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Amended Text

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Be it Enacted by the People of the State of Colorado:

ELECTIONS
SECRETARY OF STATE

SECTION 1. 39-29-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-29-101. Legislative declaration. (4) IT IS THE INTENT OF THE PEOPLE OF THIS STATE THAT THE ADDITIONAL REVENUE GENERATED BY THE CHANGES TO THE SEVERANCE TAX PAID BY OIL AND GAS PRODUCERS APPROVED BY A VOTE OF THE PEOPLE ~~IN~~ AT THE 2008 GENERAL ELECTION SHALL SUPPLEMENT, RATHER THAN SUPPLANT, CURRENT APPROPRIATIONS TO THE FOLLOWING ENUMERATED PURPOSES; AND SHALL BE USED FOR THE FOLLOWING PUBLIC PURPOSES: ~~FIFTEEN~~ FIFTEEN PERCENT TO FUND RENEWABLE AND CLEAN ENERGY PROJECTS; FIFTEEN PERCENT TO FUND THE PRESERVATION OF WILDLIFE HABITAT; FIVE PERCENT TO FUND SCHOLARSHIPS FOR STUDENTS ATTENDING INSTITUTIONS OF HIGHER EDUCATION IN THE STATE; FIFTY-FIVE PERCENT TO IMPROVE THE PERFORMANCE OF STATE COLLEGES AND UNIVERSITIES; AND TEN PERCENT TO FUND TRANSPORTATION PROJECTS IN COMMUNITIES IMPACTED BY OIL AND GAS PRODUCTION.

SECTION 2. 39-29-102 (3) (a), Colorado Revised Statutes, is amended, and the said 39-29-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

§39-29-102. Definitions. (3) "Gross income" means:

(a)(I) For oil and gas FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1, 2009, the net amount realized by the taxpayer for sale of the oil or gas, whether the sale occurs at the wellhead or after transportation, manufacturing, and processing of the product. Net amount shall be calculated on the basis of the gross lease revenues, less deductions for any transportation, manufacturing, and processing costs borne by the taxpayer. Where the parties to the sale are related parties and the sales price is lower than the price for which that oil or gas could otherwise have been sold to a ready, willing, and able buyer and where the taxpayer was legally able to sell the oil or gas to such a buyer, gross income shall be determined by reference to comparable arms-length sales of like kind, quality, and quantity in the same field or area, less deductions for transportation, manufacturing, and processing done prior to the sale. For purposes of this ~~paragraph (a)(I)~~ SUBPARAGRAPH (I), "related parties" shall be defined by the department of revenue pursuant to rules and regulations.

(a)(II) FOR OIL AND GAS FOR TAXABLE YEARS COMMENCING ON ~~OR~~ AND AFTER JANUARY 1, 2009, THE NET AMOUNT ATTRIBUTABLE TO THE FIRST SALE OF THE OIL OR GAS, WHETHER THE SALE OCCURS AT THE WELLHEAD OR AFTER TRANSPORTATION, MANUFACTURING, AND PROCESSING OF THE PRODUCT. NET AMOUNT SHALL BE CALCULATED ON THE BASIS OF THE GROSS LEASE REVENUES, LESS DEDUCTIONS FOR ANY TRANSPORTATION, MANUFACTURING, AND PROCESSING COSTS BORNE BY THE TAXPAYER. WHERE THE PARTIES TO THE SALE ARE RELATED PARTIES AND THE ~~SALES~~ SALE PRICE IS LOWER THAN THE PRICE FOR WHICH THAT OIL OR GAS COULD OTHERWISE HAVE BEEN SOLD TO A READY, WILLING, AND ABLE BUYER AND WHERE THE TAXPAYER WAS LEGALLY ABLE TO SELL THE OIL OR GAS TO SUCH A BUYER, GROSS INCOME SHALL BE DETERMINED BY REFERENCE TO COMPARABLE ARMS-LENGTH SALES OF LIKE KIND, QUALITY, AND QUANTITY IN THE SAME FIELD OR AREA, LESS DEDUCTIONS FOR TRANSPORTATION, MANUFACTURING, AND PROCESSING DONE PRIOR TO THE SALE. FOR PURPOSES OF THIS ~~PARAGRAPH (A)(II)~~ SUBPARAGRAPH

(II), "RELATED PARTIES" SHALL BE DEFINED BY THE DEPARTMENT OF REVENUE PURSUANT TO RULES AND REGULATIONS.

