

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0322.01 Ed DeCecco

SENATE BILL 11-035

SENATE SPONSORSHIP

Roberts, Grantham, King S.

HOUSE SPONSORSHIP

Coram, Brown

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits transfers to the general fund from the:
! Higher education federal mineral lease revenues fund;
! Higher education maintenance and reserve fund;
! Local government permanent fund;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Local government mineral impact fund; and
- ! Local government severance tax fund.

In addition, the governor is prohibited from restricting the moneys in each of these funds from being used as required by law for the purpose of saving the restricted moneys for a future transfer to the general fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) In order to offset the impact created by nonrenewable resource
5 development, a portion of state severance taxes are deposited into the
6 local government severance tax fund;

7 (b) Thirty percent of the moneys in the local government
8 severance tax fund are directly distributed to local governments based on
9 production-related factors;

10 (c) The department of local affairs uses a portion of the remaining
11 moneys in the fund to provide grants to local governments that are
12 socially or economically impacted by the development, processing, or
13 energy conversion of minerals and mineral fuels;

14 (d) The United States receives compensation from a party that
15 obtains a lease for the privilege of extracting minerals from federal public
16 lands located in the state, and the state, in turn, receives a portion of this
17 compensation from the federal government;

18 (e) A portion of the federal mineral lease revenues are deposited
19 into the:

20 (I) Local government mineral impact fund, which is used to
21 provide grants and direct distributions to local governments impacted by
22 the production of energy resources on federal mineral lands;

23 (II) Local government permanent fund, which is a reserve for the

1 local government mineral impact fund;

2 (III) Higher education federal mineral lease revenues fund, which
3 is used for capital construction projects at state-supported institutions of
4 higher education and at area vocational schools, with priority
5 consideration given to those projects located in communities that are
6 substantially impacted by energy production or conversion activities; and

7 (IV) Higher education maintenance and reserve fund, which is a
8 reserve for the higher education federal mineral lease revenues fund;

9 (f) As state revenues have decreased in recent years, cash funds
10 with severance tax related revenues have been used to backfill the general
11 fund; specifically in fiscal years 2008-09 and 2009-10, over ninety-five
12 million dollars from the three local government funds and thirty-five
13 million dollars from the two higher education funds were transferred to
14 the general fund;

15 (g) For the fiscal year 2010-11, ten million dollars from the local
16 government severance tax fund and seven million dollars from the higher
17 education federal mineral lease revenues fund will be transferred to the
18 general fund;

19 (h) In his budget balancing plan to the joint budget committee,
20 dated August 23, 2010, the governor proposed additional transfers of over
21 forty million dollars from the local government funds and higher
22 education funds to the general fund;

23 (i) On that date, the governor also restricted thirty million dollars
24 in the local government severance tax fund from being used as required
25 by law, and the department of local affairs suspended making grants from
26 the fund;

27 (j) These transfers and restrictions have caused great hardship for

1 local governments in impacted communities and for the state higher
2 education system.

3 (2) Now, therefore, with the passage of Senate Bill 11-____,
4 enacted in 2011, the general assembly intends to prohibit transfers of
5 revenues related to the severance of minerals in this state to the general
6 fund, as well as to prohibit the restriction of any funds in anticipation of
7 such transfers.

8 **SECTION 2.** 23-19.9-102 (1) (d) and (2) (b) (IV), Colorado
9 Revised Statutes, are amended to read:

10 **23-19.9-102. Higher education federal mineral lease revenues**
11 **fund - higher education maintenance and reserve fund - creation -**
12 **sources of revenues - use.** (1) (d) Notwithstanding any other provision
13 of this subsection (1) to the contrary, on July 1, 2010, the state treasurer
14 shall deduct seven million dollars from the revenues fund and transfer
15 such sum to the general fund. THEREAFTER, TRANSFERS FROM THE
16 REVENUES FUND TO THE GENERAL FUND ARE PROHIBITED. ON AND AFTER
17 JANUARY 1, 2011, THE GOVERNOR IS PROHIBITED FROM RESTRICTING THE
18 MONEYS IN THE REVENUES FUND FROM BEING USED AS REQUIRED BY LAW
19 FOR THE PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE
20 TRANSFER TO THE GENERAL FUND.

