

CHAPTER 300

NATURAL RESOURCES

SENATE BILL 11-238

BY SENATOR(S) Nicholson, Aguilar, Bacon, Boyd, Brophy, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Jahn, Johnston, King K., King S., Morse, Newell, Roberts, Schwartz, Spence, Steadman, Tochtrop, White, Williams S.; also REPRESENTATIVE(S) Coram and Wilson, Fields, Fischer, Hamner, Jones, Kerr J., Labuda, Vigil.

AN ACT**CONCERNING THE EXTENSION OF THE ANNUAL TRANSFERS OF FEDERAL MINERAL LEASE REVENUES TO THE WILDFIRE PREPAREDNESS FUND.**

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

SECTION 1. 34-63-102 (1) (a) (I), (2), (3), (4), (5) (a) (I), (5) (a) (III), (5) (a) (IV), (5) (a) (V), (5.3) (a) (I) (C), (5.3) (a) (I) (D), (5.4) (b), and (5.4) (b.5), Colorado Revised Statutes, are amended to read:

34-63-102. Creation of mineral leasing fund - distribution - advisory committee - local government permanent fund created - definitions - repeal.

(1) (a) (I) ~~On or after January 1, 1977, but before July 1, 2008, all moneys, including any interest earned therefrom, now held or to be received by the state treasurer pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, except those moneys described in section 34-63-104, shall be deposited by the state treasurer into a special fund to be known as the mineral leasing fund, which is hereby created, for use by state agencies, public schools, and political subdivisions of the state as described in this section for planning, construction, and maintenance of public facilities and for public services.~~

(2) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (2), before July 1, 2008, twenty-five percent of all moneys described in paragraph (a) of subsection (1) of this section together with any funds for public schools derived from the application of paragraph (b) of subsection (3) of this section shall, upon receipt, be paid into the state public school fund to be used for the support of the public schools of this state.~~

(b) ~~For the purpose of repaying an additional expenditure of moneys from 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.

~~state education fund created in section 17 (4) (a) of article IX of the state constitution for the state's share of total program pursuant to article 54 of title 22, C.R.S., made for the 2001-02 fiscal year due to a projected shortfall in the amount of moneys described in paragraph (a) of subsection (1) of this section received by the state treasurer in said fiscal year, notwithstanding any provision of law to the contrary, upon receipt by the state treasurer of any moneys described in paragraph (a) of subsection (1) of this section during the 2002-03 fiscal year, of the portion of said moneys that would otherwise be paid to the state public school fund pursuant to paragraph (a) of this subsection (2), the state treasurer shall first transfer an amount of said moneys equal to six million dollars to the state education fund created pursuant to section 17 (4) of article IX of the state constitution prior to paying said portion of moneys to the state public school fund in accordance with paragraph (a) of this subsection (2).~~

~~(3) (a) Before July 1, 2008, fifty percent of all moneys described in paragraph (a) of subsection (1) of this section shall be distributed ten working days after receipt of the last monthly payment in each quarter among those respective counties of this state from which the federal leasing money is derived in proportion to the amount of said federal leasing money derived from each of the respective counties for use by said counties for the purposes described in subsection (1) of this section and for use by municipalities and school districts within said counties as provided in paragraph (c) of this subsection (3); except that no distribution under this paragraph (a) to any single county, including the amounts distributed under paragraph (c) of this subsection (3) to municipalities and school districts located therein, shall exceed one million two hundred thousand dollars in any calendar year. Unless the balance paid to the state public school fund pursuant to subparagraph (I) of paragraph (b) of this subsection (3) exceeds ten million seven hundred thousand dollars in a calendar year, distribution above two hundred thousand dollars to any single county pursuant to this paragraph (a) shall not take effect during that calendar year.~~

~~(b) (I) Any balance of said fifty percent remaining after 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) 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.~~

