

**STATE
FISCAL IMPACT**

Drafting Number: LLS 08-0291
Prime Sponsor(s): Sen. Schwartz
 Rep. Fischer

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Bill Status: Senate Agriculture
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TITLE: 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.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor or upon becoming law without his signature.		
Appropriation Summary for FY 2008-2009: None Required.		
Local Government Impact: None.		

Summary of Legislation

This bill, **recommended by the Interim Committee to Study the Allocation of Severance Tax and Federal Mineral Lease Revenues**, changes permissible appropriations from the Operational Account of the Severance Tax Trust Fund to the Department of Natural Resources as follows:

- reduces the share of the account that may be used to fund programs within the Oil and Gas Conservation Commission (COGCC) from 45 to 40 percent;
- reduces the share of the account that may be used to fund programs within the Division of Reclamation, Mining and Safety (DRMS) from 30 to 25 percent;

- allows appropriations of up to 5 percent of the account for programs within the Division of Wildlife to monitor, manage or mitigate the impact of mineral production;
- allows appropriations of up to 5 percent of the account for programs within the Division of Parks and Outdoor Recreation to operate, maintain or improve state parks; and
- exempts appropriations made to the Division of Wildlife from the two-year reserve requirement of the Operational Account.

Background

Severance Tax Trust Fund - Operational Account. The Operational Account receives 25 percent of severance tax receipts. Moneys in the account have traditionally been used to fund the following programs in the Department of Natural Resources: Oil and Gas Conservation Commission; Geological Survey; Minerals and Geology; and Water Conservation Board.

In the past two years, several bills were enacted that transferred money out of the Operational Account. Of these, eight bills made funding from the account contingent on various reserve requirements. The December 2007 Legislative Council Staff forecast indicates that there is enough money available in fiscal years 2008-09 and 2009-10 to meet statutory reserve requirements and fund current law programs, *but not necessarily to fund additional programs*. However, in the current fiscal year, there is not enough revenue to meet the reserve requirements. Current law does not specify how those programs should be prioritized if there is insufficient revenue to fund them all and to fully fund the reserve requirements.

Statutory Reserve Requirements. Current law requires that the year-end fund balance in the account be equal to the sum of the two-year statutory reserve and the Low-income Energy Assistance Program (LEAP) reserve. The two-year statutory reserve was enacted by HB 02-1041, which required a reserve equal to twice the size of current year appropriations from the account to the core programs noted above. The LEAP reserve is a set amount required by HB 06-1200 to ensure sufficient revenue to fund each year's appropriation pursuant to that bill. The total reserve requirement is estimated to be \$33.4 million in FY 2007-08, \$20.9 million in FY 2008-09, and \$21.7 million in FY 2009-10. The reserve requirement drops in the last two years because funding for LEAP expires after FY 2007-08.

State Expenditures

Department of Natural Resources: Operational Account of Severance Tax Trust Fund. The bill changes the way that discretionary moneys from the Operational Account are allocated by the Department's executive director. Under current law, the Colorado Oil and Gas Conservation Commission, the Colorado Geological Survey, the Division of Reclamation, Mining and Safety, and the Colorado Water Conservation Board all receive money from this account to cover their operating expenses. This bill reduces the allowable shares for the Oil and Gas Conservation Commission (from 45 to 40 %) and the Division of Reclamation, Mining and Safety (from 30 to 25 %), and establishes allocations of up to 5 % for the Division of Parks and Outdoor Recreation and the Division of Wildlife.

While current law caps the share of the account that may be allocated to each of these agencies, in reality, agency appropriations are far below these caps. Over the past few years as severance tax revenue has risen, this has allowed the General Assembly to fund several other obligations (species conservation, water efficiency grants, low income energy assistance, etc.) as well as maintain a substantial unobligated balance within the Operational Account in some years. Table 1 summarizes available revenue to the account, and projected obligations from it, including appropriations based on the department's request, other statutory obligations, the fund's reserve requirement, and the unobligated balance. Appropriations for the Colorado Oil and Gas Conservation Commission and the Division of Reclamation Mining and Safety are broken out to illustrate the extent to which these agencies are funded under their allowable amounts.

Table 1. Effect of SB08 - 013 on the Operational Account of the Severance Tax Trust Fund				
Cost Components	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
Fund Status				
Beginning Balance	\$50,851,612	\$40,012,876	\$26,356,777	\$29,985,392
<u>Revenues</u>	<u>33,312,271</u>	<u>27,132,000</u>	<u>48,972,500</u>	<u>41,017,000</u>
Total Funds Available	84,163,883	67,144,876	75,329,277	71,002,392
Total Expenditures				
COGCC Actual (45% Allowable)	2,117,279	\$2,337,538	\$2,303,999	\$2,393,848
Percent of Total Available	2.5%	3.5%	3.1%	3.4%
DRMS Actual (30% Allowable)	3,392,252	4,347,996	4,426,997	4,507,436
Percent of Total Allowable	4.0%	6.5%	5.9%	6.3%
Other Divisions Appropriation/Request	3,160,148	3,515,874	3,721,032	3,945,351
Other Obligations	35,481,328	30,586,691	35,891,857	21,601,921
Reserve Requirement	\$28,864,470	\$33,402,816	\$20,904,057	\$21,693,269
Unobligated Balance*	<u>\$11,148,406</u>	<u>(\$7,046,039)</u>	<u>\$8,081,335</u>	<u>\$16,860,567</u>
Allocation to Parks, Wildlife (10%)			7,532,928	7,100,239
Percent Unobligated Balance			93.2%	42.1%

* These numbers will be updated later in the session to reflect other legislation that will address the negative unobligated reserve in FY 2007-08.

