



DEPARTMENT OF LOCAL AFFAIRS

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Restrict Severance Tax Cash Funds

January 27, 2010

Name of Fund: **The Local Government Severance Tax Fund**

Purpose of Fund: 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.

Projected End-of-Year Balance:

	FY 2008-09	FY 2009-10
Projected End of Year Balance with No Action	\$78,000,386	
July 1 Projected Balance		\$78,000,386
Plus Projected Revenue ¹		\$32,200,000
Plus Transfer Pursuant to S.B.09-279		\$109,633,992 ²
Less Projected Mandatory Expenditures		(\$95,522,880) ³
Equals Cash Balance Before Future Commitments		\$124,311,498
Less Future Commitments		(\$65,672,000) ⁴
Equals Proposed Projected End of Year "Cash Out" Balance		\$58,639,498
Transfer Recommended on August 25 th , 2009		(\$7,600,000)
Amount Recommended for Restriction on December 1, 2009		(\$37,927,796)
Amount Recommended for Restriction on January 27, 2010		(\$4,800,000)
Projected End of Year Balance with Transfer		\$8,311,702

¹Revenue estimates are equal to one-half of the Severance Tax revenue as estimated by OSPB in its December 2009 economic forecast.

²This amount represents the restoration of one-day transfers made by the State Controller pursuant to S.B.09-279.

³This amount includes \$0 to be made available for new grants in FY 2009-10. The amount also includes monies directly distributed per statute on August 31, 2009, payments related to prior years, and administrative expenses. See the assumptions section for detailed calculations.

⁴These amounts include the statutorily mandated set-aside for Uranium Mill Trailing Remediation Action Program fund as well as estimates for the amounts needed to cover encumbered contracts that have not yet been paid in full. See the assumptions section for detailed calculations.

Impact of Recommended Reduction:

In conjunction with the Governor's August 25, 2009 proposal to transfer \$7.6 million in Local Government Severance Tax funds, this proposal would completely halt Mineral and Energy

Impact new grant awards from Severance Tax revenue for the remainder of FY 2009-10. It does not impact direct distribution as dispersed to eligible counties on August 31, 2009.

Per the Governor’s direction on December 1st, \$37.9 million of the amount estimated available for grants was withheld from distribution until January 31, 2010 pending further action by the General Assembly. Based on updated revenue projections for FY 2009-10 severance tax, this proposal would increase the amount “frozen” from distribution by \$4.8 million to \$42.7 million. This amount would be held in reserve assuming it will be needed for statewide balancing required at the end of FY 2009-10. Based on more recent and future forecasts, should the funds not be required for balancing in FY 2009-10, they would be “unfrozen” and made available for grants in either FY 2009-10 or FY 2010-11. Any actual transfer from this cash fund to the General Fund would only be made pursuant to the Governor’s authorization. Authorization for the conditional transfer will require statutory authority via a bill.

In order to ensure the funds availability for balancing purposes, on December 1, 2009 OSPB instructed the State Controller to restrict the Local Government Severance Tax cash fund by both the recommended transfer amount of \$7.6 million and the “frozen” amount of \$37.9 million for a total of \$45.5 million. This amount has been updated to a total of \$50.3 million in the January 27, 2010 communication to the State Controller to reflect the additional \$4.8 million recommended in this fact sheet. The Governor can lift this restriction at any time should he determine that the funds should be made available for grants.

This proposal will freeze all available funds for new grants and, assuming the funds are required for budget balancing, result in no new grants awarded for FY 2009-10. In combination with previously recommended cash transfers, this proposal will allow a small balance of about \$8.3 million to remain in the fund. This will allow the Department some flexibility to account for differences in actual revenue income.

Assumptions:

The proposed transfer is based on the following assumptions:

- Revenue projections per the OSPB December 18, 2010 economic forecast.
- A full restoration of the one-day transfer made by the State Controller based upon SB09-279.
- The calculation for Projected Mandatory Expenditures is shown in the table below.

Payment of prior year direct distribution	(\$44,521,289)
Payments related to prior year encumbrances	(\$43,794,799)
New contracts encumbered	\$0
Encumbrances payable in future years	(\$4,042,000)
Administrative expenditures	(\$3,164,792)
Total	(\$95,522,880)

- The calculation for Future Commitments is shown in the table below.

Roll-forward of Encumbrances	(\$58,000,000)
Uranium Mill Trailing Remediation Action Program Set-aside	(\$4,672,000)
Written Offers Not Contracted	(\$3,000,000)
Total	(\$65,672,000)

Current Statutory Authority or Needed Statutory Change:

39-29-110 (1) (a), C.R.S. (2009) – 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).

39-29-110 (1) (b) (I) and (II), C.R.S. (2009) - 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.

39-29-110 (1) (c) (I), C.R.S. (2009) Establishes the 30% direct distributions to impacted communities.

39-29-110 (1) (A), C.R.S. (2009) – Allocates moneys to the uranium mill tailings remedial action program fund in accordance with the provisions of section 39-29-116 (3).

Pursuant to the statutes identified above, the executive director of the Department of Local Affairs has authority to administer these severance tax funds. Therefore, no executive order is necessary to halt disbursements of said funds in FY 2009-10. The proposal will require statutory change in order to allow expenditure of the funds for balancing purposes should such action become necessary on or before June 30, 2010.