COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2013-14 STAFF BUDGET BRIEFING

DEPARTMENT OF NATURAL RESOURCES

(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision

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DEPARTMENT OF NATURAL RESOURCES

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. In addition to the Executive Director's Office, the Department includes seven divisions with the following major responsibilities.

- The **Division of Reclamation, Mining, and Safety** regulates the development and reclamation of mining sites.

- The **Colorado Geological Survey** seeks to enhance the economic vitality of the state, protect citizens from adverse geologic conditions, and to provide information using geological tools.

- The **Oil and Gas Conservation Commission** promotes responsible development of oil and gas.

- The **State Board of Land Commissioners** manages state-owned lands for agriculture, minerals development, and commercial purposes, to benefit public schools and other trust beneficiaries.

- The **Division of Parks and Wildlife** manages 43 state parks and associated park projects and manages the state's 960 game and non-game wildlife species through the issuance of hunting and fishing licenses, the enforcement of wildlife regulations, and the administration of more than 250 state wildlife areas.

- The **Colorado Water Conservation Board** promotes conservation of the state's water resources to ensure maximum use and flood prevention.

- The **Water Resources Division** ("State Engineer's Office") administers and enforces water rights throughout the state.

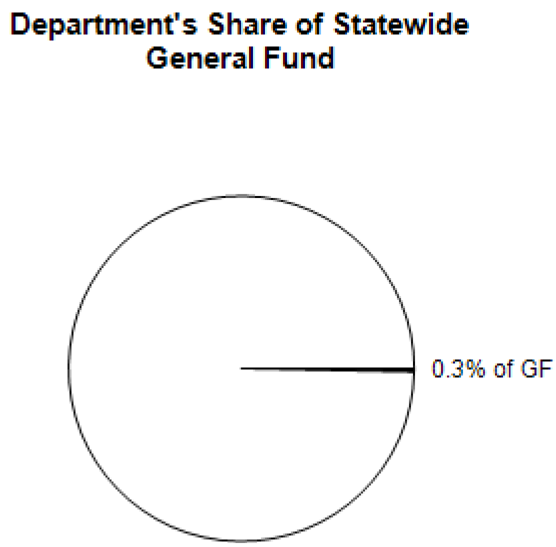
This document covers only the Division of Reclamation, Mining, and Safety, the Colorado Geological Survey, the Oil and Gas Conservation Commission, and the State Board of Land Commissioners. The remaining divisions were included in a separate document and presented by another analyst.

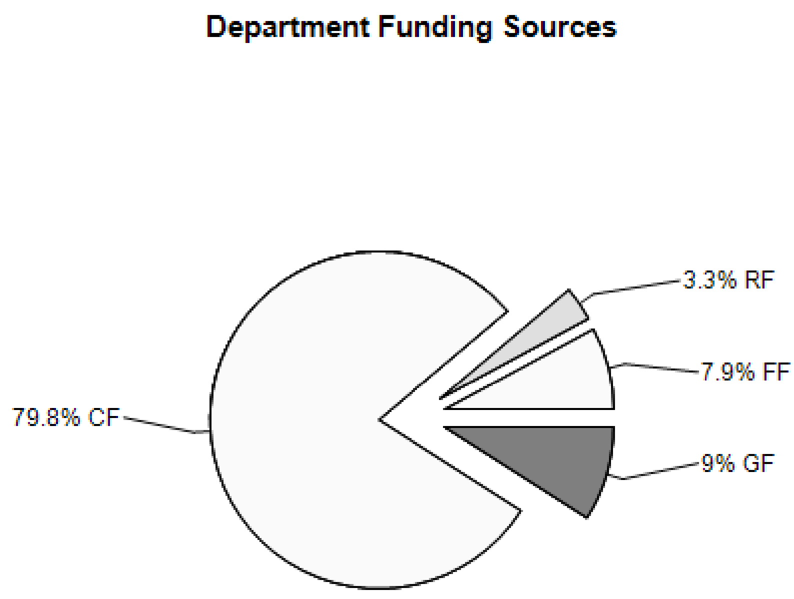
Department Budget: Recent Appropriations

Funding Source	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14 *
General Fund	$26,201,062	$23,429,407	$23,740,163	$24,089,080
Cash Funds	191,792,929	190,187,713	209,496,335	179,771,768
Reappropriated Funds	7,972,361	8,480,565	8,636,648	9,333,473
Federal Funds	19,729,069	19,884,955	20,744,426	29,493,933
Total Funds	**$245,695,421**	**$241,982,640**	**$262,617,572**	**$242,688,254**
Full Time Equiv. Staff	1,474.8	1,466.1	1,464.1	1,452.1

*Requested appropriation.

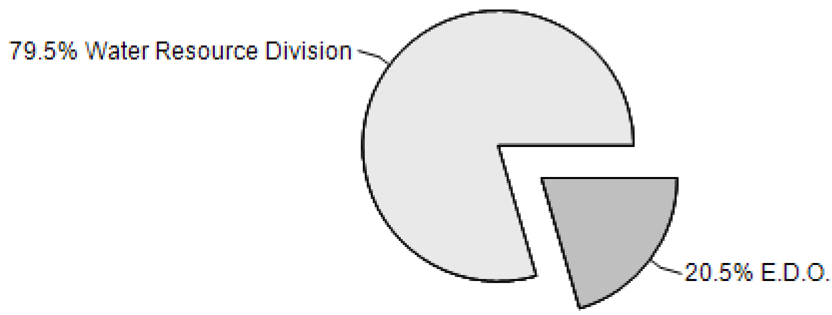
Department Budget: Graphic Overview



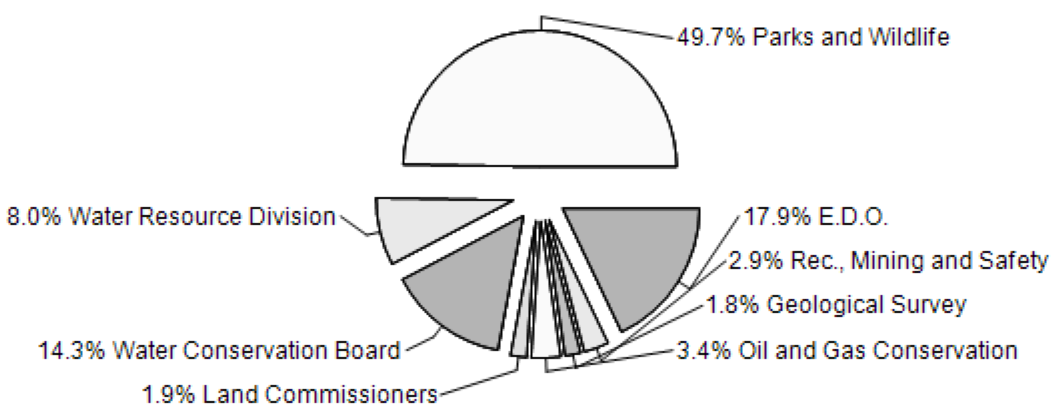


All charts are based on the FY 2012-13 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2012-13 appropriation.

General Factors Driving the Budget

The Governor's FY 2013-14 request for the entire Department of Natural Resources consists of 9.9 percent General Fund, 74.1 percent cash funds, 3.8 percent reappropriated funds, and 12.2 percent federal funds. The divisions included in this document received no General Fund appropriations in FY 2012-13 and are not requesting General Fund appropriations in FY 2013-14.

Severance Tax (Operational Account) Expenditures

The availability of severance tax revenues to the Operational Account influences the funding levels for many programs in the Department. Relative to the divisions included in this document, the Operational Account is a major source of funding for the Division of Reclamation, Mining, and Safety, the Geological Survey, and the Oil and Gas Conservation Commission.

Section 39-29-108 (2), C.R.S., provides that 50.0 percent of total severance tax revenues are credited to the Severance Tax Trust Fund and 50.0 percent are credited to the Department of Local Affairs for grants and distributions to local governments impacted by mining activities. Of the revenues credited to the Severance Tax Trust Fund, 50.0 percent are 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) are allocated to the Operational Account for programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water."

Severance tax revenues are highly variable. To manage this variability H.B. 08-1398 divided programs funded from the Operational Account into two tiers. The tier 1 programs primarily support the day-to-day operations of the Department of Natural Resources, including paying salaries for employees. The tier 2 programs primarily support grants, loans, research, and construction. The required reserve for tier 1 programs is one times the appropriations for a given year. The reserve requirement for tier 2 programs is equal to 15.0 percent of the authorized expenditures for the year.

The distribution of funding for tier 2 programs is staggered with 40.0 percent released July 1, 30.0 percent released January 4, and the final 30.0 percent released April 1 of a given fiscal year. Tier 2 programs are subject to proportional reduction if revenue projections indicate there are insufficient funds to cover the full authorizations. The following table shows Operational Account revenues and expenditures for FY 2008-09 through FY 2011-12, with projections for FY 2012-13 and FY 2013-14. See the issue write-up beginning on page 10 for a discussion of the status of the Operational Account.

Operational Account Summary						
	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 2011-12 Actual	FY 2012-13 Estimate*	FY 2013-14 Estimate*
Beginning balance	$46,588,101	$68,073,848	$31,181,533	$18,439,558	$25,665,237	$12,846,821
Revenues	81,052,610	10,119,342	35,446,371	50,041,905	22,656,764	43,803,161
Total available	$127,640,711	$78,193,190	$66,627,904	$68,481,463	$48,322,001	$56,649,982
Tier 1 Programs	12,701,274	15,910,585	16,513,233	13,565,154	14,835,185	13,909,181
Tier 2 Programs*	46,865,589	20,101,072	31,675,113	25,301,072	20,639,995	28,831,620
Transfer to GF	0	11,000,000	0	3,950,000	0	0
Ending balance	68,073,848	31,181,533	18,439,558	25,665,237	12,846,821	13,909,181
Reserve	19,731,112	18,925,746	21,268,394	17,360,315	18,209,482	19,800,093
Unobligated**	48,342,736	12,255,787	(2,828,836)	8,304,922	(5,362,661)	(5,890,912)

* Based on September 2012 Legislative Council Staff Revenue Forecast, assumes the following proportional reductions to Tier 2 Programs: $15,111,077 in FY 2012-13 and $9,519,453 in FY 2013-14.

** Negative "unobligated" fund balances indicate insufficient funds to support expenditures and required reserves.

State Board of Land Commissioners

The State Board of Land Commissioners (State Land Board) manages properties in the Public School Trust to raise money for the benefit of K-12 education. The State Land Board also manages seven other smaller trusts set up in the Colorado Constitution or in statute benefitting a range of entities, including higher education institutions, state parks, and the Department of Corrections. Approximately 98.0 percent of Land Board revenue is attributable to the Public School Trust, with the remainder coming from lands associated with the other trusts.

House Bill 08-1335 (known as the BEST bill; see Section 22-43.7-104, C.R.S.) significantly changed the distribution of state public school land revenue. 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 (PSCCA) Fund for the BEST program. Of the remaining 50.0 percent, roughly $9.7 million supports State Land Board operations and the Investment and Development Fund. In FY 2012-13, current law deposits remaining revenues into the State Public School Fund to support school finance appropriations. The “sweep” to the State Public School Fund expires at the end of FY 2012-13, and those revenues would flow to the Public School (Permanent) Fund again in FY 2013-14. For further discussion of State Land Board revenues and operations, as well as a discussion of the disposition of revenues in FY 2012-13, see the issue papers beginning on page 16 and page 31.

As shown in the table below, the School Trust received a total of $120.6 million in total revenues in FY 2010-11 and $144.7 million in FY 2011-12, with both years far above the previous record of $74.0 million in FY 2008-09. Mineral revenues are the primary driver of Land Board and school trust revenues, and record bonus payments in FY 2010-11 and FY 2011-12 were the major factor driving the increase in revenues. Bonus payments from oil and gas accounted for more than half of total school trust revenues in both years, while royalties from oil, gas, and coal accounted for 35.0 percent.

SCHOOL TRUST REVENUE	FY07-08 Actual	FY08-09 Actual	FY09-10 Actual	FY10-11 Actual	FY11-12 Actual
School Trust-Total Revenues	$69,495,847	$74,023,629	$66,361,923	$120,557,802	$144,738,002
Mineral Rental	2,023,401	1,739,678	1,729,683	2,049,480	2,655,179
Mineral Royalties	47,130,818	54,521,085	34,169,303	42,210,215	48,815,542
Mineral Bonuses	5,974,830	3,806,001	14,880,486	62,649,071	78,406,236
Surface Rental	8,819,293	8,305,534	9,157,949	8,222,629	11,390,961
Commercial/Other	5,172,228	5,210,122	6,210,687	5,133,310	3,212,209
Land Sales	4,085	3,250	4,095	53,824	22,552
Interest and Penalties	315,960	381,501	209,720	239,273	235,323
Timber Sales	55,232	56,458	0	0	0

Oil and Gas Activity

The Colorado Oil and Gas Conservation Commission (OGCC) is responsible for promoting the exploration, development, and conservation of Colorado's oil and natural gas resources. Colorado experienced a significant increase in oil and gas drilling activity from 2002 through 2008, which dramatically affected the Colorado Oil and Gas Conservation Commission's workload and expenditures. As shown in the table below, drilling activity, as measured by the number of permit applications received by the OGCC and by the number of active drilling rigs in Colorado, decreased precipitously from FY 2008-09 to FY 2009-10 but rebounded some in FY 2010-11 and the number of active wells in the state continues to grow. In recognition of the growing workload, the General Assembly approved 7.0 additional FTE for the OGCC during the 2012 Session. For FY 2013-14, the Governor is requesting funding and FTE to allow the OGCC to hire an additional 5.0 FTE (discussed in an issue paper beginning on page 24).

Oil and Gas Conservation Commission Workload Measures	FY08-09 Actual	FY09-10 Actual	FY10-11 Actual	FY11-12 Actual	FY12-13 Estimate	FY13-14 Estimate
Workload Activity						
Drilling Permits Received	6,923	5,278	4,883	4,542	4,300	4,300
Location Assessments (Form 2A) Received	67	2,119	2,302	1,884	1,850	1,850
Number of Active Wells	39,944	42,324	45,401	47,860	50,350	52,840
Active Drilling Rigs	87	46	67	72	65	65
OGCC Expenditures*	$8,226,522	$7,238,243	$7,092,505	$7,401,858	$9,045,502	$9,579,058
Total FTE	54.6	62.1	65.2	65.4	76.0	81.0

*Division-only expenditures include all fund sources; does not include centrally appropriated items funded in the Executive Director's Office. Expenditures for FY 2012-13 and FY 2013-14 reflect the appropriation and request, respectively.

