

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Alfredo Kemm, JBC Staff (303-866-4549)  
Justin Brakke, JBC Staff (303-866-4958)  
Andrea Uhl, JBC Staff (303-866-4956)  
DATE May 13, 2020  
SUBJECT Severance Tax Forecast

---

### KEY POINTS

- **Severance Tax Operational Fund:** In both the LCS and OSPB forecasts, severance tax revenues fall short of providing funding for transfers to grant programs. In the OSPB forecast, \$10.4 million remains in the core reserve at the end of FY 2021-22. In the LCS forecast, revenue and reserve balance fall short of fully funding core departmental programs by \$2.1 million in FY 2021-22.
- **Severance Tax Perpetual Base Fund:** The LCS forecast reduces the projected balance of the fund in FY 21 by \$5.4 million, leaving a total balance of \$37.3 million.
- **Local Government Mineral and Energy Impact Grants:** The LCS forecast estimates that severance tax revenues to the Department of Local Affairs will decline from approximately \$128 million in FY 2018-19, to \$70 million in FY 2019-20, down to \$12 million in FY 2020-21.

### 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 (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 (25.0 percent of total severance tax revenues) is allocated to the Severance Tax Operational Fund.

### SEVERANCE TAX OPERATIONAL FUND

The Severance Tax Operational Fund is used for programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water and for use in funding programs to reduce the burden of increasing home energy costs on low-income households." Section 39-29-109.3, C.R.S., provides the following distribution from the Severance Tax Operational Fund to Core Departmental Programs:

- Up to 35.0 percent for the Colorado Oil and Gas Conservation Commission;
- Up to 25.0 percent for the Division of Reclamation, Mining, and Safety;
- Up to 15.0 percent for the Colorado Geological Survey;
- Up to 15.0 percent for the Division of Parks and Wildlife;
- Up to 5.0 percent for the Avalanche Information Center; and
- Up to 5.0 percent for the Colorado Water Conservation Board.

MAY 13, 2020

Subsection (2) of the section provides for additional transfers to natural resources and energy grant programs if the General Assembly chooses not to spend 100 percent on Core Departmental Programs as follow:

- 1 \$10.0 million to the Water Supply Reserve Fund;
- 2 \$450,000 to the Soil Conservation District Grant Fund;
- 3 \$550,000 to the Water Efficiency Grant Program;
- 4 \$5.0 million to the Species Conservation Trust Fund;
- 5 \$13.0 million to Low Income Energy Assistance Programs;
- 6 \$745,067 to the Interbasin Compact Committee Operation Fund;
- 7 \$1,050,000 to the Forest Restoration and Wildfire Risk Mitigation Grant Program Cash Fund;
- 8 \$4,006,005 to the Division of Parks and Wildlife Aquatic Nuisance Species Fund;
- 9 \$1,305,000 to the Healthy Forests and Vibrant Communities Fund;
- 10 \$50,000 to the Wildland-urban Interface Training Fund;
- 11 \$95,000 to the Wildfire Preparedness Fund; and
- 12 \$127,000 for Abandoned Mine Reclamation.

Subsection (3) of the section provides for a "core reserve" equal to 100.0 percent of current fiscal year appropriations for Core Departmental Programs. The set-aside for the core reserve takes precedence over transfers to grant programs. Subsection (3) also provides for a "grant program reserve" equal to the maximum amount of transfers for funds that remain after fully funding grant programs.

Subsection (3.5) provides that funding for grant programs be provided in arrears through a transfer on August 15 following the end of the fiscal year. Additionally, subsection (3.5) provides that any remaining balance in the Severance Tax Operational Fund is to be transferred to the Severance Tax Perpetual Base fund.

### SEVERANCE TAX OPERATIONAL FUND FORECAST

The following tables outline the funding provided to the Severance Tax Operational Fund, which funds Department of Natural Resources core departmental programs and natural resources and energy grant programs based on the May 2020 updated revenue forecasts.

The first table reflects the May 2020 Legislative Council Staff updated revenue forecast.

