

Amendment 58
Severance Taxes on the Oil and Natural Gas Industry

1 **Ballot Title:** STATE TAXES SHALL BE INCREASED \$321.4 MILLION ANNUALLY BY AN
2 AMENDMENT TO THE COLORADO REVISED STATUTES CONCERNING THE SEVERANCE TAX
3 ON OIL AND GAS EXTRACTED IN THE STATE, AND, IN CONNECTION THEREWITH, FOR
4 TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2009, CHANGING THE TAX TO
5 5% OF TOTAL GROSS INCOME FROM THE SALE OF OIL AND GAS EXTRACTED IN THE STATE
6 WHEN THE AMOUNT OF ANNUAL GROSS INCOME IS AT LEAST \$300,000; ELIMINATING A
7 CREDIT AGAINST THE SEVERANCE TAX FOR PROPERTY TAXES PAID BY OIL AND GAS
8 PRODUCERS AND INTEREST OWNERS; REDUCING THE LEVEL OF PRODUCTION THAT
9 QUALIFIES WELLS FOR AN EXEMPTION FROM THE TAX; EXEMPTING REVENUES FROM THE
10 TAX AND RELATED INVESTMENT INCOME FROM STATE AND LOCAL GOVERNMENT
11 SPENDING LIMITS; AND REQUIRING THE TAX REVENUES TO BE CREDITED AS FOLLOWS: (A)
12 22% TO THE SEVERANCE TAX TRUST FUND, (B) 22% TO THE LOCAL GOVERNMENT
13 SEVERANCE TAX FUND, AND (C) 56% TO A NEW SEVERANCE TAX STABILIZATION TRUST
14 FUND, OF WHICH 60% IS USED TO FUND SCHOLARSHIPS FOR COLORADO RESIDENTS
15 ATTENDING STATE COLLEGES AND UNIVERSITIES, 15% TO FUND THE PRESERVATION OF
16 NATIVE WILDLIFE HABITAT, 10% TO FUND RENEWABLE ENERGY AND ENERGY EFFICIENCY
17 PROGRAMS, 10% TO FUND TRANSPORTATION PROJECTS IN COUNTIES AND MUNICIPALITIES
18 IMPACTED BY THE SEVERANCE OF OIL AND GAS, AND 5% TO FUND COMMUNITY DRINKING
19 WATER AND WASTEWATER TREATMENT GRANTS.

20 **Text of Proposal:**

21 Be it Enacted by the People of the State of Colorado:

22 **SECTION 1.** 39-29-101, Colorado Revised Statutes, is amended BY THE
23 ADDITION OF A NEW SUBSECTION to read:

24 **39-29-101. Legislative declaration.** (4) IT IS THE INTENT OF THE PEOPLE OF THIS
25 STATE THAT THE ADDITIONAL REVENUE GENERATED BY ELIMINATING THE TAX CREDIT
26 GIVEN TO OIL AND GAS PRODUCERS AND INTEREST OWNERS FOR PROPERTY TAXES PAID
27 AND CHANGING THE SEVERANCE TAX STRUCTURE AS APPROVED BY A VOTE OF THE
28 PEOPLE AT THE 2008 GENERAL ELECTION SHALL SUPPLEMENT, RATHER THAN SUPPLANT,
29 CURRENT APPROPRIATIONS TO THE FOLLOWING ENUMERATED PURPOSES AND SHALL BE
30 USED TO PROVIDE FUNDING FOR THE FOLLOWING PUBLIC PURPOSES: SCHOLARSHIPS FOR
31 STUDENTS ATTENDING STATE COLLEGES AND UNIVERSITIES; THE PRESERVATION OF
32 WILDLIFE HABITAT; RENEWABLE AND CLEAN ENERGY PROJECTS; TRANSPORTATION
33 PROJECTS IN COMMUNITIES IMPACTED BY OIL AND GAS PRODUCTION; AND COMMUNITY
34 DRINKING WATER AND WASTEWATER TREATMENT GRANTS. IT IS THE FURTHER INTENT
35 OF THE PEOPLE OF THE STATE THAT THE PROGRAMS CURRENTLY FUNDED BY THE

