

CHAPTER 221

TAXATION

HOUSE BILL 12-1353

BY REPRESENTATIVE(S) Becker, Gerou, Levy, Kerr J.;
also SENATOR(S) Steadman, Hodge, Lambert, Guzman.

AN ACT

CONCERNING THE MITIGATION OF THE EFFECT OF AUTOMATIC PROPORTIONAL REDUCTIONS TO THE TIER 2 TRANSFERS OUT OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND WHEN REVENUE SHORTFALLS OCCUR.

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

SECTION 1. In Colorado Revised Statutes, 39-29-109.3, **amend** (3), (4) (b), and (5) as follows:

39-29-109.3. Operational account of the severance tax trust fund - repeal.
(3) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), it is the intent of the general assembly that the operational account maintain a reserve equal to the current state fiscal year's operating appropriations for the programs specified in subsection (1) of this section plus fifteen percent of the current fiscal year's transfers specified in subsection (2) of this section. Moneys may be transferred from the reserve to offset temporary revenue reductions in the programs specified in subsection (1) of this section and to offset reductions for programs specified in subsection (2) of this section, up to fifteen percent of the current fiscal year's transfers specified in subsection (2) of this section; except that, if the general assembly determines that transfers of moneys from the reserve are needed during a state revenue crisis, the 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 the programs specified in subsection (1) of this section.

(b) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2012, THE RESERVE REQUIREMENT SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3) IS REDUCED TO THE CURRENT STATE FISCAL YEAR'S OPERATING APPROPRIATIONS FOR THE 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.

SPECIFIED IN SUBSECTION (1) OF THIS SECTION MINUS ONE MILLION DOLLARS, PLUS FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2014.

(4) (b) (I) If the revenue estimate prepared by the staff of the legislative council in ~~December or March~~ JUNE of any fiscal year indicates that the amount of severance tax revenues TO BE credited to the operational account IN THE NEXT FISCAL YEAR as specified in section 39-29-109 (2) (b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on ~~January 4 or April 1 of the fiscal year~~ JULY 1 shall be proportionally reduced. ~~to ensure that the reserve required by subsection (3) of this section remains fully funded, except that the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this section in any fiscal year.~~ THE JULY 1 proportional ~~reductions~~ REDUCTION shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section AND SHALL BE MADE TO THE EXTENT NECESSARY TO COVER FORTY PERCENT OF THE PROJECTED SHORTFALL BETWEEN TOTAL MONEYS AVAILABLE IN THE OPERATIONAL ACCOUNT AND THE SUM OF THE TOTAL OPERATING APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE TOTAL FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION; EXCEPT THAT UP TO ONE-THIRD OF THE FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED AS PART OF THE RESERVE SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE USED TO OFFSET ANY PROPORTIONAL REDUCTION REQUIRED BY THIS SUBPARAGRAPH (I) IN ANY FISCAL YEAR.

(II) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL IN DECEMBER OF ANY FISCAL YEAR INDICATES THAT THE AMOUNT OF SEVERANCE TAX REVENUES CREDITED TO THE OPERATIONAL ACCOUNT AS SPECIFIED IN SECTION 39-29-109 (2) (b) IS INSUFFICIENT FOR THE STATE TREASURER TO MAKE THE TRANSFERS SET FORTH IN SUBSECTION (2) OF THIS SECTION AND TO MEET THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION, ALL TRANSFERS SCHEDULED TO BE MADE ON JANUARY 4 OF THE FISCAL YEAR SHALL BE PROPORTIONALLY REDUCED. THE JANUARY 4 PROPORTIONAL REDUCTION SHALL BE CALCULATED BASED ON THE SIZE OF THE ANNUAL TRANSFERS AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND SHALL BE MADE TO THE EXTENT NECESSARY TO COVER SEVENTY PERCENT OF THE PROJECTED SHORTFALL BETWEEN TOTAL MONEYS AVAILABLE IN THE OPERATIONAL ACCOUNT AND THE SUM OF THE TOTAL OPERATING APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE TOTAL FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION; EXCEPT THAT UP TO ONE-THIRD OF THE FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED AS PART OF THE RESERVE SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE USED TO OFFSET ANY PROPORTIONAL REDUCTION REQUIRED BY THIS SUBPARAGRAPH (II) IN ANY FISCAL YEAR.

(III) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE LEGISLATIVE

COUNCIL IN MARCH OF ANY FISCAL YEAR INDICATES THAT THE AMOUNT OF SEVERANCE TAX REVENUES CREDITED TO THE OPERATIONAL ACCOUNT AS SPECIFIED IN SECTION 39-29-109 (2) (b) IS INSUFFICIENT FOR THE STATE TREASURER TO MAKE THE TRANSFERS SET FORTH IN SUBSECTION (2) OF THIS SECTION AND TO MEET THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION, ALL TRANSFERS SCHEDULED TO BE MADE ON APRIL 1 OF THE FISCAL YEAR SHALL BE PROPORTIONALLY REDUCED. THE APRIL 1 PROPORTIONAL REDUCTION SHALL BE CALCULATED BASED ON THE SIZE OF THE ANNUAL TRANSFERS AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND SHALL BE MADE TO THE EXTENT NECESSARY TO COVER THE PROJECTED SHORTFALL BETWEEN TOTAL MONEYS AVAILABLE IN THE OPERATIONAL ACCOUNT AND THE SUM OF THE TOTAL OPERATING APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE TOTAL FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION; EXCEPT THAT ANY MONEYS REMAINING OF THE FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED AS PART OF THE RESERVE SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE USED TO OFFSET ANY PROPORTIONAL REDUCTION REQUIRED BY THIS SUBPARAGRAPH (III) IN ANY FISCAL YEAR.

(IV) IF PROPORTIONAL REDUCTIONS ARE MADE TO EITHER THE JULY 1 OR JANUARY 4 INSTALLMENTS, THE APRIL 1 INSTALLMENT MAY BE INCREASED TO OFFSET PROPORTIONAL REDUCTIONS MADE EARLIER IN THE CURRENT FISCAL YEAR TO THE MAXIMUM EXTENT ALLOWABLE UNDER THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL IN MARCH OF ANY FISCAL YEAR. THE APRIL 1 INSTALLMENT SHALL ONLY BE INCREASED IF THE REVENUE ESTIMATE INDICATES THAT THE AMOUNT OF SEVERANCE TAX REVENUES CREDITED TO THE OPERATIONAL ACCOUNT AS SPECIFIED IN SECTION 39-29-109 (2) (b) IS SUFFICIENT TO FUND SUCH INCREASED INSTALLMENTS AND STILL MEET THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(5) In addition to the distributions specified in paragraph (a) of subsection (4) of this section, if there were any proportional reductions required in a fiscal year as specified in paragraph (b) of said subsection (4), after the reserve specified in subsection (3) of this section is made whole if any portion of the reserve was used as specified in paragraph (b) of subsection (4) of this section to offset any proportional reduction required by said paragraph (b) of subsection (4), the state treasurer shall make proportional distributions on August 20 of the following fiscal year to the programs specified in subsection (2) of this section if the revenues actually received in the operational account of the severance tax trust fund for the previous fiscal year were sufficient for the state treasurer to MORE FULLY make the transfers set forth in subsection (2) of this section and to FULLY meet the reserve requirement specified in subsection (3) of this section.

SECTION 2. 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 24, 2012