

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0367

Date: May 29, 2012

Prime Sponsor(s): Sen. Brophy

Bill Status: Postponed Indefinitely

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TITLE: CONCERNING THE ALLOCATION OF CERTAIN SEVERANCE TAX REVENUES TO INSTITUTIONS OF HIGHER EDUCATION LOCATED IN RURAL REGIONS IMPACTED BY THE DEVELOPMENT OF MINERALS SUBJECT TO TAXATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Transfers or Diversions*		
Transfer from the Sev. Tax Trust Fund - Op. Acct. to STT Fund - Water Supply Reserve Account	\$3,947,742	\$5,218,724
Conservation District Grant Fund	177,648	234,843
Water Efficiency Grant Program Cash Fund	217,126	287,030
Species Conservation Trust Fund	2,605,510	3,444,358
Low Income Energy Assistance Fund**	5,132,064	0
Interbasin Compact Comm. Operations Fund	294,133	388,830
Aquatic Invasive Species***	1,581,467	2,090,624
State Expenditures		
Cash Funds (Total)		
STT Fund - Water Supply Reserve Account	(\$3,947,742)	(\$5,218,724)
Conservation District Grant Fund	(177,648)	(234,843)
Water Efficiency Grant Program Cash Fund	(217,126)	(287,030)
Species Conservation Trust Fund	(2,605,510)	(3,444,358)
Low Income Energy Assistance Fund**	(5,132,064)	(0)
Interbasin Compact Comm. Operations Fund	(294,133)	(388,830)
Aquatic Invasive Species	(1,581,467)	(2,090,624)
STT Fund - Perpetual Base Account	(14.0 million)	(17.3 million)
Local Gov. Severance Tax Fund	(32.6 million)	(39.2 million)
Local Government Grant Awards***	positive amount	positive amount
Rural Higher Education Cash Fund	positive amount	positive amount
FTE Position Change		
Effective Date: The bill was postponed indefinitely by the Senate Finance Committee on February 2, 2012.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: See Local Government Impact section.		

* Based on the December 2011 LCS revenue forecast. Actual transfers are displayed as negatives and foregone transfers as positives. **This fiscal note will be updated after the LCS March 2012 revenue forecast.**

** Divided between the Governor's Energy Office, the Department of Human Services and Energy Outreach Colorado.

*** Grant awards will be made from existing accounts in the Severance Tax Trust Fund and from the Local Government Severance Tax Fund.

Summary of Legislation

Beginning in FY 2012-13, this bill establishes an inflation-adjusted \$100 million cap on the current allocation of severance tax revenue. Any revenue collected above the cap is to be first made available to local governments adversely impacted by the development, processing or energy conversion of minerals subject to taxation.

The bill specifies that the excess revenue is to be made available to local governments only in cases of serious need. Such local governments must make grant requests at a joint committee hearing of the House and Senate Local Government committees. By February 15 of each year, such committees will determine which applications are approved for funding, and the priority of approved requests.

Any revenue remaining after this determination is to be credited to the Rural Education Cash Fund. Money in the fund is to be annually appropriated to rural institutions of higher education, in proportion to appropriations made by the General Assembly in FY 2011-12. Each rural institution is required to set aside 50 percent of its annual appropriation in a separate trust account in order to build an endowment fund.

Background

The Operational Account of the Severance Tax Trust Fund receives 25 percent of severance tax receipts. Money in the account is divided into two tiers. Tier 1 money is used to fund core programs, including staffing and operating costs for six divisions within the Department of Natural Resources: the Oil and Gas Conservation Commission; the Division of Reclamation, Mining, and Safety; the Geological Survey; the Water Conservation Board; and the Division of Parks and Wildlife. Tier 2 money is spent on a variety of programs, including the Low-Income Energy Assistance program (LEAP), the Water Supply Reserve Account program, species conservation, forestry grants to address bark beetle infestation and other forest health problems, the Water Efficiency Grant program, and several smaller agricultural programs.

Current law provides a mechanism for balancing spending from the Operational Account by making reductions to the account's Tier 2 programs when insufficient funds exist to fully fund the programs and the account's reserve. The reductions to Tier 2 programs are made on a proportional basis. For example, if the funding for Tier 2 programs needs to be reduced by 10 percent to ensure the Operational Account is balanced, each Tier 2 program's funding level is reduced by 10 percent.

Current law also requires the Operational Account to maintain a reserve equal to 100 percent of the current year's Tier 1 appropriations and an additional reserve equal to 15 percent of the current year's Tier 2 appropriations. Money may be transferred from the reserve to offset temporary reductions in funding for Tier 1 or Tier 2 programs.

