

## Document: C.R.S. 39-29-109

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### C.R.S. 39-29-109

#### Copy Citation

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

**Colorado Revised Statutes Annotated Title 39. Taxation (§§ 39-1-101 – 39-35-106) Specific Taxes (§§ 39-20-101 – 39-35-106) Severance Tax (Art. 29) Article 29. Severance Tax (§§ 39-29-101 – 39-29-116)**

**39-29-109. Severance tax trust fund - created - administration - distribution of money - legislative declaration - repeal.**

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**(1)** There is hereby created in the state treasury the severance tax trust fund, also referred to in this section as the "fund", which the department of natural resources shall administer. The fund is to be perpetual and held in trust as a replacement for depleted natural resources, for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1)(j) and (1)(l), 37-60-119, and 37-60-122, C.R.S., for the use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water and for the use in funding programs to reduce the burden of increasing home energy costs on low-income households.

**(2)** State severance tax receipts must be credited to the severance tax trust fund as provided in section 39-29-108. All income derived from the deposit and investment of the money in the fund must be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and must not be credited or transferred to the general fund or any other fund. All money in the fund is subject to appropriation by the general assembly for the following purposes:

**(a) The severance tax perpetual base fund.**

**(I)** Repealed.

**(I.5)** There is hereby created in the state treasury the severance tax perpetual base fund, also referred to in this subsection (2)(a) as the "fund", which the Colorado water conservation board, also referred to

in this subsection (2)(a) as the "board", shall administer. The state treasurer shall transfer money to the fund from the severance tax trust fund, as specified in this section. The fund also includes any money

that the general assembly may appropriate or transfer thereto. The money in the fund is continuously appropriated to the board for purposes authorized by this subsection (2)(a).

**(II)** One-half of the severance tax receipts credited to the fund for fiscal years commencing on or after July 1, 2009, shall be credited to the severance tax perpetual base fund and used as specified in subsection (2)(a)(II.5) of this section; except that the total amount of severance tax receipts credited to the severance tax perpetual base fund during the fiscal year shall not exceed fifty million dollars unless the cap established in subsection (2)(a)(III) of this section is exceeded. The authorization and contract for each project must require repayment of principal and interest to the fund, and money repaid is credited to the severance tax perpetual base fund.

**(II.5)** The board shall use the money in the fund:

**(A)** For state water projects pursuant to sections 37-60-119 and 37-60-122;

**(B)** To direct the state treasurer to transfer amounts to the water supply reserve fund created in subsection (2)(c) of this section;

**(C)** To direct the state treasurer to transfer amounts to the interbasin compact committee operation fund created in section 37-75-107; and

**(D)** To direct the state treasurer to transfer amounts to the water efficiency grant program cash fund created in section 37-60-126 (12).

**(III)** For fiscal years commencing on or after July 1, 2009, the state treasurer shall transfer the moneys credited to the fund that are not credited to either the severance tax perpetual base fund or the severance tax operational fund to the small communities water and wastewater grant fund created in section 25-1.5-208 (4), C.R.S.; except that the maximum amount of moneys annually credited to the small communities water and wastewater grant fund shall not exceed ten million dollars.

**(IV)** to (XIII) Repealed.

**(XIV)** Notwithstanding any provision of this paragraph (a) to the contrary, on July 1, 2015, the state treasurer shall transfer five hundred thousand dollars from the fund to the Colorado water conservation board construction fund, created in section 37-60-121 (1)(a), C.R.S., for use by the Colorado water conservation board, created in section 37-60-102, C.R.S., to continue the watershed restoration program.

**(XV)** and (XVI) Repealed.

**(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.

**(XVIII)** Notwithstanding any provision of this subsection (2)(a) to the contrary, on June 30, 2018, the state treasurer shall transfer eleven million four hundred twenty-five thousand dollars from the fund to the general fund.

**(XIX)** to (XXI) Repealed.

**(XXII)**

**(A)** Notwithstanding any other provision of this subsection (2)(a) to the contrary, on July 1, 2020, the state treasurer shall transfer forty-five million five hundred thousand dollars from the fund to the general fund.

**(B)** The general assembly hereby declares that the transfer specified in subsection (2)(a)(XXII)(A) of this section is necessary as a result of the precipitous decrease in general fund revenues and that it is the intent of the general assembly to transfer an equal amount back to the fund as soon as possible.