(6.7) "OPERATOR" MEANS ANY PERSON WHO EXERCISES THE RIGHT TO CONTROL THE SEVERANCE OF OIL OR GAS FROM THE EARTH IN THIS STATE.

SECTION 3. ~~39-29-105, Colorado Revised Statutes, is amended to read~~39-29-105 (1) (b), Colorado Revised Statutes, is amended, and the said 39-29-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-29-105. Tax on severance of oil and gas. (1) (b) In addition to any other tax, there shall be levied, collected, and paid for each taxable year commencing on or after January 1, 2000, BUT PRIOR TO JANUARY 1, 2009, a tax upon the gross income attributable to the sale of oil and gas severed from the earth in this state; except that oil produced from any wells that produce fifteen barrels per day or less of oil and gas produced from wells that produce ninety thousand cubic feet or less of gas per day for the average of all producing days for such oil or gas production during the taxable year shall be exempt from the tax. Nothing in this paragraph (b) shall exempt a producer of oil and gas from submitting a production employee report as required by section 39-29-110 (1) (d) (I). The tax for oil and gas shall be at the following rates of the gross income:

Under \$25,000	2%
\$25,000 and under \$100,000	3%
\$100,000 and under \$300,000	4%
\$300,000 and over	5%

(c) IN ADDITION TO ANY OTHER TAX, THERE SHALL BE LEVIED, COLLECTED, AND PAID FOR EACH TAXABLE YEAR COMMENCING ON ~~OR AND~~ AFTER JANUARY 1, 2009, A TAX UPON THE GROSS INCOME ATTRIBUTABLE TO THE SALE OF OIL AND GAS SEVERED FROM THE EARTH IN THIS STATE. THE TAX SHALL BE LEVIED AGAINST EVERY OPERATOR FOR THE GROSS INCOME FROM THE SALE OF THE OIL AND GAS SEVERED BY THE OPERATOR; EXCEPT THAT EACH INTEREST OWNER WHO TAKES PRODUCTION IN KIND FROM THE OPERATOR SHALL BE RESPONSIBLE FOR THE TAX ON SUCH PRODUCTION. NOTHING IN THIS PARAGRAPH ~~(c)~~ SHALL EXEMPT A PRODUCER OF OIL AND GAS FROM SUBMITTING A PRODUCTION EMPLOYEE REPORT AS REQUIRED BY SECTION 39-29-110(1) ~~(d)~~(I). THE TAX FOR OIL AND GAS PROVIDED FOR IN THIS PARAGRAPH (c) SHALL BE AT THE FOLLOWING RATE OF GROSS INCOME:

\$300,000 AND OVER	<u>5% OF TOTAL GROSS INCOME</u>
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SECTION 4. 39-29-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

(3) THE PROCEEDS OF THIS TAX RECEIVED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND INVESTMENT INCOME THEREON SHALL BE COLLECTED AND SPENT BY THE STATE AS A VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY SPENDING LIMITATION CONTAINED WITHIN SECTION 20 OF ARTICLE X OF THE STATE

CONSTITUTION, OR ANY OTHER LAW, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUE THAT MAY BE COLLECTED AND SPENT BY THE STATE OR ANY DISTRICT.

SECTION 45. ~~39-29-108(1) and (2)~~ The introductory portion to 39-29-108 (1) and 39-29-108 (2), Colorado Revised Statutes, is amended, and the said 39-29-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

§ 39-29-108. Allocation of severance tax revenues--definitions--repeal. (1) Except as provided in ~~subsections (2) and (3)~~ SUBSECTIONS (2), (2.3), AND (3) of this section, the total gross receipts realized from the severance taxes imposed on minerals and mineral fuels under the provisions of this article shall be credited as follows:

(2) Of the total gross receipts realized from the severance taxes imposed on minerals and mineral fuels under the provisions of this article after June 30, 1981, ~~BUT PRIOR TO JANUARY 1, 2009~~ EXCEPTING THOSE REVENUES LEVIED, COLLECTED, AND PAID BY OPERATION OF SECTION 39-29-105 (1) (c), fifty percent shall be credited to the ~~state~~ state-severance tax trust fund created by section 39-29-109, and fifty percent shall be credited to the local government severance tax fund created by section 39-29-110.

