax revenue which is credited to the Severance Tax Trust Fund for "programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water" (Section 39-29-109, C.R.S.). This revenue is split equally between the Operational Fund, used to support Department programs and personnel, and the Perpetual Base Fund, which provides loans or grants for water projects.

The September 2019 Legislative Council Staff (LCS) revenue forecast estimates total severance tax revenues (excluding interest earnings) to be $137.5 million for FY 2019-20, which represents a 43.1 percent decrease from projected revenue for the prior year. The forecast for FY 2020-21 currently estimates severance tax revenues totaling $101.0 million. The following chart outlines severance tax total collections since FY 2004-05.



Oil and gas accounts for 95.3 percent of total severance tax revenue for the last five years and 97.2 percent in FY 2018-19. Severance tax collections from oil and gas production totaled $211.9 million in FY 2018-19 and are forecasted to be $131.7 million for FY 2019-20 and $95.4 million for FY 2020-21. Due to the preponderance of oil and gas in severance tax collections, the chart above essentially reflects oil and gas severance tax collections and the volatility of collections from year to year due to volatility in oil and gas production.

Volatility in production is generally tied to global market prices for oil and gas. Stable prices from year to year lead to stable production and severance tax collections. As market prices increase, production generally increases and as market prices decrease, production generally decreases. Wide swings in market prices from year to year generates volatility in production volume, as volume responds to price. Increased production volume sold with increased prices or decreased production volume sold with decreased prices creates production volatility which leads to volatile tax collections on production value.

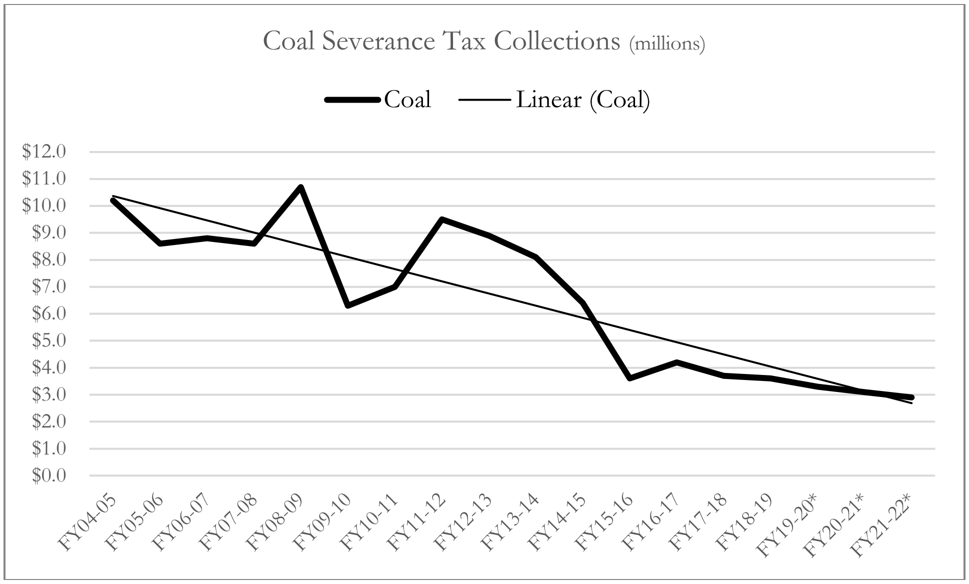
The LCS forecast states that oil and natural gas production in Colorado has increased annually since 2016 and is expected to continue to increase through the forecast period. Colorado oil producers received an average of $59.56 per barrel in 2018 and are estimated to receive $53.77 per barrel in 2019, and $56.40 per barrel in 2020.

Although production is generally forecasted to increase, severance tax collections are estimated to decrease over the forecast period. This decline is related to the second factor in the volatility of severance tax collections which is entirely related to state tax policy. Section 39-29-105 (2), C.R.S., provides an ad valorem property tax credit equal to 87.5 percent of property taxes for oil and gas production. Property taxes are based on the prior year's production value and paid in arrears. This effectively creates a two-year lag between production and the application of the property tax credit.

By this mechanism, the property tax credit for oil and gas severance taxes amplifies the volatility of oil and gas global market prices, production, and severance tax collections. Additionally, the average lifespan of an active oil and gas production site in Colorado is approximately 12 years. Typically, both due to the release of formation pressure and operators desire to extract as much from the site as soon as possible, production from a well follows a negative exponential curve. The first year a well is in production, it will have a maximum production volume that then quickly tapers off in subsequent production years. The well lifecycle further amplifies volatility because operators in year-three of production are offsetting *ad valorem* taxes from year-one production volume.

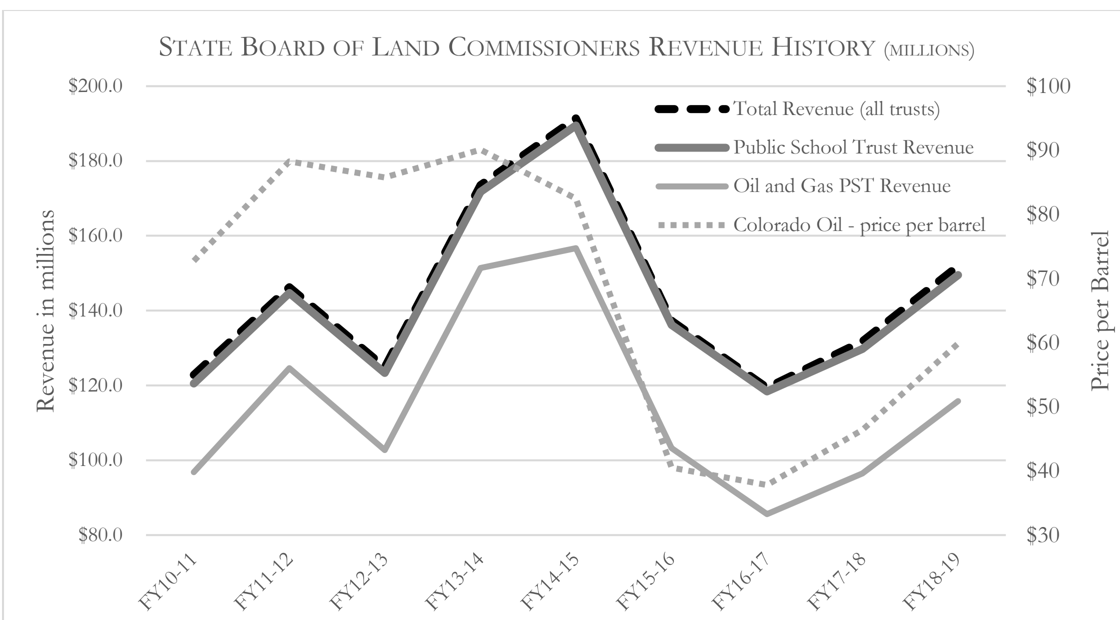
Collections in FY 2018-19 were high based on high current production and relatively low property taxes based on 2016 oil prices and production. Collections in FY 2019-20 will decrease on a slight decline in prices and slight increase in production with an increase in the value of property taxes from 2017 production. As oil and gas production continues to increase modestly over the forecast period, the property tax credit claimed will similarly increase.

Severance tax volatility was once slightly stabilized by severance tax on coal production, but as the market for coal constricts, the volume of coal severed in Colorado continues to decrease. Severance tax from coal production ranged from a high of $10.7 million in FY 2008-09 to a low of $3.6 million in the most recent fiscal year (FY 2018-19). LCS forecast estimates decreases to $3.3 million, $3.1 million, and $2.9 million over the forecast period. The following chart reflects severance tax revenue from coal through FY 2018-19, LCS forecast estimates for FY 2019-20 through FY 2021-22, and a liner trend line of the period included in the chart.



STATE BOARD OF LAND COMMISSIONERS

The State Board of Land Commissioners (State Land Board) manages agricultural, commercial, mineral, and other leases on eight public trusts of land and is tasked with generating reasonable and consistent revenue for trust beneficiaries over time. The Public School Trust benefiting K-12 education is the largest of the trusts managed by the State Land Board, accounting for 98.8 percent of total trust revenues since FY 2010-11. Fifty percent of the gross amount of income received during the fiscal year from state public school lands is deposited in the Public School Capital Construction Assistance Fund for the Building Excellent Schools Today (BEST) program. The following chart illustrates the State Land Board revenue experience since FY 2010-11, reflecting the share of Public School Trust revenue and the share of oil and gas revenues within that trust.



As reflected in the chart, State Land Board revenue is predominantly driven by oil and gas revenue. Particularly since FY 2014-15, oil and gas revenue, as well as total revenue, correlate with the price of oil.

The following table outlines State Land Board revenue and operating expenses since FY 2010-11.

STATE BOARD OF LAND COMMISSIONERS - REVENUE AND EXPENSES (MILLIONS)									
	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19
Public School Trust Revenue									
Minerals Revenue									
Oil and Gas	$34.2	$46.2	$49.5	$101.3	$106.3	$60.5	$65.3	$81.2	$112.8
Oil and Gas Bonus	62.6	78.4	53.2	50.0	50.4	42.7	20.3	15.3	3.0
Subtotal - Oil and Gas PST Revenue	$96.9	$124.6	$102.7	$151.4	$156.7	$103.2	$85.6	$96.5	$115.8
O&G percent of PST Revenue	80.3%	86.1%	83.3%	88.1%	82.7%	75.8%	72.3%	74.3%	77.5%
annual percentage change		28.6%	(17.5%)	47.3%	3.5%	(34.1%)	(17.1%)	12.7%	20.0%
9-year CAGR									2.0%
Coal	7.8	3.4	1.0	0.3	5.0	2.3	6.7	3.6	5.5
Other	2.2	1.9	1.9	2.5	4.1	2.2	2.2	2.1	2.1
Subtotal - Minerals Revenue	$106.91	$129.9	$105.6	$154.1	$165.9	$107.7	$94.5	$102.2	$123.4
Surface Revenue	10.6	11.4	13.4	13.1	15.4	17.8	16.9	20.1	19.2
Commercial Revenue	2.4	2.6	3.4	3.8	3.0	3.6	4.3	5.2	3.5
Renewables Revenue	0.4	0.6	0.6	0.7	0.6	0.8	1.0	1.8	1.7
Interest Income	0.2	0.2	0.3	0.2	0.9	1.0	0.3	0.5	0.7
Non-reinvested Land Sales	0.0	0.0	0.0	0.0	3.8	5.3	1.4	0.0	1.0
Subtotal - Public School Trust Revenue	**$120.6**	**$144.7**	**$123.3**	**$171.8**	**$189.5**	**$136.2**	**$118.4**	**$129.8**	**$149.5**
Other Trust Revenue	2.2	1.6	1.6	1.8	1.9	1.1	1.0	2.0	2.4
Total Revenue	$122.8	$146.3	$124.9	$173.6	$191.4	$137.3	$119.4	$131.8	$151.9
annual percentage change		19.1%	(14.6%)	39.0%	10.3%	(28.3%)	(13.0%)	10.4%	15.3%
9-year CAGR									2.4%
Operating Expenses	$5.1	$5.1	$5.1	$7.1	$6.4	$6.7	$6.4	$7.0	$7.6
Operating Percent of Revenue	4.2%	3.5%	4.1%	4.1%	3.3%	4.9%	5.4%	5.3%	5.0%

OIL AND GAS ACTIVITY

The Colorado Oil and Gas Conservation Commission (OGCC) is charged with fostering the responsible, balanced development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources. The OGCC is funded primarily by two sources of cash funds: the Severance Tax Operational Fund and the Oil and Gas Conservation and Environmental Response Fund. The following table outlines OGCC workload measures.

OGCC WORKLOAD MEASURES						
	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Forecast[a]	FY 2020-21 Forecast[a]
Active Wells	53,651	54,605	53,738	53,045	52,200	51,800
Drilling Permits Requested	3317	4624	8127	7576	3000	3,000
Well Starts (Spud)	1083	1525	1908	1736	1300	1,300
Active Drilling Rigs	25	25	34	33	26	26
Site Investigations & Remediation Workplans	514	456	613	1106	1400	2,000
Average Inspection Frequency (years)	1.3	1.4	1.8	1.5	1.6	1.6
Hearing Applications	680	635	950	961	700	700
Known Orphaned Sites at Start of Year			267	365	422	470
Orphaned Sites Where Work Was Performed			61	45	200	200

OGCC Workload Measures						
	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Forecast[a]	FY 2020-21 Forecast[a]
OGCC Expenditures[b]	**$11,403,628**	**$10,890,389**	**$12,996,675**	**$13,268,316**	**$20,613,071**	**$20,098,484**
Total FTE	**$104**	**$102**	**$102**	**$110**	**$140**	**147.3**

[a] Data included for FY 2019-20 and FY 2020-21 are estimates provided by the Oil and Gas Conservation Commission.

[b] Expenditures are shown for the division only. They include all fund sources (including bond claims) but do not include centrally appropriated items funded in the Executive Director's Office. Expenditures for FY 2019-20 reflect the appropriated amount (Long Bill and special bills). Figures for FY 2020-21 reflect the department's request.

SUMMARY: FY 2019-20 APPROPRIATION & FY 2020-21 REQUEST

Department Of Natural Resources – DRMS, OGCC, and SBLC	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2019-20 Appropriation:						
SB 19-207 (Long Bill)	33,314,777	0	29,615,470	225,000	3,474,307	243.1
Other legislation	535,508	0	535,508	0	0	5.0
TOTAL	**$33,850,285**	**$0**	**$30,150,978**	**$225,000**	**$3,474,307**	**248.1**
FY 2020-21 Requested Appropriation:						
FY 2019-20 Appropriation	$33,850,285	0	$30,150,978	$225,000	$3,474,307	248.1
R1 Electronic oil and gas filing system	0	0	0	0	0	0.0
R5 True-up orphaned well and emergency spending authority	(1,761,000)	0	(1,761,000)	0	0	0.0
R9 Optimize inactive mines program spending authority	0	0	0	0	0	0.0
R10 True-up coal program spending authority	(164,500)	0	(34,545)	0	(129,955)	(1.0)
Annualize prior year legislation	1,107,580	0	1,092,466	0	15,114	7.0
Annualize prior year budget actions	442,564	0	356,438	0	86,126	0.0
Indirect cost assessment	(17,434)	0	(26,627)	0	9,193	0.0
TOTAL	**$33,457,495**	**$0**	**$29,777,710**	**$225,000**	**$3,454,785**	**254.1**
INCREASE/(DECREASE)	($392,790)	$0	($373,268)	$0	($19,522)	6.0
Percentage Change	(1.2%)	0.0%	(1.2%)	0.0%	(0.6%)	2.4%

R1 ELECTRONIC OIL AND GAS FILING SYSTEM: The request, from the Oil and Gas Conservation Commission (OGCC), includes an increase of $147,840 cash funds from the Oil and Gas Conservation and Environmental Response Fund in FY 2020-21 for the development of an electronic filing system to manage hearing applications. The table above reflects a zero-dollar appropriation because the appropriation is located in the Payments to OIT line item in the Executive Director's Office. The request includes a FY 2019-20 supplemental request to be submitted in in January for $83,710 cash funds, and ongoing annual subscription fees of $35,640.

R5 TRUE-UP ORPHANED WELL AND EMERGENCY SPENDING AUTHORITY: The request includes a $1.8 million cash funds decrease from the Oil and Gas Conservation and Environmental Response Fund equal to an 8.75 percent decrease in the overall OGCC program budget. The request proposes a $1.2 million decrease to the Plugging and Reclaiming Abandoned Wells line item (Orphaned Well Program) and a $0.6 million decrease to the Emergency Response line item.

R9 OPTIMIZE INACTIVE MINES PROGRAM SPENDING AUTHORITY: The request includes a budget neutral line item consolidation in the Division of Reclamation, Mining, and Safety's Inactive Mines Reclamation Program (IMRP). The request consolidates the Legacy Mine Hydrology Projects, Reclamation of Forfeited Mine Sites, and Emergency Response Costs line items into the Inactive Mines Program Costs line item. As a part of the request, the Department requests legislation to eliminate statutory transfers from the Severance Tax Operational Fund to IMRP cash funds that would no longer be necessary.

R10 TRUE-UP COAL PROGRAM SPENDING AUTHORITY: The request includes a decrease of $164,500 total funds, including a decrease of $34,545 cash funds from the Severance Tax Operational Fund and a decrease of $129,955 federal funds and a decrease of 1.0 FTE in the Coal Land Reclamation program. This request reflects an ongoing reduction and elimination of a permanently vacant position to better align staff and funding with changes in the coal industry.

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes a net increase of $1.1 million total funds to reflect the FY 2020-21 impact of bills passed in previous sessions, summarized in the following table.