Summary: FY 2012-13 Appropriation & FY 2013-14 Request

Department of Natural Resources	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2012-13 Appropriation:						
HB 12-1335 (Long Bill)	$229,122,404	$23,512,116	$176,229,214	$8,636,648	$20,744,426	1,464.1
HB 12-1349 SCTF	4,000,000		4,000,000	0	0	0.0
SB 12S-002 CWCB Projects Bill	28,350,857		28,350,857	0	0	0.0
Other legislation	1,144,311	228,047	916,264	0	0	0.0
TOTAL	**$262,617,572**	**$23,740,163**	**$209,496,335**	**$8,636,648**	**$20,744,426**	**1,464.1**
FY 2013-14 Requested Appropriation:						
FY 2012-13 Appropriation	$262,617,572	$23,740,163	$209,496,335	$8,636,648	$20,744,426	1,464.1
R-1 OGCC Staff Increase	571,702	0	571,702	0	0	5.0
R-2 SLB Minerals Coordinator	82,382	0	82,382	0	0	1.0
R-3 WRD Line Item Consolidation	0	0	0	0	0	0.0
R-4 WRD Satellite Monit. System	100,000	0	100,000	0	0	0.0
R-5 DRMS E-Permitting	0	0	0	0	0	0.0
R-6 EDO Legal Services	123,600	0	123,600	0	0	0.0
R-7 SLB Strat. Business Initiatives	399,881	0	399,881	0	0	2.0
R-8 DPW Merger Cost Savings	0	0	0	0	0	(20.0)
R-9 DPW Wildlife Refinance	5,626,760	0	(3,000,000)	0	8,626,760	0.0
R-10 EDO OIT Staffing Correction	0	0	0	0	0	0.0
R-11 EDO Leased Space	58,844	985	54,286	0	3,573	0.0
NP-1 EDO Employee Survey	12,673	2,173	9,846	362	292	0.0
NP-2 EDO OIT Ent. Asset Mgt.	36,526	4,687	30,450	774	615	0.0
NP-3 Capitol Comp. Buildings	72,887	15,869	36,765	12,465	7,788	0.0
Base Common Policy Adjustments	5,807,406	2,128,663	4,548,959	(892,189)	21,973	0.0
Base Indirect Costs Adjustments	688,809	0	627,303	0	61,506	0.0
Base Federal Funds Adjustments	27,000	0	0	0	27,000	0.0
Base Fund Source Adjustments	0	(1,575,413)	0	1,575,413	0	0.0
Base Annualization S.B. 12S-002	(28,350,857)	0	(28,350,857)	0	0	0.0
Base Annualization H.B. 12-1349	(4,000,000)	0	(4,000,000)	0	0	0.0
Base Annualization H.B. 12-1278	(910,900)	0	(910,900)	0	0	0.0
Base Annualization Other Bills	(249,216)	(228,047)	(21,169)	0	0	0.0
Base Annualization FY 13 DI #1	(26,815)	0	(26,815)	0	0	0.0
TOTAL	**$242,688,254**	**24,089,080**	**$179,771,768**	**$9,333,473**	**$29,493,933**	**1,452.1**
Increase/(Decrease)	($19,929,318)	$348,917	($29,724,567)	$696,825	$8,749,507	(12.0)
Percentage Change	(7.6%)	1.5%	(14.2%)	8.1%	42.2%	(0.8%)

*This packet only addresses the highlighted items. All other issues were presented separately by another analyst.

Issue Descriptions

R-1 OGCC Staff Increase: The Department requests a total increase of $571,702 cash funds from the Oil and Gas Conservation and Environmental Response Fund (supported by a mill levy on oil and gas production) and 5.0 FTE to expand the Oil and Gas Conservation Commission's inspection, environmental, and engineering staff. The request responds to increasing agency workload resulting from both growth in oil and gas development statewide and the movement of development into increasingly populated areas of the state. *For more information on this request, see the issue brief beginning on page 24.*

R-2 SLB Minerals Coordinator: The Department requests an increase of $82,382 cash funds and 1.0 FTE to hire a field coordinator to improve management and oversight of oil and gas development on State Trust Lands. The request responds to an ongoing increase in oil and gas development and the associated workload for the State Land Board staff. The proposed position would assist in siting, approving, and monitoring development and reclamation activities, including compliance with stipulations established by the State Land Board. *For more information on this request, see the issue brief beginning on page 31.*

R-5 DRMS E-Permitting: The Department requests a one-year reallocation of $99,850 cash funds from the Operational Account of the Severance Tax Trust Fund to support the development of an electronic permitting system for the Division of Reclamation, Mining, and Safety. The request would eliminate state funding for the Inactive Mines, Abandoned Mine Safety line item (which safeguards abandoned mine openings) in FY 2013-14 and reallocate those funds to the Minerals, Program Costs line item to support system development. The request also reallocates 0.2 FTE associated with the Abandoned Mine Safety line item to the Inactive Mines, Program Costs line item to assist with federally-funded projects supported by that line item in FY 2013-14.

R-7 SLB Strategic Business Initiatives: The Department requests a total increase of $399,881 cash funds and 2.0 FTE to allow the State Land Board to hire additional staff to both expand existing and develop new sources of revenue for the State Land Board. The request focuses on four potential sources of revenue growth from state trust lands: 1) ecosystem services payments; 2) recreation leases; 3) renewable energy; and 4) solid minerals. The request is designed to increase revenues, diversify revenue sources, and provide additional sustainable/ongoing revenues. *For more information on this request, see the issue brief beginning on page 31.*

Base Annualization FY 13 DI #1: The Department's request eliminates one-time funding appropriated to the OGCC through FY 2012-13 decision item #1 (OGCC Field and Technical Staff).

Issue: Status of the Operational Account of the Severance Tax Trust Fund – Impact on LEAP Programs

Anticipated severance tax revenues are not sufficient to support authorized expenditures from the Operational Account of the Severance Tax Trust Fund in FY 2012-13 and FY 2013-14, and proportional reductions Tier 2 programs are projected for both years. Staff recommends sponsoring legislation to adjust the timing of LEAP-related distributions to ensure equity in the reductions experienced by each program.

SUMMARY:

- The Operational Account of the Severance Tax Trust Fund is overcommitted. Projected revenues would not support anticipated expenditures, requiring proportional reductions to Tier 2 programs in FY 2012-13 ($15.1 million or 42.2 percent) and FY 2013-14 ($9.5 million or 24.8 percent).

- As allowed by H.B. 12-1353, the Department of Natural Resources and the State Treasurer reduced the July 1, 2012, distribution to Tier 2 programs in order to balance the Operational Account in FY 2012-13. However, the statutory timing of distribution of funds to the three Low Income Energy Assistance programs (LEAP) results in unequal reductions to those three programs.

- Staff recommends that the Joint Budget Committee sponsor legislation to adjust the timing of distribution to the LEAP programs and to equalize the proportional reduction taken from the programs in FY 2012-13. Staff recommends that the legislation align the distribution of LEAP funds with the other Tier 2 programs (with each program receiving three distributions per year) and ensure that each LEAP program absorbs the same percentage reduction in FY 2012-13.

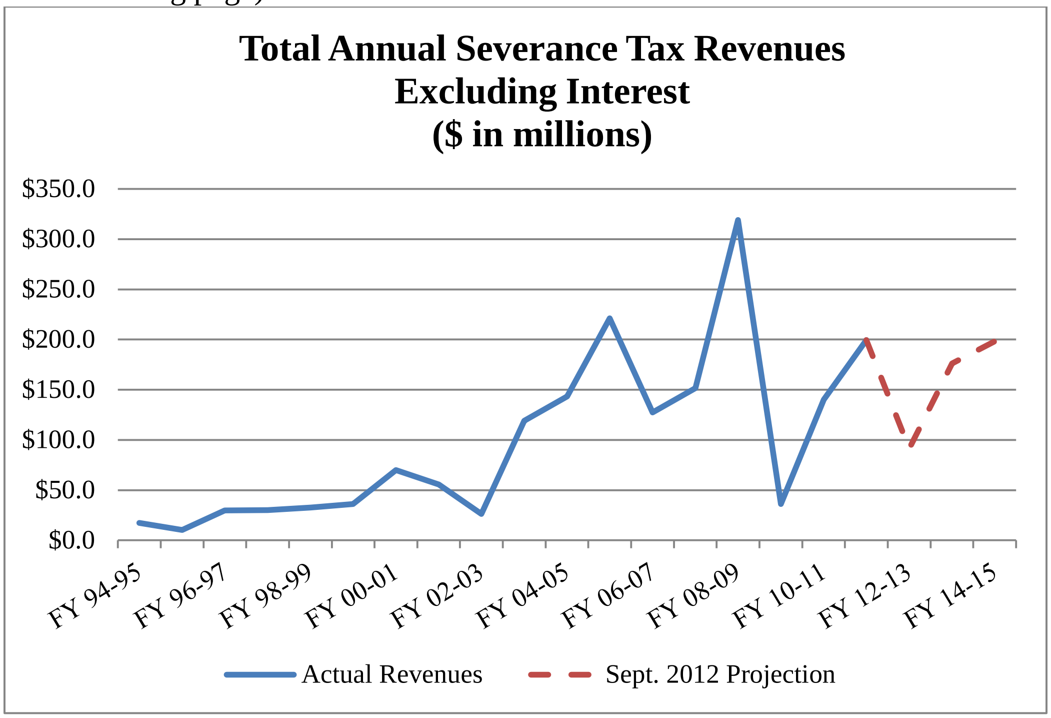
RECOMMENDATION:

Staff recommends that the Committee sponsor legislation during the 2013 Session to: (1) change the timing of distribution of LEAP-related funds to align with the other Tier 2 programs funded from the Operational Account; and (2) direct the Treasurer to ensure that the three LEAP-related programs experience the same percentage reduction in FY 2012-13. Staff further recommends that the Committee discuss the status of the Operational Account, including the LEAP programs, with the relevant committees of reference.

DISCUSSION:

Background
Under statute (Sections 39-29-101 through 107, C.R.S.), first enacted in 1977, the State levies a tax on the severance of non-renewable natural resources. Colorado collects taxes on the severance of oil and gas, coal, molybdenum, and metallic minerals, and will collect taxes on oil

shale if commercial production becomes viable. Severance tax revenues are highly volatile (see chart on the following page).



Volatility stems from: (1) inherent price volatility in the resources generating severance tax (most importantly oil and gas); (2) an ad valorem tax credit (Section 39-29-104 (2) (b)) allowing severance taxpayers to deduct a portion (87.5 percent) of local property taxes paid on production from severance tax liability; and (3) a "stripper well" exemption allowing producers to exempt production from low-production wells from severance tax liability.

Because of a lag in the way property taxes are calculated, the amount of the deduction against the severance tax is based on production values from two years prior, which can generate significant swings in severance tax liability. In addition, changes in local tax policy can change a producer's deduction against the state severance tax liability. Finally, geographic shifts in production (for example from portions of the state with lower local property tax rates to regions with higher rates) will affect statewide severance tax collections. As a result of these factors, severance tax revenues do not always track trends in resource price, making forecasting the revenues particularly challenging.

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

Operational Account to fund 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."

Current statute, enacted as a JBC bill in 2008 (H.B. 08-1398), divides Operational Account expenditures into two categories. Tier 1 expenditures primarily support salaries and on-going core programs of the Department of Natural Resources. Tier 2 programs generally support grants, loans, research, and construction. Because of the volatility in severance tax revenues, the General Assembly has established statutory reserve requirements for Operational Account expenditures. The reserve requirement for tier 1 programs is equal to one full year of operating appropriations to mitigate against a need to change staffing and operating levels from year to year based on fluctuating revenues. The reserve requirement for tier 2 programs is equal to 15.0 percent of authorized expenditures, based on an expectation that Tier 2 programs are better suited to absorb fluctuations in revenue than Tier 1 programs. The distribution of funding for most Tier 2 programs is staggered with 40.0 percent released July 1, 30.0 percent released January 4, and the final 30.0 percent released April 1.

Of particular note for FY 2012-13 and FY 2013-14, current law distributes LEAP-related funds differently. Each LEAP program receives a single installment each fiscal year: Colorado Energy Office weatherization funds on July 1; Department of Human Services (heating bill assistance) on January 4; and Energy Outreach Colorado (cooling bill assistance) on April 1.

FY 2012-13 Proportional Reductions and H.B. 12-1353
If a mid-year projection indicates there will be insufficient funds in the Operational Account to support all statutorily authorized expenditures, statute forces proportional reductions to all Tier 2 programs to fit the projections unless the General Assembly acts to prioritize reductions. Prior to the enactment of H.B. 12-1353, statute required the Treasurer to make such reductions to the January and April distributions but did not allow for any reductions to the July distribution. Severance tax revenues anticipated in the March 2012 Legislative Council Staff Revenue Forecast required an ability to reduce the July 2012 Tier 2 distribution, and the Joint Budget Committee sponsored H.B. 12-1353 to allow such a reduction.

Based on the June 2012 Legislative Council Staff Revenue Forecast (June 2012 Forecast), the Department of Natural Resources and the State Treasurer reduced the July 1, 2012, distribution to Tier 2 programs by 64.0 percent to comply with the reduction required by statute. Revenue expectations improved in the September 2012 Forecast, projecting a need for a 42.3 percent reduction in FY 2012-13. The table on the following page provides an overview of the Operational Account based on the September 2012 Forecast, including a comparison of appropriated/authorized expenditures

The Department and the Treasurer will base reductions to the January 2013 distribution on the December 2012 Forecast and will use the March 2013 Forecast to calculate reductions to the April 2013 distribution.