1 SEVERANCE TAX NOT BE ADVERSELY IMPACTED BY THE DISTRIBUTION OF THE
2 ADDITIONAL REVENUE GENERATED BY THE CHANGES TO THE SEVERANCE TAX APPROVED
3 BY A VOTE OF THE PEOPLE AT THE 2008 GENERAL ELECTION, WHICH IS REFLECTED IN THE
4 DISTRIBUTION SET FORTH IN SECTION 39-29-108 (2.3).

5 **SECTION 2.** 39-29-105 (1) (b), Colorado Revised Statutes, is amended, and the
6 said 39-29-105 (1) is further amended BY THE ADDITION OF A NEW
7 PARAGRAPH, to read:

8 **39-29-105. Tax on severance of oil and gas.** (1) (b) In addition to any other tax,
9 there shall be levied, collected, and paid for each taxable year commencing on or after
10 January 1, 2000, BUT PRIOR TO JANUARY 1, 2009, a tax upon the gross income
11 attributable to the sale of oil and gas severed from the earth in this state; except that oil
12 produced from any wells that produce fifteen barrels per day or less of oil and gas
13 produced from wells that produce ninety thousand cubic feet or less of gas per day for
14 the average of all producing days for such oil or gas production during the taxable year
15 shall be exempt from the tax. Nothing in this paragraph (b) shall exempt a producer of
16 oil and gas from submitting a production employee report as required by section 39-29-
17 110 (1) (d) (I). The tax for oil and gas shall be at the following rates of the gross income:

18	Under \$25,000	2%
19	\$25,000 and under \$100,000	3%
20	\$100,000 and under \$300,000	4%
21	\$300,000 and over	5%

22 (c) IN ADDITION TO ANY OTHER TAX, THERE SHALL BE LEVIED, COLLECTED, AND
23 PAID FOR EACH TAXABLE YEAR COMMENCING ON AND AFTER JANUARY 1, 2009, A TAX
24 UPON THE GROSS INCOME ATTRIBUTABLE TO THE SALE OF OIL AND GAS SEVERED FROM
25 THE EARTH IN THIS STATE; EXCEPT THAT OIL PRODUCED FROM ANY WELLS THAT
26 PRODUCE SEVEN AND ONE HALF BARRELS OR LESS OF OIL PER DAY AND GAS PRODUCED
27 FROM WELLS THAT PRODUCE FORTY-FIVE THOUSAND CUBIC FEET OR LESS OF GAS PER
28 DAY, FOR THE AVERAGE OF ALL PRODUCING DAYS FOR SUCH OIL AND GAS PRODUCTION
29 DURING THE TAXABLE YEAR SHALL BE EXEMPT FROM THE TAX. NOTHING IN THIS
30 PARAGRAPH (c) SHALL EXEMPT A PRODUCER OF OIL AND GAS FROM SUBMITTING A
31 PRODUCTION EMPLOYEE REPORT AS REQUIRED BY SECTION 39-29-110(1)(d)(I). THE TAX
32 FOR OIL AND GAS PROVIDED FOR IN THIS PARAGRAPH (c) SHALL BE AT THE FOLLOWING
33 RATE OF GROSS INCOME:

34	\$300,000 AND OVER	5% OF TOTAL GROSS INCOME
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35 **SECTION 3.** 39-29-105, Colorado Revised Statutes, is amended BY THE
36 ADDITION OF A NEW SUBSECTION to read:

1 **39-29-105. Tax on severance of oil and gas.** (3) THE PROCEEDS OF THIS TAX
2 RECEIVED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (C) OF SUBSECTION (1)
3 OF THIS SECTION AND INVESTMENT INCOME THEREON SHALL BE COLLECTED AND SPENT
4 BY THE STATE AS A VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY
5 SPENDING LIMITATION CONTAINED WITHIN SECTION 20 OF ARTICLE X OF THE STATE
6 CONSTITUTION, OR ANY OTHER LAW, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT
7 OF OTHER REVENUE THAT MAY BE COLLECTED AND SPENT BY THE STATE OR ANY
8 DISTRICT.