ANNUALIZE PRIOR YEAR LEGISLATION					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS	FTE
SB 19-181 Protect Public Welfare Oil and Gas	$1,003,782	$0	$1,003,782	$0	7.0
SB18-200 PERA Unfunded Liability	103,798	0	88,684	15,114	0.0
TOTAL	**$1,107,580**	**$0**	**$1,092,466**	**$15,114**	**7.0**

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The request includes a net increase of $442,564 total funds for prior year budget actions, summarized in the following table.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS	FTE
Annualize prior year salary survey	$557,917	$0	$471,791	$86,126	0.0
FY 19-20 BA2 Additional Oil and Gas Inspectors	(70,011)	0	(70,011)	0	0.0
FY 19-20 R2 Additional Oil and Gas Staffing	(28,744)	0	(28,744)	0	0.0
FY 19-20 Oil and Gas FTE	(16,598)	0	(16,598)	0	0.0
TOTAL	**$442,564**	**$0**	**$356,438**	**$86,126**	**0.0**

INDIRECT COST ASSESSMENT: The request includes net adjustments to indirect costs across these Divisions.

ISSUE 1: SEVERANCE TAX OPERATIONAL FUND UPDATE – S.B. 19-016

Senate Bill 19-016, Severance Tax Operational Fund Distribution Methodology, made changes to the Severance Tax Operational Fund distribution process. This informational issue brief summarizes the changes made in the bill.

SUMMARY

- Senate Bill 19-016 redefines Tier 1 and Tier 2 programs as Core Departmental Programs and Natural Resources and Energy Grant Programs.

- The bill consolidates three transfers made to grant programs based on forecast to a single, in arrears transfer made annually on August 15th based on actual severance tax collections from the prior fiscal year.

- The bill increases the statutory reserve for Energy Grant Programs from 15 percent to 100 percent of authorized distributions.

- The bill transfers any unspent revenue to the Severance Tax Perpetual Base Fund.

DISCUSSION

DISTRIBUTION OF SEVERANCE TAX REVENUES

Pursuant to statute, 50.0 percent of severance tax revenues are credited to the Severance Tax Trust Fund and 50.0 percent to the Department of Local Affairs for grants and distributions to local governments impacted by mining activities. Of the revenue credited to the Severance Tax Trust Fund, 50.0 percent is allocated to the Perpetual Base Account of the Severance Tax Trust Fund (or 25.0 percent of total severance tax revenues), which is used by the Colorado Water Conservation Board for water construction projects. The other 50.0 percent of Severance Tax Trust Fund revenues (or 25.0 percent of total severance tax revenues) is allocated to the Severance Tax Operational Fund for programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water and for use in funding programs to reduce the burden of increasing home energy costs on low-income households."

Prior to S.B. 19-016, the Severance Tax Operational Fund was used for Tier 1 and Tier 2 programs. Tier 1 programs were prioritized and included operations for the Oil and Gas Conservation Commission, the Geological Survey, the Avalanche Information Center, the Division of Reclamation, Mining, and Safety, the Water Conservation Board, and the Division of Parks and Wildlife, as well as the fund's statutory reserve. Tier 2 programs included water-related programs, agriculture-related programs, clean and renewable energy development, soil conservation, the control of invasive species, the Species Conservation Trust Fund, and low-income energy assistance programs. Senate Bill 19-016 formally named Tier 1 programs as Core Departmental Programs (Core Program) and Tier 2 programs as Natural Resources and Energy Grant Programs (Grant Program).

Prior to S.B. 19-016, Tier 2 programs or Grant Program received three transfers each fiscal year based on the most recent forecast of severance tax revenue as follow:

- On July 1, 40 percent of authorized grant amounts;
- On January 4, 30 percent of authorized grant amounts; and
- On April 1, the final 30 percent of authorized grant amounts.

Senate Bill 19-016 consolidated the three transfers for Grant Program funding into a single transfer – in arrears – made annually on August 15 based on severance tax collections from the prior fiscal year.

OPERATIONAL FUND PROJECTIONS UNDER CURRENT LAW

The following model provides an estimate of the cash flow for the Severance Tax Operational Fund for Core Program and Grant Program funding. The assumptions in this model are based on the revenue forecast presented by Legislative Council in September 2019 and current law.

Severance Tax Operational Fund				
	FY 2018-19 Actual	**FY 2019-20 Appropriation**	**FY 2020-21 Request**	**FY 2021-22 Projected**
Revenue				
Beginning Fund Balance	$9,414,921	$54,115,867	$34,990,982	$25,268,370
NREG Distributions in Arrears (Aug 15)	0	(36,378,072)	(17,933,467)	(7,702,228)
Balance after NREG Distributions	9,414,921	17,737,795	17,057,515	17,566,142
HB 18-1338 Transfers from GF	20,030,925	0	0	0
Revenue/Projected Revenue*	40,027,039	34,367,503	25,250,540	33,931,367
Interest/Projected Interest	685,781	698,726	526,457	592,437
Total Available Revenue	**$70,158,666**	**$52,804,024**	**$42,834,512**	**$52,089,946**
Core Departmental Programs - DNR & CGS				
(a) Oil and Gas Conservation Commission	$6,148,067	$6,148,067	$6,148,067	$6,148,067
(b) CO Geo Survey	1,585,133	1,632,687	1,681,668	1,732,118
(b.5) Avalanche Information Center	638,057	702,508	1,062,932	1,094,820
(c) Reclamation, Mining, & Safety	3,875,106	4,833,105	4,854,298	4,999,927
(d) CO Water Conservation Board	1,268,802	1,319,250	1,319,250	1,319,250
(e) CPW - Wildlife	54,343	54,343	54,343	54,343
(g) CPW - Parks	2,473,291	2,367,555	2,445,584	2,445,584
Core Programs Total	**$16,042,799**	**$17,057,515**	**$17,566,142**	**$17,794,109**
Core Reserve Requirement (100% or specified)	**$17,214,854**	**$17,057,515**	**$17,566,142**	**$17,794,109**
Revenue Held in Section 1 Reserve	17,214,854	17,057,515	17,566,142	17,794,109
% Held in Section 1 Reserve	*100%*	*100%*	*100%*	*100%*
Other Expenditures				
DRMS Legacy Mine Hydro Rollforwards	$0	$755,527	$0	$0
Other Expenditures Total	**$0**	**$755,527**	**$0**	**$0**
Revenue Available for NREG Programs	**$36,901,013**	**$17,933,467**	**$7,702,228**	**$16,501,728**
Amount Held for Distribution	36,378,072	17,933,467	7,702,228	16,501,728
% of Authorized Distribution	*100.0%*	*49.3%*	*21.2%*	*45.4%*
NREG Reserve Requirement (100%)	**$36,378,072**	**$36,378,072**	**$36,378,072**	**$36,378,072**
Revenue Held in Grant Program Reserve	522,941	0	0	0
% Held in Grant Program Reserve	1%	0%	0%	0%
Transfer to Perpetual Base Fund	**$0**	**$0**	**$0**	**$0**

Severance Tax Operational Fund				
	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	FY 2021-22 Projected
Natural Resources and Energy Grant Program Distributions				
(a) Water Supply Reserve Fund	$0	$10,000,000	$4,929,746	$2,117,272
(b) Soil Conservation District Grants	0	450,000	221,839	95,277
(c) Water Efficiency Grant Program	0	550,000	271,136	116,450
(e) Species Conservation Trust Fund	0	5,000,000	2,464,873	1,058,636
(f) LEAP - Low-income Energy Assistance	0	13,000,000	6,408,670	2,752,454
(i) Interbasin Compact Committee	0	745,067	367,299	157,751
(k) and (n) Forestry Grants	0	2,500,000	1,232,437	529,318
(m) Aquatic Nuisance Species	0	4,006,005	1,974,859	848,180
(n) Abandoned Mine Reclamation	0	127,000	62,608	26,889
NREG Program Total Distributions	**$0**	**$36,378,072**	**$17,933,467**	**$7,702,228**
*Based on the September 2019 Legislative Council Staff Revenue Forecast				

ISSUE 2: FOLLOW-UP ON DEPARTMENT OF REVENUE FY 2018-19 RFI – RESOURCES FOR SEVERANCE TAX REPORTING

The Department of Revenue submitted its response to a 2018 Long Bill Request for Information (RFI) as required on November 1, 2018. The response included statutory recommendations and additional funding recommendations, but none were included in the Department of Revenue's budget request. The JBC did not take action on the Department's RFI response for FY 2019-20. This issue brief follows up on the RFI response as it relates to unresolved severance tax data reporting and tax data reporting problems generally by the Department of Revenue and its GenTax tax administration information system.

SUMMARY

- The Department of Revenue included nine recommendations for statutory change, two recommendations for increased staff resources related to the statutory change recommendations, and a recommendation for increased resources for programming changes related to GenTax on the basis of statutory change recommendations.

- Staff identifies five of the statutory changes as worth of consideration for improvements to severance tax administration. However, most of the Department of Revenue's RFI response appeared to question General Assembly desire and assumptions for data and reporting and appeared to seek to deflect criticism of the Department for poor tax data reporting. Department of Revenue recommendations for increased resources were packaged around statutory change recommendations.

- The recommendations did not address additional funding for changes to improve reporting from the current GenTax system under the current severance tax policy structure. This is the easiest and likeliest first step in providing improved data reporting to the General Assembly.

- Such a step accepts the understanding that data collection would proceed from the point of implementation. It accepts recognition that the failures of the Department of Revenue to adequately collect data through the GenTax system historically are simply a fact. It comes with a recognition that the Department of Revenue's role and responsibility for data collection needs to change immediately or the State will simply continue to lose more historical and current data as time proceeds without such a straightforward recognition by the Department of Revenue.

DISCUSSION

BACKGROUND

Near the end of the 2016 legislative session, the Colorado Supreme Court decided a case involving BP America and the Colorado Department of Revenue in favor of the oil and gas industry. The Court held that the Department had routinely denied certain deductions operators were entitled to by statute.

The deductions were related to the opportunity cost, or "cost of capital", of investing in transportation and processing facilities instead of other uses of capital. Not understanding the full impact of this decision on short-term and long-term severance tax revenue, member of the General Assembly began seeking data and were disappointed at the lack of data the Department of Revenue was able to provide to inform policymaking.

Since the BP America decision, the General Assembly adopted legislation from year to year primarily to prevent programs funded with severance tax revenue from having no source of funding. As previously discussed, severance tax forecasting is subject to both extreme volatility and uncertainty and as the General Assembly sought to improve budgeting for severance tax programs, it was found that the data is not systematically stored, is generally unobtainable, and is costly to collect.

Often, obtaining historical data by Department of Revenue or vendor staff requires manual individual tax form review and data entry. For each data point reported on tax forms by taxpayers, the Department theoretically *has access to* the requested data, but often, data is not automatically captured and stored as a regular function of the GenTax system. At an aggregate level, the Department may capture only a few fields or data points from any tax form. And while statute prevents the Department from sharing tax data when the data can clearly identify a specific taxpayer, as a general operating policy, aggregate data from data points required to be reported on tax forms is simply not comprehensively or consistently collected by the Department through the GenTax system.

In an effort to enhance data available for policy decisions, the Committee included a request for information (RFI) with the 2018 Long Bill asking the Department of Revenue to provide "an assessment of the additional resources needed to provide the General Assembly with more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance tax filers for decision making purposes." The RFI specified that additional resources may include statutory changes, increased staff, or changes to the GenTax system.

STAFF CONSIDERATION

It is staff's opinion that the Department of Revenue's response to the RFI largely sought to deflect criticism of the lack of data collection by the Department and the GenTax system. The following statements included in the response illustrate such deflection:

> *"Also, reporting data from tax filings includes an inherent lag. … Filing data should only be used to inform decisions about long-term trends and patterns and cannot reasonably by used to forecast short term effects."*
>
> *"The data desired by the GA is return data. This data can be used to inform some policy decisions about the severance tax landscape, but even if made available, limitations on the usefulness of the data should be considered and understood by decision makers. …"*
>
> *"Tax policy—such as providing deductions or credits—has an effect on severance tax collections, however larger economic and political forces on oil and gas prices such as global supply and demand, other federal and state exploration and production regulations, and industry profitability and technology contribute more to drive business decisions and ultimately production and tax revenue from producers than tax policy directly. These forces, as well as the results of any potential future litigation create variations from forecasts that are outside the control of the state and the impacts of these forces are not mitigated or predicted by additional data reported on returns."*

These statements do nothing to address the Department of Revenue's role in providing adequate data reporting for data points to which it has access, and resolve the actual request included in the RFI.

Nevertheless, the Department of Revenue's response to the RFI did address recommendations for statutory change that includes nine items. In staff's opinion, the following four items likely do not require further consideration.

- #6 – This item appears to have been addressed in H.B. 19-1256 (Electronic Filing of Certain Taxes) which requires specified non-individual taxpayers to file tax returns electronically.

- #1 – This item includes data sharing involving counties which entails addressing issues broadly related to local control and specifically related to local control of data.

- #2 – This item regards tax administration generally for timing related to when the Department of Revenue is required to pay refund interest. This item is likely reasonable for consideration but not specifically tied to severance tax issues.

- #7 – In staff's opinion, this item is simply a gratuitous and sarcastic recommendation. This item would require reporting from individuals with less than $250 withheld. As the Department of Revenue states in its opening sentence for this recommendation: "If the general assembly needs complete information related to severance tax in order to make decisions, statute currently does not include reporting from individuals with less than $250 withheld from all unit operators and for whom the $250 minimum meets or exceeds the tax obligation."

The following four items (#3, #4, #5, and #8) might be worthy of additional Committee consideration and discussion.

- #3 – Clarify statute related to deductions allowed against "gross income" and the definition of "related parties".

- #4 – Eliminate the option to use cash or accrual methods to determine the credit allowed and just follow the federal rule for most taxes of cash accounting for purposes of establishing a credit. This change would eliminate taxpayer use of accrual accounting getting the value of the credit before the payment is made that generates the credit.

- #5 – Codify the rule requirement that producers file withholding statements with the Department of Revenue in addition to sending statements to the interest holder. With that, conform producer withholding requirements to wage withholding requirements to include a penalty for failure to correct withholding documents for withholding reporting submitted in error. Move fourth quarter withholding and annual reconciliation from March 1st to January 31st.

- #8 – Add a penalty and amended return requirement for failure to correctly account for tax.

The final item – #9 – addresses tax structure and is one that the Committee may wish to seriously consider. The Department of Revenue defines this statutory recommendation as a simplification of tax structure in order to create the easiest structure for filing. The Department of Revenue recommends significant changes to the reporting and liability structure of the tax so that the incidence of the tax is entirely on the producer and not on the interest or royalty holders. The current withholding scheme convolutes where the tax liability ultimately resides which significantly complicates reporting and filing. The Department of Revenue states that this structure benefits producers over royalty holders by reducing the overall tax due on severance at current rates. Staff has not confirmed the Department of Revenue's perspective through independent analysis, but will follow up on this item. The Department of Revenue also states that this has the potential to increase revenue and therefore adjustments and a decrease in rates may be necessary to mitigate a statewide revenue increase related to such a policy change.

In addition to statutory change recommendations, the Department of Revenue included recommendations for additional resources that included additional staff resources as well as additional resources for programming changes for GenTax.

Additional staff resources identified for Mineral Audit Staff section appear to be tied to recommended statutory changes. Similarly, additional staff resources identified for the Systems Support Office appear to relate to the package of legislative recommendations. Therefore, staff will not address those needs for additional staff resources as presented in the RFI response at this time.

Similarly, the request for additional resources related to the GenTax system also appear to be based on the package of recommended statutory change. Therefore, this portion of the RFI response is not helpful to the Committee at this time.

In staff's opinion, the Department of Revenue should have provided a cost to collect every data point from severance tax forms in the GenTax system. Again, in staff's opinion, that is the easiest and likeliest first step in providing data to the General Assembly.

Clearly, that comes with an understanding that data collection would proceed from the point of funding such a change and implementation. It comes with a recognition that the failures of the Department of Revenue to adequately collect data through the GenTax system historically are simply a fact. It comes with a recognition that the Department of Revenue's role and responsibility for data collection needs to change immediately or the State will simply lose more data as time proceeds without such a recognition.

It is staff's understanding that the Department of Revenue asserts that it is responsible for collecting tax revenue and administering a tax collection system; but tax data collection and reporting is not one of its primary responsibilities. In addition to any funding provided for full GenTax reporting for severance tax data points reported in taxpayer forms, the Committee may wish to emphasize to the Department of Revenue that data collection and reporting – for any data point deemed worthy of collection and reporting from taxpayers – is not optional for the Department.

