

CHAPTER 358

TAXATION

HOUSE BILL 08-1083

BY REPRESENTATIVE(S) Curry, Merrifield, Scanlan, Borodkin, Buescher, Gallegos, King, and McFadyen;
also SENATOR(S) Penry, Bacon, Boyd, Gibbs, Schwartz, Tupa, and Williams.

AN ACT

**CONCERNING THE DISTRIBUTION TO LOCAL GOVERNMENTS OF STATE REVENUES DERIVED FROM
MINERAL EXTRACTION WITHIN THE STATE.**

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

SECTION 1. 34-63-102 (3) (b) (I), (3) (b) (II), (5) (b) (I), and (5) (c), Colorado Revised Statutes, are amended to read:

34-63-102. Creation of mineral leasing fund - distribution - advisory committee. (3) (b) (I) Any balance of said fifty percent remaining after ~~payment to the several counties~~ PAYMENTS as provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the state public school fund and used for the support of the public schools.

(II) ~~Commencing January 1, 1983, one-half of any balance of said fifty percent in excess of ten million one hundred thousand dollars~~ ONE-HALF OF ANY BALANCE OF SAID FIFTY PERCENT REMAINING AFTER PAYMENTS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the local government mineral impact fund and used in accordance with the purposes described in subsection (1) of this section.

(5) (b) (I) There is hereby created within the department of local affairs an energy impact assistance advisory committee. The committee shall be composed of the executive director of the department of local affairs, the executive director of the department of natural resources, the commissioner of education, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, the executive director of the department of transportation, and ~~five~~ SEVEN residents of areas impacted by energy conversion or mineral resource development. The ~~five~~ SEVEN residents shall be appointed by the governor, WITH THE CONSENT OF THE

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

SENATE, for terms not exceeding four years to serve at the pleasure of the governor. The executive director of the department of local affairs shall act as ~~chairman~~ CHAIRPERSON of the committee. Members of the committee shall serve without additional compensation; except that the ~~five~~ SEVEN members APPOINTED from energy impact areas shall be entitled to reimbursement for actual and necessary expenses. Any member of the committee who is a state official may designate representatives of his OR HER agency to serve on the committee in his OR HER absence. The ~~chairman~~ CHAIRPERSON shall convene the advisory committee from time to time as he OR SHE deems necessary. ~~Such~~ THE advisory committee shall continuously review the existing and potential impact of the development, processing, or energy conversion of mineral and fuel resources on various areas of the state, including those areas indirectly affected, and shall make continuing recommendations to the department of local affairs, including, but not limited to, those actions deemed reasonably necessary and practicable to assist impacted areas with the problems occasioned by such development, processing, or energy conversion, the immediate and projected problems which the local governments are experiencing in providing governmental services, the extent of local tax resources available to each unit of local government, the extent of local tax effort in solving energy impacted problems, and other problems which the areas have experienced, such as housing and environmental considerations, which have developed as a direct result of energy impact. IN FURTHERANCE THEREOF, THE COMMITTEE SHALL MAKE CONTINUING SPECIFIC RECOMMENDATIONS REGARDING ANY DISCRETIONARY DISTRIBUTIONS BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS AUTHORIZED PURSUANT TO THIS SECTION AND SECTION 39-29-110, C.R.S. WITH RESPECT TO RECOMMENDATIONS FOR THE DISTRIBUTION OF MONEYS MADE PURSUANT TO THIS SECTION, THE COMMITTEE SHALL GIVE PRIORITY AND PREFERENCE TO THOSE PUBLIC SCHOOLS AND POLITICAL SUBDIVISIONS SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF FUELS AND MINERALS LEASED UNDER THE FEDERAL "MINERAL LANDS LEASING ACT" OF FEBRUARY 25, 1920, AS AMENDED. WITH RESPECT TO RECOMMENDATIONS FOR THE DISTRIBUTION OF MONEYS MADE PURSUANT TO SECTION 39-29-110, C.R.S., THE COMMITTEE SHALL RECOMMEND DISTRIBUTIONS TO THOSE POLITICAL SUBDIVISIONS SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO TAXATION UNDER ARTICLE 29 OF TITLE 39, C.R.S.