9 **SECTION 4.** The introductory portion to 39-29-108 (1) and 39-29-108 (2),
10 Colorado Revised Statutes, are amended, and the said 39-29-108 is amended BY THE
11 ADDITION OF A NEW SUBSECTION, to read:

12 **39-29-108. Allocation of severance tax revenues - definitions - repeal.** (1)
13 Except as provided in ~~subsections (2) and (3)~~ SUBSECTIONS (2), (2.3), AND (3) of this
14 section, the total gross receipts realized from the severance taxes imposed on minerals
15 and mineral fuels under the provisions of this article shall be credited as follows:

16 (2) Of the total gross receipts realized from the severance taxes imposed on
17 minerals and mineral fuels under the provisions of this article after June 30, 1981,
18 EXCEPTING THOSE REVENUES LEVIED, COLLECTED, AND PAID BY OPERATION OF SECTION
19 39-29-105 (1) (c), fifty percent shall be credited to the ~~state~~ severance tax trust fund
20 created by section 39-29-109, and fifty percent shall be credited to the local government
21 severance tax fund created by section 39-29-110.

22 (2.3) OF THE TOTAL REVENUES LEVIED, COLLECTED, AND PAID BY OPERATION OF
23 SECTION 39-29-105 (1) (c), TWENTY-TWO PERCENT SHALL BE CREDITED TO THE
24 SEVERANCE TAX TRUST FUND CREATED BY SECTION 39-29-109, TWENTY-TWO PERCENT
25 SHALL BE CREDITED TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED BY
26 SECTION 39-29-110, AND THE REMAINING FIFTY-SIX PERCENT SHALL BE CREDITED TO THE
27 SEVERANCE TAX STABILIZATION TRUST FUND CREATED BY SECTION 39-29-110.5.

28 **SECTION 5.** Article 29 of Title 39, Colorado Revised Statutes, is amended BY
29 THE ADDITION OF A NEW SECTION to read:

30 **39-29-110.5. Severance tax stabilization trust fund - creation - administration.**
31 (1) (a) THERE IS HEREBY CREATED IN THE OFFICE OF THE STATE TREASURER THE
32 SEVERANCE TAX STABILIZATION TRUST FUND. ALL INCOME DERIVED FROM THE DEPOSIT
33 AND INVESTMENT OF THE MONEYS IN THE SEVERANCE TAX STABILIZATION TRUST FUND
34 SHALL BE CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND. AT THE END
35 OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND
36 SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
37 GENERAL FUND OR ANY OTHER FUND. ALL MONEYS IN THE OPERATIONAL ACCOUNT OF

1 THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE DISTRIBUTED BY THE
2 GENERAL ASSEMBLY FOR THE PURPOSES AND IN THE PROPORTION SET FORTH IN
3 SUBSECTION (2) OF THIS SECTION.

4 (b) THE MONEYS IN THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE
5 HELD IN TWO ACCOUNTS, AS FOLLOWS:

6 (I) **The perpetual base account.** TEN PERCENT OF THE SEVERANCE TAX RECEIPTS
7 CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND AND THE INTEREST
8 GENERATED THEREON SHALL BE RETAINED IN THE PERPETUAL BASE ACCOUNT. THE
9 MAXIMUM BALANCE IN THE PERPETUAL BASE ACCOUNT SHALL BE ONE HUNDRED AND
10 TWENTY-FIVE PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE CREDITED TO THE
11 SEVERANCE TAX STABILIZATION TRUST FUND PURSUANT TO SECTION 39-29-108 (2.3).
12 IN ANY YEAR IN WHICH THE BALANCE OF THE PERPETUAL BASE ACCOUNT EXCEEDS ONE
13 HUNDRED AND TWENTY-FIVE PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE TO THE
14 SEVERANCE TAX STABILIZATION TRUST FUND, THE INTEREST GENERATED BY THE
15 PERPETUAL BASE ACCOUNT AND MONEYS IN EXCESS OF ONE HUNDRED AND TWENTY-FIVE
16 PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE TO THE SEVERANCE TAX
17 STABILIZATION TRUST FUND SHALL BE CREDITED TO THE OPERATIONAL ACCOUNT OF THE
18 SEVERANCE TAX STABILIZATION TRUST FUND.

