DEPARTMENT OF LOCAL AFFAIRS

Budget Balancing Proposal
February 15, 2011

Reeves Brown
Executive Director

Proposed Cash Fund Transfer from the Local Government Permanent Fund #23H – Amendment to the October 22, 2010 Proposal

Proposal Summary:
To transfer cash funds from the Local Government Permanent Fund #23H the purpose of balancing the General Fund budget. The fund was established to provide funding accessible by legislative appropriation in the event that federal mineral leasing funds anticipated to be available in any current fiscal year are forecasted to be more than ten percent less than the preceding fiscal year.

Table 1: Amended Requested Transfer

	FY 2010-11
October Requested Transfer	$10,412,254
Reduction in Available Funds for Transfer (based on December 2010 OSPB FML Revenue Forecasts)	($3,205,511)
February Amended Recommended Transfer Amount from Fund #23H	$7,206,743
Projected End of Year Balance with Oct. Recommended Transfer	$0

Impact of Recommended Reduction:

This proposal requests to reduce the transfer amount in FY 2010-11 from the Local Government Permanent Fund to the General Fund. On August 23, 2010, OSPB requested a transfer of $11,422,755 to the General Fund for budget balancing in FY 2010-11. However, after the September 2010 forecasted revenues are applied, this amount results in a fund deficit of $1,030,501. On October 22, 2010 this request was revised to $10,412,254. On December 20, 2010, OSPB again revised its forecast of the Federal Mineral Lease revenue into this fund and requests that the FY 2010-11 transfer amount be reduced to $7,206,743 which is $3,205,511 less than requested on October 22, 2010.

The fund receives 50% of all federal mineral lease bonus payments made to the State. The fund was created in S.B. 08-208. In the 2009 legislative session, S.B.09-232 appropriated $17 million from the fund in FY 2009-10 to be made available to mineral impacted communities for multi-jurisdictional grant projects. In the 2010 legislative session, the General Assembly transferred an additional $14.3 million from this fund into the General Fund via H.B.10-1327. These transfers, in addition to this proposal, will impact the amount available for future appropriation by the General Assembly.

Assumptions:

- Revenue projections are drawn from the December 2010 OSPB economic forecast and represents 50% of all FML bonus revenues anticipated in FY 2011-12.

- This recommendation is based entirely on revenue projections for this fund. FML projections are historically volatile and this projection may change with future revenue forecasts. Table 2 below shows the figures used to calculate the projections in the OSPB forecast.

Table 2: Projected Balance for Fund #23H (December 2010 OSPB Forecast)

	FY 2010-11
Beginning Balance FY 2010-11	$2,617,316
Plus Projected Revenue[1]	$4,589,427
Less Projected Mandatory Expenditures	$0
Equals Proposed Projected End of Year Balance	$7,206,743
Recommended Transfer	**($7,206,743)**
Projected End of Year Balance with Transfer	**$0**

[1]Projected revenue is based on OSPB December 2010 forecasted amounts for FML bonus revenue in FY 2010-11. See Table 1 below for more detail.

Table 3: OSPB December 2010 Forecast Calculations for FML Bonus Revenues

	FML Bonus Revenues	Higher Education Maintenance and Reserve Fund	Local Government Permanent Fund
		50%	50%
FY 2009-10	$5,234,631	$2,617,316	**$2,617,316**
FY 2010-11	$9,178,854	$4,589,427	**$4,589,427**
Requested Transfer			**($7,206,743)**
October 22, 2010 Recommended Transfer			**$10,412,254**
Difference			($3,205,511)

Current Statutory Authority or Needed Statutory Change:

Section C.R.S. 34-63-102 (5.3) (a) (I) (A) and (B) (2010) - Fifty percent of federal mineral lease bonus payments shall be transferred to the local government permanent fund, which is hereby created in the state treasury. Interest and income derived from the deposit and investment of moneys in the local government permanent fund shall be credited to the permanent fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year.