**(b) The severance tax operational fund.**

**(I)** There is hereby created in the state treasury the severance tax operational fund, also referred to in this subsection (2)(b) as the "fund", which the department of natural resources shall administer. The state treasurer shall transfer one-half of the severance tax receipts credited to the severance tax trust fund for tax years commencing on and after July 1, 1995, to the fund. Money in the fund shall be distributed as set forth in section 39-29-109.3.

**(II)** Repealed.

**(III)** The fund also includes amounts that were transferred to natural resources and energy grant programs under section 39-29-109.3 and that were transferred back to the fund in accordance with subsection (2)(c)(V) of this section and sections 24-33-111 (2)(a)(I)(C), 33-10.5-108 (3), 37-60-126 (12)(a)(V), and 37-75-107 (3).

**(c) The water supply reserve fund.**

**(I)** There is created in the office of the state treasurer the water supply reserve fund, referred to in this subsection (2)(c) as the "fund", administered by the Colorado water conservation board. The state treasurer shall transfer money to the fund from the severance tax operational fund as specified in subsection (2)(a)(II.5)(B) of this section. The fund also includes any other money that the general assembly may appropriate or transfer to the fund. The money in the fund is continuously appropriated, for purposes authorized by this subsection (2)(c), to the Colorado water conservation board, referred to in this subsection (2)(c) as the "board". All interest derived from the investment of money in the fund must be credited to the statewide account of the fund, which account is hereby created. Repayments of both the principal and interest on loans from the fund must be credited to the fund. Any balance remaining in the fund at the end of any fiscal year remains in the fund. The board shall allocate money by grant or loan from the fund only for water activities approved by a roundtable pursuant to article 75 of title 37. The approving roundtable is the roundtable for the basin in which a proposed water diversion or nonstructural activity would occur. If the applicant is a covered entity, as defined in section 37-60-126, the board shall allocate money by grant or loan from the fund only if the applicant has adopted a water conservation plan, as defined in section 37-60-126. The board, in consultation with the interbasin compact committee created in section 37-75-105, shall establish criteria and guidelines for allocating money from the fund, including criteria that ensure that the allocations will assist in meeting water supply needs identified pursuant to section 37-75-104 (2)(c), in a manner consistent with section 37-75-102, and facilitate both structural and nonstructural projects or methods. Eligible water activities include:

- (A)** Competitive grants for environmental compliance and feasibility studies;
- (B)** Technical assistance regarding permitting, feasibility studies, and environmental compliance;
- (C)** Studies or analyses of structural, nonstructural, consumptive, and nonconsumptive water needs, projects, or activities; and
- (D)** Structural and nonstructural water projects or activities.
- (II)** On or before October 31 of each year, commencing with the year 2010, the board shall consult with the interbasin compact committee to produce the annual report required by section 37-75-105 (4), C.R.S., regarding how moneys in the fund were allocated in the previous twelve-month period.
- (III)** and (IV) Repealed.
- (V)** On April 30, 2021, the state treasurer shall transfer three million nine hundred ninety-six thousand four hundred ten dollars from the fund to the severance tax operational fund created in subsection (2)(b) (I) of this section.
- (VI)**
- (A)** The state treasurer shall transfer five million dollars from the general fund to the fund. By July 1, 2023, the board shall award pursuant to subsection (2)(c)(I) of this section all of the money transferred by this subsection (2)(c)(VI).
- (B)** This subsection (2)(c)(VI) is repealed, effective September 1, 2025.

