


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

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

Date: July 31, 2008
Bill Status: Signed into Law
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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, AND MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	\$0	\$0
State Expenditures		
Cash Funds		
Severance Tax Trust Fund - Operational Account	\$3,503,985	\$2,803,202
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: The bill was signed by the Governor and became law on June 2, 2008.		
Appropriation Summary for FY 2008-2009: See State Appropriations section.		
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 in regions of the state where production activity is occurring, or research impacts from any region in the state in which production activity is occurring; and
- 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 in regions of the state where production activity is occurring.

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 June 2008 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.*

Statutory Reserve Requirements. HB 08-1398 (enacted and signed into law) specifies the reserve requirement for the Operational Account as equal to the current year appropriations for the core DNR programs plus 15 percent of the other current year transfers from the account. In addition, if the severance tax forecast prepared by the Legislative Council Staff in December or March indicates that there is insufficient revenue to make the transfers and to maintain this reserve requirement, the transfers scheduled to be made on January 4 and April 1 will be reduced proportionally. If the actual revenue received in the Operational Account at the end of the fiscal year is sufficient to make the transfers and meet the reserve requirements, then the State Treasurer will make proportional distributions back to those accounts in the following fiscal year.

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	\$45,418,909	\$64,055,492
Revenues	<u>33,312,271</u>	<u>39,595,369</u>	<u>83,473,935</u>	<u>58,319,291</u>
Total Funds Available	84,163,883	79,608,245	128,892,844	122,374,783
Total Expenditures				
COGCC Actual (45% Allowable)	2,117,279	\$2,337,538	\$3,255,372	\$3,345,222
Percent of Total Available	2.5%	3.5%	3.9%	4.0%
DRMS Actual (30% Allowable)	3,392,252	4,343,042	4,410,342	4,478,685
Percent of Total Allowable	4.0%	6.5%	5.3%	5.4%
Other Divisions				
Appropriation/Request	3,160,148	3,517,668	3,802,064	4,123,251
Appropriation to Parks, Wildlife*	0	0	3,503,985	2,852,564
Other Obligations	35,481,328	23,991,088	49,865,589	39,609,150
Reserve Requirement	\$30,043,156	\$33,396,496	\$22,451,601	\$20,741,094
Unobligated Balance*	<u>\$9,969,720</u>	<u>\$12,022,413</u>	<u>\$41,603,891</u>	<u>\$47,224,817</u>

* These appropriations result from the provisions of this bill.

As Table 1 demonstrates, the Division of Parks and Outdoor Recreation and the Division of Wildlife are anticipated to spend a total of \$3.5 million in FY 2008-09. Details of the projects and expenditures 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

For FY 2008-09, this bill appropriates \$3,503,985 from the Operational Account of the Severance Tax Trust Fund to the Department of Natural Resources. Of this amount:

- \$1,984,058 is allocated to the division of parks and outdoor recreation; and
- \$1,519,927 is allocated to the division of wildlife.

Departments Contacted

Natural Resources