21 (2) (b) (IV) Notwithstanding any provision of this subsection (2)
22 to the contrary, on April 15, 2010, the state treasurer shall deduct two
23 million three hundred thousand dollars from the higher education
24 maintenance and reserve fund and transfer such sum to the general fund.
25 THEREAFTER, TRANSFERS FROM THE HIGHER EDUCATION MAINTENANCE
26 AND RESERVE FUND TO THE GENERAL FUND ARE PROHIBITED. ON AND
27 AFTER JANUARY 1, 2011, THE GOVERNOR IS PROHIBITED FROM

1 RESTRICTING THE MONEYS IN THE HIGHER EDUCATION MAINTENANCE AND
2 RESERVE FUND FROM BEING USED AS REQUIRED BY LAW FOR THE PURPOSE
3 OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO THE
4 GENERAL FUND.

5 **SECTION 3.** 34-63-102 (5.3) (a) (I) (D) and (5.4) (b.5), Colorado
6 Revised Statutes, are amended to read:

7 **34-63-102. Creation of mineral leasing fund - distribution -**
8 **advisory committee - local government permanent fund created -**
9 **definitions.** (5.3) (a) Bonus payments credited to the mineral leasing
10 fund created in subparagraph (I) of paragraph (a) of subsection (1) of this
11 section shall be distributed on a quarterly basis for each quarter
12 commencing on July 1, October 1, January 1, or April 1 of any state fiscal
13 year as follows:

14 (I) (D) Notwithstanding any provision of this subsection (5.3) to
15 the contrary, on April 15, 2010, the state treasurer shall deduct fourteen
16 million three hundred five thousand six hundred ninety-seven dollars
17 from the local government permanent fund and transfer such sum to the
18 general fund. THEREAFTER, TRANSFERS FROM THE LOCAL GOVERNMENT
19 PERMANENT FUND TO THE GENERAL FUND ARE PROHIBITED. ON AND
20 AFTER JANUARY 1, 2011, THE GOVERNOR IS PROHIBITED FROM
21 RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT PERMANENT FUND
22 FROM BEING USED AS REQUIRED BY LAW FOR THE PURPOSE OF SAVING THE
23 RESTRICTED MONEYS FOR A FUTURE TRANSFER TO THE GENERAL FUND.

24 (5.4) Except as otherwise provided in subsection (5.5) of this
25 section, on and after July 1, 2008, all moneys other than bonus payments,
26 as defined in paragraph (b) of subsection (5.3) of this section, credited to
27 the mineral leasing fund created in subparagraph (I) of paragraph (a) of

1 subsection (1) of this section shall be distributed on a quarterly basis for
2 quarters beginning on July 1, October 1, January 1, and April 1 of each
3 state fiscal year as follows:

4 (b.5) Notwithstanding any provision of paragraph (b) of this
5 subsection (5.4) to the contrary, for each quarter commencing during the
6 2009-10 fiscal year, as soon as practicable after moneys are credited to
7 the local government mineral impact fund pursuant to paragraph (b) of
8 this subsection (5.4), the state treasurer shall transfer from the local
9 government mineral impact fund to the general fund an amount equal to
10 fifty percent of the amount so credited to the fund for such quarter; except
11 that the aggregate amount of moneys so transferred pursuant to this
12 paragraph (b.5) shall not exceed twenty-two million six hundred thousand
13 dollars. THEREAFTER, TRANSFERS FROM THE LOCAL GOVERNMENT
14 MINERAL IMPACT FUND TO THE GENERAL FUND ARE PROHIBITED. ON AND
15 AFTER JANUARY 1, 2011, THE GOVERNOR IS PROHIBITED FROM
16 RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT MINERAL IMPACT
17 FUND FROM BEING USED AS REQUIRED BY LAW FOR THE PURPOSE OF
18 SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO THE
19 GENERAL FUND.

20 **SECTION 4.** 39-29-110 (7) (a), Colorado Revised Statutes, is
21 amended to read:

22 **39-29-110. Local government severance tax fund - creation -**
23 **administration - definitions.** (7) Notwithstanding any provision of this
24 section to the contrary:

25 (a) On June 30, 2011, the state treasurer shall deduct ten million
26 dollars from the local government severance tax fund and transfer such
27 sum to the general fund. ADDITIONAL TRANSFERS FROM THE LOCAL

1 GOVERNMENT SEVERANCE TAX FUND TO THE GENERAL FUND ARE
2 PROHIBITED. ON AND AFTER JANUARY 1, 2011, THE GOVERNOR IS
3 PROHIBITED FROM RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT
4 SEVERANCE TAX FUND FROM BEING USED AS REQUIRED BY LAW FOR THE
5 PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO
6 THE GENERAL FUND.

7 **SECTION 5. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.