<b>SEVERANCE TAX OPERATIONAL FUND (MAY 2020 LCS FORECAST)</b>				
	<b>FY 2018-19</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
	<b>Actual</b>	<b>Appropriation</b>	<b>Request</b>	<b>Projection</b>
<b>Revenue</b>				
Beginning Fund Balance	\$9,414,921	\$54,115,867	\$33,823,588	\$3,749,742
NR&E Distributions in Arrears (Aug 15)	0	(36,378,072)	(16,766,073)	0
Balance after NREG Distributions	\$9,414,921	\$17,737,795	\$17,057,515	\$3,749,742
HB 18-1338 Transfers from GF	20,030,925	0	0	0
<b>Revenue/Projected Revenue*</b>	<b>40,027,039</b>	<b>33,270,584</b>	<b>3,942,306</b>	<b>11,777,941</b>
Interest/Projected Interest	685,781	628,251	316,063	133,128
<b>Total Available Revenue</b>	<b>\$70,158,666</b>	<b>\$51,636,630</b>	<b>\$21,315,884</b>	<b>\$15,660,811</b>

SEVERANCE TAX OPERATIONAL FUND (MAY 2020 LCS FORECAST)				
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
	Actual	Appropriation	Request	Projection
<b>Core Departmental Programs - DNR &amp; CGS</b>				
(a) Oil & Gas Conservation Commission	\$6,148,067	\$6,148,067	\$6,148,067	\$6,148,067
(b) CO Geo Survey	1,585,133	1,632,687	1,681,668	1,732,118
(b.5) Avalanche Information Center	638,057	702,508	1,062,932	1,094,820
(c) Reclamation, Mining, & Safety	3,875,106	4,833,105	4,854,298	4,999,927
(d) CO Water Conservation Board	1,268,802	1,319,250	1,319,250	1,319,250
(e) CPW - Wildlife	54,343	54,343	54,343	54,343
(g) CPW - Parks	2,473,291	2,367,555	2,445,584	2,445,584
<b>Core Programs Total</b>	<b>\$16,042,799</b>	<b>\$17,057,515</b>	<b>\$17,566,142</b>	<b>\$17,794,109</b>
<b>Core Reserve Requirement (100%)</b>	<b>\$17,214,854</b>	<b>\$17,057,515</b>	<b>\$17,566,142</b>	<b>\$17,794,109</b>
Revenue Held in Section 1 Reserve	17,214,854	17,057,515	3,749,742	(2,133,298)
<i>% Held in Section 1 Reserve</i>	<i>100.0%</i>	<i>100.0%</i>	<i>21.3%</i>	<i>(12.0%)</i>
<b>Other Expenditures</b>				
DRMS Legacy Mine Hydro Rollforwards	\$0	\$755,527	\$0	\$0
<b>Other Expenditures Total</b>	<b>\$0</b>	<b>\$755,527</b>	<b>\$0</b>	<b>\$0</b>
<b>Revenue Available for NREG Programs</b>	<b>\$36,901,013</b>	<b>\$36,901,013</b>	<b>\$16,766,073</b>	<b>\$0</b>
<b>Amount Held for Distribution</b>	<b>36,378,072</b>	<b>16,766,073</b>	<b>0</b>	<b>0</b>
<i>% of Authorized Distribution</i>	<i>100.0%</i>	<i>46.1%</i>	<i>0.0%</i>	<i>0.0%</i>
<b>NREG Reserve Requirement (100%)</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>
Revenue Held in Grant Program Reserve	522,941	0	0	0
<i>% Held in Grant Program Reserve</i>	<i>1.4%</i>	<i>0.0%</i>	<i>0.0%</i>	<i>0.0%</i>
<b>Transfer to Perpetual Base Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Natural Resources and Energy Grant Programs (S.B. 19-016)</b>	<i>Revenue from prior fiscal year distributed in identified fiscal year</i>			
(a) Water Supply Reserve Fund	\$0	\$10,000,000	\$4,632,437	\$0
(b) Soil Conservation District Grants	0	450,000	208,460	0
(c) Water Efficiency Grant Program	0	550,000	254,784	0
(e) Species Conservation Trust Fund	0	5,000,000	2,316,219	0
(f) LEAP - Low-income Energy Assistance	0	0	13,000,000	6,022,168
(i) Interbasin Compact Committee	0	745,067	345,148	0
(k) and (n) Forestry Grants	0	2,500,000	1,158,109	0
(m) Aquatic Nuisance Species	0	4,006,005	1,855,757	0
(n) Abandoned Mine Reclamation	0	127,000	58,832	0
<b>NREG Program Total Distributions</b>	<b>\$0</b>	<b>\$36,378,072</b>	<b>\$16,851,913</b>	<b>\$0</b>
*Based on the May 2020 Legislative Council Staff Revenue Forecast				

The second table reflects the May 2020 OSPB updated revenue forecast.