Severance Tax Trust Fund Operational Account											
	Statutory Cite	Actual FY 11-12		Appropriation FY 12-13		Estimated FY 12-13		Estimated FY 13-14		Estimated FY 14-15	
Beginning balance		$18,439,558		$25,665,237		$25,665,237		$12,846,821		$13,909,181	
Revenue		50,090,625		23,031,764	(est.)	23,031,764	(est.)	44,178,161	(est.)	49,738,312	(est.)
Revenue for GEO bill				(375,000)		(375,000)		(375,000)		(375,000)	
Public School Energy Fund	39-29-109.5	(48,720)		TBD		TBD		TBD		TBD	
TOTAL Available for Expenditure		**$68,481,463**		**48,322,001**	100.0%	**48,322,001**	100.0%	**56,649,982**	100.0%	**63,272,493**	100.0%
Roll-forwards		$0		$988,364		$988,364					
Tier 1	39-29-109.3 (1)										
Colorado Geological Survey	(b)	$2,363,423	3.5%	2,459,265	5.1%	2,459,265	5.1%	2,522,285	4.5%	2,572,731	4.1%
Oil and Gas Conservation Commission	(a)	3,238,925	4.7%	3,212,561	6.6%	3,212,561	6.6%	3,212,032	5.7%	3,212,032	5.1%
Division of Reclamation, Mining, and Safety	(c)	4,161,520	6.1%	4,358,723	9.0%	4,358,723	9.0%	4,485,217	7.9%	4,574,921	7.2%
Colorado Water Conservation Board	(d)	1,302,846	1.9%	1,319,250	2.7%	1,319,250	2.7%	1,319,250	2.3%	1,319,250	2.1%
Division of Parks and Outdoor Recreation	(f)	2,498,440	3.6%	2,497,022	5.2%	2,497,022	5.2%	2,370,397	4.2%	2,370,397	3.7%
Division of Wildlife	(e)	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
SUBTOTAL Tier 1		$13,565,154	19.8%	13,846,821	28.7%	13,846,821	28.7%	13,909,181	24.6%	14,049,331	22.2%
Tier 2	39-29-109.3 (2)										
Water infrastructure development	(a)	$7,000,000		10,000,000		5,913,542		7,520,002		10,000,000	
Soil Conservation Districts matching grants	(b)	450,000		450,000		266,109		338,400		450,000	
Water efficiency grants	(c)	0		550,000		325,245		413,600		550,000	
Species Conservation Trust Fund	(d) & (e)	3,600,000		4,000,000		2,365,417		4,963,201		0	
Low income energy assistance	(f)	6,500,000		13,000,000		7,186,054		9,767,608		13,000,000	
Renewable energy - Higher ed consortium	(g)	0		0		0		0		0	
Renewable energy - Agriculture	(h)	500,000		500,000		295,677		376,000		500,000	
Interbasin water compacts	(i)	745,067		745,067		440,598		560,291		745,067	
CO Water Research Institute - CSU	(j)	0		0		0		0		0	
Forest restoration grants/ bark beetle	(k) and (n)	2,500,000		2,500,000		1,478,385		1,880,000		2,500,000	
Tamarisk control	(l)	0		0		0		0		0	
Aquatic Nuisance Species Fund	(m)	4,006,005		4,006,005		2,368,968		3,012,517		4,006,005	
SUBTOTAL Tier 2		$25,301,072	36.9%	35,751,072	74.0%	20,639,995	42.7%	28,831,620	50.9%	31,751,072	50.2%
TOTAL Expenditures		**$38,866,226**		**$50,586,257**		**$35,475,180**		**$42,740,801**		**$45,800,403**	
Transfer to General Fund	39-29-109.3 (6)	$3,950,000									
Ending Balance		$25,665,237		($2,264,256)		12,846,821		13,909,181		17,472,089	
Tier 1 Reserve	39-29-109.3 (3)	13,565,154		13,846,821		12,846,821		13,909,181		14,049,331	
Tier 2 Reserve	39-29-109.3 (3)	3,795,161		5,362,661		5,362,661		5,752,661		4,762,661	
Low income energy assistance reserve		0		0		0		0		0	
TOTAL Reserve Requirement		$17,360,315	25.4%	$19,209,482	39.8%	18,209,482	37.7%	19,661,842	34.7%	18,811,992	29.7%
UNOBLIGATED BALANCE		**$8,304,923**	12.1%	**($21,473,737)**	-44.4%	**(5,362,661)**	-11.1%	**(5,752,661)**	-10.2%	**(1,339,902)**	-2.1%

(est.) = estimate. Revenue estimates are based on the Legislative Council Staff's September 2012 Revenue Forecast and include $217,432 in FY 2012-13 and $164,055 in FY 2013-14 and FY 2014-15. Anticipated Tier 2 distributions include $15.1 million in proportional reductions in FY 2012-13 and $9.5 million FY 2013-14.

TBD = To be determined

Unequal Impact on LEAP Programs

The Operational Account supports three Low-Income Energy Assistance (LEAP) programs in Tier 2: (1) a weatherization program operated by the Colorado Energy Office (C.E.O.), (2) a heating bill assistance program operated by the Department of Human Services (D.H.S.), and (3) a cooling bill assistance program operated by Energy Outreach Colorado (E.O.C.).

All non-LEAP Tier 2 programs are funded in three installments, with any necessary proportional reductions to each installment based on the most recent Legislative Council Staff revenue forecast. Because proportional reductions for all of the programs are recalibrated for each payment, the percentage reduction to each program may fluctuate throughout the year but the percentage cut *across* programs is equal.

In contrast, two factors combine to create wide differences in the anticipated reductions to the three LEAP programs.

- First, each of the three LEAP programs receives only one distribution per year under current law, with any necessary proportional reduction based on the most recent forecast. Any change in the size of the necessary proportional reduction will therefore create unequal impacts (in percentage terms) on the three LEAP programs. For example, the July 1, 2012, distribution to the Colorado Energy Office weatherization program was cut by 64.0 percent based on the June 2012 Forecast. While the December and March forecasts are obviously unknown, the September Forecast would require an overall 42.3 percent reduction to Tier 2.

- Second, the statutory distribution of reductions and the use of available Tier 2 reserves creates further discrepancies. In order to avoid overspending the account, the proportional reductions in Section 39-29-109.3 (4) (b), C.R.S., are not evenly distributed over the three disbursements.

As shown in the following table, if the January and April 2013 disbursements were both based on the September Forecast, the percentage reductions to the three LEAP programs would vary from 7.6 percent for Energy Outreach Colorado cooling bill assistance to 64.0 percent for the Colorado Energy Office weatherization efforts.

FY 2012-13 Proportional Reductions to LEAP Programs	FY 2012-13 Authorization	FY 2012-13 Estimate	Percentage Reduction
C.E.O. Weatherization	$6,500,000	$2,339,151	-64.0%
D.H.S. Heating Bill Assistance	3,250,000	1,845,346	-43.2%
E.O.C. Cooling Bill Assistance	3,250,000	3,001,557	-7.6%
Total Tier 2 LEAP Funding	$13,000,000	$7,186,054	-44.7%

Because of the inequality in distributions to the LEAP programs, **staff recommends that the Committee sponsor legislation during the 2013 Session to: (1) place each LEAP program on the same distribution schedule as the other Tier 2 programs (three times per year); and (2)**

direct the Treasurer to use the remaining disbursements in FY 2012-13 to equalize the percentage reduction among the three LEAP programs. Energy Outreach Colorado (E.O.C.) staff have expressed support for this proposal.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S STRATEGIC PLAN:

The Operational Account supports a variety of the Department's programs. However, other than the need to maintain operations of programs, the solvency of the Operational Account is not directly linked to the Department's objectives and measures outlined in the strategic plan. The LEAP programs directly affected by staff's legislative recommendation are outside the Department of Natural Resources and thus also not addressed in the Department's strategic plan.

Issue: Capping the Sweep of School Trust Revenues for School Finance in FY 2012-13

Recommends that the Joint Budget Committee sponsor legislation during the 2013 Session to cap the "sweep" of state trust land revenues for school finance purposes in FY 2012-13 and thereby increase deposits to the Permanent Fund. Further recommends that the Committee oppose any potential efforts to continue the sweep of school trust revenues beyond FY 2012-13.

SUMMARY:

- The State Land Board is an a period of record earnings for the school trust, which supports the Building Excellent Schools Today (BEST) Program, State Land Board Operations, and has historically provided deposits to the Public School (Permanent) Fund. Revenues in the Permanent Fund, held inviolate under the State Constitution, earn interest which is then available for educational purposes.

- For FY 2012-13, current law allocates 50.0 percent of gross school trust revenues to the BEST program and approximately $9.7 million to State Land Board operations. The remainder (an estimated $50.7 million based on current State Land Board projections) will be "swept" to the State Public School Fund for use in public school finance in FY 2012-13.

- During the 2012 Session, the Committee sponsored, and the General Assembly enacted, S.B. 12-145 to limit the "sweep" of school trust revenues (including both new revenues and interest earned on the Permanent Fund) to a total of $36.0 million dollars. The bill deposited additional school trust revenues (totaling $38.2 million in FY 2011-12) into the Permanent Fund.

- Beginning in FY 2013-14, pursuant to H.B. 12-1238 (the READ Act), a maximum of $16.0 million in interest earned on the Permanent Fund (over and above a base of $11.0 million that statute provides for school finance) will be spent on early literacy interventions. Increasing deposits to the Permanent Fund will increase the generation of interest revenues available for such purposes.

RECOMMENDATION:

Staff recommends that the Committee: (1) sponsor legislation during the 2013 Session to cap the "sweep" of state trust land revenues for school finance purposes in FY 2012-13 and thereby increase deposits to the Permanent Fund; and (2) oppose any potential efforts to continue the sweep of school trust revenues beyond FY 2012-13
.

DISCUSSION:

As discussed in the "Factors Driving the Budget" section, the State Land Board and the school trust are in a period of record earnings. School trust lands generated a total of $120.6 million in

FY 2010-11 and $144.7 million in FY 2011-12, with both years far above the previous record of $74.0 million set in FY 2008-09. As shown in the table below, mineral-related revenues dominate the revenue stream, accounting for $129.9 million (89.7 percent) of total school trust revenues in FY 2011-12.

School Trust Revenues	FY07-08 Actual	FY08-09 Actual	FY09-10 Actual	FY10-11 Actual	FY11-12 Actual
School Trust-Total Revenues	$69,495,847	$74,023,629	$66,361,923	$120,557,802	$144,738,002
Mineral Rental	2,023,401	1,739,678	1,729,683	2,049,480	2,655,179
Mineral Royalties	47,130,818	54,521,085	34,169,303	42,210,215	48,815,542
Mineral Bonuses	5,974,830	3,806,001	14,880,486	62,649,071	78,406,236
Surface Rental	8,819,293	8,305,534	9,157,949	8,222,629	11,390,961
Commercial/Other	5,172,228	5,210,122	6,210,687	5,133,310	3,212,209
Land Sales	4,085	3,250	4,095	53,824	22,552
Interest and Penalties	315,960	381,501	209,720	239,273	235,323
Timber Sales	55,232	56,458	0	0	0

The State Land Board is currently projecting $120.8 million in total school trust revenues in FY 2012-13, roughly equal to earnings in FY 2010-11. Again, mineral revenues are the primary drivers of projected FY 2012-13 revenues, accounting for $104.7 million (86.7 percent) of total projected revenues in FY 2012-13.

Distribution of School Trust Revenues
Current law will distribute FY 2012-13 school trust revenues as follows:

- 50.0 percent of *gross* school trust revenues are allocated to the Building Excellent Schools Today (BEST) program and used to fund public school improvement and construction through either certificates of participation (C.O.P.s) or cash grants.

- Roughly $9.7 million supports State Land Board operations (approximately $4.7 million in FY 2012-13) and the Investment and Development Fund ($5.0 million per year).

- With the current statutory "sweep" of school trust revenues in effect in FY 2012-13, the remainder will be transferred to the State Public School Fund to provide funding for public school finance. Prior to the sweep, these revenues were deposited into the Public School ("Permanent") Fund.

2012 Legislation Affecting the Permanent Fund
During the 2012 Session, the General Assembly enacted two bills directly impacting the Permanent Fund:

- S.B. 12-145 (a JBC bill) caps the sweep of trust land revenues and interest earned on the Permanent Fund at a total of $36.0 million *in FY 2011-12*, the amount assumed in the FY

2011-12 school finance appropriation. As a result of the limit imposed by S.B. 12-145, $38.2 million in school trust revenues was deposited into the Permanent Fund in FY 2011-12 and will generate interest to support educational programs in perpetuity. The limit in S.B. 12-145 applied only to FY 2011-12, and the Committee delayed action on a limit for FY 2012-13 until the 2013 Session.

- H.B. 12-1238 (the READ Act) will spend *interest earned on the Permanent Fund* (up to $16.0 million per year) on early literacy intervention measures. These funds are over and above $11.0 million in interest earnings transferred to the State Public School Fund each year (pursuant to Section 22-41-102 (3) (a), C.R.S.) and provide a known use of Permanent Fund interest revenues. Increasing deposits to the Permanent Fund will increase interest yields, thereby increasing the funding available for early literacy activities.

Recommendation for FY 2012-13

Staff recommends that the Committee sponsor legislation during the 2013 Session to cap the sweep of school trust revenues in FY 2012-13. Because the FY 2012-13 school finance appropriation again assumes $36.0 million in revenues will be available under the sweep, staff recommends capping the sweep at $36.0 million (including $27.0 million in "new" school trust revenues and $9.0 million in interest earnings from the Permanent Fund). Based on current revenue projections from the State Land Board, the recommended cap would increase the balance of the Permanent Fund by approximately $24.8 million relative to current law, including $23.7 million in new school trust revenues and $1.1 million in interest earnings retained in the Permanent Fund (see table below).

Distribution of FY 2012-13 School Trust Revenues	Current Law	Staff Recommendation
Projected School Trust Revenues	$120,853,570	$120,853,570
BEST (50.0%)	60,426,785	60,426,785
State Land Board Operations	4,749,521	4,749,521
State Land Board Investment and Development Fund	5,000,000	5,000,000
State Public School Fund (Sweep)	50,677,264	27,000,000
New School Trust Revenues to Permanent Fund	0	23,677,264
Projected Interest Earned on Permanent Fund*	$21,101,698	$21,101,698
Transferred Pursuant to Section 22-41-102 (3) (a), C.R.S.**	11,000,000	11,000,000
Estimated Transfer Under Sweep	10,101,698	9,000,000
Interest Retained in Permanent Fund in Permanent Fund	0	1,101,698
Estimated Increase in Permanent Fund Balance* **	**$0**	**$24,778,962**

*Department of Treasury staff anticipates a 3.4 percent yield in the Permanent Fund in FY 2012-13. The FY 2011-12 year-end fund balance was $620,638,177.

**Statute transfers $11.0 million in interest to the State Public School Fund outside of the sweep.

***Excludes potential FY 2012-13 revenue from land sales and other sources that go directly to the Permanent Fund.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S STRATEGIC PLAN:

Because this briefing issue relates to the treatment of State Land Board revenues after collection rather than increasing the collection of revenues, the issue does not relate directly to the Department’s strategic plan, although the plan does address increasing revenues to the school trust.

Issue: Colorado Geological Survey Transfer to the School of Mines (H.B. 12-1355 Update)

Pursuant to H.B. 12-1355, the Department of Natural Resources and the Colorado School of Mines expect to sign a memorandum of understanding (MOU) that would transfer the Colorado Geological Survey (CGS) to the School of Mines. The anticipated agreement would: (1) transfer a total of approximately $1.3 million in severance tax funds and 13 staff positions to the School of Mines; (2) discontinue support for a variety of functions, saving approximately $900,000 per year in cash funds from the Operational Account of the Severance Tax Trust Fund and eliminating 12 staff positions (starting in FY 2013-14); and (3) retain the Colorado Avalanche Information Center within the Department of Natural Resources (which will require legislation).

RECOMMENDATION:

Because the anticipated MOU would require the Colorado Avalanche Information Center (CAIC) to remain at the Department of Natural Resources, staff recommends that the Committee sponsor legislation during the 2013 Session adjusting H.B. 12-1355 to retain the CAIC within the Department. Staff recommends discussing the MOU and the preferred location (within the Department) for the CAIC at the Department's upcoming hearing.

DISCUSSION:

H.B. 12-1355 MOU Status
Contingent upon the Department and the School of Mines signing a memorandum of understanding (MOU) by December 31, 2012, H.B. 12-1355 (a JBC bill) transfers the CGS from the Department of Natural Resources to the School of Mines. The Department expects to sign an MOU before the deadline. Under the bill, the official transfer will take place January 31, 2013, unless the General Assembly takes action to stop the transfer prior to that date. Under the anticipated agreement, administrative responsibility for the CGS would transfer to the School of Mines on January 31, 2013, but the CGS would probably not *physically* move until July 2013.