## History

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**Source:** **L. 77:**Entire article added, p. 1848, § 1, effective January 1, 1978. **L. 79:**(1) amended, p. 1508, § 1, effective July 19. **L. 83:**(3) added, p. 1522, § 9, effective March 22. **L. 85:**(1) amended, p. 1268, § 9, effective May 30; (4) added, p. 1289, § 1, effective June 6. **L. 86, 2nd Ex. Sess.:**(1)(b) amended, p. 72, § 4, effective August 14. **L. 87:**(3) amended, p. 1109, § 5, effective April 22. **L. 88:**(4) amended, p. 1347, § 1, effective May 17. **L. 89:**(4) repealed, p. 1517, § 1, effective July 1. **L. 90:**(5) added, p. 1750, § 2, effective May 2. **L. 93:**(5) repealed, p. 446, § 2, effective April 19. **L. 96:**(1) and (3) amended, p. 997, § 1, effective May 23. **L. 99:**IP(1)(a) amended, p. 926, § 5, effective May 24. **L. 2000:**(1)(d) added, p. 554, § 1, effective May 16; (1)(c)(I)(D) amended, p. 1750, § 17, effective June 1. **L. 2001:**(1)(e) added, p. 1, § 1, effective January 17; (1)(c)(I)(D) amended, p. 690, § 26, effective May 30. **L. 2002:**(1)(f) added, p. 158, § 19, effective March 27; (1)(c)(III) added, p. 307, § 1, effective April 18. **L. 2003:**(1)(g) added, p. 458, § 19, effective March 5; (1)(h) added, p. 1544, § 7, effective May 1. **L. 2004:**(1)(i) added, p. 362, § 5, effective April 7. **L. 2005:**(6) added, p. 413, § 2, effective April 28; (1)(j) added, p. 485, § 1, effective May 5; (1)(c)(III) amended, p. 1483, § 2, effective June 7; (1)(c)(I)(C) amended, p. 692, § 2, effective July 1. **L. 2006:**(1.5) added, p. 1, § 1, effective February 3; (1)(k) added, p. 1048, § 3, effective May 25; (7) added, p. 1140, § 2, effective May 25; (1)(c)(I)(D) and (1)(c)(III)(A) amended, p. 1283, § 5, effective May 26; (1)(a)(IV) added, p. 1648, § 1, effective June 5; (1)(m) (8) and (8.5) added, pp. 1744, 1738, §§ 5, 1, effective June 6; (1)(a)(III) added, p. 1227, § 1