In staff's opinion, it is unfathomable that the General Assembly that approved the funding for the GenTax system should have had to specify to the Department that tax data collection was a necessary element of the GenTax system. It is staff's opinion, that a tax data storage and reporting component was probably assumed if not understood. Given the apparent historical lack of mutual understanding on this issue, staff recommends that the Committee take the first step and make this expectation clear to the Department of Revenue.

ISSUE 3: DEPARTMENT REQUESTS – R1, R5, R9, AND R10

The Department's FY 2020-21 budget request includes two request items from the Oil and Gas Conservation Commission and two request items from the Division of Reclamation, Mining, and Safety. These requests include an increase of $147,840 cash funds for an electronic filing system to better manage the hearings process for oil and gas hearings applications, two decreases in spending authority totaling $1.9 million for budget alignment with recent actual expenditures, and one budget neutral request for line item consolidation to increase program expenditure efficiency and flexibility.

SUMMARY

- The R1 Electronic oil and gas filing system request, from the Oil and Gas Conservation Commission (OGCC), includes an increase of $147,840 cash funds from the Oil and Gas Conservation and Environmental Response Fund in FY 2020-21 for the development of an electronic filing system to manage hearing applications. The request includes a FY 2019-20 supplemental request to be submitted in in January for $83,710 cash funds, and ongoing annual subscription fees of $35,640.

- The R5 True-up orphaned well and emergency spending authority request, from the Oil and Gas Conservation Commission (OGCC), includes a $1.8 million cash funds decrease from the Oil and Gas Conservation and Environmental Response Fund equal to an 8.75 percent decrease in the overall OGCC program budget. The request proposes a $1.2 million decrease to the Plugging and Reclaiming Abandoned Wells line item (Orphaned Well Program) and a $0.6 million decrease to the Emergency Response line item.

- The R9 Optimize inactive mines program spending authority request includes a budget neutral line item consolidation in the Division of Reclamation, Mining, and Safety's Inactive Mines Reclamation Program (IMRP). The request consolidates the Legacy Mine Hydrology Projects, Reclamation of Forfeited Mine Sites, and Emergency Response Costs line items into the Inactive Mines Program Costs line item. As a part of the request, the Department requests legislation to eliminate statutory transfers from the Severance Tax Operational Fund to IMRP cash funds that would no longer be necessary.

- The R10 True-up coal program spending authority request includes a decrease of $164,500 total funds, including a decrease of $34,545 cash funds from the Severance Tax Operational Fund and a decrease of $129,955 federal funds and a decrease of 1.0 FTE in the Coal Land Reclamation program. This request reflects an ongoing reduction and elimination of a permanently vacant position to better align staff and funding with changes in the coal industry.

DISCUSSION

R1 ELECTRONIC OIL AND GAS FILING SYSTEM

The Oil and Gas Conservation Commission (OGCC) requests $147,480 cash funds spending authority from the Oil and Gas Conservation and Environmental Response Fund for FY 2020-21 for the development of an electronic filing system to manage hearing applications. The cost to develop the system is estimated to total $187,000 over two fiscal years, beginning in FY 2019-20. The cost of the system includes an annual ongoing subscription fee of $35,640, to begin on April 1, 2020. The following table outlines the development and annual costs of the system.

R1 Electronic Oil and Gas Filing System Cost			
	FY19-20	FY20-21	FY21-22
Development cost	$74,800	$112,200	$0
Annual subscription fee	8,910	35,640	35,640
Total cost	**$83,710**	**$147,840**	**$35,640**

The OGCC conducts 12 regularly scheduled hearing per year. The Hearings Unit reviews and processes all applications for Commission orders, contested matters, rulemaking hearings, and enforcement matters. The Hearings Unit includes an adjudicatory team comprised of hearing officers who review, process, prepare for hearings, and recommend decisions on all hearing applications filed with the OGCC. The Department states it has a current backlog of 369 applications.

Prior to December 2018, all hearing applications were submitted on paper. Since December 2018, applications and supporting documents are emailed. The Department states that it received approximately 473, 885, and 1,000 hearing applications in calendar years 2016, 2017, and 2018, respectively. The Department states that it experiences an average of 13 documents with every application, receiving an estimated 30,000 hearings-related documents over that three-year period.

The Department states that approximately 80 percent of a program assistant's time is spent entirely processing documents, which entails:

- Assigning a docket number to the application;
- Creating an electronic file in the OGCC's internal document system;
- Routing all subsequent documents filed in that docket to the system file;
- Preparing all documents filed for publication on the OGCC website;
- Preparing all documents for hearing officer review;
- Preparing all documents for Commissioner review and consideration; and
- Preparing final orders for posting on the OGCC website.

Due to the manual processing, OGCC staff estimate that it takes an average of two days for documents to move from the Program Assistant to a Hearing Officer. The following table outlines the Department's estimated salary cost and savings related to manual processing and with an electronic filing system.

Department Estimated Staff Cost Spent on Manual Processing and E-filing System					
		Current System		Electronic Filing	
Position	**Total Cost per FTE**	**percent processing**	**Processing Cost**	**percent processing**	**Processing cost**
Program Assistant	$89,821	80.0%	$71,857	5.0%	$4,491
Hearing Officer 1	124,592	30.0%	37,378	1.0%	1,246
Hearing Officer 2	124,592	30.0%	37,378	1.0%	1,246
Hearing Officer 3	124,592	30.0%	37,378	1.0%	1,246
Hearings Supervisor	143,558	30.0%	43,067	1.0%	1,436
Hearings Manager	168,846	5.0%	8,442	0.0%	0
Total	**$776,001**		**$235,499**		**$9,664**
percent of total staff cost			30.3%		1.2%
Annual Savings					**$225,835**

PROPOSED SOLUTION

Originally the OGCC had expected to develop and maintain an e-filing system in-house. However, in April 2019, staff recognized that this potential solution was not feasible. The Department consulted with the Governor's Office of Information Technology (OIT) and several software vendors and concluded that the best solution would be provided by Hyland Software, Inc., an OIT enterprise vendor.

OIT will oversee the design, development, and implementation of the system scheduled for April through August 2020, with the new system implemented by September 1, 2020.

In addition to cost savings, the Department identifies the following improvements:

- Automatic deadline tracking;
- More consistent file names and file management;
- More transparency as all documents would immediately, automatically upload to the OGCC website;
- More timely reviews and processing of applications, including protested cases that involve the public; and
- More timely reviews and handling of royalty disputes between operators and royalty owners.

Staff is likely to recommend that the Committee approve this request at figure setting as well as recommend approval for the proposed supplemental in January.

R5 TRUE-UP ORPHANED WELL AND EMERGENCY SPENDING AUTHORITY

The Oil and Gas Conservation Commission (OGCC) requests a $1.8 million cash funds decrease from the Oil and Gas Conservation and Environmental Response Fund. The request proposes a $1.2 million decrease to the Plugging and Reclaiming Abandoned Wells line item (Orphaned Well Program) and a $0.6 million decrease to the Emergency Response line item. The request is equal to an 8.75 percent decrease in the overall OGCC program budget. The Department states that the request is intended to align spending authority more closely with the programs' historical expenditures rather than to curtail program operations or diminish the OGCC's ability to respond to emergencies.

ORPHANED WELL PROGRAM

Funding for the orphaned well program is used to plug and reclaim orphaned wells in locations for which there is no known responsible party or the responsible party is unwilling or unable to conduct the work. Funding for the orphaned well program increased from $445,000 to $5,011,000 in FY 2018-19 through a JBC budget decision which included two-year spending authority.

The large increase in funding required a complete overhaul of program processes and management. The need for substantial change was reinforced by Governor Hickenlooper's Executive Order D2018-12, which set a deadline for plugging all medium and high priority orphaned wells by July 1, 2023 and requires the OGCC to establish a process for operators to voluntarily plug wells and seek reimbursement.

Hiring staff, developing new processes, and preparing bids for multi-well projects slowed spending in the first half of FY 2018-19. Consequently, only $1.3 million of the $5.0 million appropriation was spent by the end of FY 2018-19. This left $3.7 million available to roll into FY 2019-20 given the two-year spending authority, providing $8.7 million of spending authority in the current year. The current estimate for spending in the current year is $4 million, leaving $4.7 million of the $5.0 million FY 2019-20 appropriation to roll forward into FY 2020-21, providing $9.7 million in the next fiscal year.

The following table outlines the five-year sustainability projection for this appropriation.

OGCC Orphaned Well Program - 5-year Appropriation Sustainability Projection							
	Actual FY18-19	Estimate FY19-20	Requested FY20-21	Forecast FY21-22	Forecast FY22-23	Forecast FY23-24	Forecast FY24-25
Annual Appropriation	$5,011,000	$5,011,000	$3,850,000	$3,850,000	$3,850,000	$3,850,000	$3,850,000
Roll Forward Spending Authority	0	3,650,352	4,661,352	3,761,352	2,861,352	1,961,352	1,061,352
Total Spending Authority	**$5,011,000**	**$8,661,352**	**$8,511,352**	**$7,611,352**	**$6,711,352**	**$5,811,352**	**$4,911,352**
OGCC-OWP Expenditures	($1,360,648)	($4,000,000)	($4,000,000)	($4,000,000)	($4,000,000)	($4,000,000)	($4,000,000)
Industry Reimbursements	0	0	(750,000)	(750,000)	(750,000)	(750,000)	(750,000)
Spending Authority Balance	$3,650,352	$4,661,352	$3,761,352	$2,861,352	$1,961,352	$1,061,352	$161,352

The Department states that aligning spending authority more closely with historical expenses helps cash fund management and contributes to a more efficient use of resources. Staff agrees.

It is staff's understanding that the identified $5.0 million in spending authority for this program was a decision made by the JBC to provide adequate spending authority for this policy purpose without an analysis outlining this specific level of need. This decision was made with the intention that if the Department did not require the full amount, the balance would simply revert as empty spending authority. On that basis, and based on the Department's actual spending experience and five-year sustainability projections, staff is likely to recommend at figure setting that the Committee approve the Department's request for the purpose of truing up this appropriation.

Emergency Response

The purpose of the Emergency Response line item is to fund the investigation, prevention, monitoring, and mitigation of circumstances caused by or that are alleged to be associated with oil and gas activities and that call for immediate action by the OGCC. This line item was added in FY 2006-07 and was originally funded at $1.5 million. The appropriation was reduced to $1.0 million in FY 2011-12 and to $750,000 in FY 2016-17.

Average annual spending from this line item has been $112,536 since it was added in FY 2006-07. The Department states that most expenditures were related to orphaned wells. With the orphaned well program sufficiently funded, the Emergency Response line item does not need to be funded at $750,000. The Department states that in the event the full cost of an emergency exceeds the requested $150,000 appropriation, an emergency supplemental would be requested. The following table outlines actual expenditures for this line item since inception.

Emergency Response Actual Expenditures			
FY 2006-07	$71,904	FY 2013-14	0
FY 2007-08	344,678	FY 2014-15	0
FY 2008-09	0	FY 2015-16	14,338
FY 2009-10	0	FY 2016-17	0
FY 2010-11	17,236	FY 2017-18	750,000
FY 2011-12	264,817	FY 2018-19	0
FY 2012-13	0	**Annual Average**	**$112,536**

R9 OPTIMIZE INACTIVE MINES PROGRAM SPENDING AUTHORITY

This request includes a budget neutral line item consolidation in the Division of Reclamation, Mining, and Safety's Inactive Mines Reclamation Program (IMRP). The request consolidates the Legacy Mine Hydrology Projects, Reclamation of Forfeited Mine Sites, and Emergency Response Costs line items into the Inactive Mines Program Costs line item. As a part of the request, the Department requests legislation to eliminate statutory transfers from the Severance Tax Operational Fund to IMRP cash funds that would no longer be necessary.

Pursuant to Section 34-33-133, C.R.S., the Inactive Mines Reclamation program is responsible for the protection of public health, safety, general welfare, and property from the dangers and adverse effects of past mining practices. This includes safeguarding abandoned mine openings, conducting reclamation projects at mine sites with insufficient bonds, and mitigating mill tailings piles, mine waste, and soil erosion that contribute to degraded water quality.

With the exception of incremental annual increases related to compensation common policies, total IMRP appropriations and staffing have remained constant over the past five years. The program has an allocation of 17.8 FTE and is supported by 54 percent federal funding and 46 percent cash funding from the Severance Tax Operational Fund. The IMRP also oversees the $100,000 Emergency Response Cost appropriation from the Severance Tax Operational Fund. Over the last five years, actual expenditures on emergency response have averaged $24,214.

The Department states that the current funding structure for the IMRP is not efficient. Although all cash funds originate out of the Severance Tax Operational Fund, some severance tax revenue is transferred out to other cash funds before it is appropriated to the program. The Legacy Mine Hydrology Projects and Reclamation of Forfeited Mine Sites are provided three-year spending authority due to their role as project funding. The Department seeks to provide three-year spending authority for all appropriations.

The Department request includes the following items:

Legislative Provisions

- Eliminate the annual statutory transfer of $500,000 from the Severance Tax Operational Fund to the Abandoned Mine Reclamation Fund pursuant to Section 39-29-109.3 (1)(c) C.R.S.
- Eliminate the annual statutory transfer of up to $127,000 from the Severance Tax Operational Fund to the Reclamation Warranty and Forfeiture Fund pursuant to Section 39-29-109.3 (2)(o), C.R.S.

Long Bill Line Item Consolidation

- Eliminate the Legacy Mine Hydrology Projects and Reclamation of Forfeited Mine Sites line items.
- Eliminate the Emergency Response Costs line item.
- Increase the IMRP Program Costs cash funds appropriation by $605,798 in Core Program cash funds from the Severance Tax Operational Fund and 1.5 FTE.
- Change the cash funds letter note for all cash funds appropriations to identify the Severance Tax Operational Fund as the source of funding.
- Add a Long Bill footnote to the IMRP Program Costs line item to standardize three-year roll-forward spending authority.

- Establish a Long Bill-related Request for Information summarizing all reclamation projects developed and completed within the consolidated Program Costs line item appropriation.

While staff will make a recommendation at figure setting for this request, at this time, staff is still considering the following elements of the request: The Inactive Mines subdivision is currently bottom-line funded in the budget, providing substantial flexibility across line items within the subdivision. Although, the subdivision is bottom-line funded, the Legacy Mine Hydrology Projects and Reclamation of Forfeited Mine Sites line items are footnoted for three-year spending authority. It is reasonable that these "project-oriented" line items have multi-year spending authority. However, at this time it is not clear to staff that annual appropriations for staff resources should similarly be accorded multi-year spending authority. Nevertheless, staff supports the Department's request to make statutory changes to streamline funding directly from the Severance Tax Operational Fund and to consolidate the Emergency Response Costs line item, which currently resides in its own budget subdivision, into the program line item.

R10 TRUE-UP COAL PROGRAM SPENDING AUTHORITY

For the Coal Land Reclamation subdivision in the Division of Reclamation, Mining, and Safety, the Department requests a decrease of $164,500 total funds, including a decrease of $34,545 cash funds from the Severance Tax Operational Fund and a decrease of $129,955 federal funds and a decrease of 1.0 FTE in the Coal Land Reclamation program. This request reflects an ongoing reduction and elimination of a permanently vacant position to better align staff and funding with changes in the coal industry.

Over the past five years, the number of FTE in the Coal Program has been reduced to mirror the current status of the coal industry and the gradual decrease in workload and available federal funding. The coal industry as a whole has been declining over the past decade. Coal production in the state is down approximately 38 percent over the last five years (2014-2018). The number of permitted mines decreased from 36 in 2014 to 30 in 2018 due to the termination of jurisdiction of six fully reclaimed sites. This led to a 13.1 percent decrease in annual inspections from 375 to 326 and a 29.8 percent decrease in annual permitting actions from 141 to 99. Additionally, because grant funding from the U.S. Department of the Interior – Office of Surface Mining is generated based on federal mine acres permitted, the closing and reclamation of mines has resulted in a gradual decline in federal funding for the Coal Program.

During this same period, permitted acres and bond liability for the currently-permitted sites have remained relatively constant. The remaining six producing mines are large and complex, and have either recently expanded or are currently undergoing expansion. Inspections and permit revisions for these sites are complicated and time-consuming, and they generate significant workload for Coal Program staff. This partially offsets the impact of the decrease in production so there is not a precise one-to-one relationship between production and workload. However, based on the net change to current workload and anticipated trends, the Department has determined that the Coal Program could still perform its essential functions with one less Environmental Protection Specialist FTE.

The Department states that a vacancy occurred in May 2019. The duties and responsibilities of the position were distributed among remaining Coal Program staff without creating workload issues. The Coal Program believes that it is adequately staffed without backfilling the vacant position.