SEVERANCE TAX OPERATIONAL FUND (MAY 2020 OSPB FORECAST)				
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
	Actual	Appropriation	Request	Projection
<b>Revenue</b>				
Beginning Fund Balance	\$9,414,921	\$54,115,867	\$33,853,004	\$11,932,436
NR&E Distributions in Arrears (Aug 15)	0	(36,378,072)	(16,795,489)	0
Balance after NREG Distributions	\$9,414,921	\$17,737,795	\$17,057,515	\$11,932,436

SEVERANCE TAX OPERATIONAL FUND (MAY 2020 OSPB FORECAST)				
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
	Actual	Appropriation	Request	Projection
HB 18-1338 Transfers from GF	20,030,925	0	0	0
Revenue/Projected Revenue*	40,027,039	33,300,000	12,125,000	16,175,000
Interest/Projected Interest	685,781	628,251	316,063	133,128
<b>Total Available Revenue</b>	<b>\$70,158,666</b>	<b>\$51,666,046</b>	<b>\$29,498,578</b>	<b>\$28,240,564</b>
<b>Core Departmental Programs - DNR &amp; CGS</b>				
(a) Oil & Gas Conservation Commission	\$6,148,067	\$6,148,067	\$6,148,067	\$6,148,067
(b) CO Geo Survey	1,585,133	1,632,687	1,681,668	1,732,118
(b.5) Avalanche Information Center	638,057	702,508	1,062,932	1,094,820
(c) Reclamation, Mining, & Safety	3,875,106	4,833,105	4,854,298	4,999,927
(d) CO Water Conservation Board	1,268,802	1,319,250	1,319,250	1,319,250
(e) CPW - Wildlife	54,343	54,343	54,343	54,343
(g) CPW - Parks	2,473,291	2,367,555	2,445,584	2,445,584
<b>Core Programs Total</b>	<b>\$16,042,799</b>	<b>\$17,057,515</b>	<b>\$17,566,142</b>	<b>\$17,794,109</b>
<b>Core Reserve Requirement (100%)</b>	<b>\$17,214,854</b>	<b>\$17,057,515</b>	<b>\$17,566,142</b>	<b>\$17,794,109</b>
Revenue Held in Section 1 Reserve	17,214,854	17,057,515	11,932,436	10,446,455
% Held in Section 1 Reserve	100.0%	100.0%	67.9%	58.7%
<b>Other Expenditures</b>				
DRMS Legacy Mine Hydro Rollforwards	\$0	\$755,527	\$0	\$0
<b>Other Expenditures Total</b>	<b>\$0</b>	<b>\$755,527</b>	<b>\$0</b>	<b>\$0</b>
<b>Revenue Available for NREG Programs</b>	<b>\$36,901,013</b>	<b>\$36,901,013</b>	<b>\$16,795,489</b>	<b>\$0</b>
<b>Amount Held for Distribution</b>	<b>36,378,072</b>	<b>16,795,489</b>	<b>0</b>	<b>0</b>
% of Authorized Distribution	100.0%	46.2%	0.0%	0.0%
<b>NREG Reserve Requirement (100%)</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>	<b>\$36,378,072</b>
Revenue Held in Grant Program Reserve	522,941	0	0	0
% Held in Grant Program Reserve	1.4%	0.0%	0.0%	0.0%
<b>Transfer to Perpetual Base Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Natural Resources and Energy Grant Programs (S.B. 19-016)</b>				
		<i>Revenue from prior fiscal year distributed in identified fiscal year</i>		
(a) Water Supply Reserve Fund	\$0	\$10,000,000	\$4,632,437	\$0
(b) Soil Conservation District Grants	0	450,000	208,460	0
(c) Water Efficiency Grant Program	0	550,000	254,784	0
(e) Species Conservation Trust Fund	0	5,000,000	2,316,219	0
(f) LEAP - Low-income Energy Assistance	0	13,000,000	6,022,168	0
(i) Interbasin Compact Committee	0	745,067	345,148	0
(k) and (n) Forestry Grants	0	2,500,000	1,158,109	0
(m) Aquatic Nuisance Species	0	4,006,005	1,855,757	0
(n) Abandoned Mine Reclamation	0	127,000	58,832	0
<b>NREG Program Total Distributions</b>	<b>\$0</b>	<b>\$36,378,072</b>	<b>\$16,851,913</b>	<b>\$0</b>
*Based on the May 2020 OPSB Revenue Forecast				

The OSPB forecast projects \$32.8 million more in total severance tax revenue in FY 2020-21 and \$17.5 million more in FY 2021-22. This includes \$8.2 million more in FY 2020-21 and \$4.4 million more in FY 2021-22 that flow to the Severance Tax Operational Fund.

