

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 16-0913.02 Jason Gelender x4330

HOUSE BILL 16-1229

HOUSE SPONSORSHIP

Rankin, Hamner, Young

SENATE SPONSORSHIP

Steadman, Grantham, Lambert

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATION OF THE MEANS OF REPAYMENT FOR**
102 **CERTAIN ONGOING FINANCIAL OBLIGATIONS INCURRED BY THE**
103 **STATE IN ORDER TO FUND CAPITAL CONSTRUCTION PROJECTS**
104 **FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.**

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>.)

Joint Budget Committee. In 2008, the state entered into lease-purchase agreements to fund capital construction projects for state-supported institutions of higher education and allocated a

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
Amended 2nd Reading
March 7, 2016

formula-based amount of federal mineral lease revenues to the ongoing repayment of certificates of participation (COPs) issued in connection with the lease-purchase agreements. But in many of the years since 2008, the amount of federal mineral lease revenues has not been sufficient to entirely cover the cost of the COP payments as intended, and the general assembly has had to appropriate money from the general fund to make up for the shortfall.

In order to address current and anticipated future federal mineral lease revenues shortfalls, the bill transfers all money in the higher education maintenance and reserve fund (reserve fund) to the higher education federal mineral lease revenues fund (revenues fund). Effective July 1, 2016, the bill eliminates both the revenues fund and the reserve fund, requires federal mineral lease revenue that is currently required to be credited to the fund to instead be credited to the state public school fund, identifies the general fund as the source of repayment for COPs payments made on and after July 1, 2016, and repeals existing statutory authorization, subject to specified legislative actions, for the issuance of additional COPs.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 23-1-106.3, **amend**
3 (2) (a) as follows:

4 **23-1-106.3. Duties and powers of the commission - capital**
5 **construction projects - federal mineral lease revenues fund - higher**
6 **education institutions lease-purchase cash fund.** (2) (a) On or before
7 August 15, 2009, and on or before August 15 OF each year thereafter
8 THROUGH AUGUST 15, 2015, the state treasurer shall notify the
9 commission, the office of state planning and budgeting, the capital
10 development committee, and the joint budget committee of the amount of
11 money in the revenues fund and whether the treasurer determines that
12 there are sufficient moneys in the revenues fund to enter into additional
13 lease-purchase agreements to be funded from the revenues fund. ON AND
14 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, THE
15 STATE SHALL NOT ENTER INTO ANY ADDITIONAL LEASE-PURCHASE

1 AGREEMENTS TO BE FUNDED FROM THE REVENUES FUND.

2 **SECTION 2.** In Colorado Revised Statutes, 23-19.9-101, **repeal**

3 (2) as follows:

4 **23-19.9-101. Definitions.** As used in this article, unless the
5 context otherwise requires:

6 (2) "**Maintenance and reserve fund**" means the higher education
7 maintenance and reserve fund created in section 23-19.9-102 (2)(a).

8 **SECTION 3.** In Colorado Revised Statutes, 23-19.9-102, **amend**

9 (1)(a) and (1)(b); **add** (1)(a.5); and **repeal** (2)(a) and (2)(b) as follows:

10 **23-19.9-102. Higher education federal mineral lease revenues**
11 **fund - higher education maintenance and reserve fund - creation -**

12 **sources of revenues - use.** (1)(a) The higher education federal mineral
13 lease revenues fund is hereby created in the state treasury. For the

14 2008-09 fiscal year and for each succeeding fiscal year **THROUGH THE**
15 **QUARTERLY TRANSFER FOR THE QUARTER COMMENCING ON OCTOBER 1 OF**

16 **THE 2015-16 FISCAL YEAR**, the lesser of the first fifty million dollars of the
17 total amount of moneys required to be transferred to the revenues fund

18 and the maintenance and reserve fund pursuant to section 34-63-102
19 (5.5), C.R.S., or all of such moneys shall be transferred to the revenues

20 fund and the remainder of such moneys shall be transferred to the
21 maintenance and reserve fund. **FOR THE QUARTERLY TRANSFERS FOR THE**

22 **QUARTERS COMMENCING ON JANUARY 1, 2016, AND APRIL 1, 2016, FOR**
23 **THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER,**

24 **MONEY SHALL BE TRANSFERRED TO THE REVENUES FUND AS REQUIRED BY**
25 **SECTION 34-63-102 (5.5), C.R.S.** Interest and income derived from the

26 deposit and investment of the revenues fund shall remain in the revenues
27 fund and shall not be transferred to the general fund or any other fund at

1 the end of any fiscal year. The state treasurer may invest the revenues
2 fund in any investment in which the board of trustees of the public
3 employees' retirement association may invest the funds of the association
4 pursuant to section 24-51-206, C.R.S.

5 (a.5) ON THE EFFECTIVE DATE OF THIS PARAGRAPH (a.5), THE
6 TREASURER SHALL TRANSFER ALL MONEY IN THE MAINTENANCE AND
7 RESERVE FUND TO THE REVENUES FUND.