As Table 1 demonstrates, if both the Division of Parks and Outdoor Recreation and the Division of Wildlife were allocated the full 5 percent allowable under this bill, these new allocations would account for over 82 percent of the unobligated balance in FY 2008-09. In fact, these two divisions are anticipated to spend a total of \$3.5 million in FY 2008-09, which represents 47 percent of the allocation of \$7.5 million authorized in this bill. Details of the anticipated projects are provided below.

Department of Natural Resources, Division of Parks and Outdoor Recreation. The division will incur additional expenses in the amount of \$1.9 million in FY 2008-09 and \$1.2 million in FY 2009-10. The total in FY 2008-09 would include \$1.2 million to cover 33 percent of the operating losses at 17 state parks located in areas impacted by energy development, and \$750,000

for a boat ramp at Nighthorse Reservoir. The \$1.2 million in ongoing expenses represents 32 percent of the total expected to be allowed for appropriation to the division in FY 2008-09. It is worth noting that this leaves a buffer should the price of natural gas (and thus overall severance tax revenue) fall below the level of current projections.

Table 2 provides detailed information on the operating losses that would be covered by severance tax revenue under this legislation. It is worth noting that this table represents an estimated allocation, and that the actual amounts at each park may be altered depending on which areas demonstrate the greatest overall need.

Table 2. Severance Tax Expenditures for Division of Parks and Outdoor Recreation			
State Park	County	Operating Loss	33% Operating Loss
Barr Lake	Adams	(\$255,279)	(\$84,242)
Crawford	Delta	(\$281,716)	(\$49,592)*
Sweitzer Lake	Delta	(\$18,695)	(\$6,169)
Harvey Gap	Garfield	(\$19,316)	(\$6,374)
Rifle Falls/Gap	Garfield	(\$254,925)	(\$48,623)*
Paonia	Gunnison	(\$37,217)	(\$12,282)
Lathrop	Huerfano	(\$275,047)	(\$90,766)
State Forest	Jackson	(\$220,813)	(\$72,868)
Navajo	La Plata	(\$355,752)	(\$70,764)*
Trinidad Lake	Las Animas	(\$355,296)	(\$117,248)
James M. Robb --Colorado River	Mesa	(\$159,698)	(\$52,700)
Highline Lake	Mesa	(\$211,389)	(\$69,758)
Vega	Mesa	(\$291,957)	(\$96,346)
Yampa River	Moffat	(\$389,492)	(\$128,532)
Jackson Lake	Morgan	(\$254,039)	(\$83,833)
St. Vrain	Weld	(\$243,911)	(\$80,491)
Bonny Lake	Yuma	(\$495,363)	(\$163,470)
TOTAL		(\$4,119,905)	(\$1,234,058)

* Half of the operating deficit on these projects is covered with money from the Federal Bureau of Reclamation.

Department of Natural Resources, Division of Wildlife. The division will incur additional project expenses of \$1.52 million in FY 2008-09 and \$1.57 million in FY 2009-10. This total represents the budget for four anticipated projects assessing wildlife population impacts in areas of the state undergoing intensive energy development: sage grouse mitigation, white-tailed prairie dog research, mule deer research, and mule deer population monitoring. The \$1.52 million in expenses represents 40 percent of the total expected to be allowed for appropriation to the division in

FY 2008-09. It is worth noting that this leaves a buffer should the price of natural gas (and thus overall severance tax revenue) fall below the level of current projections. Table 3 provides detailed information on the project expenses for these four wildlife projects that would be covered by severance tax revenue under the bill.

Table 3. Severance Tax Expenditures for the Division of Wildlife		
Cost Components	FY 2008-09	FY 2009-10
Sage Grouse Mitigation		
Temporary Personal Services - Field Work	\$189,747	\$189,747
Vehicle Expenses	154,800	154,800
Equipment/Other Expenses	<u>117,160</u>	<u>117,160</u>
Total Project Costs Funded with Severance Tax	461,707	461,707
White Tailed Prairie Dog Research		
Temporary Personal Services - Field Work	\$36,552	\$65,559
Vehicle Expenses	10,730	24,990
Equipment/Other Expenses	<u>12,100</u>	<u>18,050</u>
Total Project Costs Funded with Severance Tax	59,382	108,599
Mule Deer Research*		
Temporary Personal Services - Field Work	\$59,400	\$59,400
Vehicle Expenses	44,352	44,352
Equipment/Other Expenses	<u>292,743</u>	<u>292,743</u>
Total Project Costs Funded with Severance Tax	396,495	396,495
Mule Deer Monitoring**		
Temporary Personal Services - Field Work	\$169,119	\$169,119
Vehicle Expenses	68,400	68,400
Equipment/Other Expenses	<u>364,824</u>	<u>364,824</u>
Total Project Costs Funded with Severance Tax	602,343	602,343
TOTAL	\$1,519,927	\$1,569,144

* 33 percent of the Mule Deer Research project costs are covered by severance tax moneys.

** 95 percent of the Mule Deer Monitoring project costs are covered by severance tax moneys

State Appropriations

No additional state appropriations are required in FY 2008-09 to implement this bill.

Departments Contacted

Natural Resources