

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 11-0549.01 Ed DeCecco

HOUSE BILL 11-1123

HOUSE SPONSORSHIP

Coram, Brown

SENATE SPONSORSHIP

Roberts, Grantham, King S.

House Committees

Agriculture, Livestock, & Natural Resources

Senate 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.

HOUSE
3rd Reading Unamended
March 14, 2011

HOUSE
Amended 2nd Reading
March 11, 2011

- ! Local government mineral impact fund;
- ! Colorado water conservation board construction fund;
- ! Perpetual base account of the severance tax trust 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) Another portion of state severance taxes are deposited into the
15 perpetual base account of the severance tax trust fund;

16 (e) Moneys in the perpetual base account are used to provide
17 low-interest loans to local governments and agricultural water users
18 throughout Colorado for a wide variety of water infrastructure
19 improvement projects;

20 (f) Typical projects include the construction, improvement, or
21 rehabilitation of water storage and management infrastructure;
22 conservation and efficiency improvements; development, maintenance,

1 and improvement of flood control mechanisms; and the development and
2 renovation of hydroelectric facilities;

3 (g) The United States receives compensation from a party that
4 obtains a lease for the privilege of extracting minerals from federal public
5 lands located in the state, and the state, in turn, receives a portion of this
6 compensation from the federal government;

7 (h) A portion of the federal mineral lease revenues are deposited
8 into the:

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

12 (II) Local government permanent fund, which is a reserve for the
13 local government mineral impact fund;

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

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

21 (V) Colorado water conservation board construction fund, which
22 is used to provide loans and grants to local governments and agricultural
23 water users for the construction, improvement, rehabilitation, and
24 enlargement of water supply, flood control, and hydroelectric facilities in
25 Colorado;

26 (i) As state revenues have decreased in recent years, cash funds
27 with severance tax related revenues have been used to backfill the general

1 fund; specifically in fiscal years 2008-09 and 2009-10, over two hundred
2 million dollars was transferred to the general fund from the higher
3 education federal mineral lease revenues fund, the higher education
4 maintenance and reserve fund, the local government permanent fund, the
5 local government mineral impact fund, the Colorado water conservation
6 board construction fund, the perpetual base account of the severance tax
7 trust fund, and the local government severance tax fund;

8 (j) For the fiscal year 2010-11, ten million dollars from the local
9 government severance tax fund, eleven million dollars from the perpetual
10 base account in the severance tax trust fund, and seven million dollars
11 from the higher education federal mineral lease revenues fund will be
12 transferred to the general fund;

13 (k) In his budget balancing plan to the joint budget committee,
14 dated August 23, 2010, the governor proposed additional transfers of over
15 forty million dollars from the local government funds and higher
16 education funds to the general fund;

17 (l) In that plan, the governor also restricted thirty million dollars
18 in the local government severance tax fund from being used as required
19 by law, and the department of local affairs suspended making grants from
20 the fund;

21 (m) In that plan, the governor also restricted ten million dollars
22 from the perpetual base account of the severance tax trust fund from
23 being used as required by law; and

24 (n) These transfers and restrictions have caused great hardship for
25 local governments in impacted communities and for the state higher
26 education system, and they have also devastated the state's important
27 water projects.

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

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

8 **23-19.9-102. Higher education federal mineral lease revenues**
9 **fund - higher education maintenance and reserve fund - creation -**
10 **sources of revenues - use.** (1) (d) Notwithstanding any other provision
11 of this subsection (1) to the contrary, on July 1, 2010, the state treasurer
12 shall deduct seven million dollars from the revenues fund and transfer
13 such sum to the general fund. ON AND AFTER JULY 1, 2013, TRANSFERS
14 FROM THE REVENUES FUND TO THE GENERAL FUND ARE PROHIBITED. ON
15 AND AFTER JANUARY 1, 2013, THE GOVERNOR IS PROHIBITED FROM
16 RESTRICTING THE MONEYS IN THE REVENUES FUND FROM BEING USED AS
17 REQUIRED BY LAW FOR THE PURPOSE OF SAVING THE RESTRICTED MONEYS
18 FOR A FUTURE TRANSFER TO THE GENERAL FUND.

