

# MEMORANDUM



## JOINT BUDGET COMMITTEE

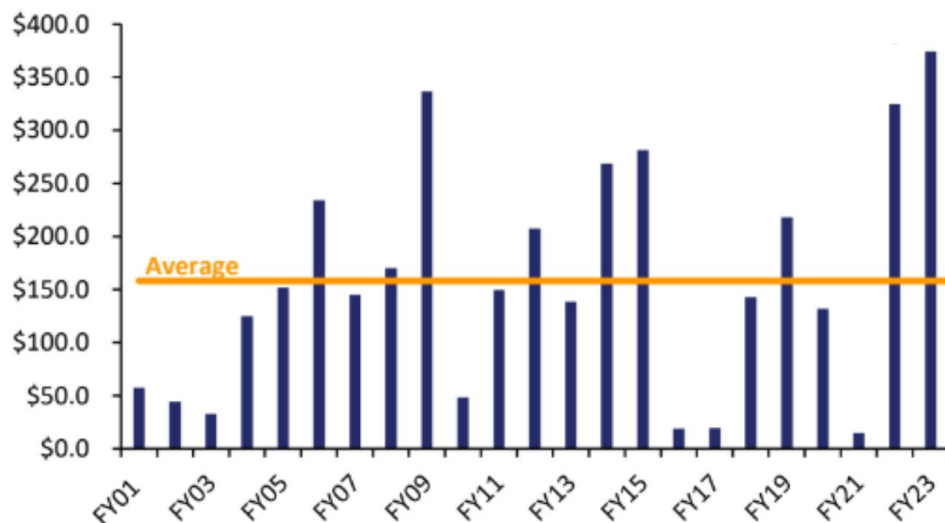
TO Members of the Joint Budget Committee  
FROM Andrea Uhl, JBC Staff (303-866-4956)  
DATE March 18, 2024  
SUBJECT DOLA Energy Impact Grants

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The Department of Local Affairs provided the following information in response to questions that arose during discussion of proposed severance tax transfers presented in a memo on Thursday, February 29<sup>th</sup> [Edited lightly for clarity]:

**Overview:** TABOR non-exempt Severance Tax revenue has been at or near record highs since FY 2021-22 and is therefore crowding out General Fund available for expenditures on the state's priorities. The FY 2023-24 allocations for DNR and DOLA are from the largest ever fiscal year Severance Tax revenue collection (\$374.6M) in history (10% larger than the previous record), and is \$77.2M higher than what was forecast during the 2023 legislative session. This record of \$374.6M in all Severance Tax revenue is on the heels of the third highest amount on record (\$325.0M) the year before. After the \$69.3M in transfers of Severance Tax funds out of the DNR Perpetual Base Fund (\$44.3 million) and DOLA (\$25.0 million), the remaining funds totaling \$305.3M will still provide allocations \$7.9M higher than what was forecast during the 2023 legislative session, which are well above average allocations and among the three highest this century (exceeded only by last years' \$325.0M and FY 2009-10's \$336.9M).

Figure 1: Severance Tax Revenue by Fiscal Year (Millions)



The 2024-25 budget balances the need for continued investments in the DNR and DOLA programs with pressures on the state's budget by transferring \$69.3M of the \$77M in additional Severance Tax revenue realized since the 2023 legislative session (\$44.3M of additional Severance Tax revenues that have or otherwise would have gone to CWCB Perpetual Base Fund via the Severance Tax Operational Fund spillover mechanism and \$25.0M of additional Severance Tax revenue that otherwise would

have gone to DOLA). These transfers enable funding levels to be maintained for DNR and DOLA as well as other state priorities, such as:

- \$0.6M to create new state-level dredge and fill permitting program in response to the EPA v. Sackett Supreme Court decision which eliminated federal protections of up to 60% of Colorado's waters;
- \$18.7M to the IIJA Cash Fund to free a portion of the General Fund transferred to the fund on July 1, 2023 (as specified in SB23-283) for other state priorities; and
- \$50M for capital projects identified as priorities by the CDC.

**Question:** Have any EIAF awardees also received federal IIJA funds? If so, do you have a list of those recipients/projects?

- Response: With relation to EIAF and State IIJA Cash Fund Matching Grant Fund (i.e. the Local Match for IIJA program), there is one current cross-over in applications: the City of Gunnison has applied for both, but they are still waiting for an official award of the Federal IIJA. The State does not receive a list of all of the IIJA awards that have been made to local governments. DOLA is currently reviewing data provided by the White House that provides information on IIJA awards and attempting to cross-reference that list with EIAF applicants.