The following table outlines workload metrics for the Coal Program.

CHANGE IN COAL PROGRAM WORKLOAD - FY 2014-15 THROUGH FY 2018-19				
	FY 2014-15	FY 2018-19	Change	Percentage Change
Coal Production (short tons)	22.9	14.2	(8.7)	(38.0%)
Permitted Acres	169,964	165,618	(4,346)	(2.6%)
Permitted Sites	34	29	(5)	(14.7%)
Actively Producing Sites	9	6	(3)	(33.3%)
Revisions Processed	161	112	(49)	(30.4%)
Average processing time (days)	78	61	(17)	(21.8%)
Inspections Conducted	364	307	(57)	(15.7%)
Federal Grant Dollars Received	$2,526,689	$2,324,635	($202,054)	(8.0%)
FTE	23.0	20.0	(3.0)	(13.0%)

Staff is likely to recommend at figure setting that the Committee approve the Department's request for the purpose of truing up this appropriation.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request		Request vs. Appropriation

DEPARTMENT OF NATURAL RESOURCES
Dan Gibbs, Executive Director

(2) DIVISION OF RECLAMATION, MINING, AND SAFETY

Primary Functions: Provides regulation and enforcement related to the development and reclamation of mining sites. Primary sources of cash funds are fees on metal and aggregate mining operations and the severance tax.

(A) Coal Land Reclamation

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request		Request vs. Appropriation
Program Costs	2,228,653	2,154,022	2,047,124	1,937,420	*	
FTE	16.3	15.9	20.0	19.0		
Cash Funds	400,041	385,588	460,052	437,054		
Federal Funds	1,828,612	1,768,434	1,587,072	1,500,366		
Indirect Cost Assessment	94,313	146,106	105,411	97,494		
Cash Funds	21,551	22,789	22,136	20,474		
Federal Funds	72,762	123,317	83,275	77,020		
SUBTOTAL - (A) Coal Land Reclamation	2,322,966	2,300,128	2,152,535	2,034,914		(5.5%)
FTE	16.3	15.9	20.0	19.0		(5.0%)
Cash Funds	421,592	408,377	482,188	457,528		(5.1%)
Federal Funds	1,901,374	1,891,751	1,670,347	1,577,386		(5.6%)

(B) Inactive Mines

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request		Request vs. Appropriation
Program Costs	1,525,449	1,708,195	1,944,216	2,610,847	*	
FTE	5.5	6.7	16.3	17.8		
Cash Funds	547,692	656,418	629,374	1,240,328		
Federal Funds	977,757	1,051,777	1,314,842	1,370,519		

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Legacy Mine Hydrology Projects	215,290	200,557	384,636	0 *	
FTE	0.3	0.0	1.2	0.0	
Cash Funds	215,290	200,557	384,636	0	
Reclamation of Forfeited Mine Sites	634	14,669	121,162	0 *	
FTE	0.1	0.1	0.3	0.0	
Cash Funds	634	14,669	121,162	0	
Indirect Cost Assessment	87,506	157,151	125,345	160,327	
Cash Funds	7,525	8,955	24,701	46,238	
Federal Funds	79,981	148,196	100,644	114,089	
SUBTOTAL - (B) Inactive Mines	1,828,879	2,080,572	2,575,359	2,771,174	7.6%
FTE	5.9	6.8	17.8	17.8	0.0%
Cash Funds	771,141	880,599	1,159,873	1,286,566	10.9%
Federal Funds	1,057,738	1,199,973	1,415,486	1,484,608	4.9%
(C) Minerals					
Program Costs	2,125,487	2,145,073	2,341,423	2,403,156	
FTE	20.4	19.9	23.0	23.0	
Cash Funds	2,125,487	2,145,073	2,341,423	2,403,156	
Indirect Cost Assessment	100,333	121,734	112,839	100,918	
Cash Funds	100,333	121,734	112,839	100,918	
SUBTOTAL - (C) Minerals	2,225,820	2,266,807	2,454,262	2,504,074	2.0%
FTE	20.4	19.9	23.0	23.0	0.0%
Cash Funds	2,225,820	2,266,807	2,454,262	2,504,074	2.0%

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(D) Mines Program					
Colorado and Federal Mine Safety Program	589,868	606,718	551,261	558,280	
FTE	3.0	4.0	4.0	4.0	
Cash Funds	298,923	328,944	361,616	368,635	
Federal Funds	290,945	277,774	189,645	189,645	
Blaster Certification Program	102,297	98,916	120,635	127,068	
FTE	1.0	0.0	1.0	1.0	
Cash Funds	17,923	3,043	28,092	32,211	
Federal Funds	84,374	95,873	92,543	94,857	
Indirect Cost Assessment	12,973	25,464	18,701	17,900	
Cash Funds	5,646	11,496	8,974	9,866	
Federal Funds	7,327	13,968	9,727	8,034	
SUBTOTAL - (D) Mines Program	705,138	731,098	690,597	703,248	1.8%
FTE	4.0	4.0	5.0	5.0	0.0%
Cash Funds	322,492	343,483	398,682	410,712	3.0%
Federal Funds	382,646	387,615	291,915	292,536	0.2%
(E) Emergency Response Costs					
Emergency Response Costs	648	61,683	100,000	0 *	
Cash Funds	648	61,683	100,000	0	
SUBTOTAL - (E) Emergency Response Costs	648	61,683	100,000	0	(100.0%)
FTE	0.0	0.0	0.0	0.0	0.0%
Cash Funds	648	61,683	100,000	0	(100.0%)

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - (2) Division of Reclamation, Mining, and Safety	7,083,451	7,440,288	7,972,753	8,013,410	0.5%
FTE	46.6	46.6	65.8	64.8	(1.5%)
Cash Funds	3,741,693	3,960,949	4,595,005	4,658,880	1.4%
Federal Funds	3,341,758	3,479,339	3,377,748	3,354,530	(0.7%)

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation

(3) OIL AND GAS CONSERVATION COMMISSION

Primary functions: Fostering and regulating development of oil and gas natural resources in a manner consistent with the protection of public health, safety, and welfare. Cash funds are from the Oil and Gas Conservation and Environmental Response Fund and the severance tax.

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
Program Costs	9,594,122	10,745,933	13,605,078	14,844,093	
FTE	102.2	109.0	138.3	145.3	
Cash Funds	9,594,122	10,745,933	13,605,078	14,844,093	
Underground Injection Program	0	76,825	96,559	96,559	
FTE	0.0	2.0	2.0	2.0	
Federal Funds	0	76,825	96,559	96,559	
Plugging and Reclaiming Abandoned Wells	415,003	1,360,648	5,011,000	3,850,000 *	
Cash Funds	415,003	1,360,648	5,011,000	3,850,000	
Environmental Assistance and Complaint Resolution	245,294	46,580	312,033	312,033	
Cash Funds	245,294	46,580	312,033	312,033	
Emergency Response	750,000	0	750,000	150,000 *	
Cash Funds	750,000	0	750,000	150,000	
Special Environmental Protection and Mitigation Studies	88,462	46,164	325,000	325,000	
Cash Funds	88,462	46,164	325,000	325,000	
Indirect Cost Assessment	464,426	547,994	513,401	520,799	
Cash Funds	464,426	540,819	513,401	517,103	
Federal Funds	0	7,175	0	3,696	

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
TOTAL - (3) Oil and Gas Conservation Commission	11,557,307	12,824,144	20,613,071	20,098,484	(2.5%)
FTE	102.2	111.0	140.3	147.3	5.0%
Cash Funds	11,557,307	12,740,144	20,516,512	19,998,229	(2.5%)
Federal Funds	0	84,000	96,559	100,255	3.8%

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Actual	FY 2019-20 Appropriation	FY 2020-21 Request	Request vs. Appropriation
(4) STATE BOARD OF LAND COMMISSIONERS					
Primary Functions: Manages 2.8 million surface acres and 4.0 million mineral acres of state trust lands for the benefit of 8 public trusts, the largest of which is the K-12 School Trust. Cash Funds are from the Trust Administration Fund. Reappropriated funds are from the Division of Parks and Wildlife.					
Program Costs	4,536,948	4,669,071	4,789,271	4,909,586	
FTE	40.3	40.1	42.0	42.0	
Cash Funds	4,536,948	4,669,071	4,789,271	4,909,586	
Public Access Program Damage and Enhancement Costs	144,503	197,297	225,000	225,000	
Reappropriated Funds	144,503	197,297	225,000	225,000	
Indirect Cost Assessment	325,861	268,675	250,190	211,015	
Cash Funds	325,861	268,675	250,190	211,015	
TOTAL - (4) State Board of Land Commissioners	5,007,312	5,135,043	5,264,461	5,345,601	1.5%
FTE	40.3	40.1	42.0	42.0	0.0%
Cash Funds	4,862,809	4,937,746	5,039,461	5,120,601	1.6%
Reappropriated Funds	144,503	197,297	225,000	225,000	0.0%
TOTAL - Department of Natural Resources	23,648,070	25,399,475	33,850,285	33,457,495	(1.2%)
FTE	189.1	197.7	248.1	254.1	2.4%
Cash Funds	20,161,809	21,638,839	30,150,978	29,777,710	(1.2%)
Reappropriated Funds	144,503	197,297	225,000	225,000	0.0%
Federal Funds	3,341,758	3,563,339	3,474,307	3,454,785	(0.6%)

APPENDIX B RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2018 SESSION BILLS

S.B. 18-143 (PARKS AND WILDLIFE MEASURES TO INCREASE REVENUE): Increases fees for the Colorado Parks and Wildlife Division (CPW) for certain hunting and fishing licenses and park passes. In addition, the bill:

- Authorizes CPW to apply a consumer price index to hunting and fishing licenses;
- Creates a new annual resident youth fishing license;
- Authorizes CPW to create a license for young adult hunters and anglers;
- Requires CPW to prepare an annual report on the impact of the fee increases by March 1, 2022; and
- Requires CPW to require individuals entering state parks by means other than motor vehicles to purchase an entrance pass.

S.B. 18-170 (RESERVOIR RELEASES FOR FISH AND WILDLIFE MITIGATION): Establishes a water court process by which a storage water right owner may dedicate releases from new capacity in a reservoir to the CWCB in order to reasonably avoid, minimize, or mitigate impacts on fish and wildlife within a qualifying stream reach, if certain conditions are met.

S.B. 18-200 (ELIMINATE UNFUNDED LIABILITY IN PERA): Makes changes to the defined benefit plan administered by the Colorado Public Employees' Retirement Association (PERA) with the goal of eliminating PERA's unfunded actuarial accrued liability within 30 years. Among other changes, on July 1, 2020, increases the monthly employer contribution to PERA on behalf of members by 0.25 percent of salary. For additional information, see the bill description in the "Recent Legislation" section at the end of Part III of the Department of Treasury.

S.B. 18-218 (CWCB CONSTRUCTION FUND PROJECTS): Appropriates $24,716,894 cash funds from the CWCB Construction Fund in FY 2018-19 for various water-related projects. The bill also authorizes the following transfers:

- $30,000,000 from the Loan Guarantee Fund to the Severance Tax Perpetual Base Fund;
- $4,000,000 from the Severance Tax Perpetual Base Fund to the CWCB Construction Fund to support appropriations made in other sections of the bill;
- $2,000,000 from the CWCB Construction Fund to the Water Supply Reserve Fund to support water basin roundtable approved projects;
- $2,000,000 from the CWCB Construction Fund to replenish the continuously-appropriated Litigation Fund;
- $500,000 from the CWCB Construction Fund to replenish the continuously-appropriated Flood and Drought Response Fund; and
- $500,000 from the CWCB Construction Fund to replenish the continuously-appropriated Feasibility Study Small Grant Fund.

H.B. 18-1008 (MUSSEL-FREE COLORADO ACT): Creates new financing mechanisms for the Aquatic Nuisance Species (ANS) Program and increases cash fund revenue to the program beginning January 1, 2019, and thereafter from fees on boats. Combines the balances of two existing ANS cash funds.

H.B. 18-1322 (LONG BILL): General appropriations act for FY 2018-19.

H.B. 18-1338 (MEASURES TO ADDRESS REDUCED REVENUE SEVERANCE TAX REVENUES): Makes a number of transfers to support programs historically funded with Tier 1 or Tier 2 severance tax revenue from the Severance Tax Operational Fund. General descriptions of each transfer are provided below. The fiscal impact of the bill is dependent upon revenue forecasts. The fiscal impact in this bill summary is based on the Governor's Office of Planning and Budgeting March Revenue Forecast, which estimated severance tax revenue in FY 2018-19 will total $113.0 million. The bill contains the following provisions.

- Transfers a total of $2,973,869 out of Tier 2 cash funds administered by the Department of Natural Resources back into the Severance Tax Operational Fund, effective upon enactment. This reverses or "claws back" the transfers made to the Department's Tier 2 programs in July 2017. These transfers were based on the June 2017 LCS Forecast which did not fully account for the state's outstanding refund liability associated with *BP America* Supreme Court of Colorado decision. The transfers would not have occurred without the favorable forecast and the revenue would have been allocated to Tier 1 agencies.
- Eliminates the statutory transfer of $11.4 million required by S.B. 17-260 (Section 39-29-109.3 (1.7), C.R.S.). A transfer of this magnitude would guarantee the Operational Fund would go bankrupt at the end of FY 2017-18.
- Accounts for severance tax refunds attributable to the operational account by diverting income tax revenue to a reserve used to pay these refunds. Refunds count as a reduction in state revenue (thus not fiscal year spending).
- Transfers General Fund into the Operational Fund on July 1, 2018, in an amount equal to total Tier 1 appropriations in FY 2018-19 Long Bill.
- Transfers General Fund into the Operational Fund on January 1 and July 1, 2019, in an amount equal to total Tier 1 appropriations in FY 2019-20 to fulfill the Tier 1 reserve requirement. The transfer on July 1, 2019, is estimated to total $14,214,854 but is dependent on funding decisions made for Tier 1 programs in the 2019 Long Bill. This estimated figure also serves as the maximum amount that may be transferred for this purpose.
- Transfers General Fund into specific cash funds continuously appropriated to Tier 2 severance tax programs:

TIER 2 PROGRAMS TARGETED WITH TRANSFERS	
TIER 2 PROGRAM	TRANSFER INCLUDED
Aquatic Nuisance Species	$3,636,364
Species Conservation Trust Fund	3,000,000
Forestry and Wildfire Grants	2,272,727
Soil Conservation Districts Matching Grants	450,000
Forfeited Mine Site Reclamation	127,000
TOTAL TIER 2 TRANSFERS	**$9,486,091**

- Diverts all severance tax revenue that would otherwise be distributed to the Operational Fund between February 1, 2018, and June 30, 2019, to the General Fund up to a cap of just under $41.0

million. If revenue exceeds the cap during the period specified, the excess should be directed back to the Operational Fund. This functions as a "repayment" mechanism to minimize the impact of the legislation on the General Fund. Some severance tax revenue will be realized but it is unclear how much or the timing of it.

- Includes authorizations for species conservation projects submitted by the Director of the Department of Natural Resources that are designed to conserve native species that have been listed as threatened or endangered under state or federal law, or are likely to become candidate species as determined by the United States Fish and Wildlife Service. The funds appropriated are available in FY 2018-19 and remain available for the designated purposes until they are fully expended.

2019 SESSION BILLS

S.B. 19-016 (SEVERANCE TAX OPERATIONAL FUND DISTRIBUTION METHODOLOGY): Changes the timing and budgeting of severance tax revenue to several grant programs administered by the Department of Natural Resources (DNR). Generally, the bill:

- consolidates three transfers made to grant programs based on a forecast to a single transfer made annually on August 15 after severance taxes have been collected;
- formally names programs in DNR funded with severance tax revenue as either Core Departmental Programs or Natural Resources and Energy Grant Programs;
- increases the statutory reserve for Energy Grant Programs from 15 percent to 100 percent of authorized distributions; and
- transfers any unspent revenue to the Severance Tax Perpetual Base Fund.

For additional information on the administration of severance tax, please see *Appendix H. Severance Tax Trust Fund Overview*.

S.B. 19-181 (PROTECT PUBLIC WELFARE OIL & GAS OPERATIONS): Modifies the composition and the regulatory charge of the Colorado Oil and Gas Conservation Commission (COGCC) in the Department of Natural Resources (DNR), expands the regulatory charge of the Colorado Department of Public Health and Environment (CDPHE), imposes new requirements on oil and gas operators, and provides additional regulatory authority over oil and gas operations to local governments. Requires the COGCC to promulgate rules that may result in future workload changes, which cannot be quantified with current data. Appropriates a total of $851,010 total funds including:

- $763,180 cash funds from the Oil and Gas Conservation and Environmental Response Fund to the Oil and Gas Conservation Commission in the Department of Natural Resources, which amount is based on the assumption it will need an additional 5.0 FTE;
- $186,534 reappropriated funds from the previous appropriation to the Department of Law for the provision of legal services primarily for rulemaking guidance and is based on the assumption it will require 1.0 FTE; and
- $87,830 cash funds from the Wildlife Cash Fund to the Colorado Parks and Wildlife, which is based on the assumption it will require 1.0 FTE

S.B. 19-207 (LONG BILL): General appropriations act for FY 2019-20.