<u>Staff expects the Department will budget amendment to reflect the transfer in the FY2013-14 appropriation after the MOU is finalized.</u>

According to the Department, the Executive Director initiated discussions with the School of Mines based on two basic goals: (1) improving the operations and prospects of the CGS by moving the agency to the School of Mines; and (2) generating savings from the Operational Account of the Severance Tax Trust Fund (Operational Account) to assist with balancing the Operational Account and provide more funding for the Department's other priorities. The anticipated MOU prioritizes functions that the Department has determined directly support public health, life, and safety, and transfers the associated staff and funding to the School of Mines (except for the CAIC, which will remain within the Department under the agreement). To generate savings, the MOU intends to discontinue funding for the other current functions of the CGS. While the statutory responsibilities (which are at the discretion of the CGS) will officially transfer to mines, funding and FTE associated with those programs/functions will be eliminated as existing contracts and obligations end.

The Department and the School of Mines continue to negotiate and refine the estimates of funding and staff needed to continue each function. The process is complicated by the fact that CGS staff tend to work on a variety of functions and, outside of the CAIC, are not clearly aligned with any one specific program. Thus, the amounts to be transferred will continue to change, and staff's intent in this issue paper is to present relatively rough estimates of the funding involved.

Avalanche Information Center to Remain Intact at the Department

Having determined that the mission and work of the CAIC is better aligned with the Department of Natural Resources, the parties have agreed that the CAIC will remain, fully intact with funding and staff, within the Department of Natural Resources. Because H.B. 12-1355 transfers the entire CGS to the School of Mines, retaining the CAIC within the Department will require legislation. **Staff recommends that the Committee sponsor legislation to do so during the 2013 Session.** Because H.B. 12-1355 was a JBC bill, staff believes that it would be appropriate for the Committee to sponsor the CAIC bill.

Programs/Functions Transferring to the School of Mines <u>With</u> Funding

Based on the criterion of continuing programs directly associated with public health, life, and safety, the MOU will transfer staff and funding for the various CGS programs focused on geological hazards. The Department currently estimates that approximately $1.3 million cash funds from the Operational Account and 13 staff positions (most likely 12.0 FTE but the analysis of FTE is not finalized) will transfer to the School of Mines. Under the MOU, the following CGS activities will continue at the School of Mines.

- **Land use reviews:** The land use reviews are funded through fees paid by local governments rather than severance tax and will continue.

- **Geologic hazards:** Severance tax funds support a variety of specific activities associated with geologic hazards, including: site reviews for school construction projects, reviews of development plans, the creation of guidelines for development in hazard areas, and mapping and reporting on geologic hazard areas, among others.

- **Geothermal energy and carbon sequestration (positions transfer but severance tax funding does not):** In order to fulfill current contractual commitments, the Department expects to transfer two positions (focused on geothermal energy and carbon sequestration projects) which are currently supported largely by grant funding and partially funded with severance tax. The Department does not intend to support those positions with severance tax in the future. According to the Department, the School of Mines intends to explore options for future grant funding for these positions but has not located guaranteed sources of funds.

The Department had initially proposed approximately $100,000 in cuts to work associated with geologic hazards. However, in response to stakeholder input regarding the importance of the geologic hazard programs, particularly mapping functions, the Department has agreed to transfer sufficient funding to keep the geologic hazards functions intact. According to the Department, the staff selected to transfer also includes expertise and capacity to renew other mapping work (e.g., groundwater mapping, discussed below) should funding become available.

Functions Transferred to Mines Without Funding

As discussed above, H.B. 12-1355 transfers *all* of the statutory responsibilities of the CGS to the School of Mines. However, in order to generate savings and enable support for higher priority programs funded with severance tax, the anticipated MOU will not transfer ongoing severance tax funds for any functions other than geologic hazards. Thus, unless additional funding is available from another source, the MOU would effectively terminate the following functions at the end of the current fiscal year (or when existing contracts are completed).

- All groundwater activities, including maps, reporting, and technical assistance and advisory work for state and local governments, among others. According to the Department, groundwater work has been a longstanding activity for CGS, and local water providers and local governments will be the entities most affected by the elimination of the program. According to the Department, local governments seeking this type of information will have to pay for such studies and/or assistance, contracting with either the CGS (using local funds) or private consultants.

- All commercial energy and minerals activities, including maps and reporting on mineral deposits and energy resources, as well as reporting on the status of the energy industry. Mapping and reporting on mineral and energy deposits is another longstanding activity of the CGS, and the Department reports that the energy and mineral industries are the primary consumers although reports are also used by academia, the press, and local governments. The relevant industries have robust exploration and development functions. The Department believes that supplementing those efforts is no longer an essential function for the CGS. The Department also argues that much of the information compiled and reported by the CGS will still be available from the OGCC and the Division of Reclamation, Mining, and Safety, although it is not clear that the other agencies have the necessary funding and staff to compile the relevant information.

Status of Impacted Staff

As discussed above, the Department expects 13 staff positions to transfer to the School of Mines. The 8.4 appropriated FTE associated with the CAIC will remain at the Department of Natural Resources (assuming enactment of legislation). Of the 12 positions to be terminated under the MOU, only eight were filled when the Department initiated negotiations with the School of Mines.

- According to the Department, three staff members have moved to other positions within the Department, and one individual resigned.

- Of the remaining four filled positions, the Department expects one individual to retire before the transfer would take effect. The Department intends to continue to work with the final three staff members to help them secure employment outside of the CGS. Funding for the current positions will cease at the end of FY 2012-13.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S STRATEGIC PLAN:

The CGS is included in the Department's FY 2013-14 strategic plan and the plan includes goals and measures associated with avalanche safety and geologic hazards that would presumably be unaffected by the transfer. The strategic plan does include one objective (Promote the responsible economic development of mineral and energy resources) and associated measure (Percent of counties in the state and state departments receiving assistance in minerals and energy resources from CGS) that would be negatively impacted by the proposed transfer because the anticipated MOU would terminate funding for CGS work related to energy and minerals.

Informational Issue: Oil and Gas Development – OGCC Request for 5.0 Additional FTE.

The Department is requesting a total of $571,702 cash funds and 5.0 additional FTE for the Oil and Gas Conservation Commission (OGCC) to respond to an increasing workload and continued public concern about oil and gas development.

SUMMARY:

- In response to increasing workload, the Department is requesting an additional 5.0 FTE for the OGCC in FY 2013-14, including 3.0 field inspectors, 1.0 environmental specialist, and 1.0 professional engineer. The request includes funds associated with the requested FTE and an additional $75,000 for contract services. The request follows an increase of 7.0 new FTE that the General Assembly approved during the 2012 Session.

- Increasing OGCC workload is driven by: (1) ongoing increases in the number of active oil and gas wells in Colorado; (2) increasingly complex projects resulting from technological changes in the field; and (3) increasing oil and gas development in proximity to residential development, especially on the Front Range. In some areas, changes in rules and requirements that allow additional development and/or require additional OGCC review of proposed development have also added to the OGCC workload.

- The OGCC is currently considering new rules regarding groundwater sampling and changes to setback requirements that could drive a need for 5.8 additional FTE

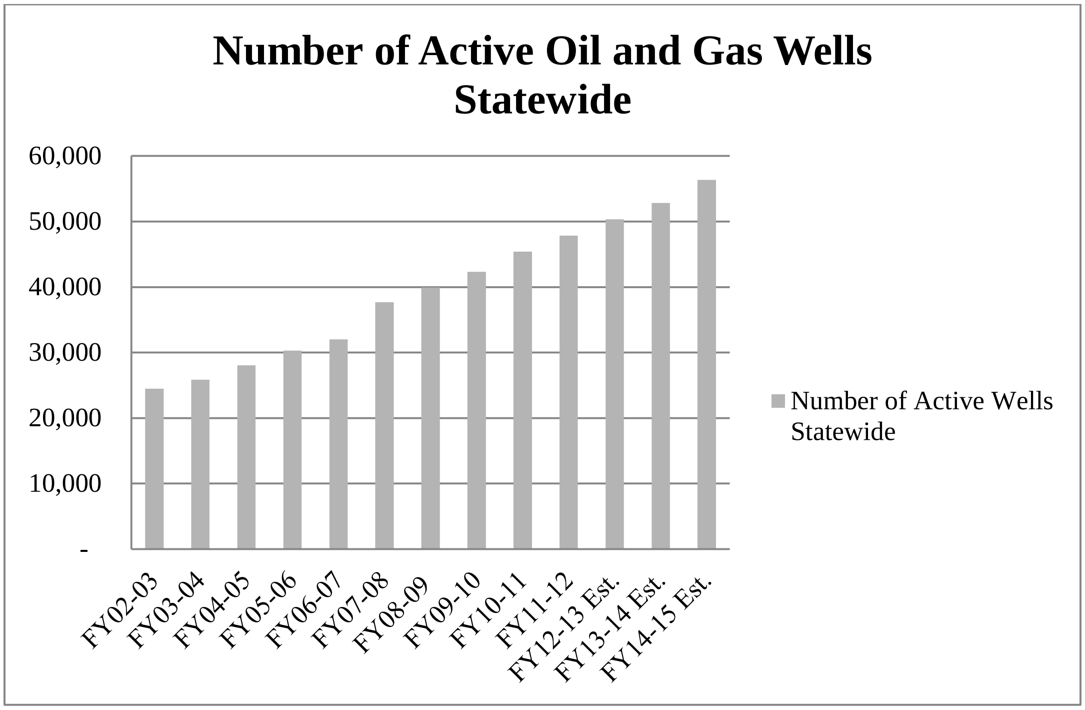
DISCUSSION:

The OGCC is Colorado's regulatory agency for oil and gas development. In response to increasing workload, the Department is requesting an increase of $571,702 cash funds and 5.0 additional FTE for the OGCC in FY 2013-14. The request includes three field inspectors, one environmental protection specialist, and one professional engineer. In addition to the funding associated with the requested FTE, the Department is requesting an additional $75,000 to provide a stable fund source for contract services that the OGCC has previously paid for with vacancy savings. The requested cash funds are from the Oil and Gas Conservation and Environmental Response Fund, which is supported by a statewide mill levy on oil and gas production.

During the 2012 Session, the General Assembly approved a total of 7.0 new FTE for the OGCC, including two local government liaisons (approved through a FY 2011-12 supplemental), two field inspectors, a hearings officer, an environmental specialist focused on data analysis, and an engineering position. As of mid-November 2012, the OGCC has hired six of the seven new positions. The Department sites ongoing increases in the agency's workload as the justification for the request for additional staff and resources in FY 2013-14.

OGCC Workload

The Department points to the number of active wells in Colorado as the most important workload indicator for the requested positions. In recent years, the industry has added approximately 2,800 wells in Colorado each year, and the Department expects the number of active wells statewide to exceed 50,000 in FY 2012-13 (see chart below).



In addition to the statewide increase in wells, however, the Department cites three additional factors (that often interact with the raw number of wells) that make current patterns of oil and gas development particularly work-intensive for the OGCC.

- **Geographic location** affects the complexity of development projects and the level of public concern to which the OGCC must respond. The focus of much of the current oil and gas development in Colorado has shifted from the Western Slope to the Front Range. A combination of low natural gas prices, high oil prices, and better prospects for oil production on the Front Range has driven new development to the Front Range. However, the focus on the Front Range has brought oil and gas development close to increasingly urbanized and populated areas, creating additional workload for the OGCC as staff has to manage and regulate development while responding to and addressing the local conflicts and public complaints that accompany oil and gas installations near residential areas. The OGCC cites the demands of managing development in the "urban interface" as a major change in the agency's workload and a driver of the FY 2013-14 request.

- **Technological changes**, including advances in hydraulic fracturing (also known as fracking) and horizontal drilling have facilitated the current expansion in oil and gas development, and have been particularly important to expanding development on the Front Range. These changes, which are key to the development of new areas such as the Niobrara, also create increasingly complex permitting and regulatory work for the OGCC. The increasing use of hydraulic fracturing, especially in proximity to residential development, has spurred local opposition in communities along the Front Range, requiring additional OGCC efforts in terms of public outreach, regulation, and complaint response. While horizontal drilling does not appear to create the same public concern on its own (and in fact reduces surface environmental impacts while increasing the efficiency of production), horizontal drilling can complicate the OGCC's work for permitting, engineering and inspection. In a particularly striking example, the spread of horizontal drilling in longstanding production areas (such as Weld County) requires the industry and the OGCC to manage directional wells travelling among large numbers of existing vertical wells without interfering with or damaging the existing infrastructure. As shown in the following table, the OGCC has seen a striking increase in the number of horizontal wells permitted and drilled since 2009.

Horizontal Well Permits Issued and Wells Drilled per Calendar Year				
	2009	**2010**	**2011**	**2012**
Horizontal Well Permits Issued	147	333	901	950
Horizontal Wells Drilled	28	128	284	490

- **Changes in rules and regulations** may increase the OGCC's workload in several ways. Some rule changes require additional oversight and inspection by the OGCC. Others may require the industry to submit new information or data, increasing preparatory time for the industry and processing/analysis time for the OGCC. For example, a rule currently under consideration by the OGCC would require additional groundwater sampling statewide, requiring the industry to collect and submit such samples and requiring the OGCC staff to process the samples. In other cases, rule changes may enable additional development. For example, a September 2011 rule change removing restrictions on well density in the Greater Wattenberg Area allowed for directional drilling in areas where density had been maximized under the old rules with vertical wells, enabling increased production but also creating additional workload for the OGCC.

FY 2013-14 Request

In response to the current workload, the Department is requesting 5.0 additional FTE, including three field inspectors, 1 environmental specialist, and 1 professional engineer. Below is a brief discussion of the specific workload indicators that the Department uses as justification for the various positions.

3.0 FTE Field Inspectors (2.0 for Front Range and 1.0 for West Slope)

The OGCC field inspection unit inspects oil and gas wells statewide, conducts reclamation inspections of plugged wells, responds to public complaints, and ensures that exploration and production wastes are disposed of properly. Inspections cover equipment, stormwater, dust, and noise mitigation measures, and producers' control of noxious weeds. The General Assembly approved two additional inspectors (one for the Front Range and one for the West Slope) for FY 2012-13.

The OGCC intends to add at least one of the two additional Front Range inspectors in the Wattenberg field in Weld County to increase the rate of inspections in urban interface areas and allow continued timely response to complaints. The OGCC argues that the West Slope requires an additional inspector to maintain inspection frequencies. Although the rate of development has decreased on the West Slope, the OGCC believes that the distance and time required to travel between wells requires an additional inspector to maintain inspection frequency.

The OGCC's goal is to inspect each active well, on average, at least once every three years. In prior years, the Department has assumed that each inspector would inspect an average of 1,000 wells per year, which would require an average of 3,000 wells per inspector to meet the goal of a three year cycle for each well. However, the OGCC reports that the increase in development in urban interface areas, and the resulting increases in workload to respond to public complaints and other issues, has reduced the overall number of inspections statewide from 17,088 in FY 2010-11 to 11,287 in FY 2011-12 (to an average of 806 per inspector).

