

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0730.01 Ed DeCecco x4216

SENATE BILL 16-097

SENATE SPONSORSHIP

Scott, Baumgardner, Cooke

HOUSE SPONSORSHIP

Coram,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENSURE THAT REVENUE RELATED TO THE
102 SEVERANCE OF MINERALS IN THE STATE IS USED IN AREAS MOST
103 IMPACTED BY THE SEVERANCE.

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/bills summaries>.)

The bill prohibits transfers to the general fund from the following funds (mineral severance fund):

- ! Higher education federal mineral lease revenues fund (**section 2**);
- ! Higher education maintenance and reserve fund (section 2);

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.

- ! Local government permanent fund (**section 4**);
- ! Local government mineral impact fund (section 4); or
- ! Local government severance tax fund (**section 5**).

In addition, the governor is prohibited from restricting the money in each of these funds from being used as required by law for the purpose of saving the restricted money for a future transfer to the general fund.

For purposes of preparing the annual general appropriation act, **section 1** of the bill limits the joint budget committee's ability to use money in the mineral severance fund for any purpose that is not authorized by law or that does not benefit the political subdivisions impacted by the severance of minerals, and **section 3** imposes the same limitation on the governor when he or she proposes an annual executive budget. Section 1 also restricts the joint budget committee from introducing legislation to waive this limitation.

Section 5 changes the allocation of the money in the local government severance tax fund. The proportion of the fund used for direct distributions is increased from 30% to 60%, and the proportion of the fund used for grants is decreased from 70% to 40%. In addition, the executive director is restricted to only giving a grant to a political subdivision that received more than \$200,000 from its direct distribution in the prior state fiscal year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 2-3-209** as
 3 follows:

4 **2-3-209. Limitation - annual general appropriation act -**
 5 **legislative declaration - definitions.** (1) THE GENERAL ASSEMBLY
 6 HEREBY FINDS AND DECLARES THAT, EVEN WHEN ECONOMIC CONDITIONS
 7 ARE POOR, THE GENERAL ASSEMBLY SHOULD NOT TAKE MONEY AWAY
 8 FROM THE COMMUNITIES MOST IMPACTED FROM THE SEVERANCE OF
 9 MINERALS IN THIS STATE AND USE THAT MONEY TO PAY FOR THE GENERAL
 10 EXPENSES OF STATE GOVERNMENT. THEREFORE, THE LIMITATIONS IN THIS
 11 SECTION ARE DESIGNED TO ENSURE THAT THE COMMITTEE PREPARES THE
 12 ANNUAL GENERAL APPROPRIATION ACT CONSISTENT WITH THIS INTENTION.

13 (2) AS USED IN THIS SECTION, "MINERAL SEVERANCE FUND" MEANS

1 THE:

2 (a) HIGHER EDUCATION FEDERAL MINERAL LEASE REVENUES FUND
3 AND THE HIGHER EDUCATION MAINTENANCE AND RESERVE FUND, BOTH
4 CREATED IN SECTION 23-19.9-102, C.R.S.;

5 (b) LOCAL GOVERNMENT PERMANENT FUND AND THE LOCAL
6 GOVERNMENT MINERAL IMPACT FUND, BOTH CREATED IN SECTION
7 34-63-102, C.R.S.; OR

8 (c) LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED IN
9 SECTION 39-29-110, C.R.S.

10 (3) THE COMMITTEE SHALL NOT APPROVE FOR INTRODUCTION AN
11 ANNUAL GENERAL APPROPRIATION ACT THAT:

12 (a) INCLUDES APPROPRIATIONS FROM A MINERAL SEVERANCE FUND
13 IF THE APPROPRIATIONS ARE FOR ANY PURPOSE THAT IS NOT CURRENTLY
14 AUTHORIZED BY LAW OR THAT DOES NOT BENEFIT POLITICAL SUBDIVISIONS
15 SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT,
16 PROCESSING, OR ENERGY CONVERSION OF MINERALS AND MINERAL FUELS
17 SUBJECT TO THE STATE SEVERANCE TAX;

18 (b) APPROPRIATES MONEY FROM A MINERAL SEVERANCE FUND TO
19 THE GENERAL FUND OR ANY OTHER CASH FUND; OR

20 (c) APPROPRIATES MONEY FROM THE GENERAL FUND OR ANY CASH
21 FUND THAT WAS TRANSFERRED FROM A MINERAL SEVERANCE FUND.