S.B. 19-212 (APPROP GENERAL FUND IMPLEMENT STATE WATER PLAN): Appropriates $8.3 million General Fund to the Colorado Water Conservation Board (CWCB) for FY 2019-20 to fund the Water Plan Implementation Grant Program. This appropriation comes with a three-year roll-forward spending authority provision to accommodate the Program's reimbursement schedules and project timelines. The bill also appropriates $1.7 million General Fund to the CWCB for FY 2019-20 for stakeholder outreach and technical analysis to develop a water resources demand management program.

S.B. 19-221 (CWCB CONSTRUCTION FUND PROJECTS): Appropriates $19,355,000 cash funds from the CWCB Construction Fund to the Department of Natural Resources for various water-related projects. Authorizes the CWCB to make a loan of up to $15.2 million from the CWCB Construction Fund for the Walker Recharge Project. The bill also authorizes the following transfers:

- $10,000,000 from the Severance Tax Perpetual Base Fund to the CWCB Construction Fund to support studies, programs, or projects that assist in implementing the Colorado Water Plan;
- $2,500,000 from the CWCB Construction Fund to the Water Supply Reserve Fund to support water basin roundtable approved projects;
- up to $2,000,000 from the CWCB Construction Fund to replenish the continuously-appropriated Litigation Fund;
- up to $500,000 from the CWCB Construction Fund to replenish the continuously-appropriated Flood and Drought Response Fund; and
- up to $500,000 from the CWCB Construction Fund to replenish the continuously-appropriated Feasibility Study Small Grant Fund.

H.B. 19-1026 (PARKS & WILDLIFE VIOLATIONS OF LAW): Increases fines for violations of law in the Division of Parks and Wildlife and grants the Parks and Wildlife Commission the authority to allow exceptions to prohibitions on both the possession, import, export, and transport of an aquatic nuisance species and the transfer or sale of certain passes or registrations.

APPENDIX C
FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

76 Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Legacy Mine Hydrology Projects -- This appropriation remains available until the completion of the project or the close of the 2021-22 state fiscal year, whichever comes first.

COMMENT: This footnote sets forth the purpose, conditions, and limitations of the line item and provides flexibility for projects that often span multiple fiscal years.

77 Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Reclamation of Forfeited Mine Sites -- This appropriation remains available until the completion of the project or the close the 2021-22 state fiscal year, whichever comes first.

COMMENT: This footnote sets forth the purpose, conditions, and limitations of the line item and provides flexibility for projects that often span multiple fiscal years.

78 Department of Natural Resources, Oil and Gas Conservation Commission, Plugging and Reclaiming Orphaned Wells -- This appropriation remains available for expenditure until the close of the 2020-21 state fiscal year.

COMMENT: This footnote sets forth the purpose, conditions, and limitations of the line item and provides flexibility for projects that often span multiple fiscal years.

79 Department of Natural Resources, Oil and Gas Conservation Commission, Emergency Response -- It the General Assembly's intent that this appropriation be expended if there is an oil and gas related emergency under the jurisdiction of the Oil and Gas Conservation Commission. The purpose of this appropriation is to fund investigation, prevention, monitoring, and mitigation of circumstances caused by or that are alleged to be associated with oil and gas activities and that call for immediate action by the Oil and Gas Conservation Commission.

COMMENT: This footnote sets forth the purpose, conditions, and limitations of the line item.

80 Department of Natural Resources, Oil and Gas Conservation Commission, Special Environmental Protection and Mitigation Studies -- It is the General Assembly's intent that funding for this line item be used for special environmental protection and mitigation studies including, but not limited to, gas seepage mitigation studies, outcrop monitoring studies, soil gas surveys in the vicinity of plugged orphaned wells, and baseline water quality and subsequent studies.

COMMENT: This footnote sets forth the purpose, conditions, and limitations of the line item.

UPDATE ON REQUESTS FOR INFORMATION

1 Department of Natural Resources, Division of Reclamation Mining and Safety, Emergency Response Costs -- The Division of Reclamation, Mining, and Safety is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

COMMENT: The Department's response is included in Appendix E.

2 Department of Natural Resources, Oil and Gas Conservation Commission, Program Costs -- The Department of Natural Resources is requested to include in its annual budget request a report on the performance of the risk-based inspection program. The report should provide information on the activities of the Facilities Integrity group, the inspection process for piping and flowlines, and the metrics used to measure the performance and effectiveness of the Facilities Integrity program.

COMMENT: The Department's response is included in Appendix E.

3 Department of Natural Resources, Oil and Gas Conservation Commission, Plugging and Reclaiming Abandoned Wells -- The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

COMMENT: The Department's response is included in Appendix E.

4 Department of Natural Resources, Oil and Gas Conservation Commission, Emergency Response -- The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

COMMENT: The Department's response is included in Appendix E.

5 Department of Natural Resources, Oil and Gas Conservation Commission, Special Environmental Protection and Mitigation Studies -- The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

COMMENT: The Department's response is included in Appendix E.

APPENDIX D DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Natural Resources is required to publish an **Annual Performance Report** for the *previous fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2019-20 budget request, the FY 2018-19 Annual Performance Report dated June 2019 and the FY 2019-20 Performance Plan dated November 2019 can be found at the following link:

https://www.colorado.gov/pacific/performancemanagement/department-performance-plans

APPENDIX E: DEPARTMENT RFI RESPONSES

COLORADO
Department of
Natural Resources

Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

November 1, 2019

The Honorable Representative Daneya Esgar
Chair, Joint Budget Committee
Colorado General Assembly
200 E. 14th Avenue, Third Floor
Legislative Services Building
Denver, CO 80203

Dear Representative Esgar:

The Joint Budget Committee submitted the following requests for information from the Department of Natural Resources, to be included with the Department's FY 2020-21 budget request:

Division of Reclamation, Mining, and Safety
- RFI #1 – FY19 Emergency Response Expenditures

Oil and Gas Conservation Commission
- RFI #2 – Risk-Based Inspection Program Performance Update
- RFI #3 – FY19 Plugging and Reclaiming Orphaned Well (PROW) Program Expenditures
- RFI #4 – FY19 Emergency Response Expenditures
- RFI #5 – FY19 Expenditures on Special Environmental Protection and Mitigation Studies

Colorado Parks and Wildlife
- RFI #6 – Colorado Parks and Wildlife Financial Report (Revenue and Expenditures)

Multiple Divisions
- RFI #7 – Assessment of Proposed Long Bill Line Item Reorganization in Colorado Parks and Wildlife, the Colorado Water Conservation Board, and the Division of Water Resources

The Department's responses to these requests for information are included as attachments to this letter. Please do not hesitate to contact me if you have any questions or require more information on any of these items.

Sincerely,

Carly M Jacobs

Carly Jacobs
Chief Planning and Budget Officer
Department of Natural Resources

P 303.866.3311 F 303.866.4474 www.colorado.gov/dnr
Jared Polis, Governor | Dan Gibbs, Executive Director

<u>Department of Natural Resources FY 2019-20 RFI #1</u>

Division of Reclamation, Mining, and Safety – Emergency Response Costs

Special Study/ Project Name	Description of FY 2018-19 Expenditures	FY 2018-19 Expenditures
Prayer 9 Irrigation Ditch Cleanout Project	The amount of $22,578.25 was expended to address an emergency washout of uranium mine waste at a previously permitted property in Montrose County called the Prayer 9 mine site. Storm driven flows eroded a significant portion of the reclaimed waste rock, depositing uranium mine waste onto an adjacent property and irrigation ditch. The Inactive Mines Reclamation Program hired a contractor to clean out the irrigation ditch to re-establish flow, and consolidated, capped and revegetated waste rock that had dispersed across the property.	$22,578.25
Wellsville Taylor Gulch	The amount of $36,105.00 was expended to address an emergency situation at a previously permitted and reclaimed mine site near the town of Wellsville in Fremont County. The site is an underground limestone quarry with numerous horizontal and dangerous vertical mine features that were consistently accessed by the public. Numerous photographs of individuals in the mine were provided to the Division, and upon inspections there was evidence of significant visitation including underground rappelling. The Inactive Mines Reclamation Program hired a contractor to close the horizontal entries and to construct an exclusion fence around the larger, dangerous vertical openings to prevent access by the public.	$39,105.00
Total Expenditures		**$61,683.25**

COLORADO
Department of Natural Resources
Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

November 1, 2019

The Honorable Representative Daneya Esgar
Chair, Joint Budget Committee
Colorado General Assembly
200 E. 14th Avenue, Third Floor
Legislative Services Building
Denver, CO 80203

RE: Department of Natural Resources JBC Request for Information #2

Dear Representative Esgar:

The Joint Budget Committee requested the Department of Natural Resources to include in its annual budget request a report on the performance of the Oil and Gas Conservation Commission's risk-based inspection program, including information on the development of the facilities integrity group, the inspection of process piping and flowlines, and the metrics used to measure the performance and effectiveness of the facilities integrity program. This request for Information was initially made in conjunction with the approval of the Colorado Oil and Gas Conservation Commission's FY 2015-16 request for the 12.0 FTE recommended by the Governor's Task Force on Oil and Gas. The following is the Department's two-part response to your request.

Risk Based Inspection Program

The Colorado Oil and Gas Conservation Commission (COGCC) uses a risk-based strategy for inspecting oil and gas locations that targets the operational phases that are most likely to experience spills, excess emissions, and other types of violations and that prioritizes more in-depth inspections. To achieve this goal, the COGCC first conducted a study to determine the operational phases of oil and gas activity that resulted in relatively higher occurrences of adverse impacts to public health, safety and welfare, or the environment, including wildlife. This study developed four recommendations for priority inspections: 1) review flowline and facility integrity at production facilities more frequently; 2) increase inspections during facility closures; 3) increase inspections during site construction; and 4) increase inspections during hydraulic fracturing and flow-back operations. In FY 2018-19 field inspection staff witnessed 92 hydraulic fracturing and 71 flow-back operations. Additionally, reclamation staff completed 129 site construction inspections during that period.

Additionally, the COGCC developed a geographic information system (GIS) model that is used in conjunction with existing agency systems to prioritize field inspections. This GIS model calculates a relative risk level (RRL) for each well in the state. The risk level is automatically updated as the factors affecting it change over time. Therefore, COGCC's database provides nearly real-time data for analysis, tracking, and spatial display on the COGCC's field inspection interactive map. Wells with a RRL of 45-75 are considered high priority; and the COGCC's goal is to inspect 100% of them on an annual basis, which currently aligns with the employees' performance review cycle (*i.e.* April 1 through March 31). On April 1, 2019 there were 2023 wells with a "high" RRL. As of October 17, 2019, 70% or 1,380 of the high priority wells had been inspected.

Corrective actions related to environmental and community protection that are issued to high priority wells are closely tracked to ensure 80% are re-inspected and that issues are resolved within 30 days. If corrective actions were not implemented by the operator within the scheduled time, the issue is referred to the COGCC's enforcement team. As of October 17, 2019, 80% of high priority wells with corrective actions had been re-inspected to confirm resolution or pursue enforcement action.

Field staff, including inspectors and reclamation specialists, use the calculated risk levels as an additional factor to consider when prioritizing additional inspections.

<u>Facilities Integrity Program</u>

The COGCC's integrity group, formed in FY 2015-16, has designed and implemented a risk-based program focused on the installation and maintenance of flowlines. Flowlines are the network of pipelines connecting oil and gas wells to tanks, separators, and other vessels, and include the pipelines connecting these facilities to the point of sale. During the fourth year of the program, FY 2018-19, the facilities integrity group accomplished the following:

Operator Guidance and Outreach:

- Updated "Frequently Asked Questions" documents pertaining to the new Flowline rules of February 2018.
- Prepared guidance document on Crude Oil Transfer System applicable standards.
- Prepared guidance document on Flowline Integrity Management for Out of Service Flowlines.
- Conducted additional trainings on use of the new Form 44 Flowline Report.
- Conducted outreach at events across Colorado, including Colorado Oil and Gas Association meetings in Denver, the Northwest Forum in Rifle and the La Plata County Gas and Oil Regulatory Team in Durango.

Procurement:

- Purchased two optical gas imaging cameras for use by the two integrity inspectors.
- Successfully carried out the required bid process for drone services. The pilot drone project is planned for the second quarter of FY 2019-20 together with the National Energy Technology Laboratory (NETL), which received its own federal funding for studying flowline issues in Colorado. The project was originally scheduled for the fourth quarter of FY 2018-19 but was delayed due to the federal government shutdown earlier in the year. The shutdown held up NETL's approvals and preparatory work.

Integrity Inspections:

- Performed field inspections of flowlines at over 300 sites. Carried out inspection activities for key flowline abandonments including the Coors flowlines in Firestone, where there was an explosion and two fatalities in 2017. Also provided onsite supervision for flowline abandonments associated with nine orphaned well locations.

Inspections were conducted during flowline construction, repair, and abandonment, and include the observation of pressure testing methods. Non-compliance issues were immediately addressed with the operator; the most serious resulting in formal enforcement actions.

Hydrogen Sulfide Safety Training and Certification:

- Certified 40 COGCC employees using a certified trainer on the Engineering Integrity staff.

Instrument Based Technologies for Detecting and Preventing Leaks and Spills from Flowlines:

- Engaged the Energy Institute at Colorado State University to conduct a review of instruments currently available or under development that could prevent and detect leaks. This work was completed in FY 2018-19 and is available on the COGCC website. http://cogccintranet/documents/library/Special_Projects/Flowline_IMM_Workgroup/CSU_Current_And_Near_term_Technology_Options_To_Detect_Leakage_Of_Hydrocarbons_Water_And_Gas_From_Flowlines_October_2018.pdf

Probabilistic Models for Flowline Integrity:

- Engaged the Colorado School of Mines to review probabilistic models for flowlines. This study, was completed in FY 2018-19 and is available on the COGCC website. http://cogccintranet/documents/library/Special_Projects/Flowline_IMM_Workgroup/CSM_Flowline_Risk_Review_October_2018.pdf

Flowline Audits:

- Conducted extensive audits of five operators and partial audits on over 20 additional operators. Audits are prioritized based on a data-driven flowline ranking model and are designed to help ensure operators have systems in place to prevent damage to flowlines, prevent failures that cause spills and releases, identify systemic flowline issues, and identify and address instances of non-compliance. The number of extensive audits conducted were lower than the previous year as attention was focused on the review of operator data submitted on the Form 44, which includes technical parameters and pressure testing data.

Flowline-Related Spill Monitoring:

- Reviewed over 214 flowline and facility related spills to determine root causes, when possible, and the mitigations needed to prevent future releases. Worked with operators on improving operations, including changing materials and installing flowline liners to better resist corrosion, and preventing strainer failures. Corrosion continues to be the largest cause of flowline-related spills.

Enforcement:

- Participated in seven new enforcement actions involving flowlines and facilities, with the largest action resulting in a $12.5 million penalty to fix pipeline issues in Southwest Colorado. In addition, nine previously issued warning letters concerning CO 811 registration resulted in Notices of Alleged Violation being issued.

New Flowline Form:

- Developed and put into service a new Flowline Form 44. It allows operators to register, report realignment, report removal from service, and report abandonment of off-location flowlines, domestic taps, crude oil transfer systems, and produced water transfer systems. It also covers the reporting of Grade 1 gas leaks, which are considered a hazard to persons or property. Approved over 3300 form 44's. Modified form to allow bulk upload of flowline systems using operator's electronic geodatabase data. Added a review tool for operators along with an automated emailed status update.

Facility Engineering:

- Assessed American Petroleum Institute (API) standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" for use in upcoming rulemaking.

New employees:

- Added one integrity engineer to assist with processing of form 44's and one West Slope-based integrity inspector.

Please contact me if you require additional information on the COGCC's risk-based inspection program or the development and progress of its new facilities integrity group.