(1)(III), (6), and (6.5) added, pp. 1744, 1750, 55 3, 1, effective June 3, (1)(a)(III) added, p. 1227, § 1, effective July 1; (1)(a)(II) and (1)(c)(I)(C) amended, p. 218, § 17, effective August 7; (1)(l) added, p. 1346, § 2, effective August 7. **L. 2007:**(8)(a) amended, p. 490, § 1, effective April 16; (1.5)(h)(VI) amended and (1.5)(h)(VII) added, p. 1364, § 4, effective May 29; IP(1)(a) amended, p. 1408, § 3, effective May 30; (1)(k)(III) and (1)(l)(IV) amended and (1)(k)(IV), (1)(k)(V), (1)(k)(VI), and (1)(k)(VII) added, pp. 1595, 1594, §§ 4, 3, effective May 31; (7) amended, p. 1549, § 1, effective May 31; IP(1)(a)(III) amended, p. 1887, § 1, effective June 1; (1)(c)(III)(B) amended, p. 2049, § 98, effective June 1; (1)(c)(III)(B) amended and (1)(c)(III)(C) added, p. 1892, § 3, effective June 1. **L. 2008:**(1.5)(b)(II), (1.5)(c)(II), (1.5)(d)(I)(B), (1.5)(e)(I)(B), IP(1.5)(h)(I), IP(1.5)(h)(III), (1.5)(h)(IV), IP(1.5)(h)(V), (1.5)(h)(VI), (1.5)(h)(VII), (1.5)(i)(IV), and (8)(a) amended, p. 72, § 13, effective March 18; (1) amended, p. 1336, § 11, effective May 27; entire section R&RE, p. 1861, § 1, effective June 2. **L. 2009:**(2)(a) amended,(SB 09-208), ch. 149, p. 628, § 34, effective April 20; (2)(a) amended,(SB 09-165), ch. 183, p. 804, § 2, effective April 22; (2)(a)(I)(C), (2)(a)(IV), and (2)(a)(V) added,(SB 09-279), ch. 367, p. 1931, § 22, effective June 1; (2)(c) amended,(SB 09-106), ch. 386, p. 2089, § 1, effective July 1. **L. 2010:**(2)(a)(VI) added,(HB 10-1327), ch. 135, p. 451, § 8, effective April 15; (2)(a)(VII) added,(HB 10-1388), ch. 362, p. 1716, § 2, effective June 7; (2)(a)(VIII) added,(HB 10-1250), ch. 381, p. 1782, § 7, effective June 7. **L. 2011:**(2)(a)(VII) amended,(SB 11-164), ch. 33, p. 94, § 9, effective March 18; (2)(a)(IX) added,(SB 11-226), ch. 190, p. 734, § 6, effective May 19; (2)(a)(IV), (2)(a)(V), and (2)(a)(VI) repealed,(HB 11-1303), ch. 264, p. 1176, § 96, effective August 10. **L. 2012, 1st Ex. Sess.:**IP(2), (2)(a)(VIII)(A), and (2)(c), amended and (2)(a)(X) and (2)(a)(XI) added, (SB 12S-002), ch. 1, p. 2420, § 19, effective May 19. **L. 2013:**(1), (2)(a)(II), (2)(a)(III), (2)(a)(VIII)(D), (2)(a)(XI), (2)(b), and IP(2)(c)(I) amended, (2)(a)(I.5) and (2)(a)(XII) added, and (2)(a)(VII) and (2)(a)(IX) repealed,(SB 13-181), ch. 209, p. 868, § 16, effective May 13. **L. 2014:**(2)(a)(VIII)(B) and (2)(a)(XII)(B) amended and (2)(a)(XIII) added,(HB 14-1333), ch. 356, p. 1660, § 16, effective June 6. **L. 2015:**(2)(a)(XIV) added,(SB 15-253), ch.192, p. 638, § 14, effective May 14. **L. 2016:**IP(2) and (2)(a)(XII) amended and (2)(a)(XV) and (2)(a)(XVI) added,(SB 16-174), ch. 163, p. 520, § 16, effective May 16; IP(2) amended and (2)(c)(III) added,(HB 16-1256), ch. 268, p. 1111, § 2, effective June 9; (2)(a)(XVII) added,(SB 16-218), ch. 289, p. 1173, § 5, effective June 10. **L. 2017:**(2)(a)(XVIII) added,(SB 17-260), ch. 157, p. 536, § 1, effective April 28; (2)(a)(X)(A), (2)(a)(X)(B), (2)(a)(X)(C), (2)(a)(XV), and (2)(a)(XVI) amended and (2)(a)(X)(E), (2)(a)(XIX), and (2)(a)(XX) added,(HB 17-1248), ch. 229, p. 891, § 22, effective May 23. **L. 2018:**(2)(b) amended and (2)(c)(IV) added,(HB 18-1338), ch. 201, p. 1311, § 14, effective May 4; (2)(a)(XXI) added,(SB 18-218), ch. 336, p. 2016, § 15, effective May 30. **L. 2019:**(2)(a)(XVI) amended, (SB 19-212), ch. 121, p. 526, § 4, effective April 17; IP(2) and (2)(a)(XVI) amended,(SB 19-221), ch. 417, p. 3669, § 15, effective June 3. **L. 2020:**(2)(a)(XXII) added,(HB 20-1381), ch. 171, p. 786, § 8, effective June 29; IP(2) and IP(2)(c)(I) amended and (2)(c)(III) repealed,(SB 20-136), ch. 70, p. 297, § 50, effective September 14. **L. 2021:**(2)(b)(III) and (2)(c)(V) added,(SB 21-220), ch. 81, p. 310, § 5, effective April 30; (2)(a)(I.5), (2)(a)(II), and IP(2)(c)(I) amended and (2)(a)(II.5) added,(SB 21-281), ch. 255, p. 1494, § 4, effective June 18; (2)(c)(VI) added,(HB 21-1260), ch. 331, p. 2141, § 4, effective June 24.

## ▼ Annotations

### Research References & Practice Aids

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#### **Hierarchy Notes:**

C.R.S. Title 39, Art. 29

### State Notes

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### Notes

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#### **Editor's note:**

(1) Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 2001. (See L. 2000, p. 554.)

(2) Subsection (1)(e)(II) provided for the repeal of subsection (1)(e), effective July 1, 2002. (See L. 2001, p. 1.)

(3) Subsection (1)(j)(II) provided for the repeal of subsection (1)(j), effective July 1, 2006. (See L. 2005, p. 485.)

(4) Subsection (1)(a)(IV) was originally numbered as (1)(a)(III) in House Bill 06-1393 but was renumbered on revision for ease of location.

(5) Amendments to subsection (1)(c)(III)(B) by House Bill 07-1367 and Senate Bill 07-008 were harmonized.

