

CHAPTER 360

TAXATION

SENATE BILL 08-013

BY SENATOR(S) Schwartz, Boyd, Groff, Isgar, Penry, Sandoval, Tochtrop, Veiga, Ward, Williams, Bacon, Gibbs, and Tapia;
also REPRESENTATIVE(S) Fischer, Buescher, Curry, Labuda, McGihon, and Merrifield.

AN ACT

CONCERNING THE APPROPRIATION OF MONEYS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND TO THE DEPARTMENT OF NATURAL RESOURCES FOR PROGRAMS RECOMMENDED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, AND, IN CONNECTION THEREWITH, REDUCING BY A SPECIFIED NUMBER OF PERCENTAGE POINTS THE MAXIMUM PERCENTAGES OF TOTAL AVAILABLE OPERATIONAL ACCOUNT MONEYS THAT MAY BE APPROPRIATED FOR PROGRAMS WITHIN THE COLORADO OIL AND GAS CONSERVATION COMMISSION AND THE DIVISION OF RECLAMATION, MINING, AND SAFETY, ALLOWING APPROPRIATIONS TO BE MADE IN AMOUNTS UP TO A SPECIFIED PERCENTAGE OF THE TOTAL AVAILABLE OPERATIONAL ACCOUNT MONEYS FOR PROGRAMS WITHIN THE DIVISION OF WILDLIFE AND THE DIVISION OF PARKS AND OUTDOOR RECREATION, AND EXEMPTING APPROPRIATIONS MADE TO THE DIVISION OF WILDLIFE FROM THE TWO-YEAR RESERVE REQUIREMENT OF THE OPERATIONAL ACCOUNT, AND MAKING AN APPROPRIATION.

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

SECTION 1. 39-29-109 (1) (c) (I) (A), (1) (c) (I) (C), and (1) (c) (III) (A), Colorado Revised Statutes, are amended, and the said 39-29-109 (1) (c) (I) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUB-SUBPARAGRAPHS, to read:

39-29-109. Severance task trust fund - created - administration - use of moneys - definitions - repeal. (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

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 follows:

(A) For programs or projects within the Colorado oil and gas conservation commission, up to forty-five percent of the moneys in the operational account FOR FISCAL YEARS COMMENCING BEFORE JULY 1, 2008, AND UP TO FORTY PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008;

(C) For programs within the division of reclamation, mining, and safety, up to thirty percent of the moneys in the operational account FOR FISCAL YEARS COMMENCING BEFORE JULY 1, 2008, AND UP TO TWENTY-FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008. As part of ~~such thirty percent~~ ANY APPROPRIATION MADE, 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.

(E) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, ONLY, FOR PROGRAMS WITHIN THE DIVISION OF WILDLIFE THAT MONITOR, MANAGE, OR MITIGATE THE IMPACTS OF MINERAL OR MINERAL FUEL PRODUCTION ACTIVITIES ON WILDLIFE IN ANY REGION OF THE STATE IN WHICH PRODUCTION ACTIVITY IS OCCURRING OR, FROM ANY LOCATION IN THE STATE, RESEARCH SUCH IMPACTS, UP TO FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT, WHICH MONEYS SHALL NOT SUPPLANT MONEYS THAT WOULD OTHERWISE BE MADE AVAILABLE FOR SUCH PROGRAMS.

(F) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, ONLY, FOR PROGRAMS WITHIN THE DIVISION OF PARKS AND OUTDOOR RECREATION THAT OPERATE, MAINTAIN, OR IMPROVE STATE PARKS IN ANY REGION OF THE STATE IN WHICH PRODUCTION ACTIVITY IS OCCURRING, UP TO FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT, WHICH MONEYS SHALL NOT SUPPLANT MONEYS THAT WOULD OTHERWISE BE MADE AVAILABLE FOR SUCH PROGRAMS.

(III) (A) It is the intent of the general assembly that the operational account of the severance tax trust fund maintain a state fiscal year end balance equal to twice the current state fiscal year's operating appropriations for the programs specified in this paragraph (c); except that moneys appropriated for purposes authorized by article 75 of title 37, C.R.S., AND MONEYS APPROPRIATED PURSUANT TO SUB-SUBPARAGRAPH (E) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) shall not be considered in establishing such two-year reserve. Moneys may be appropriated or otherwise made available from such two-year reserve only to offset temporary revenue reductions in the programs specified in this paragraph (c); except that, if the general assembly determines that transfers of moneys from the reserve are needed during a state revenue crisis, such transfers shall be a loan from the reserve to be repaid as soon as moneys are available. This provision is intended to mitigate the impact of fluctuations in the amount of revenue credited to the fund from year to year so as to maintain current levels of service for such programs.

SECTION 2. 39-29-109.3 (1), Colorado Revised Statutes, as enacted by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

39-29-109.3. Operational account of the severance tax trust fund - repeal.