If, based on the revenue estimate prepared by the staff of the legislative council in March of any fiscal year, it is anticipated that the total amount of moneys that will be deposited into the mineral leasing fund pursuant to subparagraph (II) of paragraph (a) of subsection (1) of this section during the fiscal year will be at least ten percent less than the amount of moneys so deposited during the immediately preceding fiscal year, the general assembly may appropriated moneys from the local government permanent fund to the department of local affairs for the current fiscal year.

Since the General Assembly must appropriate these funds before they can be spent, no restriction on the fund is necessary. However, this proposal will require statutory change to allow the requested amount to be transferred to the General Fund.

DEPARTMENT OF LOCAL AFFAIRS

FY 2011-12 Balancing Proposal
February 15, 2011

Reeves Brown
Executive Director

Transfer Local Government Mineral Impact Grant Program Funds

Proposal Summary: To transfer cash funds from the Local Government Severance Tax Fund #152 and the Local Government Mineral Impact Fund #153 for the purpose of balancing the General Fund budget.

The stated purpose of the funds is to provide direct distribution and grant opportunities for localities affected by mineral development. Such funds shall also be distributed to political subdivisions to compensate them for loss of property tax revenue resulting from the deduction of severance taxes paid in the determination of the valuation for assessment of producing mines.

Table 1: Cash Fund Balance with Recommended Transfer for FY 2011-12

	The Local Government Severance Tax Cash Fund #152	**The Local Government Mineral Impact Cash Fund #153**
Projected End of Year Balance FY 2010-11	$37,464,780	$22,676,261
Additional Revenue based on December 2010 Legislative Council Forecast (restricted by OSPB)	$4,000,000	$5,000,000
Beginning Projected Balance, July 1 FY 2011-12	$41,464,780	$27,676,261
Plus Projected Revenue[1]	$96,600,000	$58,880,400
Less Projected Mandatory Expenditures[2]	($46,440,055)	($45,378,426)
Equals Cash Balance Before Future Commitments	$91,624,725	$41,178,235
Less Future Commitments[3]	($48,287,000)	($6,863,830)
Equals Proposed Projected End of Year "Cash Out" Balance	$43,337,725	$34,314,405
Recommended Transfer November 1, 2010	**($27,000,000)**	**($15,000,000)**
Additional Recommended Transfer February 2011	**($14,000,000)**	**($15,000,000)**
Projected End of Year Balance with Transfer	**$2,337,725**	**$4,314,405**

[1]Revenue estimates for Fund #152 are equal to one-half of the Severance Tax revenue as estimated by Legislative Council in its December 2010 economic forecast. Estimates for Fund #153 are based on Leg Council December 2010 forecast, pursuant to section 34-63-102 (5.4) (b), C.R.S. (2010) which establishes the distribution of federal mineral lease revenues.

[2]This amount includes the full amount of Direct Distribution payments to be made by August 31, 2011. See Table 2 for more detail.

[3]These amounts include the statutorily mandated set-aside for Uranium Mill Trailing Remediation Action Program fund from Fund #152 as well as estimates for the amounts needed to cover encumbered contracts that have not yet been paid in full from both funds. See Table 3 for more detail.

Impact of Recommended Reduction:

This proposal would transfer a total of $41.0 million in cash funds from the Local Government Severance Tax cash fund to the General Fund in FY 2011-12 for balancing purposes. In addition, the proposal will transfer a total of $30 million from the Local Government Mineral Impact Fund into the General Fund in FY 2011-12. As presented in the table, revenue projected to be available in both funds in FY 2010-11 will be restricted in order that it is available for transfer in FY 2011-12. These amounts will be $4.0 million from the Local Government Severance Tax cash fund and $5.0 from the Local Government Mineral Impact Fund. Requested amounts for transfer are based upon the December 2010 revenue forecast prepared by the Colorado Legislative Council. These revenue estimates could change in a future forecast. Therefore, the requested amounts available for transfer could be reduced commensurately in the event that future revenue forecasts for this area decline.

The proposed plan will result in the elimination of the Mineral and Energy Impact grant program for FY 2011-12, assuming revenue assumptions are accurate. The requested transfers will not impact direct distribution from these fund sources as dispersed to eligible counties on August 31, 2011.