Based on the inspection rate in FY 2011-12, the OGCC now estimates that inspecting the average well every three years will require a ratio of 2,500 wells per inspector (down from the 3,000 wells per inspector assumed in the FY 2012-13 request). As shown in the following table, the request would decrease the ratio of wells per inspector FTE from an estimated 3,147 in FY 2012-13 to 2,781 in FY 2013-14, although the Department anticipates an increase to 2,966 in FY 2014-15 without additional staff in that year.

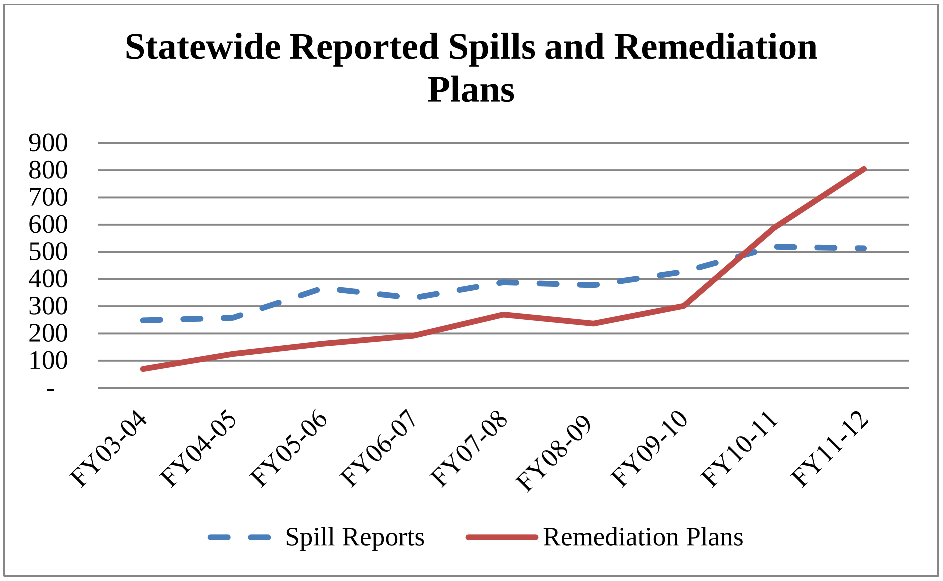
Oil and Gas Conservation Commission Workload Measures

	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13 Est.	FY13-14 Est.	FY14-15 Est.
Number of Active Wells Statewide	37,686	39,944	42,324	45,401	47,860	50,350	52,840	56,358
Inspector FTE	9.0	14.0	14.0	14.0	14.0	16.0	19.0	19.0
Wells/Inspector	4,187	2,853	3,023	3,243	3,419	3,147	2,781	2,966

1.0 FTE Environmental Protection Specialist II in Northeast Colorado

The OGCC environmental program: responds to reported spills; reviews industry remediation plans for spills and other impacts; reviews applications for exploration and production waste facilities; reviews industry reuse/recycling plans; and monitors remediation activities after spills and releases. With rapidly expanding development in Northeast Colorado, including the Niobrara formation, encroaching upon populated areas, the OGCC argues that additional environmental staff is necessary to ensure regulatory compliance and adequate spill and remediation response. Statewide, the OGCC has seen increases in both reported spills and required remediation plans (see chart on the following page).

Spill reports and remediation plans represent long-term workload for the environmental program, because remediation plans may require years of follow-up monitoring and compliance activities.



The environmental program currently has 2.0 FTE in Northeast Colorado, with the two positions splitting a total of 16 counties, including Weld County. The requested position would work from a home-based office in either Weld or Larimer County and assist with the currently high volume of complaints and spills in Weld County (where the number of reported spills has increased from 89 in CY 2006 to 166 in CY 2011) as well as impacts of historical development in Morgan, Washington, and Local counties. According to the OGCC, recent visits by environmental staff suggest that a large percentage of the inactive and low-producing wells in Morgan, Washington, and Logan counties are out of compliance with OGCC regulations but the agency does not currently have sufficient staff to address these issues.

For FY 2012-13, the General Assembly approved the Department's request for 1.0 environmental protection specialist. The position approved for FY 2012-13 is focused on the analysis of water quality and other data sets submitted to the OGCC and is based at the Denver office. The position requested for FY 2013-14 is a field-based position intended to help keep pace with the growing workload in the field.

1.0 FTE Professional Engineer
The OGCC engineering program reviews permit applications and development plans to ensure adequate engineering to protect public health, safety, and groundwater quality, and neighboring wells. The OGCC reports significant increases in the time required for engineering reviews because of increases in horizontal drilling and the resulting increase in complexity of development (discussed above).

The OGCC is concerned that a lack of additional engineering staff will result in either increases in permit processing times (a priority for the industry) or falling behind in the review of various reports submitted by the industry.

Higher Starting Salaries

For each FTE, the Department is requesting starting salaries above the range minimum (29.0 percent above for the field inspector positions, and 25.0 percent for both the environmental specialist and the engineer). The OGCC faces competition with the oil and gas industry for qualified personnel for each of the requested positions. The Department reports that the requested salaries are based on the amounts required to attract qualified staff to the most recent openings for each type of position.

Contract Environmental Support Services

The OGCC uses contract support to manage temporary fluctuations in workload. For example, in prior years, the agency has used significant contract support to assist with permit processing in lieu of adding FTE. As the permitting workload has decreased in recent years (due to a variety of factors, including a shift to two-year permits), the agency has shifted its use of contract services to the environmental and engineering programs. In recent years, the agency has used vacancy savings resulting from turnover and delays in hiring to fund contract support services. The OGCC is concerned about the agency's ability to predictably fund an adequate level of contract support from vacancy savings going forward.

For FY 2013-14, the Department is requesting $75,000 cash funds to provide a stable source of funding for contract services to support the environmental program in the evaluation and management of documents generated by the spill, assessment, remediation, and complaint processes. At an average hourly rate of $53.46, the request would provide reliable funding for 1,400 hours of contract services per year. For comparison purposes, the OGCC spent approximately $463,000 on contract services in FY 2011-12.

Request Impact on Mill Levy

The Oil and Gas Conservation and Environmental Response Fund is supported by a mill levy on oil and gas production statewide. The mill levy is set by the OGCC, with a statutory maximum level of 1.7 mills. The Department estimates that the existing mill levy of 0.7 mills will support the requested increase through at least FY 2014-15 by using an existing fund balance and projected revenues. Depending on price conditions and the need for emergency response funding, continuing operations beyond FY 2014-15 could require an increase in the mill levy.

New Regulations Under OGCC Consideration

The OGCC is currently considering two new/revised regulations that, if adopted, could require additional resources and FTE in FY 2013-14. The first would require additional water sampling prior to and following drilling new oil and gas wells, and the OGCC's regulatory analysis estimates that the proposed rule would require an additional 1.0 FTE to process the required water samples. The second rulemaking would revise a variety of existing rules affecting oil and gas development in proximity to occupied buildings. The OGCC analysis estimates that the proposed rule would require an additional 4.8 FTE. It is possible that the Department will submit a FY 2013-14 budget amendment associated with the OGCC's current rulemaking.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S STRATEGIC PLAN:

The decision item discussed in this issue paper (R-1) is directly related to departmental objective #6: *Ensure that energy development is undertaken in a responsible manner that encourages protection of environmental resources such as water and wildlife habitat.*

The decision item is not directly related to the two department-level performance measures associated with objective #6 in the Department's strategic plan: *Percent of oil and gas wells permitted using a closed loop drilling system* and *Percent of oil and gas wells permitted in Sensitive Wildlife Habitats that are included in Wildlife Management Plans.*

The decision item does relate directly to multiple division-level objectives and performance measures associated with the OGCC:

OGCC-1 Surface Disturbances

- *Objective: Decrease surface disturbance caused by oil and gas activity.*
- *Measure 1: Percent of reclamation projects that comply with OGCC rules.*
- *Measure 2: Percent of oil and gas wells that are drilled, pursuant to the new rules, horizontally and/or from multi-well pads.*

OGCC-2 Public Health

- *Objective: Decrease health, safety, and environmental (other than water) incidences caused by oil and gas operations.*
- *Measure: Total number of citizen complaints that resulted in a Notice of Alleged Violation – per thousand active oil and gas wells.*

OGCC-3 Historic Impacts

- *Objective: Decrease environmental impacts from historic oil and gas activity.*
- *Measure: Number of orphaned oil and gas wells plugged and abandoned and sites reclaimed by the OGCC.*

Informational Issue: State Land Board Initiatives and the FY 2013-14 Request

As part of an overall effort to reorganize the State Land Board (SLB), the Department is requesting two separate increases to the SLB budget in FY 2013-14: (1) $82,832 cash funds and 1.0 FTE to improve oil and gas leasing and oversight activities; and (2) $399,881 cash funds and 2.0 FTE to establish additional lines of SLB business and diversify sources of trust income.

SUMMARY:

- The SLB is in a period of record revenues for the school trust, with the majority of revenues coming from mineral activities, particularly oil and gas bonus payments and royalties.

- Increasing oil and gas development on trust lands has added to the SLB's leasing, monitoring, and oversight workload. Thus far, the agency has absorbed the additional workload within its existing staff. For FY 2013-14, the Department is requesting an increase of $82,832 cash funds and 1.0 FTE to function as field staff to oversee ongoing oil and gas development on trust lands.

- Current revenues are highly reliant upon a single revenue stream from oil and gas, particularly one-time bonus payments. As part of an effort to reorganize the SLB staff and diversify revenue sources going forward, the Department is requesting an increase of $399,881 cash funds and 2.0 FTE to build on existing (but potentially underutilized) revenue streams and create new lines of business for the SLB.

DISCUSSION:

Background
The SLB manages a total of 2.8 million acres of surface ownership and 4.0 million acres of mineral rights in support of eight different trusts. The school trust, discussed earlier in the "Factors Driving the Budget" section and in the issue brief beginning on page 16, accounts for more than 94 percent of the total acreage and 98.9 percent of total FY 2011-12 revenues. The school trust has seen rapid growth in revenues in recent years, earning a record $144.8 million in FY 2011-12, benefitting the Building Excellent Schools Today (B.E.S.T.) Program, the Permanent Fund (in some years), and appropriations for school finance through the sweep discussed in an earlier issue brief.

As part of an ongoing effort to modernize SLB operations (including the development of a new asset management system approved by the General Assembly as part of the FY 2012-13 budget), the SLB is trying to address two challenges through the FY 2013-14 budget request: (1) an increasing workload associated with oil and gas development on trust lands; and (2) a lack of diversification of trust revenues.

Oil and Gas Workload

Oil and gas development on school trust lands has driven record-high levels of revenue for the past several years. Particularly with current interest and leasing activity associated with the Niobrara formation, these revenues will almost certainly continue to dominate trust income for the foreseeable future. The increased rate of development has also increased the SLB's workload, as the agency has to plan for, auction, issue, and oversee widespread development activities.

The Department attributes the growth in SLB workload to three factors:

- **The Niobrara and Mississippian oil and gas plays** have increased the number of oil and gas leases auctioned by the SLB and the number of wells permitted and drilled on trust lands. Although the SLB does not currently have data tracking the number of active wells on trust lands, the acreage under lease indicates an increase in agency workload for leasing and monitoring activities. As shown in the following table, the acreage of state trust lands under lease for oil and gas development has on state trust lands more than doubled from FY 2007-08 to FY 2011-12. The pace of leasing also appears to be accelerating in FY 2011-12 and FY 2012-13, relative to the preceding years. Through two of four planned auctions in FY 2012-13, the SLB has already issued 378 leases for a total of over 190,000 acres in the current year.

State Land Board Oil and Gas Leasing Activity

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13*
Number of Leases Issued Each Year	319	342	243	263	681	378
Total (Cumulative) active leases	1,431	1,773	2,016	2,279	2,960	3,338
O& G Acreage Leased Each Year	189,172	158,930	124,334	119,111	323,724	190,432
Total (Cumulative) Acreage Leased	714,061	872,990	997,324	1,116,436	1,440,160	1,630,592

*FY 2012-13 data is as of November 20, 2012 and includes two of four planned auctions for the year.

- **Approval and monitoring of lease stipulations** designed to minimize the surface impacts of development and preserve the long term value of SLB property requires additional coordination with lessees and additional monitoring and oversight by the SLB staff. The SLB developed specific lease stipulations in partnership with Colorado Parks and Wildlife and the Colorado Natural Heritage Program. More than half of new leases issued in the past three years have included such stipulations; starting in FY 2012-13, *all* SLB oil and gas leases will include the stipulations. State Land Board staff must work with lessees regarding stipulations for a lease, and then monitor the operator's compliance with lease requirements going forward. The long-term and ongoing nature of this monitoring has been problematic for the existing SLB staff. Current field employees have taken on the work but have had to delay other tasks (such as inspections of agriculture leases that both ensure proper stewardship and allow for competitive bidding of leases rather than simple extensions of existing leases).

- **The State Land Board Commissioners have directed SLB staff to develop and enforce Best Management Practices (BMPs) regarding the reclamation of development projects on trust lands and to develop comprehensive development plans for more areas.** Similar to the lease stipulations discussed above, the SLB seeks to use BMPs to minimize the long term impact to (and protect the long term value of) trust lands, requiring additional work from the SLB staff. The development of comprehensive development plans at multiple SLB properties (including the Lowry Range) has generated record bonus revenues for the SLB, and SLB staff intends to move forward with more comprehensive plans in the future.

Through decision item #2, the Department is requesting a total of $82,832 additional cash funds spending authority and 1.0 FTE to hire a minerals field coordinator (classified as a General Professional III position). According to the Department, the requested position would provide a field contact for oil and gas operators, increase monitoring of compliance with BMPs and lease stipulations, and allow the existing field staff to better manage the existing workload and pursue other income opportunities for trust lands.

Revenue Diversification and Sustainability

As discussed above, school trust revenues have grown substantially in recent years. Total revenues increased from $69.5 million in FY 2007-08 to $144.7 million in FY 2011-12. As shown in the table on the following page, however, the increase over that period has been driven by oil and gas revenues, and especially by bonus payments (one-time revenues received as payment for mineral rights). Mineral bonuses made up only $5.9 million (8.6 percent) of total revenues in FY 2007-08 but increased to $78.4 million (54.2) percent of the total in FY 2011-12.

Looking at a longer period, over the past ten years mineral revenues have grown from approximately 54 percent of trust revenues ($16.6 million out of $30.3 million in total revenues for all trusts) in FY 2001-02 to 89.7 percent ($131.0 million out of in $146.3 million) in FY 2011-12. Over that period, surface and commercial rentals, which are generally consistent and recurring, have decreased from nearly 40 percent of total trust revenues in FY 2001-02 to less than 10.0 percent in FY 2011-12.

Oil and gas revenues will continue to dominate the SLB revenue stream for the foreseeable future, including additional bonus payments for new leases and increases in royalty payments as the leases sold in recent years go into production. However, in an effort to pursue a more diversified and proactive investment strategy, the SLB is moving forward with a plan to reorganize the agency around “lines of business” emphasizing both the growth of existing revenue streams (such as minerals, agriculture, recreation, and commercial income) and the development of new streams.

