

## CHAPTER 332

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**TAXATION**

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**HOUSE BILL 07-1309**

BY REPRESENTATIVE(S) Weissmann, Curry, Gallegos, Garcia, Gibbs, Green, Hodge, Jahn, Kerr A., Labuda, Lambert, Lundberg, Madden, Massey, McGihon, Merrifield, Rice, Solano, Todd, Witwer, Buescher, Butcher, Carroll M., Mitchell V., Roberts, and White;  
also SENATOR(S) Tupa, Shaffer, Williams, and Windels.

**AN ACT**

**CONCERNING THE USE OF ADDITIONAL INTEREST THAT RESULTS FROM A MODIFICATION IN THE COLLECTION OF PAYMENTS RELATED TO THE OIL AND GAS SEVERANCE TAX TO PROVIDE FUNDING FOR A PROGRAM TO INCREASE ENERGY EFFICIENCY IN PUBLIC SCHOOLS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** 39-21-113, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**39-21-113. Reports and returns.** (15) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PROVIDE THE LEGISLATIVE COUNCIL STAFF WITH ANY INFORMATION THAT THE STAFF DEEMS NECESSARY TO MAKE THE CALCULATION REQUIRED IN SECTION 39-29-109.5 (2). ANY INFORMATION PROVIDED TO THE STAFF SHALL REMAIN CONFIDENTIAL, AND ALL STAFF EMPLOYEES SHALL BE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES CONTAINED IN SUBSECTION (6) OF THIS SECTION.

**SECTION 2.** 39-22-606 (4) and (5) (a), the introductory portion to 39-22-606 (5) (b), and 39-22-606 (5) (c) (I), Colorado Revised Statutes, are amended, and the said 39-22-606 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**39-22-606. Failure by corporation to pay estimated income tax.** (4) (a) EXCEPT AS OTHERWISE SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (4), for purposes of this section, there shall be four required installments for each taxable year. The due dates for such installments shall be as follows:

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

<b>Installment</b>	<b>Due date</b>
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15

(b) ON AND AFTER JULY 1, 2007, FOR PURPOSES OF THIS SECTION, THERE SHALL BE TWELVE INSTALLMENTS FOR THE TAX IMPOSED PURSUANT TO SECTION 39-29-105, FOR EACH TAXABLE YEAR. THE DUE DATE FOR SUCH INSTALLMENTS SHALL BE THE FIFTEENTH DAY OF EACH MONTH, AND THE INSTALLMENTS SHALL BE PAID ELECTRONICALLY. THE DEPARTMENT OF REVENUE SHALL PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., GOVERNING ELECTRONIC PAYMENT.

(5) (a) For purposes of this section, the amount of the required installments SET FORTH IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION for the tax imposed under this article and for the tax imposed under article 29 of this title shall be twenty-five percent of the required annual payment for each such tax.

(a.5) ON AND AFTER JULY 1, 2007, FOR PURPOSES OF THIS SECTION, THE AMOUNT OF THE REQUIRED INSTALLMENTS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION FOR THE TAX IMPOSED PURSUANT TO SECTION 39-29-105 SHALL BE ONE-TWELFTH OF THE REQUIRED ANNUAL PAYMENT FOR THE TAX.

(b) For purposes of ~~paragraph (a)~~ PARAGRAPHS (a) AND (a.5) of this subsection (5), "required annual payment" means the lesser of:

(c) (I) If the taxpayer is a large corporation as defined in section 6655 of the internal revenue code, sub-subparagraph (A) of subparagraph (II) of paragraph (b) of this subsection (5) shall not apply; except that the first required installment SET FORTH IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION for any taxable year may be based on twenty-five percent of the taxpayer's actual Colorado tax liability shown on the return of the corporation for the preceding year, AND EXCEPT THAT THE FIRST REQUIRED INSTALLMENT SET FORTH IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION FOR ANY TAXABLE YEAR MAY BE BASED ON ONE-TWELFTH OF THE TAXPAYER'S ACTUAL COLORADO TAX LIABILITY SHOWN ON THE RETURN OF THE CORPORATION FOR THE PRECEDING YEAR. Any reduction in the first installment pursuant to this subparagraph (I) shall be recaptured by increasing the amount of the next required installment.