19 (2) (b) (IV) Notwithstanding any provision of this subsection (2)
20 to the contrary, on April 15, 2010, the state treasurer shall deduct two
21 million three hundred thousand dollars from the higher education
22 maintenance and reserve fund and transfer such sum to the general fund.
23 ON AND AFTER JULY 1, 2013, TRANSFERS FROM THE HIGHER EDUCATION
24 MAINTENANCE AND RESERVE FUND TO THE GENERAL FUND ARE
25 PROHIBITED. ON AND AFTER JANUARY 1, 2013, THE GOVERNOR IS
26 PROHIBITED FROM RESTRICTING THE MONEYS IN THE HIGHER EDUCATION
27 MAINTENANCE AND RESERVE FUND FROM BEING USED AS REQUIRED BY

1 LAW FOR THE PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE
2 TRANSFER TO THE GENERAL FUND.

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

5 **34-63-102. Creation of mineral leasing fund - distribution -**
6 **advisory committee - local government permanent fund created -**
7 **definitions.** (5.3) (a) Bonus payments credited to the mineral leasing
8 fund created in subparagraph (I) of paragraph (a) of subsection (1) of this
9 section shall be distributed on a quarterly basis for each quarter
10 commencing on July 1, October 1, January 1, or April 1 of any state fiscal
11 year as follows:

12 (I) (D) Notwithstanding any provision of this subsection (5.3) to
13 the contrary, on April 15, 2010, the state treasurer shall deduct fourteen
14 million three hundred five thousand six hundred ninety-seven dollars
15 from the local government permanent fund and transfer such sum to the
16 general fund. ON AND AFTER JULY 1, 2013, TRANSFERS FROM THE LOCAL
17 GOVERNMENT PERMANENT FUND TO THE GENERAL FUND ARE PROHIBITED.
18 ON AND AFTER JANUARY 1, 2013, THE GOVERNOR IS PROHIBITED FROM
19 RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT PERMANENT FUND
20 FROM BEING USED AS REQUIRED BY LAW FOR THE PURPOSE OF SAVING THE
21 RESTRICTED MONEYS FOR A FUTURE TRANSFER TO THE GENERAL FUND.

22 (5.4) Except as otherwise provided in subsection (5.5) of this
23 section, on and after July 1, 2008, all moneys other than bonus payments,
24 as defined in paragraph (b) of subsection (5.3) of this section, credited to
25 the mineral leasing fund created in subparagraph (I) of paragraph (a) of
26 subsection (1) of this section shall be distributed on a quarterly basis for
27 quarters beginning on July 1, October 1, January 1, and April 1 of each

1 state fiscal year as follows:

2 (b.5) Notwithstanding any provision of paragraph (b) of this
3 subsection (5.4) to the contrary, for each quarter commencing during the
4 2009-10 fiscal year, as soon as practicable after moneys are credited to
5 the local government mineral impact fund pursuant to paragraph (b) of
6 this subsection (5.4), the state treasurer shall transfer from the local
7 government mineral impact fund to the general fund an amount equal to
8 fifty percent of the amount so credited to the fund for such quarter; except
9 that the aggregate amount of moneys so transferred pursuant to this
10 paragraph (b.5) shall not exceed twenty-two million six hundred thousand
11 dollars. ON AND AFTER JULY 1, 2013, TRANSFERS FROM THE LOCAL
12 GOVERNMENT MINERAL IMPACT FUND TO THE GENERAL FUND ARE
13 PROHIBITED. ON AND AFTER JANUARY 1, 2013, THE GOVERNOR IS
14 PROHIBITED FROM RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT
15 MINERAL IMPACT FUND FROM BEING USED AS REQUIRED BY LAW FOR THE
16 PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO
17 THE GENERAL FUND.