In addition, the SLB hopes to shift to a more proactive model with staff actively seeking revenue opportunities (through development and marketing of resources) rather than largely reacting to leasing requests from the industry in question. The effort to reorganize SLB operations is based in part on the SLB’s agency-specific strategic plan, finalized in 2011, which called for the implementation of a “diversified portfolio that produces reasonable and consistent revenues over time.”

Overview of School Trust Revenues	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
MINERAL REVENUES					
Bonus Payments	$5,974,830	$3,806,001	$14,880,486	$62,649,071	$78,406,236
Oil Royalties	11,198,480	11,469,022	12,736,608	17,477,758	27,333,665
Gas Royalties	20,802,776	19,509,292	13,958,154	15,349,324	16,623,000
Oil and Gas Rentals	1,423,166	1,413,777	1,419,804	1,378,609	2,227,112
Total Oil and Gas	**$39,399,252**	**$36,198,092**	**$42,995,052**	**$96,854,762**	**$124,590,013**
Coal Royalties	14,449,406	22,967,504	6,967,519	7,787,310	3,363,070
Coal Rentals	60,753	62,673	60,753	58,833	66,832
Total Coal	**$14,510,159**	**$23,030,177**	**$7,028,272**	**$7,846,143**	**$3,429,902**
Other Mineral Revenues	1,219,639	1,118,494	1,291,147	2,526,362	2,068,444
Total Minerals	**$55,129,050**	**$60,346,763**	**$51,314,471**	**$107,227,267**	**$130,088,359**
SURFACE REVENUES					
Grazing Rental	$6,038,500	$5,923,763	$6,162,561	$5,918,593	$6,233,904
Agricultural Rental	1,862,145	1,831,096	1,872,776	1,824,406	2,164,524
Recreation	895,125	879,960	923,439	869,112	873,190
Other Surface Revenues	2,736,487	1,546,139	2,016,564	1,593,405	1,989,191
Total Surface Revenues	**$11,532,257**	**$10,180,958**	**$10,975,340**	**$10,205,516**	**$11,260,809**
COMMERCIAL REVENUES					
Commercial	**$2,411,066**	**$2,768,181**	**$3,389,085**	**$2,414,414**	**$2,565,975**
RENEWABLE ENERGY					
Renewable Energy	**$103,431**	**$342,976**	**$469,211**	**$417,506**	**$564,983**
OTHER REVENUE SOURCES					
Land Sales	$4,085	$3,250	$4,095	$53,824	$22,552
Interest Income	315,960	381,501	209,720	239,273	235,324
TOTAL SCHOOL TRUST	**$69,495,849**	**$74,023,629**	**$66,361,922**	**$120,557,800**	**$144,738,002**

Components of the reorganization completed to date include: (1) realigning SLB programs; (2) shifting staff internally to respond to changes in workload, largely associated with increased oil and gas development and resulting submissions of royalty reports and other related documentation; and (3) consolidation and simplification of reporting required of lessees.

For FY 2012-13, the General Assembly approved two relevant SLB decision items: (1) the creation of a new asset management system (funded at $750,000 cash funds per year for two years); and an additional $120,000 cash funds to allow the SLB to contract for additional water expertise to expand water-related trust revenues. Through FY 2012-13, the SLB also plans to complete: additional consolidation of administrative functions, a LEAN review of leasing and accounting processes, and acquisition of a new geographic information system (GIS) to inform SLB operations.

Through FY 2013-14 decision item #7, the Department is requesting a total of $399,881 cash funds and 2.0 FTE to hire two new strategic staff members (proposed as General Professional V staff) to increase the diversification of SLB revenues. The request includes $219,881 in funds directly attributable to the 2.0 FTE (personal services and operating funds) and $180,000 for contract services to support the new FTE.

The request proposes that the new positions and contract services focus on the expansion of three existing lines of business (recreation, renewable energy, and solid minerals) and the creation of a new line of business focused on payments for ecosystem services. Each line of business is discussed briefly below.

- **Recreation:** The SLB currently leases approximately 650,000 acres (roughly one-fourth of SLB surface ownership) for recreation purposes. The majority of this acreage (450,000 acres) is leased to Colorado Parks and Wildlife for the Public Access Program, providing public access to hunting, fishing, and other wildlife-related activities. As shown in the overview table on page 34, <u>total recreation revenues have hovered around $900,000 per year in recent years, and the SLB believes that an increased focus on recreation leases could double that amount (to approximately $1.8 million per year) by FY 2017-18</u>. Likely strategies include both prioritizing and marketing additional recreation leases and reworking existing leases to generate additional revenues, as the market permits.

- **Renewable Energy:** The SLB currently leases approximately 13,700 acres for renewable energy projects, generating approximately $565,000 in FY 2011-12. <u>The SLB's goal is to double current renewable energy revenues (to approximately $1.1 million per year) by FY 2017-18</u>. The existing leases are all utility-scale wind energy projects and all leasing has been reactive to industry proposals rather than actively sought by the SLB. The SLB intends to pursue wind, solar, and geothermal energy opportunities. According to the Department, the Colorado Energy Office estimates that approximately 500,000 acres of trust lands provide promising wind and/or solar resources. The SLB estimates that approximately 20,000 acres hold promise for geothermal energy. At current lease rates for wind energy, doubling annual revenues would require leasing approximately 14,000 additional acres (2.8 percent of the area estimated to be promising for wind/solar development.

- **Solid Minerals:** The SLB leases trust lands for the production of a variety of minerals other than oil and gas, including coal, limestone, gravel, metals, and other minerals. The SLB reports that both the number of leases and the associated royalties for solid minerals other than coal and limestone have decreased by more than 40.0 percent over the past five years, largely as a result of declines in demand for construction materials. While the number of leases has declined, the SLB also reports receiving more than 45 solid mineral lease applications (including 42 uranium applications) over the past five years, with very few of those applications ever being presented to the Commissioners because of a lack of staff expertise and/or a lack of time to fully investigate the prospective leases. Assuming some of those applications would have been viable, the SLB has foregone potential revenues. The SLB has identified opportunities for gold, "frack sand", metallurgical coal, uranium/thorium, coal gasification, and rare earth leases on trust lands. <u>The SLB believes that a proactive approach to solid mineral leasing could double non-coal, non-limestone solid minerals from approximately $430,000 to approximately $860,000 by FY 2017-18</u>.

- **Ecosystem Services:** Ecosystem services markets allow landowners to be paid for the provision of ecosystem services on their land. The most established markets include:

wetland mitigation programs for impacts to wetlands from other development (transportation, construction, oil and gas, etc.); and similar wildlife habitat mitigation programs focused on habitat for endangered species. Additional potential opportunities include stream mitigation, payments for watershed services (protecting healthy watersheds to provide water supplies and quality), carbon sequestration, and others. The SLB does not have a functioning "line of business" focused on ecosystem services but does have one wetland mitigation project in Park County that the agency expects to generate net income of $1.6 million after five years. The SLB commissioned a study (by the Sonoran Institute)[1] of the ecosystem service potential of SLB lands which found potential for multiple types of projects. Based on that study and the current experience with the wetland mitigation project in Park County, the SLB believes that the staff requested through the decision item would enable the creation of at least three additional ecosystem services projects over the next five years, with a net gain of $4.8 million.

Based on the SLB's assumptions, the agency anticipates a cumulative net gain of $7.4 million through FY 2017-18 and $9.0 million through FY 2018-19 as a result of decision item #7. If accurate, those revenues would help diversify the existing revenue stream although even the anticipated increase would represent only a fraction of current income from oil and gas development.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S STRATEGIC PLAN:

The decision items discussed in this issue paper (R-2 and R-7) align with departmental objective #7: *Earn reasonable and consistent revenue on State Land Board properties for the benefit of all trusts.*

The decision items are also associated with the relevant departmental performance measure: *Increase revenues to the school trust by 5 percent annually.*

The decision item does relate directly to two division-level objectives and performance measures associated with the OGCC:

SLB-1 Agency Cost Effectiveness

- *Objective: Revenue production.*
- *Measure 1: Revenue dollar per $1 of expenditure.*

SLB-2 Property Inspection

- *Objective: Protect trust assets.*
- *Measure: Percent of agricultural property inspections rated good or above for range conditions.*

[1] Report available at: http://www.sonoraninstitute.org/analysis-of-ecosystem-services-potential-on-colorado-state-trust-lands.html

Appendix A: Number Pages

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request		Request vs. Appropriation
DEPARTMENT OF NATURAL RESOURCES						
Mike King, 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						
Program Costs	2,134,008	2,395,648	2,126,557	2,126,557		
FTE	20.0	18.7	22.0	22.0		
Cash Funds	447,548	555,666	449,087	449,087		
Federal Funds	1,686,460	1,839,982	1,677,470	1,677,470		
Indirect Cost Assessment	158,332	217,185	134,192	145,144		
Cash Funds	25,999	28,575	28,181	30,480		
Federal Funds	132,333	188,610	106,011	114,664		
SUBTOTAL - (A) Coal Land Reclamation	2,292,340	2,612,833	2,260,749	2,271,701		0.5%
FTE	20.0	18.7	22.0	22.0		0.0%
Cash Funds	473,547	584,241	477,268	479,567		0.5%
Federal Funds	1,818,793	2,028,592	1,783,481	1,792,134		0.5%
(B) Inactive Mines						
Program Costs	1,639,179	1,540,929	1,636,925	1,636,925	*	
FTE	7.2	7.8	16.4	16.6		
Cash Funds	670,502	501,276	519,247	519,247		
Federal Funds	968,677	1,039,653	1,117,678	1,117,678		

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request		Request vs. Appropriation
Mine Site Reclamation	399,121	496,450	409,993	409,993		
FTE	0.5	0.3	1.2	1.2		
Cash Funds	399,121	496,450	379,993	379,993		
Reappropriated Funds	0	0	30,000	30,000		
Reclamation of Forfeited Mine Sites	236,571	78,657	171,000	171,000		
Cash Funds	236,571	78,657	171,000	171,000		
Abandoned Mine Safety	98,463	99,596	99,850	0	*	
FTE	0.1	0.1	0.2	0.0		
Cash Funds	98,463	99,596	99,850	0		
Indirect Cost Assessment	127,268	214,354	133,696	185,626		
Cash Funds	12,995	12,026	14,633	59,504		
Federal Funds	114,273	202,328	119,063	126,122		
SUBTOTAL - (B) Inactive Mines	2,500,602	2,429,986	2,451,464	2,403,544		(2.0%)
FTE	7.8	8.2	17.8	17.8		(0.0%)
Cash Funds	1,417,652	1,188,005	1,184,723	1,129,744		(4.6%)
Reappropriated Funds	0	0	30,000	30,000		0.0%
Federal Funds	1,082,950	1,241,981	1,236,741	1,243,800		0.6%
(C) Minerals						
Program Costs	2,170,170	2,135,806	2,157,524	2,257,374	*	
FTE	20.8	20.4	24.1	24.1		
Cash Funds	2,170,170	2,135,806	2,157,524	2,257,374		

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
Indirect Cost Assessment	112,421	121,219	127,188	144,147	
Cash Funds	112,421	121,219	127,188	144,147	
SUBTOTAL - (C) Minerals	2,282,591	2,257,025	2,284,712	2,401,521	5.1%
FTE	20.8	20.4	24.1	24.1	0.0%
Cash Funds	2,282,591	2,257,025	2,284,712	2,401,521	5.1%
(D) Mines Program					
Colorado and Federal Mine Safety Program	441,380	477,004	513,045	513,045	
FTE	4.0	3.4	4.0	4.0	
Cash Funds	318,632	314,785	324,324	324,324	
Federal Funds	122,748	162,219	188,721	188,721	
Blaster Certification Program	107,916	118,435	108,353	108,353	
FTE	1.0	0.9	1.0	1.0	
Cash Funds	22,512	24,723	22,606	22,606	
Federal Funds	85,404	93,712	85,747	85,747	
Indirect Cost Assessment	24,808	35,146	24,419	23,835	
Cash Funds	15,802	17,668	16,682	16,180	
Federal Funds	9,006	17,478	7,737	7,655	
SUBTOTAL - (D) Mines Program	574,104	630,585	645,817	645,233	(0.1%)
FTE	5.0	4.3	5.0	5.0	0.0%
Cash Funds	356,946	357,176	363,612	363,110	(0.1%)
Federal Funds	217,158	273,409	282,205	282,123	(0.0%)

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
(E) Emergency Response Costs					
Emergency Response Costs	25,000	25,000	25,000	25,000	
Cash Funds	25,000	25,000	25,000	25,000	
SUBTOTAL - (E) Emergency Response Costs	25,000	25,000	25,000	25,000	0.0%
FTE	0.0	0.0	0.0	0.0	0.0%
Cash Funds	25,000	25,000	25,000	25,000	0.0%
TOTAL - (2) Division of Reclamation, Mining, and Safety	7,674,637	7,955,429	7,667,742	7,746,999	1.0%
FTE	53.6	51.6	68.9	68.9	0.0%
Cash Funds	4,555,736	4,411,447	4,335,315	4,398,942	1.5%
Reappropriated Funds	0	0	30,000	30,000	0.0%
Federal Funds	3,118,901	3,543,982	3,302,427	3,318,057	0.5%

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation

(3) GEOLOGICAL SURVEY

Primary functions: providing geologic information to the public and government agencies. Cash funds are from severance tax revenues, fees for geological services provided, and grants. Reappropriated funds are from transfers from other state agencies for geological services.

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
Environmental Geology and Geological Hazards Program	1,523,479	1,379,957	2,511,978	2,511,978	
FTE	9.0	7.9	16.2	16.2	
Cash Funds	1,199,136	895,850	1,464,341	1,464,341	
Reappropriated Funds	324,343	199,296	448,881	448,881	
Federal Funds	0	284,811	598,756	598,756	
Mineral Resources and Mapping	1,173,755	1,082,194	1,440,260	1,440,260	
FTE	9.3	10.5	9.5	9.5	
Cash Funds	997,866	977,659	1,117,949	1,117,949	
Federal Funds	175,889	104,535	322,311	322,311	
Colorado Avalanche Information Center	671,333	687,480	708,770	708,770	
FTE	7.7	8.4	8.4	8.4	
Cash Funds	276,796	275,825	280,750	280,750	
Reappropriated Funds	377,504	398,518	409,833	409,833	
Federal Funds	17,033	13,137	18,187	18,187	
Indirect Cost Assessment	180,208	158,082	144,421	154,625	
Cash Funds	115,940	110,548	127,706	121,825	
Federal Funds	64,268	47,534	16,715	32,800	

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
TOTAL - (3) Geological Survey	3,548,775	3,307,713	4,805,429	4,815,633	0.2%
FTE	26.0	26.8	34.1	34.1	0.0%
Cash Funds	2,589,738	2,259,882	2,990,746	2,984,865	(0.2%)
Reappropriated Funds	701,847	597,814	858,714	858,714	0.0%
Federal Funds	257,190	450,017	955,969	972,054	1.7%

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation

(4) OIL AND GAS CONSERVATION COMMISSION

Primary functions: promoting and regulating responsible development of oil and gas natural resources. Cash funds are from the Oil and Gas Conservation and Environmental Response Fund and the severance tax.