(c) The executive director of the department of local affairs shall DELIVER TO THE STATE AUDITOR AND file with the general assembly annually before February 1 a detailed REPORT accounting ~~of~~ FOR the distribution of ALL funds for the previous year. THE ENERGY IMPACT ASSISTANCE ADVISORY COMMITTEE SHALL REVIEW THE REPORT PRIOR TO IT BEING DELIVERED AND FILED.

SECTION 2. The introductory portion to 39-29-103 (1), Colorado Revised Statutes, is amended to read:

39-29-103. Tax on severance of metallic minerals. (1) In addition to any other tax, there shall be levied, collected, and paid for each taxable year a tax upon the severance from the earth in this state of all metallic minerals as to all such severance occurring on and after January 1, 1978. Such tax shall be levied against every mining operation engaged in the severance of metallic minerals and shall be based upon the gross income of such mining operation. ~~Nothing in this subsection (1)~~

shall exempt a company from submitting a production employee report as required by section 39-29-110 (1) (d) (f). The rate of the tax for all metallic minerals shall be as follows:

SECTION 3. 39-29-104 (1), Colorado Revised Statutes, is amended to read:

39-29-104. Tax on severance of molybdenum ore. (1) In addition to any other tax, there shall be levied, collected, and paid for each calendar quarter a tax upon the severance of all molybdenum ore in this state. Such tax shall be levied against every person engaged in the severance of molybdenum ore. The rate of the tax for each calendar quarter shall be five cents per ton of molybdenum ore. On and after July 1, 1999, no tax provided for in this section shall be imposed on the first six hundred twenty-five thousand tons of molybdenum ore produced each quarter of the taxable year. ~~However, nothing in this subsection (1) shall exempt a company from submitting a production employee report as required by section 39-29-110 (1) (d) (f).~~

SECTION 4. 39-29-105 (1) (b), Colorado Revised Statutes, is amended to read:

39-29-105. Tax on severance of oil and gas. (1) (b) In addition to any other tax, there shall be levied, collected, and paid for each taxable year commencing on or after January 1, 2000, a tax upon the gross income attributable to the sale of oil and gas severed from the earth in this state; except that oil produced from any wells that produce fifteen barrels per day or less of oil and gas produced from wells that produce ninety thousand cubic feet or less of gas per day for the average of all producing days for such oil or gas production during the taxable year shall be exempt from the tax. ~~Nothing in this paragraph (b) shall exempt a producer of oil and gas from submitting a production employee report as required by section 39-29-110 (1) (d) (f).~~ The tax for oil and gas shall be at the following rates of the gross income:

Under \$25,000	2%
\$25,000 and under \$100,000	3%
\$100,000 and under \$300,000	4%
\$300,000 and over	5%

SECTION 5. 39-29-106 (2) (b), Colorado Revised Statutes, is amended to read:

39-29-106. Tax on the severance of coal. (2) (b) On and after July 1, 1999, no tax provided for in subsection (1) of this section shall be imposed on the first three hundred thousand tons of coal produced in each quarter of the taxable year. ~~However, nothing in this paragraph (b) shall exempt a company from submitting a production employee report as required by section 39-29-110 (1) (d) (f).~~

SECTION 6. 39-29-110 (1) (b) (I), (1) (c), (1) (c.5), (1) (d), (1) (e), (1) (f), and (3), Colorado Revised Statutes, are amended, and the said 39-29-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-29-110. Local government severance tax fund - creation - administration - definitions. (1) (b) (I) ~~Except as otherwise provided in paragraph (c.5) of this subsection (1), eighty-five~~ SEVENTY percent of the funds from the local government

severance tax fund shall be distributed to those political subdivisions socially or economically impacted by the development, processing, or energy conversion of minerals and mineral fuels subject to taxation under this article and used for the planning, construction, and maintenance of public facilities and for the provision of public services. Such funds shall also be distributed to political subdivisions to compensate them for loss of property tax revenue resulting from the deduction of severance taxes paid in the determination of the valuation for assessment of producing mines. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL CONSIDER THE ECONOMIC NEEDS OF A POLITICAL SUBDIVISION FOR PURPOSES OF MAKING DISTRIBUTIONS PURSUANT TO THIS SUBPARAGRAPH (I).