(6) Subsection (1)(k)(III) provided for the repeal of subsections (1)(k)(I) and (1)(k)(II), effective July 1, 2007. (See L. 2007, p. 1595.)

(7) Subsection (6)(d) provided for the repeal of subsection (6), effective July 1, 2007. (See L. 2005, p. 413.)

(8) Subsections (1.5)(b)(II), (1.5)(c)(II), (1.5)(d)(I)(B), (1.5)(e)(I)(B), the introductory portions to subsections (1.5)(h)(I) and (1.5)(h)(III), subsection (1.5)(h)(IV), the introductory portion to subsection (1.5)(h)(V), and subsections (1.5)(h)(VI), (1.5)(h)(VII), (1.5)(i)(IV), and (8)(a) were amended in House Bill 08-1025. Those amendments were superseded by the repeal and reenactment of the section in House Bill 08-1398.

(9) (a) Amendments to subsection (2)(a) by Senate Bill 09-165 and Senate Bill 09-279 were harmonized. Subsection (2)(a)(I)(C) was numbered as subsection (2)(a)(III) in Senate Bill 09-279 but was renumbered as a result of the harmonization. (See L. 2009, p. 1931).

(b) Subsection (2)(a)(I)(C) from Senate Bill 09-165 was renumbered as subsection (2)(a)(I)(D) as a result of the harmonization of Senate Bill 09-165 and Senate Bill 09-279. (See L. 2009, p. 804.)

(10) Subsection (2)(a)(I)(D) provided for the repeal of subsection (2)(a)(I), effective July 1, 2009. (See L. 2009, p. 804.)

(11) Subsection (2)(a)(VIII)(E) provided for the repeal of subsection (2)(a)(VIII) effective July 1,

(11) Subsection (2)(a)(VIII)(E) provided for the repeal of subsection (2)(a)(VIII), effective July 1, 2015. (See L. 2010, p. 1782.)

(12) Subsection (2)(a)(XI)(B) provided for the repeal of subsection (2)(a)(XI), effective July 1, 2016. (See L. 2013, p. 868.)

(13) Subsection (2)(a)(XIII)(B) provided for the repeal of subsection (2)(a)(XIII), effective September 1, 2016. (See L. 2014, p.1660.)

(14) Amendments to subsection IP(2) by HB 16-1256 and SB 16-174 were harmonized.

(15) Subsection (2)(b)(IV)(B) provided for the repeal of subsection (2)(b)(IV), effective July 1, 2018. (See L. 2018, p. 1311.)

(16) (a) Subsection (2)(a)(X)(E) provided for the repeal of subsection (2)(a)(X), effective September 1, 2018. (See L. 2017, p. 891.)

(b) Subsection (2)(a)(XV)(B) provided for the repeal of subsection (2)(a)(XV), effective September 1, 2018. (See L. 2017, p. 891.)

(c) Subsection (2)(a)(XIX)(B) provided for the repeal of subsection (2)(a)(XIX), effective September 1, 2018. (See L. 2017, p. 891.)

(d) Subsection (2)(a)(XX)(C) provided for the repeal of subsection (2)(a)(XX), effective September 1, 2018. (See L. 2017, p. 891.)

(17) Subsection (2)(b)(II)(C) provided for the repeal of subsection (2)(b)(II), effective July 1, 2019. (See L. 2018, p. 1311.)

(18) Amendments to subsection (2)(a)(XVI) by SB 19-212 and SB 19-221 were harmonized.

(19) Subsection (2)(a)(XII)(B) provided for the repeal of subsection (2)(a)(XII), effective July 1, 2020. (See L. 2016, p. 520.)

(20) Subsection (2)(a)(XVI)(B) provided for the repeal of subsection (2)(a)(XVI), effective September 1, 2020. (See L. 2019, p. 3669.)

(21) Subsection (2)(a)(XXI)(B) provided for the repeal of subsection (2)(a)(XXI), effective September 1, 2020. (See L. 2018, p. 2016.)

## Research References & Practice Aids

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### Cross references:

(1) For the legislative declaration in SB 07-246, see section 1 of chapter 321, Session Laws of Colorado 2007.

(2) For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

(3) For the legislative declaration in SB 21-281, see section 1 of chapter 255, Session Laws of Colorado 2021. For the legislative declaration in HB 21-1260, see section 1 of chapter 331, Session Laws of Colorado 2021.

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