Based on the December 2011 Legislative Council Staff revenue forecast and expected expenditures from the account, the entire Tier 2 reserve will need to be expended to minimize proportional reductions for Tier 2 programs in FY 2012-13. Even with this expenditure, transfers to Tier 2 programs will be proportionately reduced by roughly 30 percent in FY 2012-13. Under current law, however, the reserve would be rebuilt by the end of FY 2013-14. Any legislation that increases funding from the Operational Account, either by adding programs or increasing/extending funding to existing ones, could result in further proportional reductions if the additional obligation that is authorized results in an insufficient amount of revenue to balance the account. The additional obligation contained in this bill is projected to result in significant further proportional reductions for each Tier 2 program in FY 2012-13 and FY 2013-14.

State Transfers or Diversions

Current law requires proportional reductions in the funding of Tier 2 programs when insufficient funds exist to fully fund the programs. Based on the December 2011 Legislative Council Staff severance tax revenue forecast, the revenue cap established in this bill will result in insufficient funds to fully fund all of the Operational Account's Tier 2 programs in FY 2012-13 and FY 2013-14.

State Expenditures

This bill reallocates severance tax revenue within the state. In the aggregate, however, the same amount of revenue will be allocated as would have been under current law.

This bill caps the amount of severance tax revenue distributed under the current allocation system at \$100 million. Any revenue above this amount is first made available to local governments that make grant requests at a joint committee hearing of the House and Senate Local Government committees. It is not known how many grant requests will be received or approved as part of this process. Any revenue remaining after this determination will be credited to the Rural Education Cash Fund, to be annually appropriated proportionately to rural institutions of higher education. Each of these stages are discussed in detail below.

Department of Natural Resources. This bill will effectively limit annual expenditures out of the Perpetual Base Account and the Operational Account of the Severance Tax Trust Fund to \$25 million (plus inflation) annually. This limitation will reduce the funding available for water project loans from the Perpetual Base Account and programs funded from the Operational Account by \$14.0 million in FY 2012-13 and \$17.3 million in FY 2013-14, for a total of \$31.2 million over a two-year period. Table 1 details these reductions.

Table 1. Reductions to the Perpetual Base Account and Operational Account Under Senate Bill 12-063*		
	Perpetual Base Account	Operational Account
FY 2012-13		
Revenue Forecast**	\$38,955,691	\$38,955,691
Senate Bill 12-63 Cap	25,000,000	25,000,000
Foregone Revenue	(13,955,691)	(13,955,691)
FY 2013-14		
Revenue Forecast**	\$43,113,493	\$43,113,493
Senate Bill 12-63 Cap	25,825,000	25,825,000
Foregone Revenue	(17,288,493)	(17,288,493)
TOTAL	(\$31,244,184)	(\$31,244,184)

* Legislative Council staff projects inflation at 3.3 percent in FY 2013-14.

** Totals do not include interest earnings.

Perpetual Base Account. The Perpetual Base Account provides low-interest loans to municipalities, water districts, and agricultural water users throughout Colorado for a variety of water infrastructure projects. The account is administered by the Colorado Water Conservation Board (CWCB) and is funded by severance tax revenue and loan repayments. Reducing funding to the Perpetual Base Account will directly impact the CWCB's ability to issue water infrastructure loans and will delay the completion of existing projects.

Operational Account. This bill reduces expenditures for all programs funded from the Operational Account of the Severance Tax Trust Fund by about \$14.0 million in FY 2012-13 and \$17.3 million in FY 2013-14. Included in this total are \$11.7 million in proportional reductions to Tier 2 programs funded through the Operational Account. In addition, \$5.9 million will not be available to maintain the required reserve for the account. Table 2 details the projected proportional expenditure reductions for Tier 2 programs funded from the Operational Account resulting from passage of Senate Bill 12-063.

Table 2. Expenditure Reductions from the Operational Account Occurring Under Senate Bill 12-063*		
Transfer Impact	FY 2012-13	FY 2013-14
Water Supply Reserve Account	(\$3,947,742)	(\$5,218,724)
Conservation District Grant Fund	(177,648)	(234,843)
Water Efficiency Grants Program Cash Fund	(217,126)	(287,030)
Species Conservation Trust Fund	(2,605,510)	(3,444,358)
Low-Income Energy Assistance	(5,132,064)	(0)
Interbasin Compact Comm. Operations Fund	(294,133)	(388,830)
Aquatic Invasive Species	(1,581,467)	(2,090,624)
TOTAL	\$13,955,691	\$11,664,409

* This total reflects the difference between projected expenditures under current law and expenditures under SB12-063.

Water Supply Reserve Account. The bill will reduce expenditures from this account by \$3.9 million in FY 2012-13 and \$5.2 million in FY 2013-14. This account is continuously appropriated to the Colorado Water Conservation Board.

