

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0913.02 Jason Gelender x4330

HOUSE BILL 16-1229

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HOUSE SPONSORSHIP

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**House Committees**  
Finance

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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.

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**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.

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.

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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 (1) (a), (3) (a) (I), (3) (b) (II) (A), and (5) (a); and **repeal** (2) as follows:

4 **23-1-106.3. Duties and powers of the commission - capital**  
5 **construction projects - higher education institutions lease-purchase**  
6 **cash fund - payment of existing obligations from general fund.**

7 (1) (a) As soon as possible after May 12, 2008, the commission, after  
8 consultation with the appropriate governing boards of state-supported  
9 institutions of higher education, shall submit to the office of state  
10 planning and budgeting and to the capital development committee of the  
11 general assembly, established pursuant to section 2-3-1302, C.R.S., a  
12 prioritized list of capital construction projects at the state-supported  
13 institutions of higher education to be constructed using lease-purchase  
14 agreements funded through the higher education federal mineral lease  
15 revenues fund established pursuant to section 23-19.9-102 (1), AS THAT

1 SECTION EXISTED PRIOR TO ITS REPEAL, and referred to in this section as  
2 the "revenues fund". As soon as possible after receipt of the list from the  
3 commission, the office of state planning and budgeting shall submit to the  
4 capital development committee a prioritized list of capital construction  
5 projects at state-supported institutions of higher education to be  
6 constructed using lease-purchase agreements funded through the revenues  
7 fund.

8 ~~(2) (a) On or before August 15, 2009, and on or before August 15~~  
9 ~~each year thereafter, the state treasurer shall notify the commission, the~~  
10 ~~office of state planning and budgeting, the capital development~~  
11 ~~committee, and the joint budget committee of the amount of money in the~~  
12 ~~revenues fund and whether the treasurer determines that there are~~  
13 ~~sufficient moneys in the revenues fund to enter into additional~~  
14 ~~lease-purchase agreements to be funded from the revenues fund.~~

15 ~~(b) After the notification required by paragraph (a) of this~~  
16 ~~subsection (2) is received, and the treasurer has determined that there are~~  
17 ~~sufficient moneys in the revenues fund to enter into additional~~  
18 ~~lease-purchase agreements, the commission, the office of state planning~~  
19 ~~and budgeting, the capital development committee, and the joint budget~~  
20 ~~committee, pursuant to the procedures established in subsection (1) of this~~  
21 ~~section, may promptly consider a new prioritized list of capital~~  
22 ~~construction projects at state-supported institutions of higher education~~  
23 ~~to be constructed using lease-purchase agreements funded through the~~  
24 ~~revenues fund. A joint resolution introduced pursuant to this paragraph~~  
25 ~~(b) shall also include a statement of the maximum average anticipated~~  
26 ~~state-funded payments under all lease-purchase agreements to be~~  
27 ~~authorized through the joint resolution.~~

1           (3) (a) (I) Notwithstanding the provisions of sections 24-82-102  
2           (1) (b) and 24-82-801, C.R.S., the state of Colorado, acting by and  
3           through the state treasurer, is authorized to execute lease-purchase  
4           agreements each for no more than twenty years of annual payments on the  
5           projects listed in the joint resolution adopted and approved pursuant to  
6           paragraph (b) of subsection (1) of this section. ~~or paragraph (b) of~~  
7           ~~subsection (2) of this section.~~ The lease-purchase agreements authorized  
8           pursuant to this paragraph (a) may be for the total amount of the project  
9           cost as reflected in the joint resolution. A state-supported institution of  
10          higher education may either contribute the full amount of its share of the  
11          cost of the project at the commencement of the project or may have its  
12          share of the cost of the project included in the lease-purchase agreement.  
13          Based upon the total amount of money that one or more lease-purchase  
14          agreements is able to raise, the treasurer shall enter into lease-purchase  
15          agreements in the order of the prioritized list contained in the joint  
16          resolution; except that, if, after funding all previous projects on the list,  
17          the amount of money is insufficient to fund the entire project that is next  
18          on the list, the treasurer may enter into a lease-purchase agreement on the  
19          next project or projects on the list that may be completely funded.

