HB11-1123

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 11-0549	**Date:**	January 24, 2011
Prime Sponsor(s):	Rep. Coram Sen. Roberts	**Bill Status:**	House Agriculture
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING A PROHIBITION ON TRANSFERS TO THE STATE GENERAL FUND FROM CASH FUNDS THAT HAVE REVENUE RELATED TO THE SEVERANCE OF MINERALS IN THE STATE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Transfers or Diversions		
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The bill prohibits the transfer of a portion of state severance tax revenue and a portion of federal mineral lease (FML) revenue to the General Fund. Specifically, the bill prohibits transfers of money to the General Fund from the following cash funds:

- Higher Education Federal Mineral Lease Revenues Fund;
- Higher Education Maintenance and Reserve Fund;
- Local Government Permanent Fund;
- Local Government Mineral Impact Fund;
- Colorado Water Conservation Board (CWCB) Construction Fund;
- Perpetual Base Account of the Severance Tax Trust Fund; and
- Local Government Severance Tax Fund.

In addition, effective January 1, 2011, the Governor is prohibited from restricting expenditures of money in each of these funds for the purpose of reserving the money for a future transfer to the General Fund.

Background

Colorado receives two primary sources of revenue related to the extraction of mineral resources in the state. First, the state imposes a severance tax on the production of oil, natural gas, coal, molybdenum and other precious metals. This revenue is divided equally between the Department of Natural Resources (DNR) and the Department of Local Affairs (DOLA). Money administered by the DNR is deposited in the Severance Tax Trust Fund, which includes the Perpetual Base Account and the Operational Account. Money administered by the DOLA is deposited in the Local Government Severance Tax Fund.

Colorado also receives a distribution of roughly 49 percent of the FML revenue (royalties, rents, and bonus payments) paid to the federal government for mineral production that occurs on federal lands within the state. Under current law, bonus money received by the state is divided equally between the Local Government Permanent Fund and the Higher Education Maintenance and Reserve Fund. Royalties and rents are allocated to support K-12 education, water projects (through the Perpetual Base Account and the Colorado Water Conservation Board Construction Fund), and local communities impacted by the energy industry (through the Local Government Mineral Impact Fund). If sufficient revenue exists, state law also specifies that FML revenue be used to support capital construction projects at institutions of higher education through the Higher Education FML Revenues Fund.

Over the course of the last two legislative sessions, the General Assembly has transferred $110 million from the Perpetual Base Account of the Severance Tax Trust Fund, $10 million from the Local Government Severance Tax Fund, and just over $96 million in FML revenues from the cash funds noted above to the General Fund to support other programs. Additionally, Table 1 presents information on Governor Ritter's proposed transfer of additional money from these funds in FY 2010-11 and FY 2011-12 as part of his budget-balancing plan.

Table 1. Governor Ritter's Proposed Net Cash Fund Transfers to the General Fund
($ in millions)

Cash Fund	**FY 2010-11**	**FY 2011-12**
Perpetual Base Acct. of Severance Tax Trust Fund	$10.0	$15.0
Higher Ed Maintenance & Reserve Fund	2.7	$0.0
Local Government Mineral Impact Fund	15.0	15.0
Local Government Permanent Fund	10.4	0.0
Local Government Severance Tax Fund	60.0	27.0
TOTAL	**$98.1**	**$57.0**

State Transfers or Diversions

This bill prohibits the transfer of state severance tax and FML revenue from these seven cash funds to the General Fund. Assuming a revenue shortfall for FY 2011-12 similar to that which has existed during the past two years, the General Assembly would then be faced with a choice between making cuts to the funding for existing programs, finding other funding mechanisms (including transferring money from other cash funds) for those programs, or a combination of these.

State Expenditures

Table 2 presents estimates of severance tax and FML revenue allocation to each of these cash funds for FY 2010-11 and FY 2011-12.

Table 2. Current Fund Balances and Estimated Allocation of Severance Tax and FML Revenue
($ in millions)

Cash Fund	Fund Balance*	FY 2010-11	FY 2011-12
CWCB Construction Fund	$252.4	$14.0	$14.6
Perpetual Base Acct. of Severance Tax Trust Fund	313.3	41.5	44.8
Higher Ed FML Revenues Fund	13.7	2.4	2.8
Higher Ed Maintenance & Reserve Fund	1.1	2.2	3.8
Local Government Mineral Impact Fund	26.5	55.8	58.3
Local Government Permanent Fund	3.7	2.2	3.8
Local Government Severance Tax Fund	54.2	82.9	89.5
TOTAL	**$664.9**	**$201.0**	**$217.6**

** Reflects fund balance on 1/21/11.*
Source: December 2010 Legislative Council Staff Forecast.

Prohibiting the transfer of money from these cash funds to the General Fund means that more money will potentially be available for capital construction and controlled maintenance projects at state institutions of higher education, water-related loans and programs, and energy impact assistance grants and direct distributions. However, other state programs that would have been funded by the potential transfer will either face cuts or must find funding from other sources. Thus, the ultimate impact is conditional on what choice the General Assembly makes regarding future budget decisions.

Local Government Impact

Prohibiting the transfer of money from the two cash funds administered by DNR means that more money will be available for water project-related loans, non-reimbursable grants, and other CWCB programs affecting local communities, assuming some portion of the money in these funds would have been transferred to the General Fund in the absence of this bill.

Prohibiting the transfer of money from the three cash funds administered by DOLA means that more money will be available for local energy impact assistance grants and direct distributions to communities impacted by the energy industry, assuming some portion of the money in these funds would have been transferred to the General Fund in the absence of this bill.

Departments Contacted

Local Affairs Natural Resources