8 (b) The general assembly may annually appropriate moneys in the
9 revenues fund to THE DEPARTMENT OF HIGHER EDUCATION FOR TRANSFER
10 TO THE STATE TREASURER TO directly pay for or pay the costs of financing
11 capital construction projects at state-supported institutions of higher
12 education that are included on a prioritized list of such projects specified
13 in a joint resolution that has taken effect in accordance with section 39 of
14 article V of the state constitution after being sponsored by the joint budget
15 committee of the general assembly, approved by the general assembly,
16 and presented to the governor pursuant to section 23-1-106.3 (1) (b),
17 enacted by Senate Bill 08-233, enacted at the second regular session of
18 the sixty-sixth general assembly. MONEY TRANSFERRED TO THE
19 TREASURER IS CONTINUOUSLY APPROPRIATED TO THE TREASURER FOR THE
20 PURPOSE OF MAKING PAYMENTS RELATED TO THE CAPITAL CONSTRUCTION
21 PROJECTS. The general assembly may also appropriate moneys in the
22 revenues fund to the department of education for distribution by the
23 department, or any board or division within the department that the
24 department may designate, to school districts for capital construction
25 projects at area vocational schools, as defined in section 23-60-103 (1).
26 In making such appropriations, the general assembly shall give priority
27 consideration to capital construction projects at state-supported

1 institutions of higher education that are located in communities that are
2 substantially impacted by energy production or conversion activities, and
3 the department, or any board or division within the department designated
4 to distribute moneys appropriated to the department pursuant to this
5 paragraph (b), shall give priority consideration to capital construction
6 projects at area vocational schools that are located in such communities.
7 Only capital construction projects that will be used exclusively or
8 primarily for academic purposes shall be eligible for funding pursuant to
9 this paragraph (b).

10 (2) (a) The higher education maintenance and reserve fund is
11 hereby created in the state treasury. The principal of the maintenance and
12 reserve fund shall consist of moneys transferred to the maintenance and
13 reserve fund pursuant to section 34-63-102 (5.3) (a) (H), C.R.S. Except
14 as otherwise provided in paragraph (b) of this subsection (2), the principal
15 of the maintenance and reserve fund shall remain in the fund and shall not
16 be expended for any purpose. The general assembly may annually
17 appropriate interest and income derived from the deposit and investment
18 of moneys in the maintenance and reserve fund for controlled
19 maintenance projects for the system of public higher education that are
20 selected through the process set forth in sections 24-30-1303 (1) (k.5) and
21 2-3-1304 (1) (b), C.R.S. The state treasurer may invest the maintenance
22 and reserve fund in any investment in which the board of trustees of the
23 public employees' retirement association may invest the funds of the
24 association pursuant to section 24-51-206, C.R.S.

25 (b) (I) If the amount of moneys in the revenues fund will be
26 insufficient to cover the full amount of the payments due to be made
27 under lease-purchase agreements authorized pursuant to section

1 23-1-106.3 (3), the general assembly may transfer from the principal of
2 the maintenance and reserve fund or from any other sources to the
3 revenues fund sufficient moneys to make the payments.

4 (H) If, at any time during a fiscal year, the most recent available
5 quarterly revenue estimate prepared by the staff of the legislative council
6 indicates that the amount of total general fund revenues for the fiscal year
7 will not be sufficient to allow the state to maintain the four percent or
8 higher reserve required by section 24-75-201.1 (1), C.R.S., the general
9 assembly may make supplemental appropriations of principal of the
10 maintenance and reserve fund or the state controller may allow
11 overexpenditures to be made from principal of the maintenance and
12 reserve fund pursuant to and in accordance with the requirements of
13 section 24-75-111, C.R.S., in order to offset any reduction in the amount
14 of one or more general fund appropriations for the fiscal year for
15 operating expenses of state-supported institutions of higher education that
16 resulted from the insufficiency in the amount of total general fund
17 revenues.

18 (III) Notwithstanding any provision of this subsection (2) to the
19 contrary, on June 30, 2009, the state treasurer shall deduct thirty-three
20 million seven hundred thousand dollars from the higher education
21 maintenance and reserve fund and transfer such sum to the general fund;
22 except that, if the balance of moneys in the higher education maintenance
23 and reserve fund on June 30, 2009, is less than thirty-three million seven
24 hundred thousand dollars, the state treasurer shall transfer the balance of
25 moneys in the fund to the general fund.

26 (IV) Notwithstanding any provision of this subsection (2) to the
27 contrary, on April 15, 2010, the state treasurer shall deduct two million

1 three hundred thousand dollars from the higher education maintenance
2 and reserve fund and transfer such sum to the general fund.

3 (V) Notwithstanding any provision of this subsection (2) to the
4 contrary, on May 5, 2011, the state treasurer shall deduct one million one
5 hundred twenty-eight thousand six hundred twenty-four dollars from the
6 higher education maintenance and reserve fund and transfer such sum to
7 the general fund.