19 (II) **The operational account.** NINETY PERCENT OF THE SEVERANCE TAX RECEIPTS
20 CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND, PLUS ANY MONEYS
21 REQUIRED TO BE TRANSFERRED TO THE OPERATIONAL ACCOUNT PURSUANT TO
22 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE CREDITED TO THE OPERATIONAL
23 ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND.

24 (2) EACH YEAR THE MONEYS IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE
25 TAX STABILIZATION TRUST FUND SHALL BE DISTRIBUTED AS FOLLOWS:

26 (a) SIXTY PERCENT SHALL BE APPROPRIATED FOR THE EXCLUSIVE PURPOSE OF
27 SCHOLARSHIPS, TO BE KNOWN AS COLORADO PROMISE SCHOLARSHIPS, FOR COLORADO
28 RESIDENTS ATTENDING STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED BY
29 SECTION 23-18-102 (10) (a), C.R.S., AND LOCAL DISTRICT COLLEGES AS DESCRIBED BY
30 SECTION 23-72-121.5, C.R.S., AND SHALL BE DIRECTED TOWARDS MAKING HIGHER
31 EDUCATION AFFORDABLE FOR COLORADO RESIDENTS FROM LOWER AND MIDDLE INCOME
32 FAMILIES. THE COLORADO COMMISSION ON HIGHER EDUCATION SHALL ESTABLISH
33 GUIDELINES AND POLICIES SETTING FORTH THE ELIGIBILITY CRITERIA FOR SCHOLARSHIPS
34 FUNDED BY THIS PARAGRAPH (a), TO INCLUDE CONSIDERATION OF SUCH FACTORS AS
35 HOUSEHOLD INCOME, FAMILY SIZE, ELIGIBILITY FOR OTHER SOURCES OF FINANCIAL
36 ASSISTANCE, AND THE INSTITUTION THE STUDENT ATTENDS. THE COMMISSION SHALL
37 ESTABLISH ACADEMIC PERFORMANCE CRITERIA FOR OBTAINING AND MAINTAINING A
38 COLORADO PROMISE SCHOLARSHIP.

1 (b) FIFTEEN PERCENT SHALL BE DEDICATED FOR THE EXCLUSIVE PURPOSE OF
2 MAKING COMPETITIVE GRANTS TO COUNTIES, MUNICIPALITIES, OTHER POLITICAL
3 SUBDIVISIONS OF THE STATE, THE COLORADO DIVISION OF WILDLIFE, THE COLORADO
4 DIVISION OF PARKS AND OUTDOOR RECREATION, AND NONPROFIT CONSERVATION
5 ORGANIZATIONS, FOR ACQUISITION OF REAL PROPERTY OR INTERESTS THEREIN THAT
6 WILL PRESERVE NATIVE WILDLIFE HABITAT ASSOCIATED WITH NATURAL AREAS,
7 WORKING FARMS OR RANCHES, AND RIVERS AND STREAMS; AND TO THE EXTENT
8 ACQUIRED WITH SUCH MONEYS, TO ASSIST WITH STEWARDSHIP OF REAL PROPERTY OR
9 INTERESTS THEREIN. SUCH MONEYS SHALL BE ADMINISTERED AND OVERSEEN BY THE
10 STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND CREATED PURSUANT
11 TO SECTION 6 OF ARTICLE XXVII OF THE STATE CONSTITUTION, BUT SUCH MONEYS
12 SHALL NOT BE SUBJECT TO THE LIMITATIONS AND RESTRICTIONS MADE APPLICABLE TO
13 THE GREAT OUTDOORS COLORADO TRUST FUND BY ARTICLE XXVII OF THE STATE
14 CONSTITUTION. FURTHER, IN ADMINISTERING AND OVERSEEING THESE MONEYS, THE
15 STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL HAVE THE
16 DISCRETION TO DIRECT THAT ANY PORTION OF THE AVAILABLE REVENUES BE USED FOR
17 EXPENSES OF ADMINISTERING THESE MONEYS OR REINVESTED AND NOT EXPENDED IN
18 ANY PARTICULAR YEAR.