(c) (I) ~~Except as otherwise provided in paragraph (c.5) of this subsection (1),~~ FOR STATE FISCAL YEARS COMMENCING PRIOR TO JULY 1, 2008, an amount equal to ~~fifteen~~ THIRTY percent of said gross receipts credited to the LOCAL GOVERNMENT SEVERANCE TAX fund shall be distributed to counties or municipalities on the basis of the proportion of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation who reside in any such county's unincorporated area or in any such municipality to the total number of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation. Such distribution shall be made on the basis of the report required in paragraph (d) of this subsection (1). FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, THIRTY PERCENT OF SAID GROSS RECEIPTS CREDITED TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND SHALL BE ALLOCATED TO COUNTIES BASED UPON THE FOLLOWING FACTORS:

(A) ON THE BASIS OF THE REPORT REQUIRED IN PARAGRAPH (d) OF THIS SUBSECTION (1), THE PROPORTION OF EMPLOYEES OF MINES OR RELATED FACILITIES OR CRUDE OIL, NATURAL GAS, OR OIL AND GAS OPERATIONS WHO RESIDE IN A COUNTY TO THE TOTAL NUMBER OF EMPLOYEES OF MINES OR RELATED FACILITIES OR CRUDE OIL, NATURAL GAS, OR OIL AND GAS OPERATIONS WHO RESIDE IN THE STATE;

(B) THE PROPORTION OF THE MINE AND WELL PERMITS ISSUED IN A COUNTY TO THE TOTAL NUMBER OF SUCH PERMITS ISSUED IN THE STATE; AND

(C) THE PROPORTION OF THE OVERALL QUANTITY OF MINERAL PRODUCTION WITHIN A COUNTY TO THE TOTAL OVERALL QUANTITY OF PRODUCTION WITHIN THE STATE.

(II) (A) FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2008, THE FACTOR SET FORTH IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE WEIGHTED FIFTY PERCENT AND THE FACTORS SET FORTH IN SUB-SUBPARAGRAPHS (B) AND (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE WEIGHTED TWENTY-FIVE PERCENT EACH.

(B) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2009, EACH OF THE THREE FACTORS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE WEIGHTED THIRTY PERCENT, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, IN CONSULTATION WITH THE ENERGY IMPACT ASSISTANCE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 34-63-102 (5) (b) (I), C.R.S., SHALL ESTABLISH GUIDELINES THAT SET FORTH THE FACTOR OR FACTORS UNDER WHICH THE REMAINING TEN PERCENT SHALL BE WEIGHTED.

(III) EXCEPT AS OTHERWISE SET FORTH IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (c), THE MONEYS ALLOCATED TO EACH COUNTY PURSUANT TO THIS PARAGRAPH (c) SHALL BE FURTHER DISTRIBUTED TO THE COUNTY AND TO EACH MUNICIPALITY WITHIN THE COUNTY BASED UPON THE FOLLOWING FACTORS:

(A) THE PROPORTION OF EMPLOYEES REPORTED AS RESIDENTS UNDER PARAGRAPH (d) OF THIS SUBSECTION (1) IN ANY SUCH COUNTY'S UNINCORPORATED AREA OR IN ANY SUCH MUNICIPALITY WITHIN THE COUNTY TO THE TOTAL NUMBER OF EMPLOYEES REPORTED AS RESIDENTS IN THE COUNTY AS A WHOLE UNDER PARAGRAPH (d) OF THIS SUBSECTION (1);

