HB11-1308

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 11-1049	**Date:**	May 2, 2011
Prime Sponsor(s):	Rep. Baumgardner Sen. King S.	**Bill Status:**	House Agriculture
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING THE DISTRIBUTION OF FEDERAL MINERAL LEASING REVENUES RELATED TO NAVAL OIL SHALE RESERVES TO AFFECTED COUNTIES IN COLORADO.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Transfers or Diversions		
Transfer from the Mineral Leasing Fund to County Treasuries*	($24,000,000)	
State Expenditures		
Cash Funds		
Local Government Permanent Fund	($480,000)	
Higher Education Maintenance and Reserve Fund	(2,721,545)	
Colorado Water Conservation Board Construction Fund	(62,455)	
Higher Education FML Revenue Fund	(11,128,320)	
Local Government Mineral Impact Fund	(9,607,680)	
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.		

* *This impact assumes a 50-50 split of the NOSR diversion overage between the federal government and Colorado, and is conditional on the transfer occurring in FY 2011-12 and federal legislation passing to authorize the transfer.*

Summary of Legislation

This bill specifies that all federal mineral lease (FML) revenue received by the state that is related to the naval oil shale reserves (NOSR) is to be distributed as follows:

- 40 percent to Garfield County;
- 40 percent to Rio Blanco County;
- 10 percent to Mesa County; and
- 10 percent to Moffat County

Under current law, FML money received by the state goes to public education, local governments and school districts, the Department of Local Affairs (DOLA) for grants to local governments, the Colorado Water Conservation Board (CWCB) fund for water projects, a permanent savings fund, and higher education construction and maintenance projects.

Background

Naval Oil Shale Reserve Revenue. The diversion of FML money from mineral production activities on designated NOSR land was required under 1997 federal legislation for environmental restoration and waste management relating to the 1940-era oil shale project at the Anvil Points Facility. The diversion, deposited into a federal trust fund, was required to continue until the federal departments of Interior and Energy certified they had enough revenue (about $63.4 million) to cover the cleanup costs. In August 2008, both departments issued the certification that enough money had been deposited into the fund. After certification, Colorado again began to again receive its share of FML revenue from mineral production activities in the area.

The total diversion amounted to about $112 million, about $48 million more than the $63.4 million in certified costs. The Department of Interior has interpreted the 1997 statute to mean that the federal government will keep all diverted money, and not distribute the roughly $24 million which represents Colorado's share of the overage. Federal legislation was introduced by Senators Udall and Bennett to have the state portion distributed to Colorado and allocated to the same four counties specified in HB 11-1308. However, the federal legislation did not became law. If the money was released to Colorado without such federal legislation specifying how it should be distributed, it would be distributed according to the existing state formula.

State Allocation of FML Revenue. SB 08-218 changed the way in which FML revenue is allocated in Colorado. All bonus payments received were to be divided equally between two permanent funds: the Local Government Permanent Fund and the Higher Education Maintenance and Reserve Fund. For nonbonus money, in addition to allocations to the State Public School Fund and the Colorado Water Conservation Board Construction Fund, 41.7 percent is to be allocated to energy impacted counties, municipalities and school districts in these areas. Specifically, 20 percent is to be directly distributed to local entities by the Department of Local Affairs (DOLA) according to statutory formulas contained in the bill, 20 percent is to be allocated through the existing DOLA grant program, and 1.7 percent is to be directly distributed to school districts. In general, SB 08-218 reduced the amount of money allocated through the DOLA grants, and increased the amount directly distributed to local entities in energy impacted areas.

After this initial allocation, the first $50 million of any remaining moneys are required to be transferred to the Higher Education Federal Mineral Lease Revenues Fund. Money in the fund may be annually appropriated by the General Assembly to directly pay for or pay the costs of financing prioritized capital construction projects at state institutions of higher education, and to the Department of Education for distribution to vocational schools. Priority is given to institutions and vocational schools in energy impacted areas. Any remaining moneys above $50 million are to be transferred into the previously mentioned Higher Education Maintenance and Reserve Fund.

State Transfers or Diversions

This bill requires the state treasurer to transfer about $24 million from the Mineral Leasing Fund to the treasuries of Garfield, Rio Blanco, Mesa and Moffat counties. This transfer amount assumes the NOSR diversion overage will be divided 50-50 between the federal government and Colorado. ***This impact is conditional on the federal government releasing the money, and the passage of federal legislation specifying the distribution of the money to these four counties.***

State Expenditures

The following expenditure impacts are based on the Legislative Council March 2011 FML revenue forecast and the assumption that the diversion overage (about $24 million) would be released to Colorado in FY 2011-12. ***These impacts are conditional on the federal government releasing the money, and the passage of federal legislation specifying the distribution of the money to these four counties.***

Bonus Money. All bonus money is equally divided between the Local Government Permanent Fund and the Higher Education Maintenance and Reserve Fund. The Naval Oil Shale diversion contains both bonus and nonbonus FML revenue. This fiscal note assumes about 10 percent of the diversion overage is bonus money.

- **Local Government Permanent Fund**. This fund would receive $480,000 less than it would have otherwise under this bill.

- **Higher Education Maintenance and Reserve Fund**. This fund would receive $2.7 million less than it would have otherwise under this bill, including $480,000 in bonus money and $2.2 million through the secondary allocation on nonbonus moneys.

Nonbonus Money:

- **Colorado Water Conservation Board.** The Colorado Water Conservation Board Construction Fund would receive $62,455 less than otherwise for water conservation projects.

- **State Institutions of Higher Education**. The Higher Education FML Revenues Fund would receive about $11.1 million less than otherwise, for capital construction projects at higher education institutions.

- ***Department of Local Affairs.*** This bill reduces the amount of money that would be transferred to the Local Government Mineral Impact Fund by about $9.6 million. Current law directs that moneys in this fund be largely split between DOLA direct distributions and DOLA grants, with the remainder directly distributed to school districts.

Local Government Impact

This bill will increase the distribution of FML revenue to the four specified counties. Assuming the federal government releases $24 million, Garfield and Rio Blanco counties would each receive a transfer of $9.6 million and Mesa and Moffat counties would receive a transfer of $2.4 million each. The actual revenue increase will be something less than this amount however. The U.S. Department of the Interior (DOI) defines any transfer of FML moneys to local governments as a reportable and offsetting revenue for the federal Payment in Lieu of Taxes (PILT) calculations for those counties. This deduction in PILT payments would occur in the year after the transferred moneys are received, and the deduction amount is unknown at this time. However, it is not anticipated that the deduction will completely offset the transfer.

In addition, the actual gain for these counties would be this amount, net what they would have received under the current FML distribution formula: their share of roughly $9.6 million that would have gone to the Local Government Mineral Impact Fund for DOLA grants and direct distributions to local governments and school districts. All other counties would receive less than they otherwise would have under the distribution formula. ***This impact is conditional on the federal government releasing the money, and the passage of federal legislation specifying the distribution of the money to these four counties.***

Departments Contacted

Local Affairs   Natural Resources