20          (b) (II) (A) Any lease-purchase agreement authorized pursuant to  
21          paragraph (a) of this subsection (3) shall provide that all of the  
22          obligations of the state under the agreement shall be subject to the action  
23          of the general assembly in annually making moneys available for all  
24          payments thereunder. Payments under any lease-purchase agreement  
25          MADE BEFORE JULY 1, 2016, shall be made from the revenues fund and  
26          any money in the higher education institutions lease-purchase cash fund  
27          established in subsection (4) of this section. PAYMENTS UNDER ANY

1 LEASE-PURCHASE AGREEMENT MADE ON OR AFTER JULY 1, 2016, SHALL BE  
2 MADE FROM THE GENERAL FUND, FROM ANY MONEY IN THE HIGHER  
3 EDUCATION INSTITUTIONS LEASE-PURCHASE CASH FUND ESTABLISHED IN  
4 SUBSECTION (4) OF THIS SECTION, AND FROM ANY OTHER LEGAL SOURCE  
5 AS AUTHORIZED AND APPROPRIATED BY THE GENERAL ASSEMBLY.

6 (5) (a) Prior to executing a lease-purchase agreement pursuant to  
7 subsection (3) of this section, in order to protect against future interest  
8 rate increases, the state of Colorado, acting by and through the state  
9 treasurer and at the discretion of the state treasurer, may enter into an  
10 interest rate exchange agreement pursuant to article 59.3 of title 11,  
11 C.R.S. A lease-purchase agreement entered into pursuant to subsection  
12 (3) of this section shall be a proposed public security for the purposes of  
13 article 59.3 of title 11, C.R.S. Any payments made by the state under an  
14 agreement entered into pursuant to this subsection (5) shall be made  
15 solely from moneys made available to the state treasurer from the  
16 execution of a lease-purchase agreement or from moneys appropriated  
17 from the revenues fund FOR A PAYMENT MADE BEFORE JULY 1, 2016, THE  
18 GENERAL FUND, or the higher education institutions lease-purchase cash  
19 fund created pursuant to subsection (4) of this section.

20 **SECTION 2.** In Colorado Revised Statutes, 23-19.9-102, **add** (1)  
21 (a.5) as follows:

22 **23-19.9-102. Higher education federal mineral lease revenues**  
23 **fund - higher education maintenance and reserve fund - creation -**  
24 **sources of revenues - use.** (1) (a.5) ON THE EFFECTIVE DATE OF THIS  
25 PARAGRAPH (a.5), THE STATE TREASURER SHALL TRANSFER ALL MONEY IN  
26 THE MAINTENANCE AND RESERVE FUND TO THE REVENUES FUND. IF ANY  
27 ADDITIONAL MONEY IS DISTRIBUTED TO THE MAINTENANCE AND RESERVE

1 FUND AFTER SAID EFFECTIVE DATE BUT BEFORE JULY 1, 2016, PURSUANT  
2 TO SECTION 34-63-102 (5.5) (a) (I), C.R.S., THE STATE TREASURER SHALL  
3 ALSO IMMEDIATELY TRANSFER THAT MONEY TO THE REVENUES FUND.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 23-19.9-103 and  
5 23-19.9-104 as follows:

6 **23-19.9-103. Transfer of balance of revenues fund to state**  
7 **public school fund.** ON JUNE 30, 2016, THE STATE TREASURER SHALL  
8 TRANSFER ALL MONEY IN THE REVENUES FUND TO THE STATE PUBLIC  
9 SCHOOL FUND CREATED IN SECTION 22-54-114 (1), C.R.S.

10 **23-19.9-104. Repeal of article.** THIS ARTICLE IS REPEALED,  
11 EFFECTIVE JULY 1, 2016.

12 **SECTION 4.** In Colorado Revised Statutes, 34-63-102, **amend**  
13 (1) (a) (II), (5.3) (a) (II), (5.4) (a) (II), and (5.5) (a); **add** (5.4) (a) (III);  
14 and **repeal** (5.5) (b) as follows:

15 **34-63-102. Creation of mineral leasing fund - distribution -**  
16 **advisory committee - local government permanent fund created -**  
17 **definitions - transfer of moneys - repeal.** (1) (a) (II) (A) On and after  
18 July 1, 2008, BUT BEFORE JULY 1, 2016, all moneys, including any interest  
19 and income derived therefrom, received by the state treasurer pursuant to  
20 the provisions of the federal "Mineral Lands Leasing Act" of February 25,  
21 1920, as amended, except those moneys described in section 34-63-104,  
22 shall be deposited by the state treasurer into the mineral leasing fund,  
23 which fund is hereby created, for use by state agencies, public schools,  
24 and political subdivisions of the state as described in subsections (5.3)  
25 and (5.4) of this section and for transfer to the higher education federal  
26 mineral lease revenues fund created in section 23-19.9-102 (1) (a),  
27 C.R.S., AS THAT SECTION EXISTED PRIOR TO ITS REPEAL, the higher