(B) THE PROPORTION OF THE POPULATION IN ANY SUCH COUNTY'S UNINCORPORATED AREA OR IN ANY SUCH MUNICIPALITY WITHIN THE COUNTY TO THE TOTAL POPULATION IN THE COUNTY, AS SUCH POPULATION IS REPORTED IN THE MOST RECENTLY PUBLISHED POPULATION ESTIMATE FROM THE STATE DEMOGRAPHER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS; AND

(C) THE PROPORTION OF ROAD MILES IN ANY SUCH COUNTY'S UNINCORPORATED AREA OR IN ANY SUCH MUNICIPALITY WITHIN THE COUNTY TO THE TOTAL ROAD MILES IN THE COUNTY, AS SUCH MILES ARE CERTIFIED BY THE DEPARTMENT OF TRANSPORTATION TO THE STATE TREASURER PURSUANT TO SECTIONS 43-4-207 (2) (d) AND 43-4-208 (3), C.R.S.

(IV) WITH RESPECT TO THE DISTRIBUTION MADE PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, IN CONSULTATION WITH THE ENERGY IMPACT ASSISTANCE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 34-63-102 (5) (b) (I), C.R.S., SHALL ESTABLISH GUIDELINES THAT SET FORTH THE WEIGHT THAT EACH OF THE FACTORS IN SUB-SUBPARAGRAPHS (A) TO (C) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) SHALL BE GIVEN. THESE GUIDELINES SHALL APPLY UNIFORMLY ACROSS THE STATE; EXCEPT THAT THE EXECUTIVE DIRECTOR MAY:

(A) ACCEPT A MEMORANDUM OF UNDERSTANDING FROM A COUNTY AND ALL MUNICIPALITIES CONTAINED THEREIN THAT ESTABLISHES AN ALTERNATIVE DISTRIBUTION THAT SHALL BE EFFECTIVE WITHIN SUCH COUNTY; AND

(B) AFTER CONSULTATION WITH THE ENERGY IMPACT ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 34-63-102 (5) (b) (I), C.R.S., VARY THE WEIGHT THAT EACH OF THE FACTORS IN SUB-SUBPARAGRAPHS (A) TO (C) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) RECEIVES IN AN INDIVIDUAL COUNTY, IN ORDER TO MORE FAIRLY DISTRIBUTE THE GROSS RECEIPTS AMONG THE COUNTY AND ALL MUNICIPALITIES CONTAINED THEREIN.

(V) MONEYS DISTRIBUTED FROM THE LOCAL GOVERNMENT SEVERANCE TAX FUND PURSUANT TO THIS PARAGRAPH (c) SHALL BE DISTRIBUTED NO LATER THAN AUGUST 31 OF EACH YEAR. COUNTIES AND MUNICIPALITIES SHALL UTILIZE REVENUES RECEIVED UNDER THIS SUBSECTION (1) ONLY FOR THE PURPOSES OF CAPITAL EXPENSES AND GENERAL OPERATING EXPENSES.

(VI) ON OR BEFORE JANUARY 1, 2010, AND EVERY SECOND JANUARY 1

THEREAFTER, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL SUBMIT TO EACH MEMBER OF THE GENERAL ASSEMBLY A REPORT THAT EVALUATES THE EFFECTIVENESS OF THE ALLOCATION AND DISTRIBUTION OF MONEYS PURSUANT TO THIS PARAGRAPH (c) TO COUNTIES AND MUNICIPALITIES IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO TAXATION UNDER THIS ARTICLE, AND, IF APPROPRIATE, THAT PROPOSES CHANGES TO THE ALLOCATION AND DISTRIBUTION. THE PROVISIONS OF SECTION 24-1-136 (11) (a) (I), C.R.S., SHALL NOT APPLY TO THE REPORT.