18 **SECTION 4.** 37-60-121 (9), Colorado Revised Statutes, is
19 amended to read:

20 **37-60-121. Colorado water conservation board construction**
21 **fund - creation - nature of fund - funds for investigations -**
22 **contributions - use for augmenting the general fund - funds created.**

23 (9) Notwithstanding any provision of this section or of section 37-60-122
24 to the contrary, on April 20, 2009, the state treasurer shall deduct ten
25 million two hundred fifty thousand dollars from the Colorado water
26 conservation board construction fund and transfer such sum to the general
27 fund. ON AND AFTER JULY 1, 2013, TRANSFERS FROM THE COLORADO

1 WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE GENERAL
2 FUND ARE PROHIBITED. ON AND AFTER JANUARY 1, 2013, THE GOVERNOR
3 IS PROHIBITED FROM RESTRICTING THE MONEYS IN THE COLORADO WATER
4 CONSERVATION BOARD CONSTRUCTION FUND FROM BEING USED AS
5 REQUIRED BY LAW FOR THE PURPOSE OF SAVING THE RESTRICTED MONEYS
6 FOR A FUTURE TRANSFER TO THE GENERAL FUND.

7 **SECTION 5.** 39-29-109 (2) (a) (VII), Colorado Revised Statutes,
8 is amended to read:

9 **39-29-109. Severance tax trust fund - creation - administration**
10 **- distribution of moneys - repeal.** (2) State severance tax receipts shall
11 be credited to the severance tax trust fund as provided in section
12 39-29-108. Except as otherwise set forth in section 39-29-109.5, all
13 income derived from the deposit and investment of the moneys in the
14 fund shall be credited to the fund. At the end of any fiscal year, all
15 unexpended and unencumbered moneys in the fund shall remain therein
16 and shall not be credited or transferred to the general fund or any other
17 fund. All moneys in the fund shall be subject to appropriation by the
18 general assembly for the following purposes:

19 (a) (VII) Notwithstanding any provision of this paragraph (a) to
20 the contrary, on June 30, 2011, the state treasurer shall deduct eleven
21 million dollars from the perpetual base account of the fund and transfer
22 such sum to the general fund. ON AND AFTER JULY 1, 2013, TRANSFERS
23 FROM THE PERPETUAL BASE ACCOUNT OF THE FUND TO THE GENERAL FUND
24 ARE PROHIBITED. ON AND AFTER JANUARY 1, 2013, THE GOVERNOR IS
25 PROHIBITED FROM RESTRICTING THE MONEYS IN THE PERPETUAL BASE
26 ACCOUNT OF THE FUND FROM BEING USED AS REQUIRED BY LAW FOR THE
27 PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO

1 THE GENERAL FUND.

2 **SECTION 6.** 39-29-110 (7) (a), Colorado Revised Statutes, is
3 amended to read:

4 **39-29-110. Local government severance tax fund - creation -**
5 **administration - definitions.** (7) Notwithstanding any provision of this
6 section to the contrary:

7 (a) On June 30, 2011, the state treasurer shall deduct ten million
8 dollars from the local government severance tax fund and transfer such
9 sum to the general fund. ON AND AFTER JULY 1, 2013, TRANSFERS FROM
10 THE LOCAL GOVERNMENT SEVERANCE TAX FUND TO THE GENERAL FUND
11 ARE PROHIBITED. ON AND AFTER JANUARY 1, 2013, THE GOVERNOR IS
12 PROHIBITED FROM RESTRICTING THE MONEYS IN THE LOCAL GOVERNMENT
13 SEVERANCE TAX FUND FROM BEING USED AS REQUIRED BY LAW FOR THE
14 PURPOSE OF SAVING THE RESTRICTED MONEYS FOR A FUTURE TRANSFER TO
15 THE GENERAL FUND.

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