(2.3) OF THE TOTAL REVENUES LEVIED, COLLECTED, AND PAID BY OPERATION OF SECTION 39-29-105 (1) (c) ~~GROSS RECEIPTS REALIZED FROM THE SEVERANCE TAXES IMPOSED ON MINERALS AND MINERAL FUELS UNDER THE PROVISIONS OF THIS ARTICLE AFTER JANUARY 1, 2009,~~ TWENTY-ONE PERCENT SHALL BE CREDITED TO THE STATE-SEVERANCE TAX TRUST FUND CREATED BY SECTION 39-29-109, TWENTY-ONE PERCENT SHALL BE CREDITED TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED BY SECTION 39-29-110, AND THE REMAINING FIFTY-EIGHT PERCENT SHALL BE CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND CREATED BY SECTION 39-29-110.5.

SECTION 56. Article 29 of Title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-29-110.5. Severance tax stabilization trust fund--creation--administration. (1)(a) THERE IS HEREBY CREATED IN THE OFFICE OF THE STATE TREASURER THE SEVERANCE TAX STABILIZATION TRUST FUND. ALL INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS IN THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ALL MONEYS IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSES AND IN THE PROPORTION SET FORTH IN SUBSECTION (2) OF THIS SECTION.

~~(1)(a) THERE IS HEREBY CREATED IN THE OFFICE OF THE STATE TREASURER THE SEVERANCE TAX STABILIZATION TRUST FUND. ALL INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS IN THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ALL MONEYS IN THE OPERATIONAL~~

~~ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSES AND IN THE PROPORTION SET FORTH IN PARAGRAPH (2) OF THIS SECTION.~~

(b) THE MONEYS IN THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE HELD IN TWO ACCOUNTS, AS FOLLOWS:

(I) **The perpetual base account.** FIFTEEN PERCENT OF THE SEVERANCE TAX RECEIPTS CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND AND THE INTEREST GENERATED BY ~~THE FUND THEREON~~ SHALL BE RETAINED IN THE PERPETUAL BASE ACCOUNT. THE MAXIMUM BALANCE IN THE PERPETUAL BASE ACCOUNT SHALL BE TWO HUNDRED PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND PURSUANT TO SECTION 39-29-108 (2.3). IN ANY YEAR IN WHICH THE BALANCE OF THE PERPETUAL BASE ACCOUNT EXCEEDS TWO HUNDRED PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE TO THE SEVERANCE TAX STABILIZATION TRUST FUND, THE INTEREST GENERATED BY THE ~~SEVERANCE TAX STABILIZATION TRUST FUND~~ PERPETUAL BASE ACCOUNT AND ~~FUNDS MONEYS~~ IN EXCESS OF TWO HUNDRED PERCENT OF THE PREVIOUS FISCAL YEAR'S REVENUE TO THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE CREDITED TO THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND.

(II) **The operational account.** EIGHTY-FIVE PERCENT OF THE SEVERANCE TAX RECEIPTS CREDITED TO THE SEVERANCE TAX STABILIZATION TRUST FUND, PLUS ANY MONEYS REQUIRED TO BE TRANSFERRED TO THE OPERATIONAL ACCOUNT PURSUANT TO SUBPARAGRAPH ~~(1)(B)(I)~~ (I) OF THIS PARAGRAPH (b) SHALL BE CREDITED TO THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND.

(2) EACH YEAR THE ~~FUNDS MONEYS~~ IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX STABILIZATION TRUST FUND SHALL BE DISTRIBUTED AS FOLLOWS:

(a) FIFTEEN PERCENT SHALL BE APPROPRIATED TO THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, C.R.S. FOR NEW ENERGY ECONOMY PROGRAMS, INCLUDING BUT NOT LIMITED TO DIRECT PROGRAMS FOR COMMUNITIES AND CITIZENS TO ADVANCE ENERGY EFFICIENCY AND RENEWABLE ENERGY, TRANSMISSION BUILDOUT FOR RURAL COMMUNITIES, RESEARCH AND DEVELOPMENT EFFORTS, ECONOMIC DEVELOPMENT ACTIVITIES, AND THE COLLABORATORY;

