HB09-1051

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL
FISCAL IMPACT

Fiscal Note Prepared Pursuant to Joint Rule 22.(b)(2) on HB1051.L.001

Drafting Number:	LLS 09-0319	**Date:**	January 27, 2009
Prime Sponsor(s):	Rep. Baumgardner	**Bill Status:**	House Agriculture
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING THE USE OF FEDERAL MINERAL LEASE REVENUES TO PAY FOR CONSTRUCTION PROJECTS IN AREAS IMPACTED BY PRODUCTION OF ENERGY RESOURCES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue	$0	$0	$0
State Transfers or Diversions* Diversion of Federal Mineral Lease Funds (FML) Currently Credited to the Mineral Leasing Fund to the Newly Created County of Origin Construction Cash Fund	($17.5 million)	($20.0 million)	($22.7 million)
State Expenditures Cash Funds County of Origin Construction Cash Fund	$17.5 million	$20.0 million	$22.7 million
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor.			
Appropriation Summary for FY 2009-2010: None required.			
Expenditures Not Included for FY 2009-10: None.			
Local Government Impact: See Local Government Impact Section.			

**** Some moneys currently credited to the Mineral Leasing Fund are allocated to the Local Government Permanent Fund, Higher Education Maintenance and Reserve Fund, Local Government Mineral Impact Fund, and the Higher Education FML Revenues Fund. Table 1 on page 3 shows the reduction in both revenue and spending anticipated for these funds.***

Summary of Legislation

From FY 2009-10 through FY 2020-21, this bill requires that 10 percent of all federal mineral lease (FML) revenue that is currently credited to the Mineral Leasing Fund be instead credited to the newly created County of Origin Construction Cash Fund. The remaining 90 percent is to be credited to the Mineral Leasing Fund, and allocated as specified under current statute.

The bill creates the County of Origin Construction Cash Fund, and requires the state treasurer to proportionately distribute moneys in this fund to counties from which the FML revenue was derived.

Background

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. As part of an initial allocation of nonbonus money, the bill specified that 41.7 percent 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, SB 08-218 specified that 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.

Transfers or Diversions

HB 09-1051 removes 10 percent of FML (both bonus and nonbonus) revenue that is distributed to the state and directs that these moneys be transferred to the County of Origin Construction Cash Fund, leaving that much less money to be allocated as specified by SB 08-218. Based on the December 2008 Legislative Council Staff revenue forecast, this bill would redirect an estimated $17.5 million in FY 2009-10, 20.0 million in FY 2010-11 and $22.7 million in FY 2011-12. As Table 1 demonstrates, this money would have gone to the two permanent funds, local governments through grants and direct distributions, school districts, and institutions of higher education.

Table 1. FML Revenue Allocation Changes Under HB 09-1051 (millions of dollars)			
	FY 09-10	FY 10-11	FY 11-12
Bonus Money			
Local Government Permanent Fund	($0.9)	($1.0)	($1.1)
Higher Education Maintenance and Reserve Fund	(0.9)	(1.0)	(1.1)
Subtotal	(1.8)	(2.0)	(2.2)
Nonbonus Money			
DOLA Grants	($3.1)	($3.6)	($4.1)
DOLA Direct Distributions	(3.1)	(3.6)	(4.1)
School Districts	(0.4)	(0.5)	(0.5)
Higher Education Capital Construction	(9.1)	(10.3)	(11.8)
Subtotal	(15.7)	(18.0)	(20.5)
TOTAL	**$17.5**	**$20.0**	**$22.7**

State Expenditures

Bonus Money. All bonus money is equally divided between the Local Government Permanent Fund and the Higher Education Maintenance and Reserve Fund. Interest and income derived from these moneys are to remain in these funds and are not to be transferred to other funds.

- **Local Government Permanent Fund**. Money in this fund may only be appropriated by the General Assembly if, based on the March forecast, the money deposited in the fund was 10 percent less than the money deposited in the prior fiscal year. Thus, any expenditure impact from this fund is conditional on the March forecast.

- **Higher Education Maintenance and Reserve Fund**. Money in this fund may only be appropriated by the General Assembly if, based on the most recent forecast, projected General Fund revenue is insufficient to maintain the required 4 percent reserve. In this case, the General Assembly is authorized to make supplemental appropriations to offset reductions in General Fund appropriations for operating expenses of state institutions of higher education. Based on the December 2008 Legislative Council revenue forecast, there is not enough revenue to fully fund this reserve requirement. Thus, if this bill passes, there would be a reduction of $0.9 million in FY 2009-10 available for such supplemental appropriations.

Nonbonus Money:

- **State Institutions of Higher Education**. This bill reduces the amount of money that will be transferred to the Higher Education FML Revenues Fund, meaning less money will be available for capital construction projects at higher education institutions. Projects funded with this money are prioritized by CCHE, subject to the recommendation of the Capital Development Committee and approval of the JBC and General Assembly. It is anticipated that this bill would reduce by $31.2 million the money available for such projects over the next 3 fiscal years.

- ***Department of Local Affairs.*** This bill reduces the amount of money that will be transferred to the Local Government Mineral Impact Fund. 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. Over the next three fiscal years, this bill would result in a reduction of $21.6 million available for these 2 programs, and a reduction of $1.4 million available for distribution to school districts.

Local Government Impact

By transferring 10 percent of all FML revenues to the newly created County of Origin Construction Cash Fund and allocating these moneys to counties in proportion to where the FML revenue was derived, the bill more narrowly targets counties where mineral extraction is occurring. Table 2 presents estimates of distributions to counties based on county shares of mineral extraction from FY 2006-07. ***It should be noted that these are estimates only, and that county shares change from year to year. These estimates are included for informational purposes only.***

Table 2: Projected County Distributions from County of Origin Construction Cash Fund, FY 2009-10 through FY 20011-12

County	FY 2009-10	FY 2010-11	FY 2011-12
Mesa	$ 6,114,358	$ 6,995,329	$ 7,939,226
Garfield	$ 3,757,493	$ 4,298,882	$ 4,878,941
Moffat	$ 2,142,604	$ 2,451,316	$ 2,782,078
Delta	$ 1,983,893	$ 2,269,737	$ 2,575,998
Rio Blanco	$ 1,265,724	$ 1,448,092	$ 1,643,487
Routt	$ 658,652	$ 753,553	$ 855,231
Weld	$ 349,165	$ 399,474	$ 453,376
All Other Counties	$ 1,218,110	$ 1,393,618	$ 1,581,663
Total Distributions	$ 17,490,000	$ 20,010,000	$ 22,710,000

As noted above, these distributions will be partially made at the expense of the current DOLA grant and direct distribution programs. This bill will likely result in an increase in revenue for counties that make a large contribution to FML revenue, and a reduction for counties making either a small or no contribution to FML revenue.

While it is not possible to project how much each county would receive through each of the current programs, it is almost certain that the money would have been more widely dispersed. For example, in FY 2007-08, DOLA grants were made for projects in 56 of Colorado's 64 counties. The 7 counties that received the most grant moneys accounted for 49 percent of total awards. By comparison, if moneys from the County of Origin Construction Cash Fund are distributed as depicted in Table 2, distributions will be made to only 39 counties, with the 7 counties receiving the most money accounting for 93 percent of total distributions.

Departments Contacted

Local Affairs Transportation