**SECTION 3.** The introductory portion to 39-29-109 (1) (a), Colorado Revised Statutes, is amended to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal.** (1) (a) There is hereby created in the office of the state treasurer the severance tax trust fund. The fund is to be perpetual and held in trust as a replacement for depleted natural resources and for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., and for the use in funding programs that promote and encourage sound natural resource planning, management, and

development related to minerals, energy, geology, and water. State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. EXCEPT AS OTHERWISE SET FORTH IN SECTION 39-29-109.5, all income derived from the deposit and investment of the moneys in the severance tax trust fund shall be credited to the severance tax trust fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund shall be subject to appropriation by the general assembly for the following purposes:

**SECTION 4.** Article 29 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-29-109.5. Interest differential - public school energy efficiency fund - creation - uses - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FUND" MEANS THE PUBLIC SCHOOL ENERGY EFFICIENCY FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

(b) "INTEREST DIFFERENTIAL" MEANS THE INCREASE IN INTEREST EARNED FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS IN THE SEVERANCE TAX FUNDS THAT RESULTS FROM THE REQUIREMENT THAT AMOUNTS WITHHELD PURSUANT TO SECTION 39-29-111 AND ESTIMATED TAXES OWED PURSUANT TO SECTION 39-29-112 BE PAID MONTHLY TO THE DEPARTMENT OF REVENUE, RATHER THAN QUARTERLY, AND THE REQUIREMENT THAT SUCH AMOUNTS BE PAID ELECTRONICALLY. FOR PURPOSES OF DETERMINING THE INTEREST DIFFERENTIAL BASED ON THE REQUIREMENT THAT THE AMOUNTS BE PAID ELECTRONICALLY, IT SHALL BE ASSUMED THAT A PAYMENT IS RECEIVED BY THE DEPARTMENT TWO BUSINESS DAYS EARLIER THAN THE PAYMENT OTHERWISE WOULD HAVE BEEN IF IT HAD BEEN MAILED.

(c) "PUBLIC SCHOOL" MEANS A SCHOOL MAINTAINED AND OPERATED BY A SCHOOL DISTRICT.

(d) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED AND EXISTING PURSUANT TO LAW; EXCEPT THAT "SCHOOL DISTRICT" DOES NOT INCLUDE A JUNIOR COLLEGE DISTRICT.

(e) "SEVERANCE TAX FUNDS" MEANS THE STATE SEVERANCE TAX TRUST FUND CREATED IN SECTION 39-29-109 AND THE LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED IN SECTION 39-29-110.

(2) ON DECEMBER 1, 2007, AND THE FIRST DAY OF EVERY THIRD MONTH THEREAFTER UP TO AND INCLUDING SEPTEMBER 1, 2010, THE LEGISLATIVE COUNCIL STAFF SHALL CALCULATE THE INTEREST DIFFERENTIAL EARNED DURING THE PRIOR CALENDAR QUARTER AND NOTIFY THE STATE TREASURER OF SUCH AMOUNT. UPON RECEIVING NOTICE, THE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE INTEREST DIFFERENTIAL FROM THE SEVERANCE TAX FUNDS TO THE PUBLIC SCHOOL ENERGY EFFICIENCY FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY; EXCEPT THAT THE TOTAL TRANSFER TO THE FUND FOR ANY STATE FISCAL YEAR SHALL NOT EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS. MONEYS IN

THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE OFFICE OF THE GOVERNOR TO BE USED BY THE GOVERNOR'S ENERGY OFFICE, OR AN ANALOGOUS SUCCESSOR OFFICE, FOR THE PURPOSES SET FORTH IN SUBSECTION (3) OF THIS SECTION. ALL INCOME AND INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.