~~(III) An amount equal to twenty-five percent of the balance paid to the local government mineral impact fund pursuant to subparagraph (II) of this paragraph (b) shall be distributed annually to each county, in whose unincorporated area employees of a mine or related facility from which such money is derived reside, in the same proportion that the number of such employees bears to the total number of employees of such mines and related facilities who reside in the state and to each municipality, in which employees of such facilities reside, in the same proportion that the number thereof bears to the total number of employees of such mines and related facilities who reside in the state.~~

~~(IV) Repealed.~~

~~(c) (I) Except as provided in subparagraph (H) of this paragraph (c), in each calendar year, each county shall notify the state treasurer to have at least twenty-five percent of the moneys described in paragraph (a) of this subsection (3) distributed to any school district within the county specified by the board of county commissioners for use in accordance with the purposes described in subsection (1) of this section. Except as provided in subparagraph (H) of this paragraph (c), in each calendar year, each county shall also notify the state treasurer to have at least thirty-seven and one-half percent of that part of the moneys described in paragraph (a) of this subsection (3) that exceeds two hundred fifty thousand dollars distributed among the municipalities within the county according to the percentage that the population within each municipality bears to the total population of all municipalities located within the county. The state treasurer shall not disburse funds to a county under this subsection (3) until such notification is received. For the purposes of this paragraph (c), "population" means the most recent population estimate at the time of the distribution of the mineral leasing fund as prepared by the demographic section of the division of local government.~~

~~(H) (A) Any county may elect to have its distributions of the moneys described in paragraph (a) of this subsection (3) from the mineral leasing fund made pursuant to this subparagraph (H) by notifying the state treasurer, in writing, of such election. Any election for distribution pursuant to this subparagraph (H) shall be effective until withdrawn by the county but shall be for a minimum of two full calendar years following receipt by the state treasurer of the notice of election from the county. After two full calendar years, a county may withdraw the election for distribution pursuant to this subparagraph (H) and return to distribution pursuant to subparagraph (I) of this paragraph (c) by giving the state treasurer written notice of such withdrawal in addition to any notice required to be given under subparagraph (I) of this paragraph (c). However, during the first calendar year after receiving such notice of withdrawal, the state treasurer shall distribute twenty-five percent of the moneys the county would otherwise receive to the cities within the county, twenty-five percent to the school districts within the county, and transfer the remaining fifty percent to the local government mineral impact fund.~~

~~(B) For the first full calendar year following receipt by the state treasurer of notification of the county's election pursuant to sub-subparagraph (A) of this subparagraph (H), the state treasurer shall transfer the moneys each county would otherwise receive pursuant to subparagraph (I) of this paragraph (c) to the local government mineral impact fund created in subsection (5) of this section.~~

~~(C) For the second full calendar year following receipt by the state treasurer of notification of the county's election pursuant to sub-subparagraph (A) of this subparagraph (H) and for each calendar year thereafter, unless a county has withdrawn its election for distribution pursuant to this subparagraph (H), the state treasurer shall distribute to each county making such election the moneys attributable to such county as described in paragraph (a) of this subsection (3) as follows: Fifty percent to school districts within the county and fifty percent to municipalities within the county. Where more than one school district exists within a county, the distribution to each school district shall be the percentage that the most recent funded pupil count, as determined pursuant to the "Public School Finance~~

Act of 1994", article 54 of title 22, C.R.S., for pupils enrolled in the county attributable to that school district bears to the most recent total funded pupil count for all pupils attributable to the county. Where more than one municipality exists within a county, the distribution to each municipality shall be based on population as set forth in subparagraph (f) of this paragraph (c).

(4) Before July 1, 2008, ten percent of all moneys described in paragraph (a) of subsection (1) of this section shall, upon receipt, be paid into the Colorado water conservation board construction fund created by section 37-60-121, C.R.S., for appropriation by the general assembly pursuant to the provisions of section 37-60-122, C.R.S., and for use in accordance with the purposes and priorities described in subsection (1) of this section.