Under either forecast, severance tax revenues fall short of providing funding for transfer to grant programs in FY 2020-21 for funding in FY 2021-22 and the following year in the forecast period. In the OSPB forecast, \$10.4 million remains in the core reserve at the end of FY 2021-22 for core program funding in FY 2022-23. In the LCS forecast, revenue and reserve balance fall short of fully funding core departmental programs by \$2.1 million in FY 2021-22.

**SEVERANCE TAX PERPETUAL BASE FUND**

The May 2020 LCS forecast for Severance Tax revenues reduces the amount available for transfer by \$5.4 million. The new projected balance available for transfer in FY 21 is \$37.3 million. Here is what that number means:

- Transfers up to \$37.3 million would still allow the CWCB to provide up to \$30.0 million in new water project loans in FY 21.
- A transfer up to \$67.3 million would not allow the CWCB to provide new loans in FY 21, but would not jeopardize existing loan obligations.

The following table shows how the May 2020 LCS forecast affects the fund balance. It also shows what the fund balance would look like after a \$25.3 million transfer. The table **does not** account for a \$33.0 million contribution to the FY 2019-20 TABOR Emergency Reserve.

SEVERANCE TAX PERPETUAL BASE FUND			
FUND BALANCE	FY 19-20	FY 20-21	FY 21-22
Ending FY Balance Without Transfer (March 2020 forecast)	\$114,236,353	\$42,679,403	\$38,624,626
Ending FY Balance Without Transfer (May 2020 forecast)	114,236,353	37,271,252	31,916,474
Proposed Transfer	-	25,230,000	-
<b>Ending FY Balance After Transfer (May 2020 forecast)</b>	<b>\$114,236,353</b>	<b>\$12,041,252</b>	<b>\$6,686,474</b>

**LOCAL GOVERNMENT MINERAL AND ENERGY IMPACT GRANTS**

The following provides information on the outlook for the Department of Local Affairs’ Local Government Severance Tax and Mineral Impact Funds, which together make up the Local Government Mineral and Energy Impact Grants and Disbursements line item.

**LOCAL GOVERNMENT MINERAL AND ENERGY IMPACT GRANTS INFORMATIONAL FUNDS**

*JBC ACTION AS OF 3/16/20:* Consistent with staff’s recommendation, the Committee approved an informational appropriation of \$123,000,000 in the Local Government Mineral and Energy impact Grants and Disbursements line item. This line item is supported by the Local Government Mineral Impact Fund and the Local Government Severance Tax Fund combined.

*ANALYSIS:*

*Key Considerations:* Turmoil in the global oil market coupled with a drop in demand due to the COVID-19 pandemic has significantly altered severance tax projections for the coming fiscal years. Legislative Council Staff’s May 2020 economic forecast estimates that severance tax revenues to DOLA will decline from approximately \$128 million in FY 2018-19, to \$70 million in FY 2019-20, down to \$12 million in FY 2020-21. The negative outlook for federal mineral lease (FML) revenue is less drastic.

The May 2020 forecast predicts a 47.0 percent decrease from FY 2018-19 to FY 2019-20 due to a royalty rate reduction granted by the Bureau of Land Management to the Colowyo coal mine in Routt County, as well as lower oil and natural gas prices. FML revenue is forecasted to rebound gradually, growing by 9.9 percent from FY 2019-20 to FY 2020-21. DOLA's share of FML revenue is estimated at \$23.4 million in FY 2019-20 and \$25.7 million in FY 2020-21.

*Additional Background:* This grant program is intended to assist communities that are impacted by the growth and decline of the mineral and energy industries. The Local Government Severance Tax Fund and the Local Government Mineral Impact Fund serve as revenue sources for the program.