Sincerely,

Carly M Jacobs

Carly Jacobs
Chief Planning and Budget Officer
Department of Natural Resources

Department of Natural Resources - Colorado Oil and Gas Conservation Commission
Plugging and Reclaiming Orphaned Wells Line Item
DNR RFI #3 - Annual Report of Expenditures

Orphaned Well Program Project Name	Project Type(s)	County(ies)	FY 2018-19 Expenditures*
Canfield #1	Environmental	Mesa	$1,369
CM Production Bond Claim	Field Operations, Engineering, Environmental	Jackson, Washington	$79,271
DB Orphan #8	Environmental	Mesa	$3,932
DB Orphan Ballpark #7	Reclamation	Mesa	$1,652
DeBeque #1	Engineering	Mesa	$49,889
Dolphin Bond Claim	Reclamation	Garfield	$3,307
Donnelly Bond Claim	Field Operations	Logan	$3,134
Faith Energy Bond Claim	Reclamation	Rio Grande	$310
General Resources Ltd	Reclamation	Weld	$3,005
Geowell #1	Engineering	Mesa	$49,906
Hall #1	Engineering, Reclamation	Larimer	$14,217
Lloyd and Lowell #1	Reclamation	Mesa	$5,122
Padroni Waste Site	Environmental	Logan	$1,459
Ranchers Bond Claim	Reclamation	Larimer	$735,184
Red Mesa Holdings Bond Claim	Engineering, Reclamation	La Plata	$4,523
Redwine Bond Claim	Reclamation	Montrose	$35,582
Sheffer Jack #1	Engineering, Reclamation	Larimer	$51,520
Snowden #1	Field Operations	Mesa	$365
Suckla #1	Engineering	San Miguel	$137,796
Texaco - Moffat Field	Environmental	Moffat	$5,095
Texas Tea Bond Claim	Engineering, Environmental	Adams	$24,646
Tudex Petroleum Bond Claim	Field Operations, Engineering, Environmental, Reclamation	Adams, Weld	$149,364
Total Expenditures			**$1,360,648**

*Many of these projects also have FY19 funding from bonds claimed by the Commission. Bond funding is not shown here.

Project Type Definitions

Field Operations Tasks include: Site Security, Equipment Intervention (draining, cleaning, and fluid management), or Equipment Salvage, including Hauling.

Engineering Tasks include: Engineering Design (site access for heavy equipment), Mechanical Integrity Tests or Other Well Work, Well Plugging, or Flowline Abandonment.

Environmental Tasks include: Sampling and Analysis, Remediation of Spills/Releases, or Pit Closure.

Reclamation Tasks include: Grading, Contouring, Stormwater Controls (BMPs), Seeding, and Weed Control.

Department of Natural Resources FY 2019-20 RFI #4
Colorado Oil and Gas Conservation Commission - Emergency Response
Annual Report of Expenditures

Project Name	Description of FY 2018-19 Activity	FY 2018-19 Expenditures
Total Expenditures	There were no expenditures from this line item in FY 2018-19.	$0

<u>**Department of Natural Resources FY 2019-20 RFI #5**</u>

Colorado Oil and Gas Conservation Commission - Special Environmental Protection and Mitigation Studies Annual Report of Expenditures

Special Study/ Project Name	Description of FY 2018-19 Activity	FY 2018-19 Expenditures
3M-4M (*ongoing project*)	Between 2001 and 2010, the OGCC installed 17 monitoring wells at 11 locations along the Fruitland Outcrop in La Plata and Archuleta Counties to monitor gas pressure changes in the Fruitland Coal Formation. The wells are equipped with downhole pressure transducers that report data via a satellite telemetry system to a central data center. In 2008 and 2009, the OGCC and its contractor also designed and installed methane seep mitigation systems at two locations in La Plata County. The OGCC retained third-party contractors knowledgeable in the monitoring and mitigation systems to provide ongoing operations and maintenance (O&M) support to ensure the systems stay in working order and continue to relay data as designed. In FY 2018-19, these contractors provided the following services: ● Conducted routine operations and maintenance activities of all system locations; ● Reviewed gas quality measurements stored in all data loggers; ● Collected weather station data; ● Conducted a system-wide field inspection tour; ● Collected well pressure measurements from a central data center; and ● Analyzed data and prepared the annual report. To retrieve the FY 2018-19 Annual Report from the OGCC website (http://cogcc.state.co.us), navigate to Library / Area Reports / San Juan Basin / 4M Project / 2018 4M Monitoring Report (2019 June).	$29,571

Exploration and Production Waste Facilities - Environmental Remediation Costs (*ongoing project*)	Centralized Exploration & Production (CE&P) Waste Management Facilities, which receive produced water, drilling fluids, and completion fluids for aggregation, and any other exempt exploration and production (E&P) waste for treatment, temporary storage, and/or disposal, require the operator to seek a permit from the OGCC and post financial assurance that represents the full cost of decommissioning, dismantling, remediation and reclamation. These facilities include land farms, water processing facilities, E&P waste storage pits, soil/cutting processing facilities, and drilling mud processing and management facilities. To better protect the state from financial liability, the OGCC retains a consultant to provide third party reviews and cost estimates of the environmental remediation procedures the OGCC would use in the event of operator financial default and OGCC management of the cleanup. The unbiased information obtained from this consultant is used to set the appropriate levels of financial assurance, which is typically somewhere between $500,000 and $4 million. During FY 2018-19, the consultant prepared four cost estimates for CE&P facilities in Garfield, Mesa, and Weld Counties, and is working on three cost estimates for facilities in Garfield, Moffat, and Rio Blanco Counties.	$10,660
Model Sampling and Analysis Plan *(new for FY 2018-19)*	Rules 609 and 318A.f. require operators and their contractors to conduct groundwater sampling and analysis, and the OGCC must post guidance on best practices to follow on its website. These best practices are known as the Model Sampling and Analysis Plan (SAP). With the help of an environmental consulting firm in FY 2018-19, the OGCC modified the Model SAP to reflect advances is sampling technology and	$3,700

Model Sampling and Analysis Plan, cont.	revisions in analytical methods occurring since the original Model SAP was published by the OGCC in May 2013.	
Naturally Occurring Radioactive Material Analysis in Produced Water (*ongoing project*)	The "Naturally Occurring Radioactive Materials (NORM) in Produced Water" study is a follow up to the 2014 "Analysis of NORM in Drill Cuttings, Greater Wattenberg Field, Weld County." This Special Project is also responsive to the October 2011 State Review of Oil and Natural Gas Environmental Regulations' (STRONGER) review of OGCC regulations. The results of this study will determine if NORM is present in produced fluids tested as part of the study's sampling program. During FY 2018-19, the OGCC completed interpretation of the analytical results from 51 samples taken statewide, produced a draft report, conducted technical review of the draft document, and posted a final draft report for third party review. The document is planned to become final later in FY 2019-20. To retrieve the report from the OGCC website (http://cogcc.state.co.us), navigate to Library / Technical Reports / Miscellaneous / Sampling and Analysis of Naturally Occurring Radioactive Material in Oil and Gas Produced Water Draft (September 17, 2019).	$1,028
33N8W Groundwater Investigation *(new for FY 2018-19)*	In April 2019, the OGCC began an investigation to determine the source of stray gas in domestic water wells in Township 33N Range 8W of La Plata County. The investigation includes a quarterly sampling plan by an independent, third party consultant for two neighboring domestic water wells, with the consultant completing the first two sampling events in FY 2018-19. Once the consultant has collected data from all four sampling events, the FY 2019-20 analysis will attempt to identify the specific zone and any possible seasonal factors affecting methane concentrations in these domestic water wells.	$800

Driving Methane Survey of Weld County *(new for FY 2018-19)*	In August 2017, in cooperation with the Colorado Department of Public Health & Environment - Air Pollution Control Division (CDPHE - APCD), the OGCC submitted a proposal to the US Environmental Protection Agency Region 8 to utilize its Geospatial Measurement of Air Pollution (GMAP) system for a driving air monitoring survey, primarily in Weld County. GMAP surveying took place November 2017. The system was used to detect methane, total volatile organic constituents, and benzene in areas selected by the OGCC for several reasons, but primarily for the large number of oil and gas facilities located in close proximity to both established and expanding residential areas within municipalities such as Dacono, Frederick, Firestone, Erie and several others. The field work consisted of a total of seven days of surveying along 492 miles of public roads. During FY 2018-19, the OGCC finished technical review and editing of the final report and published it online in January 2019. To retrieve the report from the OGCC website (http://cogcc.state.co.us), navigate to Library / Special Projects / Other Topics / Methane and Volatile Organic Compound Driving Survey of Weld County. .	$405
Total Expenditures		**$46,164**

COLORADO
Department of
Natural Resources

Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

November 1, 2019

The Honorable Representative Daneya Esgar
Chair, Joint Budget Committee
Colorado General Assembly
200 E. 14th Avenue, Third Floor
Legislative Services Building
Denver, CO 80203

RE: Department of Natural Resources JBC Request for Information #6

Dear Representative Esgar:

The Joint Budget Committee made the following request for information from the Department of Natural Resources regarding the finances of Colorado Parks and Wildlife (CPW):

> ***RFI #6: Department of Natural Resources, Division of Parks and Wildlife***
> The Division of Parks and Wildlife is requested to provide the Joint Budget Committee with a report on Parks and Outdoor Recreation and Wildlife sources of revenue, as well as the expenditures of revenues by revenue type. The report should provide an analysis of lottery funds Great Outdoors Colorado Board Grants used for operations and capital projects. The report is requested to be submitted by November 1, 2019.

In response, we are forwarding a financial report that is regularly provided to the Colorado Parks and Wildlife Commission. This version of the report includes year-end data for FY 2018-19 and has four sections: a summary of total revenue and expenditures for all CPW funds combined, a summary of activity in all combined purpose or joint-use cash funds (e.g., the Aquatic Nuisance Species Cash Fund used by both the Parks and Wildlife sides of the agency), and separate summary information for parks and outdoor recreation cash funds and wildlife-related cash funds. Each section includes information about funding from the Colorado Lottery and Great Outdoors Colorado.

Please do not hesitate to contact me if you require any additional information regarding CPW finances.

Sincerely,

Carly M Jacobs

Carly Jacobs
Chief Planning and Budget Officer
Department of Natural Resources

P 303.866.3311 F 303.866.4474 www.colorado.gov/dnr
Jared Polis, Governor | Dan Gibbs, Executive Director

COLORADO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND WILDLIFE

Sources and Uses of Funds

FY18-19 Year-End (Period 16)

All Parks and Wildlife Funds Combined

	Detail	Notes	Year-to-Date FY 18-19 YTD	FY 17-18 YTD	Difference
Revenues					
Licenses, Passes, Fees and Permits			144,046,652	124,983,257	19,063,395
Registrations			9,024,319	9,192,703	(168,385)
Federal Grants			35,469,940	36,256,436	(786,496)
State and Local Grants			5,359,522	3,743,402	1,616,120
Great Outdoors Colorado			31,634,822	20,159,299	11,475,522
Lottery			16,646,117	14,073,680	2,572,437
Donations			1,212,666	1,537,772	(325,105)
Other Revenues			14,583,479	13,915,460	668,019
General Fund			3,786,364	3,636,364	150,000
Severance Tax			2,527,634	2,426,476	101,158
Revenues Before Transfers			264,291,515	229,924,849	34,366,666
Intra-Agency, Inter-Fund Transfers			29,103,092	19,906,528	9,196,564
Total Revenues			293,394,607	249,831,377	43,563,230
Expenditures					
Operating					
Personal Services			100,759,148	93,877,973	6,881,175
Operating			65,446,962	62,238,034	3,208,928
Grants to Others			17,194,874	13,852,527	3,342,346
Payments to Other Agencies			19,174,067	15,920,680	3,253,386
Subtotal, Operating			202,575,050	185,889,214	16,685,836
Capital					
Capital Equipment			2,868,112	2,557,831	310,281
Capital Improvements			24,537,683	21,585,758	2,951,925
Capital Acquisitions			5,294,466	1,169,155	4,125,311
Capital Information Technology			453,233	164,287	288,946
Capital Other			2,460,665	2,292,436	168,229
Subtotal, Capital			35,614,160	27,769,468	7,844,692
Expenditures Before Transfers			238,189,210	213,658,682	24,530,528
Intra-Agency, Inter-Fund Transfers			29,103,092	19,906,528	9,196,564
Total Expenditures			267,292,302	233,565,210	33,727,092
Revenues Minus Expenditures			26,102,305	16,266,167	9,836,138

COLORADO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND WILDLIFE

Sources and Uses of Funds

FY18-19 Year-End (Period 16)

All Combined Purpose Funds Combined

	Detail	Notes	Year-to-Date FY 18-19 YTD	FY 17-18 YTD	Difference
Revenues					
Licenses, Passes, Fees and Permits	[1]		1,737,325	-	1,737,325
Registrations			-	-	-
Federal Grants			633,299	2,714,732	(2,081,433)
State and Local Grants			110,141	7,192	102,949
Great Outdoors Colorado			-	-	-
Lottery			-	-	-
Donations			254,881	506,940	(252,060)
Other Revenues			294,010	212,504	81,506
General Fund			2,452,193	2,452,193	-
Severance Tax			-	-	-
Revenues Before Transfers			5,481,849	5,893,561	(411,712)
Intra-Agency, Inter-Fund Transfers			2,692,134	352,982	2,339,152
Total Revenues			8,173,983	6,246,543	1,927,440
Expenditures					
Operating					
Personal Services			3,223,442	2,692,079	531,363
Operating			1,649,430	1,060,756	588,675
Grants to Others			405,406	104,052	301,354
Payments to Other Agencies			214,754	266,540	(51,786)
Subtotal, Operating			5,493,033	4,123,427	1,369,606
Capital					
Capital Equipment			94,296	7,800	86,496
Capital Improvements			19,191	15,642	3,549
Capital Acquisitions			-	-	-
Capital Information Technology			6,710	-	6,710
Capital Other			-	-	-
Subtotal, Capital			120,197	23,442	96,755
Expenditures Before Transfers			5,613,230	4,146,869	1,466,361
Intra-Agency, Inter-Fund Transfers			153,126	352,982	(199,856)
Total Expenditures			5,766,356	4,499,852	1,266,505
Revenues Minus Expenditures			2,407,627	1,746,692	660,935

COLORADO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND WILDLIFE

Sources and Uses of Funds

FY18-19 Year-End (Period 16)

All Parks Funds Combined

	Detail	Notes	Year-to-Date FY 18-19 YTD	FY 17-18 YTD	Difference
Revenues					
Licenses, Passes, Fees and Permits	[2]		29,809,312	28,839,784	969,528
Registrations	[3]		9,024,319	9,192,703	(168,385)
Federal Grants			7,315,472	6,696,040	619,432
State and Local Grants			1,932,440	1,611,275	321,165
Great Outdoors Colorado			18,427,831	10,523,956	7,903,875
Lottery			16,646,117	14,073,680	2,572,437
Donations			25,900	15,429	10,471
Other Revenues		[a]	7,262,298	7,333,755	(71,458)
General Fund			150,000	-	150,000
Severance Tax			2,527,634	2,426,476	101,158
Revenues Before Transfers			93,121,322	80,713,099	12,408,224
Intra-Agency, Inter-Fund Transfers			12,955,436	6,453,015	6,502,421
Total Revenues			106,076,759	87,166,114	18,910,645
Expenditures					
Operating					
Personal Services			33,076,061	28,636,452	4,439,609
Operating			21,730,523	15,960,806	5,769,717
Grants to Others			7,101,028	8,826,402	(1,725,374)
Payments to Other Agencies			6,634,388	5,846,010	788,377
Subtotal, Operating			68,541,999	59,269,670	9,272,330
Capital					
Capital Equipment			1,526,214	1,162,042	364,172
Capital Improvements			20,404,533	17,946,911	2,457,622
Capital Acquisitions			660,149	25,362	634,787
Capital Information Technology			253,825	85,875	167,949
Capital Other			2,140,481	1,716,202	424,279
Subtotal, Capital			24,985,201	20,936,393	4,048,809
Expenditures Before Transfers			93,527,201	80,206,062	13,321,138
Intra-Agency, Inter-Fund Transfers			12,949,516	6,454,499	6,495,017
Total Expenditures			106,476,716	86,660,561	19,816,155
Revenues Minus Expenditures			(399,958)	505,553	(905,510)

[a] properties, $1.1M is related to a surety tender agreement, and a reclassification of expense between funds totaling $3.2M related to the 2013 flood.