~~(c.5) For any state fiscal year commencing on or after July 1, 2007, state severance tax receipts credited to the local government severance tax fund shall be distributed as follows:~~

~~(f) Seventy percent of the receipts and income shall be distributed to political subdivisions in the manner specified in paragraph (b) of this subsection (1), and~~

~~(H) Thirty percent of the receipts and income shall be distributed or loaned to counties or municipalities in the manner specified in paragraph (c) of this subsection (1).~~

(d) (I) (A) Ninety days prior to the end of each fiscal year, FOR EACH TAXABLE YEAR TO WHICH THIS SUB-SUBPARAGRAPH (A) APPLIES, the executive director of the department of revenue shall send every producer who is subject to the severance tax and whose payment is subject to the distribution formula provided in this subsection (1) a form on which the producer shall submit a report to the department of revenue indicating the following: The name and address of the producer, the name of the mine, related facility, or operation, the names of the municipalities or counties in which its employees maintain their actual residences as given by the employees, giving the number of employees for each such municipality or unincorporated area of each such county, and the total number of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation. The producer may use and submit any other report form in lieu of the state form sent by the executive director of the department of revenue that contains the same information as prescribed in the state form. The report shall be due April 30 of each year. The executive director of the department of revenue shall submit a copy of the report required by this paragraph (d) to the executive director of the department of local affairs. In the case of failure of any producer to submit the report on or before the date required by this paragraph (d) to the department of revenue, a written notice shall be sent to the producer by the department of revenue by first-class mail as set forth in section 39-21-105.5 stating that the producer has failed to submit a copy of the report required by this paragraph (d) and informing the producer of the penalty provision contained in this paragraph (d). If the producer fails within forty-five days after receipt of the written notice to submit the required report, there shall be levied and collected a penalty for the failure in the amount of fifty dollars for each day, or portion thereof, during which the failure continues. Any moneys and interest collected under this paragraph (d) shall be added to the fifteen percent of gross receipts from the local government severance tax fund and distributed to counties or municipalities in the manner prescribed by paragraph (c) of this subsection (1). Moneys distributed from the local government severance tax fund pursuant to paragraph (c) of this subsection (1) shall be distributed no later than August 31 of each year. Any producer not liable for severance tax under this section shall not be

required to submit a report under this subsection (1). THIS SUB-SUBPARAGRAPH (A) SHALL APPLY TO ANY REPORT FOR A TAXABLE YEAR COMMENCING PRIOR TO JANUARY 1, 2008.

(B) EVERY PARTY THAT REGISTERS EXEMPT PRODUCTION WITH THE DEPARTMENT OF REVENUE, WITHHOLDS INCOME PURSUANT TO SECTION 39-29-111 (1), OR FILES A DECLARATION PURSUANT TO SECTION 39-29-104 (2) OR 39-29-112 (2) SHALL SUBMIT A REPORT TO THE DEPARTMENT OF LOCAL AFFAIRS IN A FORMAT SPECIFIED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT INDICATING THE FOLLOWING: THE NAME AND ADDRESS OF THE PARTY; THE NAME OF THE MINE, RELATED FACILITY, OR OPERATION; THE NAMES OF THE MUNICIPALITIES OR COUNTIES IN WHICH THE PARTY'S EMPLOYEES MAINTAIN THEIR ACTUAL RESIDENCES AS GIVEN BY THE EMPLOYEES, GIVING THE NUMBER OF THE EMPLOYEES FOR EACH SUCH MUNICIPALITY OR UNINCORPORATED AREA OF EACH SUCH COUNTY; AND THE TOTAL NUMBER OF THE EMPLOYEES OF THE MINE OR RELATED FACILITY OR CRUDE OIL, NATURAL GAS, OR OIL AND GAS OPERATION. THE REPORT SHALL BE DUE APRIL 30 OF EACH YEAR. THIS SUB-SUBPARAGRAPH (B) SHALL APPLY TO ANY REPORT FOR A TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 2008.

