

CHAPTER 289

TAXATION

SENATE BILL 16-218

BY SENATOR(S) Lambert and Steadman, Grantham;
also REPRESENTATIVE(S) Hamner and Rankin, Young, Fields, Rosenthal, Hullinghorst.

AN ACT**CONCERNING MATTERS RELATED TO STATE SEVERANCE TAX REFUNDS.**

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

SECTION 1. In Colorado Revised Statutes, 24-75-201.1, **amend as added by House Bill 16-1419** (1) (d) (XVII) as follows:

24-75-201.1. Restriction on state appropriations - legislative declaration - definitions. (1) (d) For each fiscal year, unrestricted general fund year-end balances shall be retained as a reserve in the following amounts:

(XVII) For the fiscal year 2015-16, AN AMOUNT EQUAL TO five and six-tenths percent of the amount appropriated for expenditure from the general fund for that fiscal year MINUS THE TOTAL AMOUNT CREDITED TO THE RESERVE CREATED IN SECTION 39-22-107.8, C.R.S., IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF SAID SECTION.

SECTION 2. In Colorado Revised Statutes, 39-22-623, **amend** (1) (b) as follows:

39-22-623. Disposition of collections. (1) (b) Following apportionment of the city, town, and county shares pursuant to paragraph (a) of this subsection (1) and pursuant to section 29-21-101, C.R.S., all remaining funds, LESS THE AMOUNT CREDITED TO THE RESERVE CREATED IN SECTION 39-29-107.8, IN ACCORDANCE WITH SUBSECTION (2) OF SAID SECTION, shall be credited to the general fund, and the general assembly shall make appropriations therefrom for the expenses of the administration of this article.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. In Colorado Revised Statutes, **add** 39-29-107.8 as follows:

39-29-107.8. Refunds. (1) PRIOR TO THE ALLOCATION IN SECTION 39-29-108, THE STATE TREASURER SHALL SET ASIDE AND MAINTAIN ALL REVENUE FROM THE TAX IMPOSED PURSUANT TO THIS ARTICLE IN A RESERVE THAT IS AVAILABLE FOR THE PAYMENT OF REFUNDS RELATED TO THE TAX IN ACCORDANCE WITH SECTION 39-21-108. AT THE END OF EACH MONTH, ANY MONEYS IN THE RESERVE THAT ARE NOT REQUIRED FOR A REFUND ARE THE TOTAL GROSS RECEIPTS REALIZED THAT ARE AVAILABLE FOR ALLOCATION UNDER SECTION 39-29-108.

(2) (a) PRIOR TO JULY 1, 2016, IF THE AMOUNT IN THE RESERVE IS LESS THAN THE AMOUNT OF REFUNDS THAT ARE REQUIRED TO BE MADE FROM THE RESERVE, THEN THE STATE TREASURER SHALL CREDIT TO THE RESERVE FROM THE PROCEEDS OF THE MONEY COLLECTED UNDER ARTICLE 22 OF THIS TITLE AN AMOUNT EQUAL TO THE DEFICIT.

(b) ON OR AFTER JULY 1, 2016, BUT PRIOR TO JULY 1, 2017, THE STATE TREASURER SHALL CREDIT TO THE RESERVE FROM THE PROCEEDS OF THE MONEY COLLECTED UNDER ARTICLE 22 OF THIS TITLE, AN AMOUNT EQUAL TO THE AMOUNT BY WHICH THE REFUNDS FOR THE TAX IMPOSED PURSUANT TO THIS ARTICLE THAT ARE MADE FOR A MONTH EXCEED FIFTEEN PERCENT OF THE GROSS SEVERANCE TAX REVENUES FOR THE SAME MONTH.

(3) THE STATE TREASURER SHALL CREDIT MONEY TO THE RESERVE IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION ON A MONTHLY BASIS. IF THERE IS INSUFFICIENT REVENUE AVAILABLE TO BE CREDITED, THE STATE CONTROLLER MAY AUTHORIZE AN ADVANCE UNDER SECTION 24-75-203 (2), C.R.S., TO THE RESERVE TO BE USED FOR THE REFUNDS. THERE IS NO LIMIT ON THE AMOUNT OF AN ADVANCE THAT THE STATE CONTROLLER MAY MAKE FOR THIS PURPOSE.

SECTION 4. In Colorado Revised Statutes, 39-29-108, **amend** (2) (a) (II) as follows:

39-29-108. Allocation of severance tax revenues - definitions - repeal. (2) (a) (II) This paragraph (a) is repealed, effective ~~January~~ JULY 1, 2017.

SECTION 5. In Colorado Revised Statutes, 39-29-109, **add** (2) (a) (XVII) as follows:

39-29-109. Severance tax trust fund - created - administration - distribution of moneys - repeal. (2) State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. Except as otherwise set forth in section 39-29-109.5, all income derived from the deposit and investment of the moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund are subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (XVII) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE CONTRARY, AN AMOUNT EQUAL TO

NINETEEN MILLION ONE HUNDRED THOUSAND DOLLARS IN THE FUND IS RESTRICTED FROM BEING USED FOR ANY PURPOSE WHATSOEVER, UNTIL SUCH TIME THAT THE JOINT BUDGET COMMITTEE, BY A MAJORITY VOTE, RELEASES THE RESTRICTION ON SOME OR ALL OF THE MONEY.

SECTION 6. In Colorado Revised Statutes, 39-29-109.3, **add** (1.5) as follows:

39-29-109.3. Severance tax operational fund - repeal. (1.5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AN AMOUNT EQUAL TO TEN MILLION DOLLARS IN THE OPERATIONAL FUND IS RESTRICTED FROM BEING USED FOR ANY PURPOSE WHATSOEVER, UNTIL SUCH TIME THAT THE JOINT BUDGET COMMITTEE, BY A MAJORITY VOTE, RELEASES THE RESTRICTION ON SOME OR ALL OF THE MONEY.

SECTION 7. In Colorado Revised Statutes, 39-29-110, **add** (8) as follows:

39-29-110. Local government severance tax fund - creation - administration - definitions. (8) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AN AMOUNT EQUAL TO FORTY-EIGHT MILLION THREE HUNDRED THOUSAND DOLLARS IN THE LOCAL GOVERNMENT SEVERANCE TAX FUND THAT WOULD OTHERWISE BE DISTRIBUTED UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION IS RESTRICTED FROM BEING USED FOR ANY PURPOSE WHATSOEVER, UNTIL SUCH TIME THAT THE JOINT BUDGET COMMITTEE, BY A MAJORITY VOTE, RELEASES THE RESTRICTION ON SOME OR ALL OF THE MONEY. IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE RESTRICTION OF MONEY IN THE FUND SHALL NOT AFFECT THE DISTRIBUTIONS MADE UNDER PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2016