(3) THE GOVERNOR'S ENERGY OFFICE, OR AN ANALOGOUS SUCCESSOR OFFICE, SHALL USE MONEYS APPROPRIATED FROM THE FUND TO ESTABLISH AND MANAGE A PROGRAM TO IMPROVE ENERGY EFFICIENCY IN PUBLIC SCHOOLS. IN ADMINISTERING THE PROGRAM, THE GOVERNOR'S ENERGY OFFICE, OR AN ANALOGOUS SUCCESSOR OFFICE, SHALL GIVE CONSIDERATION TO WHETHER A PUBLIC SCHOOL OR SCHOOL DISTRICT IS LOCATED IN AN AREA SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO TAXATION UNDER THIS ARTICLE. THE PROGRAM SHALL INCLUDE THE FOLLOWING FEATURES:

(a) ASSISTING SCHOOL DISTRICTS IN FINANCING ENERGY EFFICIENCY UPGRADES FOR PUBLIC SCHOOLS THROUGH ENERGY PERFORMANCE CONTRACTS, AS DEFINED IN SECTION 29-12.5-101 (3), C.R.S.;

(b) ASSISTING IN THE DESIGN OF NEW PUBLIC SCHOOL BUILDINGS THAT ARE MORE ENERGY EFFICIENT;

(c) ASSISTING SCHOOL DISTRICTS IN INCREASING THE EFFECTIVENESS OF THEIR UTILITY BUDGET MANAGEMENT; AND

(d) PROVIDING TRAINING AND SUPPORTING RESOURCES RELATED TO ENERGY EFFICIENCY FOR SCHOOL DISTRICTS.

(4) DURING THE 2007 LEGISLATIVE INTERIM, THE INTERIM COMMITTEE TO STUDY THE ALLOCATION OF SEVERANCE TAX AND FEDERAL MINERAL LEASE REVENUES, WHICH WAS CREATED IN SENATE JOINT RESOLUTION 07-042, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY, SHALL STUDY THE ALLOCATION OF THE INTEREST DIFFERENTIAL REQUIRED BY THIS SECTION.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

**SECTION 5.** 39-29-110 (1) (a) (I), Colorado Revised Statutes, is amended to read:

**39-29-110. Local government severance tax fund - creation - administration - energy impact assistance advisory committee created - repeal.**

(1) (a) (I) There is hereby created in the department of local affairs a local government severance tax fund. In accordance with section 39-29-108, portions of the state severance tax receipts shall be credited to the local government severance tax fund. EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-29-109.5, all income derived from the deposit and investment of the moneys in the local government severance tax fund shall be credited to the local government severance tax fund.

**SECTION 6.** 39-29-111 (1), Colorado Revised Statutes, is amended to read:

**39-29-111. Withholding of income from oil and gas interest - mandatory electronic funds transfers.** (1) (a) Every producer or purchaser who disburses funds that are owed to any person owning a working interest, a royalty interest, a production payment, or any other interest in any oil or gas produced in Colorado shall, unless such production is exempt under section 39-29-105 (1) and the producer or purchaser has registered such exempt production with the department of revenue in accordance with rules promulgated by the department, withhold from the amount owed to such person an amount equal to one percent of the gross income from such interest, except for income accruing to the United States or the state of Colorado or to any political subdivision of the state of Colorado. The amount withheld shall be based on gross income as defined in section 39-29-102 (3) (a). On or before EACH March 1, June 1, September 1, and December 1 ~~of each year~~ PRIOR TO JULY 1, 2007, the aggregate of all such amounts withheld during the prior calendar quarter shall be paid to the department; ~~of revenue~~; and, no later than such dates, a report covering the withholding of such amounts shall be filed with the department ~~of revenue~~ upon forms prescribed by the executive director. ON THE FIRST DAY OF EACH MONTH BEGINNING WITH JULY 1, 2007, THE AGGREGATE OF ALL SUCH AMOUNTS WITHHELD DURING THE CALENDAR MONTH THAT WAS THREE MONTHS PRIOR THERETO SHALL BE PAID TO THE DEPARTMENT IN THE MANNER SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1). Nothing in this section shall be so construed as to reduce the tax imposed by this article.

(b) ON AND AFTER JULY 1, 2007, ALL AMOUNTS PAID TO THE DEPARTMENT OF REVENUE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE REMITTED ELECTRONICALLY. THE DEPARTMENT SHALL PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., GOVERNING ELECTRONIC PAYMENT.

**SECTION 7. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public school energy efficiency cash fund created in section 39-29-109.5, Colorado Revised Statutes, not otherwise appropriated, to the office of the governor, for allocation to the governor's energy office, for the fiscal year beginning July 1, 2007, the sum of four hundred eighty-nine thousand dollars (\$489,000), or so much thereof as may be necessary, for the implementation of this act.

**SECTION 8. 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: May 30, 2007