- Fifty percent of total gross receipts realized from the *state severance taxes* imposed on five types of extracted minerals and mineral fuels, including oil and natural gas, coal, metallic minerals, molybdenum ore, and oil shale, are deposited in the Local Government Severance Tax Fund on a monthly basis. The tax applies for resources that are removed from both privately and publicly owned lands; however, the severance tax is not paid when resources are removed from Tribal lands.
- Forty percent of the State's share of private sector payments to the federal government for mineral and mineral fuel production on federal lands (referred to as *federal mineral lease revenues*) is deposited to the Local Government Mineral Impact Fund on a quarterly basis.

By statute, a portion of each program's funding is distributed directly back to the local jurisdictions based on the reported residence of mineral production employees, mining and well permits, and mineral production. Of DOLA's share of severance tax revenue, 30 percent is distributed through direct distributions, with 70 percent remaining for discretionary grants. The split is 50/50 for FML revenue within DOLA.

The stark decline in revenue will be felt by local governments through direct distributions and the grant program. If the General Assembly chooses to transfer funds out of the Local Government Mineral Impact Fund and/or the Local Government Severance Tax Fund, the result will be the elimination or substantial reduction of several future grant cycles. The Department typically makes grants three times a year in August, December, and April. The Department estimates that for these two funds combined, the amount that could be transferred to the General Fund is \$36.6 million. If the April grant cycle (which is underway but funds are not encumbered) is cancelled, this amount becomes \$56.9 million.

*Project Examples:* The grant program includes two tiers of projects, with Tier I projects receiving up to \$200,000 and Tier II projects receiving up to \$1,000,000 or \$2,000,000 depending on fund availability. Examples of recent Tier I awards include projects such as master planning, stormwater master planning, capital improvement planning, and public works facility design. Tier II examples include infrastructure improvements, library renovations, water plant expansions, lift station improvements, fleet replacement, courthouse improvements, and road and bridge improvements.

*CARES Act funds:* Local governments will receive assistance through the CARES Act in the form of Community Development Block Grants (CDBG-CV), Community Services Block Grants (CSBG-CV), Economic Development Assistance (EDA) grants, and potentially COVID-19 relief funds

distributed by the State to the 59 counties not receiving those funds directly. CARES Act funds are meant to help communities with pandemic-related costs in the short-term, and while some of the stated goals relate to job retention and economic development, staff believes there is *not* substantial overlap between CARES funds and the types of projects funded by Energy/Mineral Impact Assistance Fund (EIAF) Grants. The Department provided information on how the following programs do or do not relate to EIAF grants and Rural Economic Development Initiative (REDI) grants (REDI targets economic development projects in rural communities):

#### CDBG-CV

The purpose of the CDBG-CV funds is to address projects and public service needs to recipients or areas designated as low-to-moderate income that, but for COVID-19, need funding. Anticipated projects include improvements to hospital district buildings to improve the offering of COVID-19 response needs and equipment, telehealth equipment, etc. The economic development portion of the CDBG program in the Division of Local Government will be used to make grants to local governments for the use in county revolving loan fund programs. REDI and EIAF program funds cannot be used to revolve loans. Additionally, these funds do not have a "but for COVID" requirement on use nor an income eligibility requirement. All funding that can stimulate economic activity will be brought forward and REDI or EIAF funds will be gap projects to local governments to provide construction and economic development opportunities that will not be funded by COVID-19 related federal programs. Additionally, a portion of CDBG-CV funds will be used by the Division of Housing for short-term rental and mortgage assistance.

#### CSBG-CV

The purpose of CSBG-CV is, based on community needs assessment, to address those in need at 200 percent of poverty in Colorado impacted as a result of COVID-19. The program works directly with local governments to address their localized needs related to poverty services. In rural Colorado, local governments are often the primary source of resources for those who have become unemployed and their service support needs are very different than those in more urban areas where more access to resources is available. REDI and EIAF do not have income level based eligibility requirements and do not provide grants to further individual services.

#### EDA Grants

The Division of Local Government's Colorado Resiliency Office and Community Development Office in partnership with the Office of Economic Development and International Trade (OEDIT) will be applying for grant dollars to 1) create and implement an economic development recovery roadmap, 2) create a non-profit lender revolving loan fund program, and 3) create a tourism program. OEDIT is anticipating using these funds for education and training opportunities such as creating and hosting a series of workshops to maximize online presence, product development and/or expanding the Colorado Rural Academy for Tourism (CRAFT), as well as for grants to communities to support tourism development.