(b) FIFTEEN PERCENT SHALL BE APPROPRIATED FOR THE EXCLUSIVE PURPOSE OF MAKING COMPETITIVE GRANTS TO COUNTIES, MUNICIPALITIES, OTHER POLITICAL SUBDIVISIONS OF THE STATE, THE COLORADO DIVISION OF WILDLIFE, THE COLORADO DIVISION OF PARKS AND OUTDOOR RECREATION, AND NONPROFIT CONSERVATION ORGANIZATIONS, FOR ACQUISITION OF REAL PROPERTY OR INTERESTS THEREIN THAT WILL PRESERVE NATIVE WILDLIFE HABITAT ASSOCIATED WITH NATURAL AREAS, WORKING FARMS OR RANCHES, AND RIVERS AND STREAMS; AND TO THE EXTENT ACQUIRED WITH SUCH ~~FUNDS MONEYS~~, TO ASSIST WITH STEWARDSHIP OF REAL PROPERTY OR INTERESTS THEREIN. SUCH ~~FUNDS MONEYS~~ SHALL BE ADMINISTERED AND OVERSEEN BY THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND CREATED PURSUANT TO SECTION 6 OF ARTICLE XXVII OF THE STATE CONSTITUTION, BUT SUCH ~~FUNDS MONEYS~~ SHALL NOT BE SUBJECT TO THE LIMITATIONS AND RESTRICTIONS MADE APPLICABLE TO THE GREAT OUTDOORS

COLORADO TRUST FUND BY ARTICLE XXVII OF THE STATE CONSTITUTION. FURTHER, IN ADMINISTERING AND OVERSEEING THESE FUNDS/MONEYS, THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL HAVE THE DISCRETION TO DIRECT THAT ANY PORTION OF THE AVAILABLE REVENUES BE REINVESTED AND NOT EXPENDED IN ANY PARTICULAR YEAR;

(c) FIVE PERCENT SHALL BE APPROPRIATED TO THE COLLEGE OPPORTUNITY FUND ESTABLISHED IN SECTION 23-18-202, C.R.S., FOR THE PURPOSES SET FORTH ~~THEREIN~~ PART 2 OF ARTICLE 18 OF TITLE 23, C.R.S.;

(d) FIFTY-FIVE PERCENT SHALL BE DISTRIBUTED TO STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED BY SECTION 23-18-102 (10) (a), C.R.S. AND 23-71-102 (1), C.R.S., ~~THE COLLEGES AND UNIVERSITIES OF THIS STATE~~ BY THE GENERAL ASSEMBLY IN SUCH A MANNER THAT PROVIDES INCENTIVES THROUGH ~~PERFORMANCE-FEE FOR SERVICE CONTRACTS FOR COLLEGES AND UNIVERSITIES~~ INSTITUTIONS OF HIGHER EDUCATION TO IMPROVE STUDENT GRADUATION RATES AND CONTRIBUTE TO WORK FORCE DEVELOPMENT IN THE STATE. ~~EACH~~ EACH INSTITUTION THAT RECEIVES ~~FUNDS-MONEYS~~ PURSUANT TO THIS ~~SUBSECTION-PARAGRAPH (d)~~ SHALL REPORT ANNUALLY TO THE GENERAL ASSEMBLY ITS PROGRESS ON IMPROVING GRADUATION RATES AND ITS CONTRIBUTION TO WORK FORCE DEVELOPMENT; ~~AND~~;

(e) TEN PERCENT SHALL BE APPROPRIATED TO THE COLORADO DEPARTMENT OF TRANSPORTATION TO ~~FUND TRANSPORTATION PROJECTS IN~~ MAKE GRANTS FOR TRANSPORTATION PURPOSES TO COUNTIES AND MUNICIPALITIES OF THE STATE THAT ARE IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF OIL AND GAS SUBJECT TO TAXATION UNDER THIS ARTICLE.

SECTION 67: 33-60-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-60-107. State board of the great outdoors Colorado trust fund. (4) ~~THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL HAVE THE FURTHER POWERS TO ADMINISTER AND OVERSEE FUNDS APPROPRIATED PURSUANT TO SECTION 39-29-110.5(2)(b), C.R.S.~~ IN ADDITION TO ITS OTHER POWERS UNDER ARTICLE XXVII OF THE COLORADO CONSTITUTION AND THIS ARTICLE, THE TRUST FUND BOARD SHALL HAVE THE POWER TO ADMINISTER AND OVERSEE MONEYS APPROPRIATED PURSUANT TO SECTION 39-29-110.5 (2) (b), C.R.S.

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