~~(II) (A) For purposes of this subsection (1), a "producer of crude oil, natural gas, or oil and gas" means any person who files a crude oil, natural gas, or oil and gas production report with the oil and gas conservation commission pursuant to article 60 of title 34, C.R.S. A producer shall include a producer-operator or a unit operator. A list of such producers, together with their addresses, who operated in the state during the previous calendar year shall be furnished to the department of revenue by said oil and gas conservation commission no later than January 31 of each year.~~

~~(B) For purposes of this paragraph (d), an "employee of a crude oil, natural gas, or oil and gas operation" means any individual who is employed and compensated on a full-time basis by the producer of crude oil, natural gas, or oil and gas, as defined in sub-subparagraph (A) of this subparagraph (H) FOR AT LEAST FIVE HUNDRED HOURS OF WORK IN ANY SIX MONTHS DURING THE CALENDAR YEAR PRECEDING THE DUE DATE OF THE REPORT BY A PRODUCER, INTEREST OWNER, OR PARTY WHO CONTRACTS WITH A PRODUCER OR INTEREST OWNER for the purposes of extracting such crude oil, natural gas, or oil and gas out of the ground and at point of first sale. Such employee may include any individual who is employed by any company or person who contracts with such producer for purposes of extracting such crude oil, natural gas, or oil and gas out of the ground and at point of first sale. "Individual who is employed on a full-time basis" means an employee who has worked for the producer or contractor during the six-month period next preceding the last day of the annual reporting period. "Employee" does not mean any employee of any exploration or drilling crew, any employee of any well service company, or any other contractor or person who may work in any such operation on a periodic or temporary basis and who is employed by companies or entities other than the producer.~~

(C) IN THE CASE OF FAILURE OF ANY PARTY TO SUBMIT THE REPORT REQUIRED PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) ON OR BEFORE THE REQUIRED DATE TO THE DEPARTMENT OF LOCAL AFFAIRS, A WRITTEN NOTICE SHALL BE SENT TO THE PARTY BY THE DEPARTMENT BY FIRST-CLASS

MAIL STATING THAT THE PARTY HAS FAILED TO SUBMIT A COPY OF THE REPORT REQUIRED BY THIS SUB-SUBPARAGRAPH (C) AND INFORMING THE PARTY OF THE PENALTY PROVISION CONTAINED IN THIS SUB-SUBPARAGRAPH (C). IF THE PARTY FAILS WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE WRITTEN NOTICE TO SUBMIT THE REQUIRED REPORT, THERE SHALL BE LEVIED AND COLLECTED A PENALTY FOR THE FAILURE IN THE AMOUNT OF FIFTY DOLLARS FOR EACH DAY, OR PORTION THEREOF, DURING WHICH THE FAILURE CONTINUES. ANY MONEYS AND INTEREST COLLECTED UNDER THIS SUB-SUBPARAGRAPH (C) SHALL BE ADDED TO THE THIRTY PERCENT OF GROSS RECEIPTS FROM THE LOCAL GOVERNMENT SEVERANCE TAX FUND DISTRIBUTED TO COUNTIES OR MUNICIPALITIES IN THE MANNER PRESCRIBED BY PARAGRAPH (c) OF THIS SUBSECTION (1). THE NOTICE REQUIRED PURSUANT TO THIS SUB-SUBPARAGRAPH (C) SHALL BE SENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 39-21-105.5, AND THE PROVISIONS OF THAT SECTION SHALL OTHERWISE APPLY TO THE NOTICE.

~~(e) Counties and municipalities shall utilize revenues received under this subsection (1) only for the purposes of capital expenses and general operating expenses.~~

~~(f) For the purpose of this subsection (1), "related facility" means an oil shale retorting and upgrading facility.~~

(2.5) IN ACCORDANCE WITH THE PROVISIONS OF SECTION 34-63-102 (5) (b) (I), C.R.S., THE ENERGY IMPACT ASSISTANCE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SAID SECTION SHALL MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS REGARDING THE DISTRIBUTION OF MONEYS AUTHORIZED PURSUANT TO THIS SECTION.

(3) The executive director of the department of local affairs shall DELIVER TO THE STATE AUDITOR AND file with the general assembly annually before February 1 a detailed REPORT accounting of FOR the distribution of ALL funds for the previous year. THE ENERGY IMPACT ASSISTANCE ADVISORY COMMITTEE SHALL REVIEW THE REPORT PRIOR TO IT BEING DELIVERED AND FILED.

SECTION 7. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 2, 2008