(1) 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 created in section 39-29-109 (2) (b), referred to in this section as the "operational account". The 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 to fund recommended programs as follows:

(a) (I) For programs or projects within the Colorado oil and gas conservation commission, up to forty-five percent of the moneys in the operational account FOR FISCAL YEARS COMMENCING BEFORE JULY 1, 2008, AND UP TO FORTY PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008.

(II) Moneys appropriated for programs or projects pursuant to subparagraph (I) of this paragraph (a) shall be used by the Colorado oil and gas conservation commission for plugging and abandonment projects, for well-site location reclamation projects, or for regulatory and environmental programs or projects as specifically appropriated by the general assembly for use on such programs or projects; except that, if the commission determines that an emergency exists, the commission may expend any moneys received for the emergency without any further appropriation. In determining the uses of these moneys, the commission shall give priority to uses that reduce industry fees and mill levies.

(b) For programs within the Colorado geological survey, up to twenty percent of the moneys in the operational account;

(c) For programs within the division of reclamation, mining, and safety, up to thirty percent of the moneys in the operational account FOR FISCAL YEARS COMMENCING BEFORE JULY 1, 2008, AND UP TO TWENTY-FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008. As part of ~~such thirty percent~~ ANY APPROPRIATION MADE, 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 (1), C.R.S.

(d) For programs within the Colorado water conservation board and for purposes authorized by article 75 of title 37, C.R.S., up to five percent of the moneys in the operational account.

(e) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, ONLY, FOR PROGRAMS WITHIN THE DIVISION OF WILDLIFE THAT MONITOR, MANAGE, OR MITIGATE THE IMPACTS OF MINERAL OR MINERAL FUEL PRODUCTION ACTIVITIES ON WILDLIFE IN ANY REGION OF THE STATE IN WHICH PRODUCTION ACTIVITY IS OCCURRING OR, FROM ANY LOCATION IN THE STATE, RESEARCH SUCH IMPACTS, UP TO FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT, WHICH MONEYS SHALL NOT SUPPLANT MONEYS THAT WOULD OTHERWISE BE MADE AVAILABLE FOR SUCH PROGRAMS.

(f) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, ONLY, FOR PROGRAMS WITHIN THE DIVISION OF PARKS AND OUTDOOR RECREATION THAT OPERATE, MAINTAIN, OR IMPROVE STATE PARKS IN ANY REGION OF THE STATE IN WHICH PRODUCTION ACTIVITY IS OCCURRING, UP TO FIVE PERCENT OF THE MONEYS IN THE OPERATIONAL ACCOUNT, WHICH MONEYS SHALL NOT SUPPLANT MONEYS THAT WOULD OTHERWISE BE MADE AVAILABLE FOR SUCH PROGRAMS.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund, established pursuant to section 39-29-109 (1) (a) (II), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for the fiscal year beginning July 1, 2008, the following:

(a) For allocation to the division of parks and outdoor recreation, the sum of one million two hundred thirty-four thousand fifty-eight dollars (\$1,234,058) cash funds, or so much thereof as may be necessary, to operate, maintain, and improve state parks located in areas impacted by energy development.

(b) For allocation to the division of parks and outdoor recreation, the sum of seven hundred fifty thousand dollars (\$750,000) cash funds, or so much thereof as may be necessary, for the construction of a boat ramp at nighthorse reservoir. Said sum is for a capital construction project, shall not require the division to manage the boat ramp, and shall remain available until completion of the project or for a period of three years, whichever comes first, at which time any unencumbered balance shall revert to the operational account of the severance tax trust fund.

(c) For allocation to the division of wildlife, the sum of one million five hundred nineteen thousand nine hundred twenty-seven dollars (\$1,519,927) cash funds, or so much thereof as may be necessary, to monitor, manage, mitigate, and research the impacts of mineral or mineral fuel production activities on wildlife.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund, established pursuant to section 39-29-109 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for the fiscal year beginning July 1, 2008, the following:

(a) For allocation to the division of parks and outdoor recreation, the sum of one million two hundred thirty-four thousand fifty-eight dollars (\$1,234,058) cash funds, or so much thereof as may be necessary, to operate, maintain, and improve state parks located in areas impacted by energy development.

(b) For allocation to the division of parks and outdoor recreation, the sum of seven hundred fifty thousand dollars (\$750,000) cash funds, or so much thereof as may be necessary, for the construction of a boat ramp at nighthorse reservoir. Said sum is for a capital construction project, shall not require the division to manage the boat ramp, and shall remain available until completion of the project or for a period of three years, whichever comes first, at which time any unencumbered balance shall revert to the operational account of the severance tax trust fund.

(c) For allocation to the division of wildlife, the sum of one million five hundred

nineteen thousand nine hundred twenty-seven dollars (\$1,519,927) cash funds, or so much thereof as may be necessary, to monitor, manage, mitigate, and research the impacts of mineral or mineral fuel production activities on wildlife.

SECTION 5. Effective date. (1) Sections 1 and 3 of this act shall not take effect if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law.

(2) Sections 2 and 4 of this act shall take effect only if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law.

SECTION 6. 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 2, 2008