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
Program Costs	5,868,020	5,866,959	6,468,382	6,964,436	*
FTE	63.2	63.4	74.0	79.0	
Cash Funds	5,868,020	5,866,959	6,468,382	6,964,436	
Underground Injection Program	92,111	96,559	96,559	96,559	
FTE	2.0	2.0	2.0	2.0	
Federal Funds	92,111	96,559	96,559	96,559	
Plugging and Reclaiming Abandoned Wells	216,768	286,235	445,000	445,000	
Cash Funds	216,768	286,235	445,000	445,000	
Environmental Assistance and Complaint Resolution	312,033	311,312	312,033	312,033	
Cash Funds	312,033	311,312	312,033	312,033	
Emergency Response	17,236	264,817	1,000,000	1,000,000	
Cash Funds	17,236	264,817	1,000,000	1,000,000	
Special Environmental Protection and Mitigation Studies	173,184	119,756	325,000	325,000	
Cash Funds	173,184	119,756	325,000	325,000	
Indirect Cost Assessment	413,153	456,220	398,528	436,030	
Cash Funds	405,977	456,220	393,108	429,764	
Federal Funds	7,176	0	5,420	6,266	

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
TOTAL - (4) Oil and Gas Conservation Commission	7,092,505	7,401,858	9,045,502	9,579,058	5.9%
FTE	65.2	65.4	76.0	81.0	6.6%
Cash Funds	6,993,218	7,305,299	8,943,523	9,476,233	6.0%
Federal Funds	99,287	96,559	101,979	102,825	0.8%

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	Request vs. Appropriation
(5) STATE BOARD OF LAND COMMISSIONERS					
Primary Functions: Manages around 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 School Trust (96% of holdings). Cash funds are from the Trust Administration Fund. Reappropriated funds are from the Division of Parks and Wildlife.					
Program Costs	3,736,332	3,624,726	3,796,994	4,236,885 *	
FTE	36.4	36.8	37.0	40.0	
Cash Funds	3,736,332	3,624,726	3,796,994	4,236,885	
Public Access Program Damage and Enhancement Costs	224,599	209,145	225,000	225,000	
Reappropriated Funds	224,599	209,145	225,000	225,000	
Asset Management System Upgrade	0	0	750,000	750,000	
Cash Funds	0	0	750,000	750,000	
Indirect Cost Assessment	177,993	189,581	202,527	224,959	
Cash Funds	177,993	189,581	202,527	224,959	
TOTAL - (5) State Board of Land Commissioners	4,138,924	4,023,452	4,974,521	5,436,844	9.3%
FTE	36.4	36.8	37.0	40.0	8.1%
Cash Funds	3,914,325	3,814,307	4,749,521	5,211,844	9.7%
Reappropriated Funds	224,599	209,145	225,000	225,000	0.0%
TOTAL - Department of Natural Resources	22,454,841	22,688,452	26,493,194	27,578,534	4.1%
FTE	181.2	180.6	216.0	224.0	3.7%
Cash Funds	18,053,017	17,790,935	21,019,105	22,071,884	5.0%
Reappropriated Funds	926,446	806,959	1,113,714	1,113,714	0.0%
Federal Funds	3,475,378	4,090,558	4,360,375	4,392,936	0.7%

Appendix B: Recent Legislation Affecting Department Budget

2011 Session Bills

S.B. 11-024 (Veterans State Parks Admission): Authorizes the Board of Parks and Outdoor Recreation in the Department of Natural Resources to promulgate rules to allow members of the armed forces wounded warriors programs, and caretakers accompanying them, free entrance to any state park or recreation area. Wounded warriors are individuals who have been severely injured in military operations undertaken since September 11, 2001, and require years of intense, ongoing care or assistance. Wounded warriors who are residents of, or are stationed in Colorado, would be eligible for free entrance. The bill also authorizes the board to promulgate rules to allow all veterans free entrance to any state park on one day each year of the board's choosing.

S.B. 11-076 (PERA Contribution Rates): For the 2011-12 state fiscal year only, reduces the employer contribution rate for the State and Judicial divisions of the Public Employees' Retirement Association (PERA) by 2.5 percent and increases the member contribution rate for these divisions by the same amount. In effect, continues the FY 2010-11 PERA contribution adjustments authorized through S.B. 10-146 for one additional year. Reduces the Department's total appropriation by $2,209,502 total funds, of which $384,244 is General Fund, $1,478,456 is cash funds, $74,295 is reappropriated funds, and $272,507 is federal funds.

S.B. 11-090 (Sunset Weather Modification Act of 1972): Continues the "Weather Modification Act of 1972" until September 1, 2018. Requires the Executive Director of the Department of Natural Resources to ensure that all rules related to weather modification are updated by June 30, 2012.

S.B. 11-092 (Sunset Vessel Registration Program): Extends the vessel registration laws set to expire on July 1, 2011 until September 1, 2016. Requires State Parks to report to the President of the Senate and the Speaker of the House of Representatives if federal funding for recreational boating safety is expected to cease for any reason.

S.B. 11-164 (General Fund Augmentation): Transfers $5.0 million from the Perpetual Base Account of the Severance Tax Trust Fund to the General Fund on June 30, 2011.

S.B. 11-203 (Species Conservation Trust Fund): Appropriates $4,500,000 from the Capital Account of the Species Conservation Trust Fund (Capital Account) and $2,100,000 from the Operation and Maintenance Account of the Species Conservation Trust Fund (Operation and Maintenance Account) to the Department of Natural Resources for programs to conserve native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States Fish and Wildlife Service. Also adjusts existing appropriations for projects beginning in FY 2000-01 to reflect the amount actually spent by the Department.

S.B. 11-208 (Merge Parks and Wildlife): Combines the following:

- the Wildlife Commission and the Board of Parks and Outdoor Recreation into a new Parks and Wildlife Board, and
- the Division of Wildlife and the Division of Parks and Outdoor Recreation into a new Division of Parks and Wildlife.

The new Board and new Division will assume all of the duties, powers, responsibilities, obligations, and functions that were previously exercised by their predecessor entities. Specifies that the new Board and Division shall constitute an enterprise for the purposes of Article X, Section 20 of the State Constitution. Additionally, specifies that all funds and expenditures will continue unaltered and does not merge the appropriations of the two divisions for FY 2011-12, but allows the new Division of Parks and Wildlife to expend appropriations to the former Division of Wildlife and the former Division of Parks and Outdoor Recreation contained in the 2011general appropriations act (S.B. 11-209). Requires the consolidation of the boards and divisions to take place within existing appropriations. Reaffirms the state's assent to the federal Pittman-Robertson and Dingell-Johnson acts.

In addition to all of the duties and functions of the two predecessor boards, requires the new board to develop an implementation plan in order to:

- address outstanding issues and to identify increased efficiencies and cost savings that may be realized from merging the divisions;
- consolidate the operations and programs of the two divisions in order to allocate costs over a reasonable period of time and within existing budget levels;
- use the identified cost savings to finance the implementation plan and transition; and
- include recommendations for restructuring the board.

Requires the new board to schedule monthly meeting dates through the 2011 calendar year beginning in July 2011 in order to develop the implementation plan. All meetings are to be open to the public and the board is required to solicit public input. Additionally, requires the Board to hold workshops at least every two months.

Authorizes the Board to raise or lower park fees or other charges if the Board anticipates that the total annual revenues realized from the change will not increase by more than 20 percent over the annual amount earned from fees and charges as of July 1, 2011. Additionally, when considering rules to increase or decrease a park fee or other charge, requires the Board to consider the effect that the change will have on park use and the demand for the service and to consider opportunities for differential pricing.

Requires the Executive Director to report to the House Agriculture, Livestock, and Natural Resources Committee and the Senate Agriculture, Natural Resources, and Energy Committee on the activities of the Board, the implementation plan, expected cost savings to result from the merger, and any recommendations for further legislation on or before February 29, 2012. Also requires the Executive Director to submit an informal progress report by November 30, 2011 that provides an update on the development of an implementation plan and any outstanding issues.

S.B. 11-226 (General Fund Augmentation): Transfers: $25.0 million from the Perpetual Base Account of the Severance Tax Trust Fund to the General Fund on July 1, 2011; transfers $23.1 million from the Perpetual Base Account of the Severance Tax Trust Fund to the General Fund on June 30, 2012; and transfers $3.95 million from the Operational Account of the Severance Tax Trust Fund to the General Fund on June 30, 2012.

H.B. 11-1274 (Water Conservation Board Construction Fund Projects): Appropriates $13,925,000 cash funds from the Colorado Water Conservation Board (CWCB) Construction Fund to the Department of Natural Resources in FY 2011-12 for various water-related projects. Transfers $300,000 from the CWCB Construction Fund to the Flood Response Fund in FY 2011-12. Transfers $700,000 from the CWCB Construction Fund to the Litigation Fund in FY 2011-12.

H.B. 11-1286 (Clarify State Engineer Nontributary Rule Authority): Clarifies the State Engineer's rule-making authority regarding dewatering geologic formations for mining operations. Specifies that the State Engineer can make rules to determine which ground water in the formations or basins is determined to be nontributary, and can establish rule-making and adjudicatory procedures for nontributary determinations after the initial rule-making. Specifies that the courts must presume that any applicable nontributary determination made by the State Engineer is valid, subject to rebuttal.

2012 Session Bills

S.B. 12-009 (Consolidate Water Resources Division Funds): Creates the Water Resources Cash Fund, intended primarily for administrative uses by the Division of Water Resources (DWR). Consolidates into the Water Resources Cash Fund six existing cash funds—the Water Data Bank Cash Fund, the Division of Water Resources Publication Cash Fund, the Division of Water Resources Groundwater Management Cash Fund, the Groundwater Publication Fund, the Gravel Pit Lakes Augmentation Fund, and the Well Enforcement Cash Fund—eliminating those existing cash funds.

H.B. 12-1246 (Reverse Payday Shift Biweekly State Employees): Appropriates $228,000 General Fund to the Division of Water Resources to reverse the annual payday shift as it applies to state employees paid on a bi-weekly basis.

H.B. 12-1278 (South Platte Groundwater Study): Appropriates $910,900 cash funds (Colorado Water Conservation Board Construction Fund) to the Colorado Water Conservation Board (CWCB). Requires the CWCB in consultation with the State Engineer and the Colorado Water Institute, to conduct a comprehensive study to compile and evaluate available historical hydrologic data in the South Platte River Basin. Directs the CWCB to contract with the Colorado Water Institute to conduct the study.

H.B. 12-1317 (Parks and Wildlife Commission Composition and Terms): Replaces the Parks and Wildlife Board in the Department of Natural Resources with the Parks and Wildlife Commission and specifies the responsibilities of the new commission. Reduces appropriations to the Division of Parks and Wildlife by $18,055 cash funds.

H.B. 12-1330 (Hunting Fishing License Suspension Hearing): Allows a person whose hunting or fishing license has been suspended for two years or more to petition the Parks and Wildlife Commission in the Department of Natural Resources once every five years to end the suspension after half of the suspension of at least 10 years has elapsed or after 15 years of a lifetime suspension. A person can petition the commission three times. Upon receiving a fourth or subsequent petition, the commission may deny the petition without a hearing. The commission may end the suspension if:

- the person is unlikely to offend again;
- the person has not violated the wildlife statutes again; and
- the suspension is the person's first in Colorado.

The commission is authorized to order the person to pay a reinstatement fee of up to $300, perform up to 40 hours of service on wildlife or park projects, or attend hunting education courses. Appropriates $23,419 cash funds to the Department of Natural Resources for additional hearing costs. Out of the appropriation to the Department, appropriates $3,028 reappropriated funds to the Department of Law for the provision of legal services.

H.B. 12-1349 (Species Conservation Trust Fund): Combines the Operation and Maintenance Account and the Capital Account of the Species Conservation Trust Fund into the Species Conservation Trust Fund (SCTF). Appropriates $4,000,000 from the Species Conservation Trust Fund to the Department of Natural Resources in FY 2012-13 for programs to conserve native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States Fish and Wildlife Services. Also reduces existing appropriations by $500,000 for projects in FY 2011-12 to reflect the amount actually required by the Department.

H.B. 12-1353 (Mitigation of Proportional Reductions to Tier 2 Operational Account of the Severance Tax Trust Fund): Modifies the statutory provisions relating to proportional reductions of Tier 2 transfers from the Operational Account of the Severance Tax Trust Fund (Operational Account). Statute allows for transfers to Tier 2 programs in three installments: on July 1, January 1, and April 1 of each fiscal year. Prior law allowed for proportional reductions, as necessary to balance the Operational Account, to the January 1 and April 1 installments but did not provide for reductions to the July 1 installment. The bill allows for reductions to July 1 installments as necessary based on the June Legislative Council Staff Revenue Forecast from the preceding fiscal year. The bill specifies that the reductions in each installment be sufficient to cover the following percentages of the projected shortfall: 40.0 percent in July; 70.0 percent in January; and 100 percent in April of a given fiscal year.

Also allows the April installment to increase to offset proportional reductions made in July and January if revenue is anticipated to be sufficient to cover such an increase while still meeting the reserve requirement. The bill also reduces the required Tier 1 reserve for FY 2012-13 by $1 million. Finally, the bill clarifies that the Tier 2 reserve may be used as follows:

- up to one-third of the reserve to offset July 1 proportional reductions;
- up to one-third of the reserve to offset January 4 proportional reductions; and
- any amount remaining to offset April 1 proportional reductions.

H.B. 12-1355 (Transfer of Geological Survey to School of Mines): Transfers the powers, duties, and functions of the Colorado Geological Survey and the Office of the State Geologist from the Department of Natural Resources (DNR) to the Colorado School of Mines (Mines) on January 31, 2013, providing the president of the university and the executive director of the DNR enter into a memorandum of understanding (MOU) concerning the transfer by December 31, 2012. Requires the MOU to address the:

- functions and objectives of the geological survey;
- transfer of employees;
- transfer of real and personal property;
- existing contracts of the DNR; and
- existing appropriations allocated to the Geological Survey Cash Fund.

Requires the president of the Colorado School of Mines to report to the Joint Budget Committee and the House and Senate Agriculture Committees regarding the status of the MOU by December 1, 2012. If the DNR and Mines do not enter into a MOU by December 31, 2012, the transfer will not occur.

S.B. 12S-002 (Water Conservation Board Construction Fund Projects): Appropriates $28,350,857 cash funds from the Colorado Water Conservation Board (CWCB) Construction Fund to the Department of Natural Resources in FY 2012-13 for various water-related projects. Transfers a total of $43.0 million from the Perpetual Base Account of the Severance Tax Trust Fund to the CWCB Construction Fund over three fiscal years (FY 2012-13, FY 2013-14, and FY 2014-15) and transfers $300,000 from the CWCB Construction Fund to the Flood and Drought Response Fund in FY 2012-13.

