SB11-035

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 11-0322	**Date:**	January 18, 2011
Prime Sponsor(s):	Sen. Roberts Rep. Coram	**Bill Status:**	Senate SVMA
		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; and
- Local Government Severance Tax Fund.

In addition, effective January 1, 2011, the Governor is prohibited from restricting the expenditure of the moneys in each of these funds for the purpose of reserving the moneys 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 and the Department of Local Affairs (DOLA). Money administered by the DOLA is deposited in the Local Government Severance Tax Fund.

Colorado also receives a distribution of roughly 48 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, and local communities impacted by the energy industry through the Local Government Mineral Impact Fund. If sufficient revenue exists, statute 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 $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 moneys from these funds in FY 2010-11 and FY 2011-12 as part of his budget-balancing plan.

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

Cost Components	FY 2010-11	FY 2011-12
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	**$88.1**	**$42.0**

State Transfers or Diversions

This bill prohibits the transfer of state severance tax and FML revenue from these five 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. Estimated Allocation of Severance Tax and FML Revenue
($ in millions)

Cost Components	FY 2010-11	FY 2011-12
Higher Ed FML Revenues Fund	$2.4	$2.8
Higher Ed Maintenance & Reserve Fund	2.2	3.8
Local Government Mineral Impact Fund	58.2	60.7
Local Government Permanent Fund	2.2	3.8
Local Government Severance Tax Fund	88.3	96.6
TOTAL	**$153.3**	**$174.3**

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. 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.

Local Government Impact

Prohibiting the transfer of money from these cash funds to the General Fund means that more money is available for local energy impact assistance grants and direct distributions to communities impacted by the energy industry.

Departments Contacted

Local Affairs Natural Resources