Conservation District Grant Fund. The bill will reduce expenditures from this fund by \$177,648 in FY 2012-13 and \$234,843 in FY 2013-14. This fund is continuously appropriated to the Department of Agriculture.

Water Efficiency Grant Program Cash Fund. The bill will reduce expenditures from this fund by \$217,126 in FY 2012-13 and \$287,030 in FY 2013-14. This fund is continuously appropriated to the Colorado Water Conservation Board.

Species Conservation Trust Fund. The bill reduces expenditures from this fund by \$2.6 million in FY 2012-13 and \$3.4 million in FY 2013-14. Expenditures from this fund are annually authorized by the General Assembly in the annual Species Conservation Trust Fund authorization.

Low Income Energy Assistance. The bill will reduce expenditures on low-income energy assistance by \$5.1 million in FY 2012-13. Expenditure reductions for the Governor's Energy Office, the Department of Human Services, and Energy Outreach Colorado are \$2.6 million, \$1.3 million, and \$1.3 million respectively. No appropriation is required as the three funds used to provide low-income energy assistance are continuously appropriated.

Interbasin Compact Commission Operations Fund. The bill will reduce expenditures from this fund by \$294,133 in FY 2012-13 and \$388,830 in FY 2013-14. This fund is continuously appropriated to the Colorado Water Conservation Board.

Aquatic Invasive Species. The bill reduces expenditures from this program by \$1.6 million in FY 2012-13 and \$2.1 million in FY 2013-14. Money for this program is continuously appropriated to the Department of Natural Resources.

Department of Local Affairs. This bill will limit the amount of funding available to be distributed to local governments from the Energy and Mineral Impact Assistance Grant and Direct Distribution programs. This limitation will reduce the funding available for grants \$22.8 million and \$27.4 million in FY 2012-13 and FY 2013-14, respectively. Funding for direct distributions will be reduced by \$9.8 million and \$11.8 million in FY 2012-13 and FY 2013-14, respectively. Table 3 details these reductions.

Table 3. Reductions to the Energy Impact Assistance Grants and Direct Distributions Under Senate Bill 12-063* (Millions of Dollars)		
	Energy Impact Assistance Grants	Direct Distributions
FY 2012-13		
Revenue Forecast	\$57.8	\$24.8
Senate Bill 12-63 Cap	35.0	15.0
Foregone Revenue	(22.8)	(9.8)
FY 2013-14		
Revenue Forecast	\$63.6	\$27.3
Senate Bill 12-63 Cap	36.2	15.5
Foregone Revenue	(27.4)	(11.8)
TOTAL	(\$50.2)	(\$21.6)

* *Legislative Council staff projects inflation at 3.3 percent in FY 2013-14.*

The above totals reflect funding losses to existing programs. It should be noted that local governments with successful grant applications to the Joint Local Government Committee may actually see funding increases. It is not possible at this time to know which local governments will make such applications, for how much, and which applications will be successful.

Institutions of Higher Education. After the award of grant applications, any remaining revenue is to be allocated to fourteen rural institutions of higher education. While it is not possible to know how much money will be awarded in total, awards will be made in proportion to their FY 2011-12 appropriation. Half of the amount awarded must be used by the institutions to establish endowment funds. Table 4 details the proportions in which the awards will be made.

Table 4. Allocation Proportions to Rural Institutions of Higher Education Under Senate Bill 12-063*		
Institution	FY 2011-12 Appropriation	Proportion for Award
Front Range Community College	\$25,085,670	22.0%
Colorado Mesa University	18,500,575	16.2%
Colorado School of Mines	16,254,242	14.2%
Adams State College	11,188,255	9.8%
Western State College	9,344,247	8.2%
Fort Lewis College	9,323,117	8.2%
Aims Community College	6,243,682	5.5%
Colorado Mountain College	5,038,178	4.4%
Northeastern Junior College	2,903,880	2.5%
Trinidad State Junior College	2,704,461	2.4%
Otero Junior College	2,333,883	2.0%
Morgan Community College	2,281,947	2.0%
Northwestern Community College	1,598,311	1.4%
Lamar Community College	1,426,408	1.2%
TOTAL	114226856	

** Data are from Budget Data Books from State Institutions of Higher Education.*

Local Government Impact

As discussed in the state expenditures section, local governments currently receiving energy impact assistance through the existing grant and direct distribution programs will receive less money due to the cap imposed in this bill. For those entities that make successful grant applications to the joint committee, this loss will be either partially or fully offset by grant moneys received.

Departments Contacted

Local Affairs

Natural Resources

Higher Education