COLORADO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS AND WILDLIFE
Sources and Uses of Funds
FY18-19 Year-End (Period 16)
All Wildlife Funds Combined

	Detail	Notes	Year-to-Date FY 18-19 YTD	FY 17-18 YTD	Difference
Revenues					
Licenses, Passes, Fees and Permits	[4]		112,500,015	96,143,473	16,356,542
Registrations			-	-	0
Federal Grants			27,521,169	26,845,665	675,504
State and Local Grants			3,316,941	2,124,934	1,192,006
Great Outdoors Colorado			13,206,990	9,635,343	3,571,647
Lottery			-	-	-
Donations			931,886	1,015,403	(83,517)
Other Revenues			7,027,171	6,369,200	657,971
General Fund			1,184,171	1,184,171	-
Severance Tax			-	-	-
Revenues Before Transfers			165,688,344	143,318,189	22,370,155
Intra-Agency, Inter-Fund Transfers			13,455,521	13,100,531	354,991
Total Revenues			179,143,865	156,418,720	22,725,145
Expenditures					
Operating					
Personal Services			64,459,645	62,549,442	1,910,204
Operating			42,067,008	45,216,472	(3,149,464)
Grants to Others			9,688,440	4,922,074	4,766,366
Payments to Other Agencies			12,324,925	9,808,130	2,516,795
Subtotal, Operating			128,540,018	122,496,118	6,043,901
Capital					
Capital Equipment			1,247,602	1,387,989	(140,387)
Capital Improvements			4,113,959	3,623,205	490,754
Capital Acquisitions			4,634,317	1,143,793	3,490,524
Capital Information Technology			192,699	78,411	114,287
Capital Other			320,184	576,234	(256,050)
Subtotal, Capital			10,508,761	6,809,633	3,699,129
Expenditures Before Transfers			139,048,779	129,305,750	9,743,029
Intra-Agency, Inter-Fund Transfers	[10]		16,000,450	13,099,047	2,901,403
Total Expenditures			155,049,229	142,404,797	12,644,432
Revenues Minus Expenditures			24,094,636	14,013,923	10,080,713

COLORADO
Department of
Natural Resources

Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

November 1, 2019

The Honorable Representative Daneya Esgar
Chair, Joint Budget Committee
Colorado General Assembly
200 E. 14th Avenue, Third Floor
Legislative Services Building
Denver, CO 80203

RE: Department of Natural Resources JBC Request for Information #7

Dear Representative Esgar:

The Joint Budget Committee made the following request for information from the Department of Natural Resources (DNR) regarding a FY 2019-20 JBC staff figure setting recommendation to reorganize Long Bill line items in three DNR divisions starting in FY 2020-21:

> ***RFI #7: Department of Natural Resources, Division of Parks and Wildlife, Colorado Water Conservation Board, and Division of Water Resources***
> The Department and Divisions are requested to provide a report on the impact of the staff recommended line item reorganization for the FY 2020-21 budget. The report should identify any unresolved problems stemming from the reorganization and suggest any additional actions. The report is requested to be submitted by November 1, 2019.

Attached to this letter are narrative responses from the three affected DNR divisions describing the impacts of the proposed line item reorganization. Please do not hesitate to contact me if you require any additional information on this matter.

Sincerely,

Carly M Jacobs

Carly Jacobs
Chief Planning and Budget Officer
Department of Natural Resources

P 303.866.3311 F 303.866.4474 www.colorado.gov/dnr
Jared Polis, Governor | Dan Gibbs, Executive Director

Department of Natural Resources FY 2019-20 RFI #7

Long Bill Line Item Reorganization for Colorado Parks and Wildlife, the Colorado Water Conservation Board, and the Division of Water Resources

During the figure setting process for the FY 2019-20 budget, JBC staff proposed that the following line items be relocated from the (B) Special Purpose Long Bill subsections to the (A) Administration or Operations Long Bill subsections in three divisions, starting in FY 2020-21:

- Colorado Parks and Wildlife (CPW) - Information Technology, Asset Maintenance and Repairs, Annual Depreciation-lease Equivalent Payments, and Indirect Cost Assessment;
- Colorado Water Conservation Board (CWCB) - Indirect Cost Assessment; and
- Division of Water Resources (DWR) - Dam Emergency Repair and Indirect Cost Assessment

The Department of Natural Resources (DNR) submitted an initial assessment of the impact of the proposal in March 2019. Overall, the Department's conclusions in response to this request for information remain largely unchanged. For CWCB and DWR, the proposed line item reorganization would have a minimal workload impact because the coding structure of the line items involved is very simple and the codes are only used for a small number transactions or templates. This is also the case for the CPW Annual Depreciation-lease Equivalent Payments line item.

However, the other three CPW line items have complex multi-layered coding that is used for a high volume of transactions, salary templates, contracts, and federal grants. Although a the proposed reorganization looks straightforward from a Long Bill perspective, the effect of moving the Information Technology, Asset Maintenance and Repairs, and Indirect Cost Assessment line items is expected to be significant for CPW and DNR staff (details below). Given that the line items would simply be changing location, the benefits of the reorganization in terms of transparency or efficiency are unclear compared to the workload required to successfully implement the proposed CPW Long Bill structure.

Background

In order to implement the state budget, every Long Bill line item has a unique set of detailed codes in the state's accounting system (CORE) that identify the structure of each appropriation. These codes are referenced in every transaction and template involving a particular line item. Any time new line items are created or existing line items change locations the Long Bill—e.g., from subsection (B) Special Purpose to subsection (A) Administration—it requires new coding in CORE and revisions to any transactions or templates that use those codes. Coding changes of this nature require the involvement of program staff, division-level administrative staff, and department-wide accounting and budget staff, as well as action from the Office of the State Controller. The complexity of the coding in a particular line item determines the relative magnitude of the workload impact of a reorganization.

Colorado Parks and Wildlife

The CPW line items in the proposed reorganization—Information Technology, Asset Maintenance and Repairs, Annual Depreciation-Lease Equivalent Payments, and Indirect Cost Assessment—currently have a total of 19 major codes, called appropriation units, assigned to them. Developing and implementing 19 new appropriation units as a result of a line item reorganization will significantly impact several operational areas for CPW:

- CPW has a significant number of contracts and purchase orders that reference the existing appropriation units. The Information Technology and the Asset Maintenance and Repairs line items, in particular, have large numbers of contracts referring to existing appropriation units. The proposed line item reorganization would require CPW staff to modify every contract and purchase order that uses an appropriation unit that is changed. Because the Asset Maintenance and Repair line item is a three year line, two years of projects would require midstream changes to update all underlying contracts, purchase orders, and grants.

- The Indirect Cost Assessment line item is particularly problematic. This line item's six existing appropriation units are tied to numerous large and complex federal grants. New appropriation units will result in changes to the set-up for all of these grants in CORE. Because many of these grants cross fiscal years, CPW staff expects implementation of the necessary grant set-up modifications will be especially challenging.

Although DNR and CPW have a clearer understanding of the steps required to implement the line item reorganization, the changes will be time consuming and require a great deal of coordination between the Department, Division, and Office of the State Controller. DNR estimates each affected grant or project will require at least one hour of set-up work and three people to make the changes: one person to enter the modification to the contract or purchase order; one person to review and approve the modification; and one person to update the grant setup in CORE and process the various table updates and associated documents. Additionally, the accounting structure changes necessary for implementation are not used very often, increasing the possibility of errors or omissions and leading to delayed vendor payments or grant billing. Because these potential changes to the Information Technology, Asset Maintenance and Repairs, and Indirect Cost Assessment line items would affect so many projects and grants, CPW expects it would take a significant number of staff hours dedicated to careful data entry to accommodate moving them from one Long Bill group or subsection to another.

P 303.866.3311 F 303.866.4474 www.colorado.gov/dnr
Jared Polis, Governor | Dan Gibbs, Executive Director

APPENDIX F: DEPARTMENT OF REVENUE FY 2018-19 RFI – RESOURCES FOR SEVERANCE TAX REPORTING

Executive Summary

Summary of Additional Resources Required to Provide Severance Tax Filing Data[1]			
Category of Expenditure	*FY 1**	*FY 2*	*FY 3 and Ongoing*
Vendor Development and Testing Costs (Fast for GenTax Programing)	$73,750	$73,750	$-
Mineral Audit	$43,321	$86,641	$86,641
Office of Research and Analysis	$19,200	$3,200	$320
System Support Office (Personal Services Dollars to Backfill Testing and Project Management Functions)	$51,215	$51,215	$-
Total	$187,486	$214,806	$86,961

*Fiscal Year Ending During the Impacted Tax Filing Year
Note: For a more detailed explanation of costs and methodologies, review the "Additional Resources Required to Implement" section of the report.

As a result of this request for information, the Colorado Department of Revenue (CDOR) convened a working group of audit, taxpayer service, business analyst, reporting, and policy staff to discuss current limitations and identify areas of opportunity to modify severance tax administration to improve the systematic intake and output of taxpayer data. CDOR made several assumptions about what constitutes "more specific information" about the data in question that are outlined in the "Problem Statement" section of the report. Potential solutions developed by the team are grouped by solutions that would be facilitated by statutory changes or by solutions that could be addressed through return and/or system updates alone.

Colorado's severance tax was enacted in 1977 and portions of statute have not been substantially updated or revisited since the 1980's and 90's. This document summarizes

[1] For purposes of estimating costs to respond to this RFI, the Department assumes that the implementation timeline for statutory and system changes would begin January 1 of the impacted tax filing year. For example, if the changes are effective for the tax year beginning January 1, 2019, the project would be initiated, planned and developed beginning January 1, 2019 (or as soon as possible thereafter) in order to ensure that the returns, data sharing processes, and filing and billing systems are fully updated by January 1, 2020 when taxpayers may begin filing for the 2019 tax year.

several statutory changes the Department recommends including but not limited to: mandate e-filing; mandate centralized collection and sharing of NERF data electronically with CDOR, CDOLA, and the counties; exempt severance tax from refund interest statutes in certain cases; and add an option for the Department to assess a penalty for failure to report and file correctly to ensure correct information is collected.

In addition to providing the General Assembly with more reporting capacity, the adoption and funding of the solutions suggested in this report simplify severance tax filing for taxpayers and reduce manual work and errors for CDOR, improving the integrity and accountability of the tax system. Historically, conflicting and higher impact demands on CDOR development resources have superseded opportunities to automate the severance tax or to drive the systematic collection of data for reporting of the tax. While modernizing these processes would result in more efficient administration of the tax, the cost of the modernization has exceeded the benefit given the Department's budget allocations in the past.

For general information, currently there are no cases waiting in the Department's conferee section to be resolved as a result of BP Am. v. Colo. Dept. of Revenue decision. There is projected to be $16 M of refunds issued for returns that are currently under audit. These refunds are related to the BP Am. v. Colo. Dept. of Revenue decision ruling. These refunds are expected to be processed and paid by the end of this fiscal year, June 30, 2019. Additionally, there is anticipation that amended returns may be filed for the eligible time period of tax year 2014 through 2016 for an estimated total of up to $29 M[2].

Without an electronic filing mandate, the costs to collect and prepare the data for reporting manually by staff increase exponentially above what is presented in this RFI response. The adoption of any single solution alone is not enough to address the request for additional reporting for the general assembly and the suggestions provided should be considered as a package.[3]

[2] This estimate is based on a representative group of the largest taxpayers and the limited information that is known at this time. This total is only an estimate, as the decision to file amended returns is left to the business. The Department of Revenue has no advance notice of taxpayer intent until such time as the business files tax information with the Department.

[3] Any changes made as a result of suggestions from this RFI will only be effective going forward; what data the Department does have available for back years and current years is limited and can only be retrieved through manual information gathering, which means copying information from images of paper forms (if provided and available) by hand into a spreadsheet or other data collection tool.

Also, reporting data from tax filings includes an inherent lag. For example, if taxpayer requirements were changed effective for the 2019 filing period (which is due beginning April 15, 2020), the earliest that reporting could be completed would be January 2021 to include fiscal year taxpayers and extension filers in a "full tax year". In addition, reporting on return-based information does not predict the potentially substantial revenue adjustments that happen as a result of late filings, amendments, or audits. Filing data should only be used to inform decisions about long-term trends and patterns and cannot reasonably be used to forecast short term effects.

Introduction

1.1 Problem Statement:

"The Department is requested to submit to the Joint Budget Committee (JBC) by November 1, 2018, an assessment of the additional resources it would need to provide the General Assembly with more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance tax filers for decision making purposes. Additional resources may include, but is not limited to: statutory changes, additional personnel, additional software modules, or software adjustments to GenTax."

In order to complete the request for information (RFI), the Department makes the following assumptions:

- The JBC believes that historical data on the use of specific credits, exemptions, and deductions allowed under statute against severance tax will allow for more accurate forecasts of severance tax revenues in the future.
- The "more specific" information includes a breakout of credit, exemption, and deduction amounts claimed that is consistent and comparable to the information that is collected by property tax administrators in the netback expense (NERF) forms.
- Collecting and reporting data systematically is facilitated by receiving data electronically.
- Without an electronic filing mandate, the costs to collect and prepare the data for reporting manually by staff increase exponentially above what is presented in this RFI response.

CDOR is currently unable to provide reporting on the specific information requested related to severance. Prior to 2008, all CDOR administered taxes were housed by a patchwork of systems in a mainframe environment developed decades before. The legacy system presented a number of limitations on data, processing, and information collection that set a foundation of manual processing and little integration. The severance taxes were among the first taxes that were migrated to the new system in 2008. As one of the first taxes implemented in the system, the priorities for severance tax migration were (1) proof-of-concept to transfer relatively smaller taxes to a more integrated new system and (2) maintaining existing processes with minimal business disruption for taxpayers and for Department staff. The severance tax roll out was not designed include significant enhancements or changes. Since the initial roll out and over the past ten years, other conflicting and higher impact demands on CDOR resources have superseded many opportunities to improve the administration of the severance tax or to increase the systematic collection and reporting of the tax data.

The data desired by the GA is return data. This data can be used to inform some policy decisions about the severance tax landscape, but even if made available, limitations on the usefulness of the data should be considered and understood by decision makers. Returns are reports that rely on voluntary compliance and taxpayer knowledge that may be audited and corrected by the Department. Not every return received is audited. Return information can be changed at any time (within reason and within a statute of limitations) through amendment, review adjustment, audit findings, administrative hearing settlement, or court process. While return data (which is specified by tax year/filing period) largely tracks collection data (which is specified by revenue period) it will not match exactly and cannot be easily linked to collection data because substantial revenue adjustments can happen as a result of late filings, amendments, or audits.

Tax policy--such as providing deductions or credits--has an effect on severance tax collections, however larger economic and political forces on oil and gas prices such as global supply and demand, other federal and state exploration and production regulations, and industry profitability and technology contribute more to drive business decisions and ultimately production and tax revenue from producers than tax policy directly. These forces, as well as the results of any potential future litigation create variations from forecasts that are outside of the control of the state and the impacts of these forces are not mitigated or predicted by additional data reported on returns.

The majority of the suggestions included in the report are focused on changes to oil and gas reporting specifically, however each of the changes recommended are also applicable to other severance taxes (metallic minerals, coal, molybdenum, etc.) Much of the statute governing the administration of severance taxes applies to all severance tax types so the associated costs for updates also consider severance tax as an inclusive package. The costs to make changes could be reduced marginally if the suggested statutory and administrative changes were adapted to fully separate the administration of oil and gas severance from all other severance taxes; however the reduction in development costs would be marginal and would decrease consistency in administration between the various types of severance tax.

Finally, the members of the working group discussed ideas outside of the scope of reporting that could have a stabilizing impact on the state revenue stream generated by severance taxes to improve the General Assembly's ability to budget and expend severance tax revenues.[4] Ultimately, these ideas were not addressed in detail in the RFI response due to

[4] These ideas were to (1) change the way distributions are allocated from the severance tax funds in the state budget based on collections from the prior fiscal year rather than the current fiscal year, (2) raise the tax rates, (3) change the point of taxation to producers only rather than require a withholding and liability sharing with other taxpayers by taxing the production directly rather than the gross income from the production, (4) remove, reduce, or modify the ad valorem credit since taxpayers receive reductions and credits against the ad valorem tax based on several netback expense (NERF) deductions, and (5) remove or reduce the threshold for consideration of "stripper" well exemption status.

the fact that they were more significant tax policy changes or budget decisions rather than collection of information and had the potential to result in net revenue increases for the state.

1.2 Statutory Construction of Severance Tax

The current statutory framework authorizing severance tax contains grey areas and does not provide statutory authority for the Department to enact or enforce administrative changes that only serve the purpose of increasing the amount of reportable data. To the extent the Department determines that additional information is required on a return for the purpose of tax administration the Department has statutory support to require that information. However, depending on the quantity, type, and scope of changes to returns and systems to accommodate the information the Department must defend and budget for the changes or forgo other maintenance and support work to pay for the development. In addition, the results of the BP Am. v. Colo. Dept. of Revenue decision mean that the Department has little room to make any regulatory adjustments regarding deductions without supporting legislative changes to the underlying statute. In order to support the request for additional reporting and return information from taxpayers, the Department recommends several statutory changes in the “Statutory Solutions” section of this report.

