

CHAPTER 198

NATURAL RESOURCES

SENATE BILL 05-190

BY SENATOR(S) Tochtrop, Entz, Groff, Isgar, and Wiens;
also REPRESENTATIVE(S) McFadyen, Berens, Boyd, Frangas, Green, Hoppe, Lindstrom, Rose, and Todd.

AN ACT

CONCERNING CREATION OF AN ABANDONED MINE RECLAMATION FUND, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Title 34, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 34
Abandoned Mine Reclamation Program

34-34-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ABANDONED", WITH REGARD TO MINING OPERATIONS, MEANS LANDS THAT WERE SUBJECT TO MINING OPERATIONS FOR WHICH THERE IS NO CONTINUING RECLAMATION RESPONSIBILITY UNDER STATE OR FEDERAL LAWS AND THAT HAVE BEEN ABANDONED OR LEFT IN AN INADEQUATE RECLAMATION STATUS PRIOR TO:

(a) FOR COAL MINING OPERATIONS, AUGUST 3, 1977, THE DATE OF ENACTMENT OF THE FEDERAL "SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977";

(b) FOR HARD ROCK MINING OPERATIONS, JULY 1, 1976, THE DATE OF ENACTMENT OF THE "COLORADO MINED LAND RECLAMATION ACT", ARTICLE 32 OF THIS TITLE.

(2) "BOARD" MEANS THE MINED LAND RECLAMATION BOARD ESTABLISHED BY SECTION 34-32-105.

(3) "DIVISION" MEANS THE DIVISION OF MINERALS AND GEOLOGY OR SUCH AGENCY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AS MAY LAWFULLY SUCCEED TO THE POWERS AND DUTIES OF SUCH DIVISION.

(4) "HARD ROCK" MEANS AN INANIMATE CONSTITUENT OF THE EARTH IN A SOLID, LIQUID, OR GASEOUS STATE THAT, WHEN EXTRACTED FROM THE EARTH, IS USEABLE IN ITS NATURAL FORM OR IS CAPABLE OF CONVERSION INTO A USEABLE FORM AS A METAL, A METALLIC COMPOUND, A CHEMICAL, AN ENERGY SOURCE, OR A RAW MATERIAL. FOR THE PURPOSES OF THIS ARTICLE, "HARD ROCK" DOES NOT INCLUDE COAL, SURFACE OR SUBSURFACE WATER, GEOTHERMAL RESOURCES, OR NATURAL OIL AND GAS TOGETHER WITH OTHER CHEMICALS RECOVERED THEREWITH, BUT DOES INCLUDE OIL SHALE.

(5) "MINERAL" MEANS HARD ROCK AND COAL.

(6) "MINING OPERATIONS" MEANS THE DEVELOPMENT OR EXTRACTION OF A MINERAL FROM ITS NATURAL OCCURRENCES ON AFFECTED LAND. THE TERM INCLUDES, BUT IS NOT LIMITED TO, OPEN MINING AND SURFACE OPERATION AND THE DISPOSAL OF REFUSE FROM SURFACE, UNDERGROUND, AND IN SITU MINING. THE TERM INCLUDES THE FOLLOWING OPERATIONS ON AFFECTED LANDS: TRANSPORTATION, CONCENTRATING, MILLING, EVAPORATION, AND OTHER PROCESSING. THE TERM DOES NOT INCLUDE: THE EXPLORATION AND EXTRACTION OF NATURAL PETROLEUM IN A LIQUID OR GASEOUS STATE BY MEANS OF WELLS OR PIPE; THE EXTRACTION OF GEOTHERMAL RESOURCES; OR SMELTING, REFINING, CLEANING, PREPARATION, TRANSPORTATION, AND OTHER OFF-SITE OPERATIONS NOT CONDUCTED ON AFFECTED LAND.

(7) "PRE-LAW" MEANS THAT NO PERMIT WAS ISSUED PURSUANT TO ARTICLE 32, 32.5, OR 33 OF THIS TITLE FOR A MINING OPERATION AND NO BOND OR OTHER FINANCIAL ASSURANCE COVERING THE RECLAMATION OF THE LAND AFFECTED BY SUCH MINING OPERATION EXISTS.

34-34-102. Abandoned mine reclamation fund - project expenditures.

(1) THE ABANDONED MINE RECLAMATION FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL CONSIST OF MONEYS RECEIVED PURSUANT TO SECTION 34-33-133 (2) (a), MONEYS TRANSFERRED FROM THE SEVERANCE TAX TRUST FUND PURSUANT TO SECTION 39-29-109 (1) (c) (I) (C), C.R.S., AND INTEREST EARNED ON THE INVESTMENT OF SUCH MONEYS. REVENUES IN THE FUND SHALL NOT REVERT TO THE GENERAL FUND. THE FUND SHALL BE EXPENDED ONLY FOR THE PURPOSES SPECIFIED IN THIS SECTION. APPROPRIATIONS FROM THE FUND SHALL BE AVAILABLE FOR THREE SUCCESSIVE STATE FISCAL YEARS.

(2) THE DIVISION SHALL ANNUALLY SUBMIT TO THE BOARD A LIST OF PROJECTS ELIGIBLE TO BE RECLAIMED OR SAFEGUARDED THROUGH EXPENDITURES FROM THE FUND. PROJECT ELIGIBILITY AND SELECTION SHALL BE DETERMINED IN ACCORDANCE WITH CURRENT PROCEDURES APPLICABLE TO THE ABANDONED MINE RECLAMATION PROGRAM ESTABLISHED PURSUANT TO SECTION 34-33-133 AND THE FOLLOWING REQUIREMENTS:

(a) THE BOARD SHALL APPROVE THE EXPENDITURE OF REVENUES FROM THE FUND FOR THE PURPOSE SPECIFIED IN THIS SECTION AFTER REVIEW BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY IN WHICH THE PROJECT IS LOCATED; AND

(b) THE PROJECT SHALL BE LOCATED WHERE PRE-LAW MINING OPERATIONS HAVE OCCURRED, THE MINING OPERATIONS HAVE BEEN ABANDONED, AND THERE IS A HIGH RISK TO THE ENVIRONMENT OR PUBLIC SAFETY.

SECTION 2. 39-29-109 (1) (c) (I) (C), Colorado Revised Statutes, is amended to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys. (1) (c) (I) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the operational account of the severance tax trust fund. The state minerals, energy, and geology policy advisory board established pursuant to section 34-20-104, C.R.S., shall review the executive director's recommendation before submittal. The general assembly may appropriate moneys from the total moneys available in the operational account of the severance tax trust fund to fund recommended programs as follows:

(C) For programs within the division of minerals and geology, up to thirty percent of the moneys in the operational account. AS PART OF SUCH THIRTY PERCENT, FIVE HUNDRED THOUSAND DOLLARS, OR SO MUCH AS MAY BE AVAILABLE, SHALL BE TRANSFERRED TO THE ABANDONED MINE RECLAMATION FUND CREATED IN SECTION 34-34-102, C.R.S.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the abandoned mine reclamation fund created in section 34-34-102, Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to the division of minerals and geology, for the fiscal year beginning July 1, 2005, the sum of five hundred thousand dollars (\$500,000), or so much thereof as may be necessary, for the implementation of this act. The appropriation made pursuant to this section shall be available during state fiscal years 2005-06, 2006-07, and 2007-08.

SECTION 4. Effective date. This act shall take effect July 1, 2005.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2005