(5) (a) (I) (A) Except as provided in subparagraph (IV) of this paragraph (a), before July 1, 2008, the remaining fifteen percent of all moneys described in paragraph (a) of subsection (1) of this section, any moneys received pursuant to subparagraph (H) of paragraph (b) of subsection (3) of this section, and any moneys received pursuant to subparagraph (H) of paragraph (c) of subsection (3) of this section shall, upon receipt, be paid into the local government mineral impact fund, which is hereby created. Before July 1, 2008, the executive director of the department of local affairs shall distribute said moneys from the fund pursuant to subsection (3) of this section, except that the remainder provided for in this paragraph (a) shall be distributed in accordance with the purposes and priorities described in subsection (1) of this section. On and after July 1, 2008, moneys shall be paid into the LOCAL GOVERNMENT MINERAL IMPACT fund, WHICH IS HEREBY CREATED, as specified in paragraph (b) of subsection (5.4) of this section and distributed as specified in paragraphs (b) and (c) of said subsection.

(B) Notwithstanding any other provision of this paragraph (a) or subsection (5.5) of this section, in the fiscal years commencing July 1, 2006, July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010, the executive director of the department of local affairs shall transfer three million two hundred fifty thousand dollars of the moneys in the fund to the state treasurer, who shall credit the moneys to the wildfire preparedness fund created in section 23-31-309 (4), C.R.S.

(III) For the fiscal year commencing July 1, 2007, of the moneys transferred pursuant to subparagraph (f) of this paragraph (a) to the wildfire preparedness fund created in section 23-31-309 (4), C.R.S., two hundred fifty thousand dollars shall be transferred to the wildfire emergency response fund created in section 23-31-309 (1), C.R.S.

(IV) One hundred percent of the moneys credited to the local government mineral impact fund created in subparagraph (f) of this paragraph (a) by operation of sub-subparagraph (C) of subparagraph (f) of paragraph (a) of subsection (5.3) of this section shall be distributed by the executive director of the department of local affairs in accordance with the purposes and priorities described in subsection (1) of this section, and in distributing such moneys the executive director shall give priority to those communities most directly and substantially impacted by production of energy resources on federal mineral lands and to grant applications that:

~~(A) Are submitted jointly by multiple local governments; or~~

~~(B) Seek funding for a project that is a multi-jurisdictional project or that requires a substantial amount of funding.~~

~~(V) Notwithstanding any provision of this paragraph (a) to the contrary, on June 1, 2009, the state treasurer shall deduct one million dollars from the local government mineral impact fund and transfer such sum to the general fund.~~

(5.3) (a) Bonus payments credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for each quarter commencing on July 1, October 1, January 1, or April 1 of any state fiscal year as follows:

~~(I) (C) Notwithstanding any other provision of law, seventeen million dollars shall be transferred from the local government permanent fund to the local government mineral impact fund created in subparagraph (I) of paragraph (a) of subsection (5) of this section to be distributed as specified in subparagraph (IV) of paragraph (a) of subsection (5) of this section.~~

~~(D) Notwithstanding any provision of this subsection (5.3) to the contrary, on April 15, 2010, the state treasurer shall deduct fourteen million three hundred five thousand six hundred ninety-seven dollars from the local government permanent fund and transfer such sum to the general fund.~~

(5.4) Except as otherwise provided in subsection (5.5) of this section, on and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (b) of subsection (5.3) of this section, credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for quarters beginning on July 1, October 1, January 1, and April 1 of each state fiscal year as follows:

(b) (I) For each quarter commencing during the 2008-09 fiscal year or during any succeeding fiscal year, forty percent of the moneys shall be credited to the local government mineral impact fund. Fifty percent of the moneys so credited shall be distributed by the executive director of the department of local affairs in accordance with the purposes and priorities described in subsection (1) of this section, and in distributing ~~such~~ THE moneys the executive director shall give priority to those communities most directly and substantially impacted by production of energy resources on federal mineral lands and to grant applications that:

~~(A) Are submitted jointly by multiple local governments; or~~

~~(B) Seek funding for a project that is a multi-jurisdictional project or that requires a substantial amount of funding.~~