1.3 Return and System Limitations on Data Collection

The general assembly request pertains to "more specific information related to severance tax and tax credits, exemptions, and deductions taken by severance filers." Information regarding deductions is not reported on the Form DR 0021 and associated Form DR 0021D which are the minimum required components to administer oil and gas severance tax return processing. Deduction is reported, if at all, on Form DR 0021PD, a form that was not designed to reflect the degree of detail contemplated by the RFI, that CDOR is not able to require taxpayers to submit, and, if taxpayers do submit, CDOR does not have the current system capacity to data capture and store the information.

The decisions regarding the collection and capture of this information at any level in the past have been largely driven by resource constraints (costs to key or data capture information from paper, costs to store data in the Department’s system of record, etc.) and the relatively small populations of impacted filers compared to the historic audit coverage of the industry, which has in some years been as much as 75% of the collected amount and covers the majority of wells in the state. Additional data that is captured and stored systematically could in some cases improve the ease of administration of the tax, however due to costs for system changes as well as the requirement of taxpayers to “keep and preserve books, accounts, and records as may be necessary to determine the amount of liability", capturing additional data on the return has remained a “nice to have” rather than a “necessary” consideration. Additional reporting requirements from the taxpayer also increase taxpayer costs of compliance to report and file correctly and requiring redundant information from CDOR that the taxpayer files and reports elsewhere places additional burden on the industry and costs on the businesses. In order to support the request for additional reporting and return information from taxpayers, the Department recommends funding several administrative and system changes in the "Return and System Solutions" section of this report.

Potential Solutions and Resources Needed

Statutory Solutions

This section outlines CDOR's recommendations for statutory changes that would enable more current, accurate and accessible data for decision makers, a more streamlined severance tax filing experience, as well as more automated administration of the severance tax.

Suggestions and Rationale for Statutory Changes	
Suggested Section in C.R.S.	*Description of change and rationale for the suggestion*
#1 39-7-101(4)	Mandate sharing of NERF data electronically from the counties with CDOR to (a) centralize the information and (b) help improve the correct assessment of tax and (c) streamline audit efficiency. Or consider centralized reporting from all the producers to CDOLA or DOR into a database system all of the assessors could access (and then share from CDOLA to CDOR if necessary.) This suggestion represents an opportunity (like a state managed GIS for sales tax boundaries) to invest in a centralized data repository that could be used by state and local agencies, as well as a repository for more complete deduction information.
#2 39-21-110	The fact that the original due date of a filing rather than the timely filing drives the payment of refund interest could result in variations in collection that are unexpected and difficult to budget for. CDOR has 90 days from the return due date to process returns prior to having to pay refund interest. This is a very large task in and of itself. Additionally, there is no clear guidance on how to treat taxpayers who file late (after the due date) or upon extension. The Income Tax refund interest statute is subject to different rules, one of which is that the state does not have to pay refund interest if a return has been selected for review and one which begins any interest calculations at the date of the receipt of the

Suggestions and Rationale for Statutory Changes	
Suggested Section in C.R.S.	*Description of change and rationale for the suggestion*
	filing or return rather than the original due date of the return. Some severance tax returns are in excess of 200+ pages and often are more lengthy reviews. A change to this statute would result in less chance for variations in collections that are a result of interest being paid on late or amended filings.
#3 39-29-102(3)(a)	● Clarify in statute the General Assembly's intent, scope, and definition of deductions allowed against "gross income". ● Consider statutory changes regarding "related parties" and provide specific direction on what can be allowed to be considered an arm's length transaction vs. a related party transaction, statute allows CDOR to define in rule however the Department had to modify the regulation as a result of the court decision. Statutory clarification defining related parties could allow the Department more direction to prevent related party pricing to avoid tax.
#4 39-29-103(2) AND 39-29-105(2)	Eliminate the option to use cash or accrual methods to determine the credit allowed and just follow the federal rule for most taxes of cash accounting for purposes of establishing the credit. This change would avoid taxpayers who use accrual accounting getting the value of the credit before the payment that generates the credit is actually made in some cases. This nuance in filing, reporting, and qualifying for the credit complicates filing and can result in audit adjustments that make predicting the revenue flow of severance taxes challenging.
#5 39-29-111	● Codify the requirement that producers or first purchasers must file their withholding statements with the Department in addition to sending copies of withholding statements to the interest holder. This reporting requirement provides a check and balance system for refund claims by interest holders and reinforces the Department with a systematic tool rather than selection for audit to ensure that producers are withholding correctly. ● Consider conforming producer withholding requirements to similar standards as wage withholding requirements to include a penalty for failure to correct withholding documents and provide corrected documents to taxpayers.

Suggestions and Rationale for Statutory Changes	
Suggested Section in C.R.S.	*Description of change and rationale for the suggestion*
	• Consider moving the requirement to complete 4th quarter withholding and annual reconciliation earlier than March 1 to improve the filing timelines and correct information. If taxpayers do not receive withholding statements until the first or second week of March and annual filing is due by April 15 there is little time to file correctly. Additionally, if there are delays in producers providing withholding reconciliations to CDOR the Department is unable to verify withholding for interest holders who file earlier. Producers or first purchasers who have employees are accustomed to providing employment withholding statements and reconciliations to the IRS, SSA and the state by January 31 for the prior year.
#6 39-29-112(1)	Mandate electronic filing of severance tax returns with CDOR (and fund and complete the subsequent development to create an electronic filing method). If all of the requisite data for reporting is provided by taxpayers in an electronic format directly to the Department, the significant reporting barrier of manual data entry costs and errors is removed.
#7 39-29-112(7)	If the general assembly needs complete information related to severance tax in order to make decisions, statute currently does not include reporting from individuals with less than $250 withheld from all unit operators and for whom the $250 minimum meets or exceeds the tax obligation. As a result, there are a large number of rent/royalty taxpayers who never file an actual return. When this exclusion from filing is combined with the previous bullet, it is likely that a large number of interest holders are not only not filing, and if they all submitted returns for prior periods be eligible for refunds of over withholding that is not currently captured or anticipated. To the extent that the producer or first purchaser submits DR 0021Ws to the Department, the Department has this information, just from a different source. If the submission and collection of data from DR 0021W's provided by producers or first purchasers were addressed (as in suggestion #5 above) this exclusion would not necessarily need changed.

Suggestions and Rationale for Statutory Changes	
Suggested Section in C.R.S.	*Description of change and rationale for the suggestion*
#8 39-29-115(2)	Modify or add a penalty provision for failure to report to CDOR correctly. Even minor changes to tax reporting are adopted with varying rates of success and the suggested changes are substantial. Most taxpayers will voluntarily comply with the new reporting requirements however CDOR has no recourse to compel any serious standouts to report correctly on the filing. Consider borrowing language from 39-26-118(2) re: failure to "correctly account" for the tax. Include a requirement that if errors are discovered during an audit, the taxpayer is required to file an amended return to correct the errors. Taxpayers have similar requirements for federal severance audits.
For consideration, a simplification of the tax structure overall in order to create the easiest structure for filing and for reporting on information:	
#9 39-29-102(3) AND 39-29-111	Significant changes to reporting and liability structure of the tax so that the incidence of the tax is entirely on the producer and not interest or royalty holders at all. The withholding scheme convolutes where the tax liability ultimately rests, complicates reporting and filing significantly, and benefits the producers over the royalty holders by reducing overall the tax that is due on severance throughout the state at the current rates. Since a change like this has the potential to implicate TABOR by resulting in a revenue increase, this type of change is not included in the resource costs of this analysis. Careful review and potentially an adjustment and decrease in rates to account for an increase in taxable gross income could mitigate overall revenue increases, however that analysis has not been conducted by CDOR at this time.

Return and System Solutions

Suggestions and Rationale for Return and System Changes	
Corresponding Statutory Updates for Support (if applicable)	*Description of change and rationale for the suggestion*
See #1 & #6 in the "Statutory Solutions" section	Modify the DR 0021 and the DR 0021PD to enumerate taxpayer reporting of more of the NERF deductions that statute and the court decision allow for more granular reporting data to be collected on the filings. Require and capture (electronically) the DR 0021PD and use the data from that form to feed into the DR 0021 at an aggregate level.
See #1, #4, & #6 in the "Statutory Solutions" section	Make updates to the audit working papers (audit program functionality) in GenTax to operate more like the retail marijuana tax working papers and have a number of fields from the DR 0021 that are updated upon audit adjustments in the RETURN document in addition to the financials that post on the account for billing. If the return document is not updated by audit adjustments, reporting for accounts that have been audited and adjusted will not accurately represent credit, exemption, or deduction information as requested in the RFI.
See #5, #6, & #7 in the "Statutory Solutions" section	Make changes to the annual withholding reconciliation for OGW to behave more like the DR 1093 for wages and adjust annual reporting requirements and rules to align that process more closely with the wage withholding process. Withholding functions best in a system of checks and balances, where the withholder is compelled to correctly report withholding against filing or claims for refund from the party withheld.
See #1, #5, #6, & #7 in the "Statutory Solutions" section	The only data currently electronically captured and stored in GenTax for oil and gas severance is from the DR 0021 and the DR 0021D, and limited fields from those return forms. Expand the data stored and collected as indicated in the table above, including mapping the data to return tables and supporting tables to allow for reporting out of the system.
See #3, #5, & #6 in the "Statutory Solutions" section	• Adding verbiage that DR 21D is required with the return and modify the form to include a column to report withholding. Require that each DR 21W should be separately listed on the DR 21D. Capture the additional withholding data and complete any

Suggestions and Rationale for Return and System Changes	
Corresponding Statutory Updates for Support (if applicable)	*Description of change and rationale for the suggestion*
	math rule changes that should be completed as a result of the extra step to automate withholding comparisons. This way, if discrepancies occur, CDOR can identify and correct specific withholding statements. Poor tracking could cause allowance of ad valorem when no income may have been present on any given DR 21W due to limited information. ● Require the DR 21AS with any severance tax filing (when applicable.) This information helps CDOR identify parent/subsidiary entities that are required to file a combined severance return.

Additional Resources Required to Implement Suggested Solutions

Additional Vendor System Development and Testing Cost Resources:

The suggestions presented in this document require a number of changes and modifications to the severance tax returns, filing processes, and audit processes in order for CDOR to systematically collect and report the information requested as part of this RFI. The review team developed requirements and a scoping document[5] for changes and modifications based on the suggested solutions and CDOR's software vendor Fast Enterprises provided a level of effort estimate for the vendor development costs to update the Department's GenTax system for the new return functionality and processes.

Activity	Hours/Cost
Design/Analysis	40
Development	450
Unit Testing	80
Change Management	20
Total Hours	590
Hourly Rate	$250
Total Cost	$147,500

Additional Staff Resources:

The workload estimates for additional staff resources in this RFI response are developed consistently with the workload methodologies that are used by CDOR to estimate workload for fiscal note purposes.

Mineral Audit

The changes suggested require the mineral audit section to make adjustments to returns on a much more detailed (well by well) basis in the system. Current audit practices involve a detailed investigation of taxpayer activity and statements; however return data is not updated upon completion of an audit. Rather, financial adjustments are made to the

[5] The scoping document and vendor response detail can be provided, but is not included in this RFI response for brevity and readability.

"bottom line" only in order to reflect the net adjustments made to the taxpayer's liability. To complete an overhaul of the audit working paper and increase the data points that are corrected after a taxpayer audit to reflect accurately in reporting, the mineral audit section would require some staffing changes to reflect the additional work.

The mineral audit section's current work consists of work that is focused on audit of the state severance tax, in addition to staff that performs joint audit work with the federal government using federal funding on federal severance. The work of each group is different, and both are currently managed by a single level of management. In order to develop the updated audit program and protocols to track and report the information at the level of detail required to report credits and exemptions, the internal controls and reviews for the additional level of complexity exceeds the capacity of the existing team and management structure. In order to implement the next level of reporting, the mineral audit section has developed the following staffing recommendations:

- Add one new Admin Assistant II position to assist with the data entry and input of detailed, well-by-well adjustments into the reporting database to ensure correct information about credits and deductions and to research reporting question from the Office of Research and Analysis
- Upgrade a current Auditor III position that acts as a team lead for the state mineral audit program to an Auditor IV to allow for additional management responsibilities of the new admin position and for the additional job responsibilities of developing the enhancements to the state audit program.
- Upgrade a current Auditor III position that acts as a team lead for the federal severance program to an Auditor IV to shift and adjust the supervisory workload of the remainder of section and to balance the supervisory responsibilities of each group's work.
- Upgrade the existing mineral audit section manager position from an Auditor IV level position to an Auditor V position to accommodate appropriate levels of supervision because of the necessary upgrades of the other two positions.

Mineral Audit Staffing Adjustment Plan

Description	Position Number	Current Classification	New Classification	Current per month	New per month	Fiscal Year '19 Impact
Reclassification	279	AUDITOR IV	AUDITOR V	$9,090	$9,999	$10,908
Reclassification	1989	AUDITOR III	AUDITOR IV	$7,307	$8,038	$8,768
Reclassification	153	AUDITOR III	AUDITOR IV	$6,352	$7,082	$8,760
New Position	N/A	N/A	ADMIN ASSISTANT II	$0	$2,839	$34,068
			Total Salary	$22,749	$27,958	$62,504

Mineral Audit Staffing Adjustment Plan

PERA	10.40%		$2,366	$2,908	$6,500
AED	5.00%		$1,137	$1,398	$3,125
SAED	5.00%		$1,137	$1,398	$3,125
Medicare	1.45%		$330	$405	$906
STD	0.19%		$43	$53	$119
Health-Life-Dental	$780		$2,340	$3,120	$9,360
		Total Benefits	$7,354	$9,282	$23,136
Operating for New Position			$0	$83	$1,000

Office of Research and Analysis

In order to provide reporting support on the new data that would be collected by CDOR, the Office of Research and Analysis (ORA) has estimated the following hours of new workload based upon assumptions for level of effort using historical tracking of staff time for new reporting. All ORA expenditure costs are based on a Statistical Analyst III salary ($40/hr). ORA assumes that an annual report is adequate for purposes of providing additional information to the General Assembly, however if more frequent or ad hoc reporting is anticipated, ongoing costs increase proportionally for report preparation and analysis.

Initial Fiscal Year (Fiscal year ending during the first tax year affected):

- $19,200 - 480 hours for setting up the data mapping tickets and testing the data mapping and configuration of the database:
  - 40 hours for planning, meetings, and initial set up of tickets and mapping structure
  - 120 hours (8 hours per field for approximately 15 fields) for testing the mapping of fields on DR 0021PD
  - 80 hours (8 hours per field for approximately 10 fields) for testing the mapping of newly captured and added fields on DR 0021D
  - 40 hours (8 hours per field for approximately 5 fields) for testing the mapping of new aggregate fields on DR 0021
  - 200 hours (8 hours per field for approximately 25 fields) for miscellaneous fields on other severance forms that may need to be mapped (DR 0021S, DR 00020, DR 0020A, DR 0022, DR 0456, DR 0461, DR 0020E).

Second Fiscal Year:

- $3,200 - 80 hours to initially set up the reporting methodology and produce the first report

Ongoing:

- $320 - 8 hours per year to produce annual reports

Systems Support Office - Business Analyst and Business Testing Resources

The changes recommended in the RFI to generate new data for reporting will require GenTax programming (noted above) to be tested by Department personnel in several divisions to ensure the system is functioning properly. Every change to GenTax requires some amount of end user acceptance testing to ensure that the changes are made correctly and that all transactions and account activities post correctly. The changes recommended in the RFI are one-time changes and there is no ongoing cost for testing. Any future testing needs would be a result of other changes to severance tax law.

The Systems Support Office estimated both business analyst workload and end-user workload for testing and documentation as a result of changes based on the requirements developed in the scoping document.

Business Analyst workload typically includes meeting with the end-users and developers, developing formal scope of work, analyzing proposed changes for integration needs with existing system modules, planning/developing/creating test scenarios and packages, managing user acceptance testing, creating change log documentation, and creating end-user training materials. End-User testing workload typically includes meeting with the business analysts and developers to establish details for processes and scope of work, testing and retesting scenarios and documenting results, opening tickets for issues discovered during testing, affirming successful end-user testing, and receiving training on the system updates.

For fiscal note purposes, the Department typically categorizes end-user and business analyst resource hours in corresponding personal services dollars in order to hire temporary staff to back-fill the more standardized duties of existing staff when they are assigned legislative project implementations.

Total Business Analyst Hours	2,139	**Total End-User Testing Hours**	1,996	**Total Hours**	4,135
Business Analyst Temporary Rate ($25.50/hour)	$54,545	**End-User Temporary Rate ($23.99/hour)**	$47,884	**Total Personal Services Dollars**	$102,429