**Question:** Has DOLA as a department used the IIJA match fund in OEDIT? If yes, what for? If not, why?

- Response: Through an Interagency Agreement with OSPB, DOLA administers the \$10 million Local Match for IIJA (LOMA) program funded by the IIJA Cash Fund. To date, the department has used IIJA funds for the administration of that grant program.
  - Conditional LOMA awards have been provided to 13 applicants for \$6,522,811.
  - Currently, only 4 of these 13 awardees have secured a federal award for their IIJA project. The others are awaiting decisions from the federal agencies.
- DOLA also received a conditional award of \$1.6M from the IIJA Cash Fund to Support an application for United States Department of Energy's Energy Improvements in Rural and Remote Areas (ERA) Program Funding. This federal project was not funded, so the \$1.6M will be returned to the Cash Fund.

**Question:** Would it be possible for the General Assembly or Governor to direct DOLA to earmark a portion of the grant money for projects that specifically include an IIJA component? Through the "special statewide program or initiative" set-aside process? It's been said that requiring federal IIJA could actually deter some small applicants because of the stricter guidelines - do you have a comment on that? How does the matching situation work if an applicant is awarded EIAF and IIJA?

- Response: As proposed by OSPB, the transfer of Severance Tax funds into the Capital Construction Fund and the IIJA Cash Fund (to replace and free General fund transferred to the fund on July 1, 2023 per SB23-283) is part of balancing due to historic Severance Tax revenues crowding out available General Fund. If \$18.7M was not transferred from Severance Tax revenues and \$18.7M of GF was moved out of the IIJA Cash Fund, it would reduce the amount of IIJA match that would be available for State agencies and local governments. If the \$25M remained in the Local Government Severance Tax Fund rather than be used for balancing purposes, the department could reserve these funds for an IIJA grant initiative, but that can already be accomplished with the LOMA program and other state priorities would not be able to be funded.

However, given the department's experience with the LOMA program, local governments are not securing their federal awards very quickly and the combination of the two programs could create additional complications

- Such local governments would be unable to complete EIAF contracts with DOLA until their federal awards are secured.
- In addition, smaller local governments have much difficulty administering federal requirements (Davis-Bacon, etc) and combining Severance with IIJA applies federal requirements to the entire project and results in greater administrative burden to these local governments.
- The LOMA program isn't fully subscribed and has remaining capacity for providing IIJA matching funds.

**Question:** How would taking \$25.0 million out of DOLA's Severance Tax fund (assume July 1) impact the amount/number of grant cycles planned in the near future?

- Response: Pursuant to the Governor's November 1st Budget Proposal, the department reserved the \$25M, which still left record funding available above the amount anticipated during the 2023 legislative session. As a result of this planning and significant recent Severance Tax revenues, the proposed sweep will not impact EIAF competitive grant cycles already announced or in process in the current fiscal year. The department plans to announce available funding for FY 2024-25 in late April following March revenue forecasts and the passage of the Long Bill.
- Depending on monthly Severance Tax revenues for the next few months and any variance from state forecasts, the number of EIAF grant cycles and the funding available may be reduced or increased for FY 2024-25. EIAF grant cycles have been budgeted through the end of the current fiscal year (FY 2023-24) based on Severance tax and Federal Mineral Lease revenues. Currently, the EIAF program anticipates three \$25 million cycles (\$18 million per cycle budgeted preliminarily from Severance Tax and \$7 million from Federal Mineral Lease) in FY 2024-25, contingent on monthly Severance Tax revenues tracking closely to state forecasts.

**Question:** How many cycles/how much money is there going out in the current fiscal year?

- Response: In all, more than \$70 million from DOLA's allocation of Severance Tax revenues will be made available to local governments through the EIAF grant program during the current fiscal year. The FY 2023-24 EIAF Program total spending plan includes the following from Severance Tax revenues:
  - Three competitive grant cycles for a total of \$64 million of State Severance Tax revenue. Please note, competitive grant cycles are also funded with Federal Mineral Lease revenues.
  - Executive Director Initiatives
    - \$30M for [Climate Resilience Challenge](#) initiative
    - \$30M for [More Housing Now](#) land use initiative
    - \$27.5M for [Main Street Live](#) initiative
  - Approximately \$3M in administrative planning, supplemental, and Best and Brightest grant awards
  - \$7M in emergency reserves set aside per statute and departmental EIAF Program policy