

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING SUPPORT FOR THE DEVELOPMENT OF CLEAN ENERGY RESOURCES USING PROCEEDS OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Prime Sponsors: Representative Buescher
Senator Tapia

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Summary of Amendments Made to the Bill After the 03/06/06 Legislative Council Staff Revised Fiscal Note was Prepared (Amended by the House Appropriations Committee 03/17/06, on House Second Reading 04/20/06, and by the Senate State, Veterans and Military Affairs Committee 05/01/06)

The House Appropriations Committee amendment did the following: (1) required that the General Assembly appropriate \$1,000,000 to the University of Colorado for a research institute in FY 2005-06; (2) required that the General Assembly appropriate \$500,000 to Mesa State College for an energy institute in FY 2005-06; and (3) added the appropriations clause. [See "Amendments/Appropriations Status", below.]

The House Second Reading amendment struck the portion of the Appropriations Committee amendment which required that the General Assembly appropriate \$1,000,000 to the University of Colorado for a research institute in FY 2005-06 and also struck the portion which required that the General Assembly appropriate \$500,000 to Mesa State College for an energy institute in FY 2005-06.

The Senate State, Veterans and Military Affairs Committee amendment struck everything below the enacting clause. [See "Reason for Update", below.]

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs

Does Not Concur

Updated Analysis

Reason for Update

The Senate State, Veterans and Military Affairs Committee amendment struck everything below the enacting clause and replaced it with language that does the following:

Requires a transfer of \$2,000,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Colorado Renewable Energy Authority for three years, beginning July 1, 2006.

Provides that said transfer shall only occur in accordance with Article 47.5 of Title 24, which makes the appropriation contingent upon the receipt of federal moneys.

Creates the Colorado Renewable Energy Authority and provides for an associated board of directors.

Appropriates \$2,000,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Authority and makes the appropriation subject to receipt of the federal grant.

The following table summarizes the impact of the bill as updated:

Fiscal Impact Summary	FY 2006-07	FY 2007-08	FY 2008-09
State Revenues			
Cash Funds - Operational Account of the Severance Tax Trust Fund	(\$2,000,000)	(\$2,000,000)	(\$2,000,000)
State Expenditures			
Cash Funds - Operational Account of the Severance Tax Trust Fund (Transfer/Appropriation)	\$2,000,000	\$2,000,000	\$2,000,000
Appropriation Summary for FY 2006-07: \$2,000,000 cash funds			
The bill provides for a <i>transfer</i> of \$2,000,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Colorado Renewable Energy Authority. The bill also contains an appropriation of \$2,000,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Colorado Renewable Energy Authority.			

Legislative Council Fiscal Note staff concurs with this assessment of the bill.

Amendments/Appropriation Status

The reengrossed bill contains a clause which appropriates \$2,000,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Colorado Renewable Energy Authority in FY 2006-07, and makes the appropriation subject to receipt of the federal grant. [Please see "Points to Consider" #1 and #2, below.]

Sponsor Amendments

Staff is not aware of any amendment(s) to be offered.

Points to Consider

1. The bill, as amended, includes a provision that provides for an appropriation from the state (from the Operational Account of the Severance Tax Trust Fund) directly to the Colorado Renewable Energy Authority. Pursuant to Article V, Section 34 of the Colorado Constitution appropriations must be to state entities: "No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association." According to the Office of Legislative Legal Services, an authority would not fall under the absolute control of the state; therefore, the bill currently is in violation of the Colorado Constitution.

2. The bill, as amended, requires a \$2,000,000 *transfer* from the Operational Account of the Severance Tax Trust Fund to the Colorado Renewable Energy Authority (page one, line 10 of the State, Veterans and Military Affairs Committee Report) but it *also requires the General Assembly to appropriate \$2,000,000 for such purpose (page 5, line 6 of the Report)*. Thus, staff is not sure of the intent of the General Assembly.