

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0951.01 Esther van Mourik x4215

HOUSE BILL 12-1353

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HOUSE SPONSORSHIP

Becker, Gerou, Levy

SENATE SPONSORSHIP

Steadman, Hodge, Lambert

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House Committees  
Appropriations

Senate Committees

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A BILL FOR AN ACT

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

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Joint Budget Committee.** Tier 2 transfers from the operational account of the severance tax trust fund occur in 3 installments: July 1,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

January 4, and April 1. Current law provides that in case of revenue shortfalls, as projected in the revenue estimate prepared by the staff of the legislative council, the January and April installments are to be proportionally reduced. The bill changes the automatic proportional reduction mechanism to commence with the July installment so that the effect of a proportional reduction to the entire transfer is spread over 3 installments instead of 2.

The bill specifies that the 15% reserve be used to offset any proportional reduction as follows:

- ! One-third of the reserve for the July installment;
- ! One-third of the reserve for the January installment; and
- ! Any remaining reserve for the April installment.

The bill allows the April installment to include an increase to offset proportional reductions made in the July and January payments if revenue estimates indicate that the amount of severance tax revenues are sufficient to fund such increased installments and still meet the reserve requirement in current law.

The bill also reduces the required tier 1 operating appropriations portion of the total reserve calculation for the 2012-13 fiscal year by \$1 million.

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

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

4 **39-29-109.3. Operational account of the severance tax trust**  
5 **fund - repeal.** (3) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS  
6 SUBSECTION (3), it is the intent of the general assembly that the  
7 operational account maintain a reserve equal to the current state fiscal  
8 year's operating appropriations for the programs specified in subsection  
9 (1) of this section plus fifteen percent of the current fiscal year's transfers  
10 specified in subsection (2) of this section. Moneys may be transferred  
11 from the reserve to offset temporary revenue reductions in the programs  
12 specified in subsection (1) of this section and to offset reductions for  
13 programs specified in subsection (2) of this section, up to fifteen percent  
14 of the current fiscal year's transfers specified in subsection (2) of this

1 section; except that, if the general assembly determines that transfers of  
2 moneys from the reserve are needed during a state revenue crisis, the  
3 transfers shall be a loan from the reserve to be repaid as soon as moneys  
4 are available. This provision is intended to mitigate the impact of  
5 fluctuations in the amount of revenue credited to the fund from year to  
6 year so as to maintain current levels of service for the programs specified  
7 in subsection (1) of this section.

8 (b) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2012,  
9 THE RESERVE REQUIREMENT SET FORTH IN PARAGRAPH (a) OF THIS  
10 SUBSECTION (3) IS REDUCED TO THE CURRENT STATE FISCAL YEAR'S  
11 OPERATING APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN  
12 SUBSECTION (1) OF THIS SECTION MINUS ONE MILLION DOLLARS, PLUS  
13 FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED  
14 IN SUBSECTION (2) OF THIS SECTION.

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

16 (4) (b) (I) If the revenue estimate prepared by the staff of the  
17 legislative council in ~~December or March~~ JUNE of any fiscal year  
18 indicates that the amount of severance tax revenues TO BE credited to the  
19 operational account IN THE NEXT FISCAL YEAR as specified in section  
20 39-29-109 (2) (b) is insufficient for the state treasurer to make the  
21 transfers set forth in subsection (2) of this section and to meet the reserve  
22 requirement specified in subsection (3) of this section, all transfers  
23 scheduled to be made on ~~January 4 or April 1 of the fiscal year~~ JULY 1  
24 shall be proportionally reduced. ~~to ensure that the reserve required by~~  
25 ~~subsection (3) of this section remains fully funded; except that the fifteen~~  
26 ~~percent of the current fiscal year's transfers specified as part of the reserve~~  
27 ~~set forth in subsection (3) of this section shall be used to offset any~~

1 ~~proportional reduction required by this section in any fiscal year.~~ THE  
2 JULY 1 proportional ~~reductions~~ REDUCTION shall be calculated based on  
3 the size of the annual transfers as specified in subsection (2) of this  
4 section AND SHALL BE MADE TO THE EXTENT NECESSARY TO COVER FORTY  
5 PERCENT OF THE PROJECTED SHORTFALL BETWEEN TOTAL MONEYS  
6 AVAILABLE IN THE OPERATIONAL ACCOUNT AND THE SUM OF THE TOTAL  
7 OPERATING APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN  
8 SUBSECTION (1) OF THIS SECTION, THE TOTAL FISCAL YEAR'S TRANSFERS  
9 SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND THE RESERVE  
10 REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION; EXCEPT  
11 THAT UP TO ONE-THIRD OF THE FIFTEEN PERCENT OF THE CURRENT FISCAL  
12 YEAR'S TRANSFERS SPECIFIED AS PART OF THE RESERVE SET FORTH IN  
13 SUBSECTION (3) OF THIS SECTION SHALL BE USED TO OFFSET ANY  
14 PROPORTIONAL REDUCTION REQUIRED BY THIS SUBPARAGRAPH (I) IN ANY  
15 FISCAL YEAR.