22 (4) THE COMMITTEE SHALL NOT PROPOSE LEGISLATION TO AMEND
23 ANY PROVISION IN THIS SECTION OR TO TRANSFER MONEY FROM A MINERAL
24 SEVERANCE FUND TO ANY OTHER FUND.

25 **SECTION 2.** In Colorado Revised Statutes, 23-19.9-102, **add** (3)
26 as follows:

27 **23-19.9-102. Higher education federal mineral lease revenues**

1 **fund - higher education maintenance and reserve fund - creation -**
2 **sources of revenues - use. (3) BEGINNING JANUARY 1, 2016:**

3 (a) TRANSFERS FROM THE REVENUES FUND OR THE MAINTENANCE
4 AND RESERVE FUND TO THE GENERAL FUND ARE PROHIBITED; AND

5 (b) THE GOVERNOR SHALL NOT RESTRICT THE USE OF MONEY IN
6 THE REVENUES FUND OR THE MAINTENANCE AND RESERVE FUND FOR THE
7 PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO
8 THE GENERAL FUND.

9 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-37-301 as
10 follows:

11 **24-37-301. Executive budget responsibility - definitions.**

12 (1) The governor, as chief executive, shall annually evaluate the plans,
13 policies, and programs of all departments of the state government. He OR
14 SHE shall direct the formulation of his OR HER decisions into a financial
15 plan encompassing all sources of revenue and expenditure. He OR SHE
16 shall propose this plan for the consideration of the general assembly in the
17 form of an annual executive budget consisting of operating expenditures,
18 capital construction expenditures, estimated revenues, and special
19 surveys. Proposed expenditures in the budget shall not exceed estimated
20 moneys available. After legislative review and modification, if any, of the
21 budget and appropriation of the moneys therefor, the governor shall
22 administer the budget.

23 (2) THE GOVERNOR SHALL NOT PROPOSE IN HIS OR HER ANNUAL
24 EXECUTIVE BUDGET THAT MONEY FROM A MINERAL SEVERANCE FUND BE
25 USED FOR ANY PURPOSE THAT IS NOT CURRENTLY AUTHORIZED BY LAW OR
26 THAT DOES NOT BENEFIT POLITICAL SUBDIVISIONS SOCIALLY OR
27 ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR

1 ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO THE
2 STATE SEVERANCE TAX. AS USED IN THIS SUBSECTION (2), "MINERAL
3 SEVERANCE FUND" MEANS THE:

4 (a) HIGHER EDUCATION FEDERAL MINERAL LEASE REVENUES FUND
5 AND THE HIGHER EDUCATION MAINTENANCE AND RESERVE FUND, BOTH
6 CREATED IN SECTION 23-19.9-102, C.R.S.;

7 (b) LOCAL GOVERNMENT PERMANENT FUND AND THE LOCAL
8 GOVERNMENT MINERAL IMPACT FUND, BOTH CREATED IN SECTION
9 34-63-102, C.R.S.; OR

10 (c) LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED IN
11 SECTION 39-29-110, C.R.S.

12 **SECTION 4.** In Colorado Revised Statutes, 34-63-102, **add** (8)
13 as follows:

14 **34-63-102. Creation of mineral leasing fund - distribution -**
15 **advisory committee - local government permanent fund created -**
16 **definitions - transfer of moneys - repeal.** (8) BEGINNING JANUARY 1,
17 2016:

18 (a) TRANSFERS FROM THE LOCAL GOVERNMENT PERMANENT FUND
19 OR THE LOCAL GOVERNMENT MINERAL IMPACT FUND TO THE GENERAL
20 FUND ARE PROHIBITED; AND

21 (b) THE GOVERNOR SHALL NOT RESTRICT THE USE OF MONEY IN
22 THE LOCAL GOVERNMENT PERMANENT FUND OR THE LOCAL GOVERNMENT
23 MINERAL IMPACT FUND FOR THE PURPOSE OF SAVING THE RESTRICTED
24 MONEY FOR A FUTURE TRANSFER TO THE GENERAL FUND.