Appendix C: Update on Long Bill Footnotes & Requests for Information

Long Bill Footnotes

41 **Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Mine Site Reclamation --** It is the intent of the General Assembly that these funds shall remain available until completion of the project or the close of FY 2014-15, whichever comes first. At project completion or the end of the three-year period, any unexpended balances shall revert to the Operation Account of the Severance Tax Trust Fund from which they were appropriated.

Comment: This footnote provides roll-forward authority at the end of the fiscal year.

42 **Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Reclamation of Forfeited Mine Sites --** It is the intent of the General Assembly that the appropriation to this line item remain available until the completion of the project or the close of FY 2014-15, whichever comes first. At project completion or the end of the three-year period, any unexpended amount shall revert to the Operational Account of the Severance Tax Trust Fund, from which this appropriation was made.

Comment: This footnote provides roll-forward authority at the end of the fiscal year.

43 **Department of Natural Resources, Oil and Gas Conservation Commission, Emergency Response --** It is the intent of the General Assembly that funding for this line item be expended in the event that there is an oil and gas related emergency under the jurisdiction of the Oil and Gas Conservation Commission. The purpose of this funding is for investigation, prevention, monitoring, and mitigation of circumstances which are caused by or are alleged to be associated with oil and gas activities and which call for immediate action by the Oil and Gas Conservation Commission. An emergency creates a threat to public health, safety, or welfare or to the environment as proclaimed by the Oil and Gas Conservation Commission Director and approved by order of the Oil and Gas Conservation Commission.

Comment: This footnote sets forth the purpose, conditions, and limitations of the line item. The JBC created the Emergency Response line item in FY 2006-07, with an appropriation of $1.5 million from the Oil and Gas Conservation and Environmental Response Fund. The General Assembly reduced the annual appropriation to $1.0 million in FY 2011-12. Said sum is to be used -- if and when necessary -- for emergency responses. The line item was created because of concern that emergency funding would be necessary during a time when the JBC may not yet be meeting during the interim (and thus would have to wait for an interim supplemental, delaying the Department's ability to respond adequately).

44 **Department of Natural Resources, Oil and Gas Conservation Commission, Special Environmental Protection and Mitigation Studies --** It is the intent of the General Assembly 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 follow-up studies.

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

Requests for Information

4 **All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2012 information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that were received in FY 2011-12. The Departments are also requested to identify the number of additional federal and cash funds FTE associated with any federal grants or private donations that are anticipated to be received during FY 2012-13.

Comment: Staff did not receive a response to this request for information.

2 **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 complied with this request. The Department reports $264,817 in total expenditures from this line item in FY 2011-12 to properly plug and manage two orphaned wells that were leaking natural gas to the surface in northwest Colorado.

3 **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 complied with this request. The report describes eight studies that the Oil and Gas Conservation Commission supported through this line item in FY 2011-12, totaling $119,756 in expenditures. Spending is from cash funds in the Oil and Gas Conservation and Environmental Response Fund and is supported by a mill levy on oil and gas production. The Department's response is attached as Appendix F.

Appendix D: Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology
The Department of Natural Resources indirect cost assessment methodology is calculated based on two components: an "*Indirect Cost Pool*" and an "*Indirect Cost Base*".

The *Indirect Cost Pool* is comprised of approved Executive Director's Office (EDO) and other overhead FY 2011-12 actual costs, including statewide indirect costs, used to provide support to the entire department. The *Indirect Cost Base* is comprised of FY 2011-12 actual personal services costs by division. ***Table 1*** outlines which lines are included in the department's Indirect Cost Pool. Of the Total Indirect Cost Pool, the Department subtracts $1,397,900 of non-recoverable indirect costs. Of this amount, $1,350,750 is associated with General Fund personal services costs not assessed in the Water Resources Division (the majority of personal services costs in the Water Resources Division are General Fund costs), and $47,152 of indirect costs are not assessed to the Colorado Geological Survey (CGS) pursuant to Section 34-1-105, C.R.S., that limits CGS fees to covering direct costs of providing services.

Table 1
Department of Natural Resources Indirect Cost Pool

Division	**Line Item**	**FY 2011-12 Actual**
Executive Director's Office		
	Personal Services	$4,003,635
	Workers Compensation	24,310
	Operating Expenses	174,927
	Legal Services	36,687
	Purchase of Services from Computer Center	1,521,241
	Multiuse Network Payments	569,738
	Management and Administration of OIT	244,797
	Payment to Risk Management and Property Funds	11,964
	Information Technology Asset Maintenance	90,538
	Capitol Complex Leased Space	171,126
	Audit Charges	183,036
	Equipment Use	265,337
	Statewide Indirect Cost Share	1,700,927
Total Indirect Cost Pool		**$8,998,263**
	General Fund Personal Services (Unrecoverable Costs)	(1,397,900)
Total Recoverable Indirect Cost Pool		**$7,600,363**

The Department does not have an *Indirect Cost Rate*. Instead, the Department uses FY 2011-12 actual eligible personal services costs from cash funds and federal funds sources to calculate the *Indirect Cost Base*, which is used in determining the proportional allocation of the Total Recoverable Indirect Cost Pool to divisions. ***Table 2*** summarizes the department's Indirect Cost Base.

Table 2
Department of Natural Resources Indirect Cost Base

Division	FY 2011-12 Actual (CF, RF, FF)
Division of Reclamation, Mining, and Safety	$7,260,875
Colorado Geological Survey	2,937,488
Oil and Gas Conservation Commission	6,347,767
State Board of Land Commissioners	3,274,986
Division of Parks and Wildlife - Parks	25,876,431
Division of Parks and Wildlife - Wildlife	57,931,781
Colorado Water Conservation Board	7,301,991
Water Resources Division	402,080
Total Indirect Cost Base	**$111,333,399**

FY 2013-14 Indirect Cost Assessment Request
For FY 2013-14 the Department has requested $7,600,363 for indirect cost assessments. ***Table 3*** shows the FY 2013-14 Department indirect cost assessment based on the November 1 request for each division. The FY 2013-14 request represents an increase of $688,809 from the FY 2012-13 indirect cost assessment mainly due to (1) a $470,000 increase in costs for purchase of services from the state computer center, (2) a $128,000 increase in statewide indirect cost recoveries, and (3) a $106,000 increase in payments to the state multiuse network (MNT).

Table 3
Department Indirect Cost Assessment Request

Division	Total	CF	RF	FF
Division of Reclamation, Mining, and Safety	$498,752	$250,311	$0	$248,441
Colorado Geological Survey	154,625	121,825	0	32,800
Oil and Gas Conservation Commission	436,030	429,764	0	6,266
State Board of Land Commissioners	224,959	224,959	0	0
Division of Parks and Wildlife - Parks	1,777,457	1,739,891	0	37,566
Division of Parks and Wildlife - Wildlife	3,979,346	3,349,809	0	629,537
Colorado Water Conservation Board	501,575	491,158	0	10,417

Table 3 Department Indirect Cost Assessment Request Division	Total	CF	RF	FF
Water Resources Division	27,619	25,379	0	2,240
Total FY 2013-14 Request	**$7,600,363**	**$6,633,096**	**$0**	**$967,267**
FY 2012-13 Indirect Cost Assessment	$6,911,554	$6,005,793	$0	$905,761
Difference (FY 14 - FY 13)	**$688,809**	**$627,303**	**$0**	**$61,506**

Appendix E: Change Requests' Relationship to Performance Measures

This appendix will show how the Department of Natural Resources indicates each change request ranks in relation to the Department's top priorities and what performance measures the Department is using to measure success of the request.

Change Requests' Relationship to Performance Measures			
R	**Change Request Description**	**Goals / Objectives**	**Performance Measures**
R-1`	OGCC – Additional Field Inspectors, Environmental, and Engineering GTE	Relationship to objective not provided.	Relationship to performance measures not provided.
R-2	SLB – Minerals Field Coordinator	Relationship to objective not provided.	Relationship to performance measures not provided.
R-3	WRD – Line Item Consolidation	Relationship to objective not provided.	Request indicates that the consolidation would impact all DWR performance measures by increasing efficiency.
R-4	WRD – Satellite Monitoring System	DWR – 2: Water Administration and Enforcement: Assure the effective distribution and compliance with applicable water laws.	Number of Gages.
R-5	DRMS – Reallocation of Severance Tax Funds to E-Permitting System	DRMS – 2: Regulate Mining: Protect the environment by ensuring regulatory compliance at coal and mineral mine sites.	The percent of inspected coal and mineral mine sites that are in regulatory compliance annually.
R-6	EDO – Legal Services Adjustments	N/A	N/A
R-7	SLB – Strategic Business Initiatives	Relationship to objective not provided.	Relationship to performance measures not provided.
R-8	DPW – Merger Cost Savings and FTE Reduction	Relationship to objective not provided.	Relationship to performance measures not provided.
R-9	DPW – Wildlife Management Refinance	N/A	N/A
R-10	Multiple – OIT Staffing Correction	Relationship to objective not provided.	Relationship to performance measures not provided.
R-11	EDO – Adjustments to Leased Space	N/A	N/A
NPI-1	EDO – Employee Engagement Survey Adjustment	N/A	N/A
NPI-2	EDO – OIT Enterprise Asset Management	N/A	N/A
NPI-3	EDO – Capitol Complex Building Upgrades	N/A	N/A

Appendix F: Department Response to FY 2012-13 Request for Information #3 – Oil and Gas Conservation Commission, Special Environmental Protection and Mitigation Studies

Department of Natural Resources - Colorado Oil and Gas Conservation Commission
<u>Special Environmental Protection and Mitigation Studies Line Item</u>
FY 2012-13 RFI #3
Annual Report of Expenditures

Special Study/Project Name	Description	FY 2011-12 Expenditures
Rulison and Rio Blanco Environmental Monitoring	**Project Rulison** was a 1969 underground nuclear blast conducted by the Atomic Energy Commission to investigate the use of nuclear explosives to stimulate gas production. The OGCC adopted special procedural requirements regarding APDs in the Project Rulison area. In 1998, the OGCC determined that APDs for locations within three miles of the blast site would be forwarded to the Department of Energy (DOE) for review and comment. A three-mile area was adopted for this purpose because, as of 1998, no active or proposed wells were located within that area. **Project Rio Blanco** is the site of a nearly simultaneous subsurface nuclear detonation of three 30 ± 3-kiloton nuclear devices at depths of 5,838, 6,230, and 6,689 feet below ground on May 17, 1973. The OGCC has adopted special procedural requirements regarding APDs in the Project Rio Blanco area. In both project areas, operators with active and planned operations are required to conduct extensive monitoring, sampling, and analysis. OGCC contracts with a health physicist to assist in the oversight of oil and gas activities being conducted in this area by ensuring that operators are in compliance with the radiological provisions of the approved Project Rulison Sampling and Analysis Plan (RSAP) and the Project Rio Blanco Sampling and Analysis Plan (RBSAP), as well as subsequent revisions to both. The consulting health physicist assisted	$8,185

	the OGCC by: coordinating with OGCC, CDPHE, DOE, & oil and gas operators; preparing inspection checklists based on the RSAP and RBSAP; conducting inspections; preparing reports; and presenting the results of the inspections and audits to the OGCC, local government, and residents. In addition, the consultant assists in answering questions from operators concerning the implementation of the RSAP and RBSAP, as well as makes recommendations for modifications to the plans as new data are evaluated.	
Las Animas County Water Well Monitoring	The OGCC conducted follow-up sampling on eight water wells, located in the upper portion of the Wet Canyon area, that had been previously sampled in the Raton Basin Phase 1 (2001-2002) and Phase 2 (2007) baseline studies. The water sampling and analysis of wells with baseline information are an important part of understanding possible changes to groundwater quality from nearby coalbed methane operations.	$3,885
Crop & Range Reclamation Protocols	To identify best practices for assessing the status and success of well site reclamations for the variety of climatic regions within Colorado, the OGCC retained a consulting firm with expertise in range management and crop restoration to quantify vegetation re-growth and to develop systematic, regional-based guidance for evaluating seeding and weed management. OGCC inspectors throughout the state were trained on these more efficient, reproducible approaches to analyzing the effectiveness and progress of interim and final reclamation activities.	$24,530

3M-4M Monitoring	Since 2000, the OGCC has 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. All wells are equipped with downhole pressure transducers that report data via a satellite telemetry system to a central data center. The OGCC retained a third-party contractor knowledgeable in the systems to provide ongoing operations and maintenance support to ensure the systems stay in working order and continue to relay data as designed. This typically includes ongoing remote data downloading, preparation of an annual report analyzing and summarizing the entire historic data set, and one to two field visits per year to each location to physically evaluate operational conditions. In addition, a second contractor provides weed mitigation services.	$37,428
Cost Estimate/Feasibility Study for E&P Facilities	OGCC rules, as amended in 2008, require operators of centralized exploration and production waste facilities to post financial assurance equal to the estimated cost to properly reclaim, close, and abandon each facility. To reduce State risk and ensure operators are posting adequate financial assurance, OGCC contracted with a consultant to provide third party reviews of operators' proposed reclamation plans and cost estimates. This work will continue into the next fiscal year.	$11,000
EPA Frac Study	Two areas in the Raton Basin were selected by the U.S. Environmental Protection Agency (EPA) for the nationwide study of potential impacts from hydraulic fracturing to ground and surface waters. Water samples were collected and sent to labs by OGCC staff and contractors in an effort to better understand the groundwater chemistry of these two areas.	$14,765
Huerfano County Water Monitoring	An OGCC contractor performed ongoing monitoring activities at water wells in Huerfano County. One of the water wells being monitored had a fire at the well head in 2007 and the other water well being monitored	$7,155

	had an explosion in the well house in 2007. Both the fire and the explosion are thought to be related to coalbed methane that has migrated upwards from the Vermejo Formation into sandstone aquifers of the overlying Poison Canyon Formation.	
Elbert Co. Baseline Water Study	In response to landowners and local government concerns about future oil and gas development in Elbert County and its potential to impact ground water resources, the OGCC conducted a baseline water quality study to characterize groundwater conditions in an area where oil and gas drilling activity has been relatively idle for the last several years, but where drilling activity may increase in the near future. The water quality conditions of the Denver Basin aquifers are the primary focus of the study, given these hydrologic units provide the majority of water for domestic, livestock watering, and irrigation purposes throughout Elbert County, including in the northwestern portion of the county where OGCC sampling has been concentrated. OGCC contracted an environmental consultant to review water quality sample results and stable isotope data previously collected from water wells, springs and surface waters in Elbert County and to document the general composition of the native water quality. The resulting report summarizes and evaluates the analytical results and stable isotope composition for water well samples and gas samples in the study area. The objectives of the water quality study were to: • Develop an electronic database of geographic and geochemical data obtained from water sampled in the area of interest. • Evaluate background water quality in Elbert County based on major ion analysis and identify areas where quality is impaired (based on drinking water standards). • Evaluate water quality in areas where OGCC has sampled, including background water quality and incidences where drinking water standards are exceeded.	$12,808

	• Discuss characteristics of water chemistry that could potentially be related to impacts from oil and gas production activities. The report was posted in the Library section of the OGCC website.	
Total Expenditures		**$119,756**