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN THE FISCAL YEARS COMMENCING JULY 1, 2012, AND JULY 1, 2013, UNLESS ANOTHER SOURCE OF FUNDING BECOMES AVAILABLE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL TRANSFER, PRIOR TO ANY OTHER DISTRIBUTION SPECIFIED IN THIS PARAGRAPH (b), THREE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS OF

THE MONEYS AVAILABLE FOR GRANT APPLICATIONS PURSUANT TO THIS PARAGRAPH (b) TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE WILDFIRE PREPAREDNESS FUND CREATED IN SECTION 23-31-309 (4), C.R.S. THE COLORADO STATE FOREST SERVICE DESIGNATED IN SECTION 23-31-302, C.R.S., SHALL ANNUALLY REPORT ON THE USE OF THE MONIES TRANSFERRED PURSUANT TO THIS SUBPARAGRAPH (II) TO THE DEPARTMENT OF LOCAL AFFAIRS, THE OFFICE OF STATE PLANNING AND BUDGETING, AND THE GENERAL ASSEMBLY. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2016.

(b.5) Notwithstanding any provision of paragraph (b) of this subsection (5.4) to the contrary, for each quarter commencing during the 2009-10 fiscal year, as soon as practicable after moneys are credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection (5.4), the state treasurer shall transfer from the local government mineral impact fund to the general fund an amount equal to fifty percent of the amount so credited to the fund for such quarter, except that the aggregate amount of moneys so transferred pursuant to this paragraph (b.5) shall not exceed twenty-two million six hundred thousand dollars.

SECTION 2. 22-54-106 (1) (b) (I), Colorado Revised Statutes, is amended to read:

22-54-106. Local and state shares of district total program. (1) (b) (I) Except as provided in subsections (11) and (12) of this section, the state's share of a district's total program ~~shall be~~ is the difference between the district's total program and the district's share of its total program; except that, unless otherwise provided by subparagraph (II) of this paragraph (b), no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act based upon the amount of school lands and mineral lease moneys received pursuant to ~~the provisions of~~ article 41 of this title and section 34-63-102, (2); C.R.S., multiplied by the district's funded pupil count.

SECTION 3. Repeal. 39-29-110 (1) (a) (II), Colorado Revised Statutes, is repealed as follows:

39-29-110. Local government severance tax fund - creation - administration - definitions. (1) (a) (II) ~~On or before December 31 in the calendar year in which the state treasurer receives notification of the election by the county pursuant to section 34-63-102 (3) (c) (H) (A), C.R.S., the executive director of the department of local affairs shall distribute to each county making such election an amount equal to the amount attributable to that county that was transferred to the local government mineral impact fund pursuant to section 34-63-102 (3) (c) (H) (B), C.R.S.~~

SECTION 4. 39-29-116 (3) (a) and (3) (d), Colorado Revised Statutes, are amended to read:

39-29-116. Uranium mill tailings remedial action program fund - creation - oversight committee - repeal. (3) (a) The state treasurer ~~is authorized to~~ MAY accept and credit to the uranium mill tailings remedial action program fund any donations received by the state for the express purpose of projects for the cleanup of uranium mill tailings. ~~Such~~ THE donations may include any amounts made available from the local government severance tax fund and the local government

mineral impact fund as directed by the executive director of the department of local affairs pursuant to section 39-29-110 and section 34-63-102, ~~(5)~~; C.R.S., and with the approval of the oversight committee as created in subsection (4) of this section. It is the intent of the general assembly that a minimum of six million dollars be retained in the local government severance tax fund and the local government mineral impact fund for grants and loans to local communities.

(d) For fiscal years after 1996-97, the executive director of the department of local affairs may distribute moneys from the local government mineral impact fund and the local government severance tax fund pursuant to sections 34-63-102 ~~(5)~~ and 39-29-110 (1) (b) (III) (A), C.R.S., respectively.

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 8, 2011