25 **SECTION 5.** In Colorado Revised Statutes, 39-29-110, **amend**
26 (1) (b) (I) and (1) (c) (I) introductory portion; and **add** (8) as follows:

27 **39-29-110. Local government severance tax fund - creation -**

1 **administration - definitions.** (1) (b) (I) (A) FOR STATE FISCAL YEARS
2 PRIOR TO JULY 1, 2016, seventy percent of the funds from the local
3 government severance tax fund shall be distributed to those political
4 subdivisions socially or economically impacted by the development,
5 processing, or energy conversion of minerals and mineral fuels subject to
6 taxation under this article and used for the planning, construction, and
7 maintenance of public facilities and for the provision of public services.

8 (B) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
9 2016, FORTY PERCENT OF THE FUNDS FROM THE LOCAL GOVERNMENT
10 SEVERANCE TAX FUND SHALL BE DISTRIBUTED TO THOSE POLITICAL
11 SUBDIVISIONS THAT IN A DIRECT MANNER ARE SOCIALLY OR
12 ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR
13 ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO
14 TAXATION UNDER THIS ARTICLE AND USED FOR THE PLANNING,
15 CONSTRUCTION, AND MAINTENANCE OF PUBLIC FACILITIES AND FOR THE
16 PROVISION OF PUBLIC SERVICES. THE EXECUTIVE DIRECTOR SHALL NOT
17 DISTRIBUTE ANY MONEY UNDER THIS SUB-SUBPARAGRAPH (B) TO A
18 POLITICAL SUBDIVISION THAT RECEIVES LESS THAN TWO HUNDRED
19 THOUSAND DOLLARS UNDER PARAGRAPH (c) OF THIS SUBSECTION (1) IN
20 THE PRIOR STATE FISCAL YEAR.

21 (C) Such funds shall also be distributed to political subdivisions
22 to compensate them for loss of property tax revenue resulting from the
23 deduction of severance taxes paid in the determination of the valuation
24 for assessment of producing mines. The executive director of the
25 department of local affairs shall consider the economic needs of a
26 political subdivision for purposes of making distributions pursuant to this
27 subparagraph (I).

1 (c) (I) ~~For state fiscal years commencing prior to July 1, 2008, an~~
2 ~~amount equal to thirty percent of said gross receipts credited to the local~~
3 ~~government severance tax fund shall be distributed to counties or~~
4 ~~municipalities on the basis of the proportion of employees of the mine or~~
5 ~~related facility or crude oil, natural gas, or oil and gas operation who~~
6 ~~reside in any such county's unincorporated area or in any such~~
7 ~~municipality to the total number of employees of the mine or related~~
8 ~~facility or crude oil, natural gas, or oil and gas operation. Such~~
9 ~~distribution shall be made on the basis of the report required in paragraph~~
10 ~~(d) of this subsection (1).~~ For state fiscal years commencing on or after
11 July 1, 2008, BUT PRIOR TO JULY 1, 2016, thirty percent of ~~said~~ THE gross
12 receipts credited to the local government severance tax fund, ~~shall be~~ AND
13 FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2016, SIXTY
14 PERCENT OF THE GROSS RECEIPTS CREDITED TO THE FUND, ARE allocated
15 to counties based upon the following factors:

16 (8) BEGINNING JANUARY 1, 2016, TRANSFERS FROM THE LOCAL
17 GOVERNMENT SEVERANCE TAX FUND TO THE GENERAL FUND ARE
18 PROHIBITED AND THE GOVERNOR SHALL NOT RESTRICT THE USE OF MONEY
19 IN THE FUND FOR THE PURPOSE OF SAVING THE RESTRICTED MONEY FOR A
20 FUTURE TRANSFER TO THE GENERAL FUND.

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