In combination with previously enacted cash transfers, this proposal will allow small, liquid balances of about $2.3 million in the Local Government Severance Tax cash fund and $4.3 in the Local Government Mineral Impact Fund. This will permit the Department of Local Affairs some flexibility to account for variations in actual revenue received.

Assumptions:

The proposed transfers are based on the following assumptions:

- Revenue projections for both severance tax and Federal Mineral Lease are per the Legislative Council December 2010 economic forecast.

The calculation for Projected Mandatory Expenditures in FY 2011-12 for both funds are shown in Table 2 below.

Table 2: Projected Mandatory Expenditures for FY 2011-12

	The Local Government Severance Tax Cash Fund #152	**The Local Government Mineral Impact Cash Fund #153**
Payment of prior year direct distribution	$26,505,000	$29,229,900
Payments related to prior year encumbrances	$13,963,876	$8,168,000
New Contracts Encumbered	$0	$0
Encumbrances payable in future years	$2,348,128	$6,169,000
Administrative expenditures	$3,623,051	$1,811,526
Total	$46,440,055	$45,378,426

The calculation for Future Commitments in FY 2011-12 for both affected funds is shown in Table 3 below.

Table 3: Projected Future Commitments for FY 2011-12

	The Local Government Severance Tax Cash Fund #152	**The Local Government Mineral Impact Cash Fund #153**
Roll-forward of Encumbrances	$39,947,000	$4,363,830
Uranium Mill Trailing Remediation Action Program Set-aside (applies only to Fund #152)	$5,140,000	$0
Anticipated Payables (applies only to Fund #153)	$0	$1,500,000
Written Offers Not Contracted	$3,200,000	$1,000,000
Total	$48,287,000	$6,863,830

Current Statutory Authority or Needed Statutory Change:

Section 39-29-110 (1) (a), C.R.S. (2010) – Local government severance tax fund – creation – administration – definitions. There is hereby created in the department of local affairs a local government severance tax fund. In accordance with section 39-29-108, portions of the state severance tax receipts shall be credited to the local government severance tax fund. Except as otherwise provided in section 39-29-109.5, all income derived from the deposit and investment of the moneys in the local government severance tax fund shall be credited to the local government severance tax fund. After making direct distribution disbursements, the executive director of the department of local affairs shall distribute any remaining moneys and make loans from such fund in accordance with the purposes and priorities provided in paragraph (b) of this subsection (1).

Section 39-29-110 (1) (b) (I) and (II), C.R.S. (2010) - Seventy percent of the funds from the local government severance tax fund shall be distributed to those political subdivisions socially or economically impacted by the development, processing, or energy conversion of minerals and mineral fuels subject to taxation under this article and used for the planning, construction, and maintenance of public facilities and for the provision of public services. The executive director of the department of local affairs shall consider the economic needs of a political subdivision for purposes of making distributions pursuant to this subparagraph (I). The executive director may distribute moneys or make loans, or any combination thereof, to such political subdivisions for the planning, design, construction, erection, building, acquisition, alteration, modernization, reconstruction, improvement, or expansion of domestic wastewater treatment works or potable water treatment facilities.

Section 39-29-110 (1) (c) (I), C.R.S. (2010) Establishes the 30% direct distributions to impacted communities.
Section 39-29-110 (1) (A), C.R.S. (2010) – Allocates moneys to the uranium mill tailings remedial action program fund in accordance with the provisions of section 39-29-116 (3).

Section 39-29-110 (7) (a), C.R.S. (2010) – instructs the State Treasurer to deduct $10 million from the Local Government Severance Tax Fund for transfer to the General Fund on June 30, 2010.

Section 34-63-102 (5.4) (b), C.R.S. (2010) – Dictates that for each quarter commencing during the 2008-09 fiscal year or during any succeeding fiscal year, forty percent of all non-bonus federal mineral lease revenue shall be credited to the local government mineral impact fund. These funds shall be distributed by the executive director of the department equally between direct distribution to counties and grants for communities impacted by energy development.

The proposal will require statutory change in order to allow transfer of the funds to the General Fund for balancing purposes.