19 (c) TEN PERCENT SHALL BE CREDITED TO THE CLEAN ENERGY FUND CREATED IN
20 SECTION 24-75-1201, C.R.S.;

21 (d) TEN PERCENT SHALL BE APPROPRIATED TO THE COLORADO DEPARTMENT OF
22 TRANSPORTATION TO FUND TRANSPORTATION PROJECTS IN COUNTIES AND
23 MUNICIPALITIES OF THE STATE THAT ARE IMPACTED BY THE DEVELOPMENT, PROCESSING,
24 OR ENERGY CONVERSION OF OIL AND GAS SUBJECT TO TAXATION UNDER THIS ARTICLE,
25 WHICH FUNDING INCLUDES MAKING GRANTS FOR TRANSPORTATION PURPOSES TO THOSE
26 IMPACTED COMMUNITIES; AND

27 (e) FIVE PERCENT SHALL BE APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH
28 AND ENVIRONMENT, WATER QUALITY CONTROL DIVISION, FOR THE EXCLUSIVE PURPOSE
29 OF MAKING SMALL COMMUNITY DRINKING WATER GRANTS AND DOMESTIC WASTEWATER
30 TREATMENT GRANTS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL
31 HAVE THE DISCRETION TO DIRECT THAT ANY PORTION OF THE AVAILABLE REVENUES BE
32 REINVESTED AND NOT EXPENDED IN ANY PARTICULAR YEAR.

1 **SECTION 6.** 24-75-1201(1) (a), Colorado Revised Statutes, is amended to read:

2 **24-75-1201. Clean energy fund - creation - use of fund - definitions.** (1) (a)

3 The clean energy fund is hereby created in the state treasury. The principal of the fund
4 shall consist of moneys transferred to the fund at the end of the 2006-07 state fiscal year
5 and at the end of each succeeding state fiscal year from the limited gaming fund created
6 in section 12-47.1-701 (1), C.R.S., in accordance with section 12-47.1-701 (5), C.R.S.,
7 and from moneys received by the governor's energy office pursuant to section 39-29-109
8 (1.5), C.R.S., in accordance with section 39-29-109 (1.5) (h) (VII), C.R.S., AND FROM
9 MONEYS RECEIVED PURSUANT TO SECTION 39-29-110.5 (2) (c), C.R.S. Interest and
10 income earned on the deposit and investment of moneys in the clean energy fund shall
11 be credited to the fund. Moneys in the fund at the end of any state fiscal year shall
12 remain in the fund and shall not be credited to the state general fund or any other fund.

13 **SECTION 7.** 33-60-107, Colorado Revised Statutes, is amended BY THE
14 ADDITION OF A NEW SUBSECTION to read:

15 **33-60-107. State board of the great outdoors Colorado trust fund.** (4) IN
16 ADDITION TO ITS OTHER POWERS UNDER ARTICLE XXVII OF THE COLORADO
17 CONSTITUTION AND THIS ARTICLE, THE TRUST FUND BOARD SHALL HAVE THE POWER TO
18 ADMINISTER AND OVERSEE MONEYS APPROPRIATED PURSUANT TO SECTION 39-29-110.5
19 (2) (b), C.R.S.