8 **SECTION 4.** In Colorado Revised Statutes, 34-63-102, amend
9 (1) (a) (II), (5.3) (a) (II), (5.5) (a), and (5.5) (b) as follows:

10 **34-63-102. Creation of mineral leasing fund - distribution -
11 advisory committee - local government permanent fund created -
12 definitions - transfer of moneys - repeal.** (1) (a) (II) On and after July
13 1, 2008, all moneys, including any interest and income derived therefrom,
14 received by the state treasurer pursuant to the provisions of the federal
15 "Mineral Lands Leasing Act" of February 25, 1920, as amended, except
16 those moneys described in section 34-63-104, shall be deposited by the
17 state treasurer into the mineral leasing fund, which fund is hereby created,
18 for use by state agencies, public schools, and political subdivisions of the
19 state as described in subsections (5.3) and (5.4) of this section and for
20 transfer to the higher education federal mineral lease revenues fund
21 created in section 23-19.9-102 (1) (a), C.R.S., the higher education
22 maintenance and reserve fund created in section 23-19.9-102 (2) (a),
23 C.R.S., and the local government permanent fund created in
24 sub subparagraph (A) of subparagraph (I) of paragraph (a) of subsection
25 (5.3) of this section, as required by this section and section 23-19.9-102,
26 C.R.S.

27 (5.3) (a) Bonus payments credited to the mineral leasing fund

1 created in subparagraph (II) of paragraph (a) of subsection (1) of this
2 section shall be distributed on a quarterly basis for each quarter
3 commencing on July 1, October 1, January 1, or April 1 of any state fiscal
4 year as follows:

5 (II) Fifty percent of the bonus payments shall be transferred to the
6 higher education ~~maintenance and reserve~~ FEDERAL MINERAL LEASE
7 REVENUES fund created in ~~section 23-19.9-102 (2) (a)~~, SECTION
8 23-19.9-102 (1)(a), C.R.S.

9 (5.5)(a)(I) On and after July 1, 2008, BUT BEFORE THE EFFECTIVE
10 DATE OF THIS PARAGRAPH (a), AS AMENDED, all moneys other than bonus
11 payments, as defined in paragraph (b) of subsection (5.3) of this section,
12 credited to the mineral leasing fund in excess of the amounts distributed
13 pursuant to subsection (5.4) of this section shall be transferred on a
14 quarterly basis for each quarter commencing on July 1, October 1,
15 January 1, or April 1 of any state fiscal year to the higher education
16 federal mineral lease revenues fund created in section 23-19.9-102 (1)(a),
17 C.R.S., and the higher education maintenance and reserve fund created in
18 section 23-19.9-102 (2) (a), C.R.S., as specified in said section AS THAT
19 SECTION EXISTED PRIOR TO ITS REPEAL.

20 (II) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a),
21 AS AMENDED, ALL MONEYS OTHER THAN BONUS PAYMENTS, AS DEFINED
22 IN PARAGRAPH (b) OF SUBSECTION (5.3) OF THIS SECTION, CREDITED TO
23 THE MINERAL LEASING FUND IN EXCESS OF THE AMOUNTS DISTRIBUTED
24 PURSUANT TO SUBSECTION (5.4) OF THIS SECTION SHALL BE TRANSFERRED
25 ON A QUARTERLY BASIS FOR EACH QUARTER COMMENCING ON JULY 1,
26 OCTOBER 1, JANUARY 1, OR APRIL 1 OF ANY STATE FISCAL YEAR TO THE
27 HIGHER EDUCATION FEDERAL MINERAL LEASE REVENUES FUND CREATED

1 IN SECTION 23-19.9-102 (1) (a), C.R.S., AS SPECIFIED IN SAID SECTION.

2 (b) Notwithstanding the provisions of paragraph (a) of subsection
3 (5.4) of this section, if the amount of moneys in the higher education
4 federal mineral lease revenues fund, established pursuant to section
5 23-19.9-102 (1), C.R.S., ~~including any transfers pursuant to section~~
6 ~~23-19.9-102 (2)(b), C.R.S.~~, is insufficient to cover the full amount of the
7 payments due to be made under lease-purchase agreements authorized
8 pursuant to section 23-1-106.3 (3), C.R.S., the general assembly may
9 reduce the transfer to the state public school fund by the amount needed
10 to cover the full amount of payments and transfer that amount to the
11 higher education federal mineral lease revenues fund.

12 **SECTION 5. Effective date.** (1) Except as otherwise provided
13 in this section, this act takes effect upon passage.

14 (2) Section 23-19.9-102 (1) (b), Colorado Revised Statutes, as
15 amended in section 3 of this act, takes effect July 1, 2016.

16 (3) The repeal of section 23-19.9-102 (2) (a), Colorado Revised
17 Statutes, as contained in section 3 of this act, takes effect on the day after
18 the remainder of this act takes effect.

19 **SECTION 6. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.