16 (II) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE  
17 LEGISLATIVE COUNCIL IN DECEMBER OF ANY FISCAL YEAR INDICATES THAT  
18 THE AMOUNT OF SEVERANCE TAX REVENUES CREDITED TO THE  
19 OPERATIONAL ACCOUNT AS SPECIFIED IN SECTION 39-29-109 (2) (b) IS  
20 INSUFFICIENT FOR THE STATE TREASURER TO MAKE THE TRANSFERS SET  
21 FORTH IN SUBSECTION (2) OF THIS SECTION AND TO MEET THE RESERVE  
22 REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION, ALL  
23 TRANSFERS SCHEDULED TO BE MADE ON JANUARY 4 OF THE FISCAL YEAR  
24 SHALL BE PROPORTIONALLY REDUCED. THE JANUARY 4 PROPORTIONAL  
25 REDUCTION SHALL BE CALCULATED BASED ON THE SIZE OF THE ANNUAL  
26 TRANSFERS AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND SHALL  
27 BE MADE TO THE EXTENT NECESSARY TO COVER SEVENTY PERCENT OF THE

1 PROJECTED SHORTFALL BETWEEN TOTAL MONEYS AVAILABLE IN THE  
2 OPERATIONAL ACCOUNT AND THE SUM OF THE TOTAL OPERATING  
3 APPROPRIATIONS FOR THE PROGRAMS SPECIFIED IN SUBSECTION (1) OF THIS  
4 SECTION, THE TOTAL FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION  
5 (2) OF THIS SECTION, AND THE RESERVE REQUIREMENT SPECIFIED IN  
6 SUBSECTION (3) OF THIS SECTION; EXCEPT THAT UP TO ONE-THIRD OF THE  
7 FIFTEEN PERCENT OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED  
8 AS PART OF THE RESERVE SET FORTH IN SUBSECTION (3) OF THIS SECTION  
9 SHALL BE USED TO OFFSET ANY PROPORTIONAL REDUCTION REQUIRED BY  
10 THIS SUBPARAGRAPH (II) IN ANY FISCAL YEAR.

11 (III) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE  
12 LEGISLATIVE COUNCIL IN MARCH OF ANY FISCAL YEAR INDICATES THAT  
13 THE AMOUNT OF SEVERANCE TAX REVENUES CREDITED TO THE  
14 OPERATIONAL ACCOUNT AS SPECIFIED IN SECTION 39-29-109 (2) (b) IS  
15 INSUFFICIENT FOR THE STATE TREASURER TO MAKE THE TRANSFERS SET  
16 FORTH IN SUBSECTION (2) OF THIS SECTION AND TO MEET THE RESERVE  
17 REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS SECTION, ALL  
18 TRANSFERS SCHEDULED TO BE MADE ON APRIL 1 OF THE FISCAL YEAR  
19 SHALL BE PROPORTIONALLY REDUCED. THE APRIL 1 PROPORTIONAL  
20 REDUCTION SHALL BE CALCULATED BASED ON THE SIZE OF THE ANNUAL  
21 TRANSFERS AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND SHALL  
22 BE MADE TO THE EXTENT NECESSARY TO COVER THE PROJECTED  
23 SHORTFALL BETWEEN TOTAL MONEYS AVAILABLE IN THE OPERATIONAL  
24 ACCOUNT AND THE SUM OF THE TOTAL OPERATING APPROPRIATIONS FOR  
25 THE PROGRAMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE TOTAL  
26 FISCAL YEAR'S TRANSFERS SPECIFIED IN SUBSECTION (2) OF THIS SECTION,  
27 AND THE RESERVE REQUIREMENT SPECIFIED IN SUBSECTION (3) OF THIS

1 SECTION; EXCEPT THAT ANY MONEYS REMAINING OF THE FIFTEEN PERCENT  
2 OF THE CURRENT FISCAL YEAR'S TRANSFERS SPECIFIED AS PART OF THE  
3 RESERVE SET FORTH IN SUBSECTION (3) OF THIS SECTION SHALL BE USED  
4 TO OFFSET ANY PROPORTIONAL REDUCTION REQUIRED BY THIS  
5 SUBPARAGRAPH (III) IN ANY FISCAL YEAR.

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

17 (5) In addition to the distributions specified in paragraph (a) of  
18 subsection (4) of this section, if there were any proportional reductions  
19 required in a fiscal year as specified in paragraph (b) of said subsection  
20 (4), after the reserve specified in subsection (3) of this section is made  
21 whole if any portion of the reserve was used as specified in paragraph (b)  
22 of subsection (4) of this section to offset any proportional reduction  
23 required by said paragraph (b) of subsection (4), the state treasurer shall  
24 make proportional distributions on August 20 of the following fiscal year  
25 to the programs specified in subsection (2) of this section if the revenues  
26 actually received in the operational account of the severance tax trust  
27 fund for the previous fiscal year were sufficient for the state treasurer to

1 MORE FULLY make the transfers set forth in subsection (2) of this section  
2 and to FULLY meet the reserve requirement specified in subsection (3) of  
3 this section.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.