1 education maintenance and reserve fund created in section 23-19.9-102  
2 (2) (a), C.R.S., AS THAT SECTION EXISTED PRIOR TO ITS REPEAL, and the  
3 local government permanent fund created in sub-subparagraph (A) of  
4 subparagraph (I) of paragraph (a) of subsection (5.3) of this section, as  
5 required by this section and AS WAS REQUIRED BY section 23-19.9-102,  
6 C.R.S., PRIOR TO ITS REPEAL.

7 (B) ON AND AFTER JULY 1, 2016, ALL MONEYS, INCLUDING ANY  
8 INTEREST AND INCOME DERIVED THEREFROM, RECEIVED BY THE STATE  
9 TREASURER PURSUANT TO THE PROVISIONS OF THE FEDERAL "MINERAL  
10 LANDS LEASING ACT" OF FEBRUARY 25, 1920, AS AMENDED, EXCEPT  
11 THOSE MONEYS DESCRIBED IN SECTION 34-63-104, SHALL BE DEPOSITED  
12 BY THE STATE TREASURER INTO THE MINERAL LEASING FUND, WHICH FUND  
13 IS HEREBY CREATED, FOR USE BY STATE AGENCIES, PUBLIC SCHOOLS, AND  
14 POLITICAL SUBDIVISIONS OF THE STATE AS DESCRIBED IN SUBSECTIONS  
15 (5.3) AND (5.4) OF THIS SECTION AND FOR TRANSFER TO THE LOCAL  
16 GOVERNMENT PERMANENT FUND CREATED IN SUB-SUBPARAGRAPH (A) OF  
17 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (5.3) OF THIS  
18 SECTION, AS REQUIRED BY THIS SECTION.

19 (5.3) (a) Bonus payments credited to the mineral leasing fund  
20 created in subparagraph (II) of paragraph (a) of subsection (1) of this  
21 section shall be distributed on a quarterly basis for each quarter  
22 commencing on July 1, October 1, January 1, or April 1 of any state fiscal  
23 year as follows:

24 (II) Fifty percent of the bonus payments shall be transferred to the  
25 ~~higher education maintenance and reserve fund created in section~~  
26 ~~23-19.9-102 (2) (a), C.R.S.~~ STATE PUBLIC SCHOOL FUND CREATED IN  
27 SECTION 22-54-114 (1), C.R.S.

1           (5.4) Except as otherwise provided in subsection (5.5) of this  
2 section, on and after July 1, 2008, all moneys other than bonus payments,  
3 as defined in paragraph (b) of subsection (5.3) of this section, credited to  
4 the mineral leasing fund created in subparagraph (II) of paragraph (a) of  
5 subsection (1) of this section shall be distributed on a quarterly basis for  
6 quarters beginning on July 1, October 1, January 1, and April 1 of each  
7 state fiscal year as follows:

8           (a) (II) For each quarter commencing during the 2011-12 fiscal  
9 year or during any succeeding fiscal year THROUGH THE 2015-16 FISCAL  
10 YEAR, forty-eight and three-tenths percent of the moneys shall be paid  
11 into the state public school fund to be used for the support of the public  
12 schools of the state; except that the maximum amount of moneys  
13 transferred during any fiscal year shall not exceed the maximum amount  
14 of moneys allowed to be transferred during the 2010-11 fiscal year  
15 multiplied by one hundred four percent per year for each succeeding  
16 fiscal year.

17           (III) FOREACH QUARTER COMMENCING ON OR AFTER JULY 1, 2016,  
18 FORTY-EIGHT AND THREE-TENTHS PERCENT OF THE MONEYS SHALL BE  
19 PAID INTO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION  
20 22-54-114 (1), C.R.S., TO BE USED FOR THE SUPPORT OF THE PUBLIC  
21 SCHOOLS OF THE STATE.

22           (5.5) (a) (I) On and after July 1, 2008, BUT BEFORE JULY 1, 2016,  
23 all moneys other than bonus payments, as defined in paragraph (b) of  
24 subsection (5.3) of this section, credited to the mineral leasing fund in  
25 excess of the amounts distributed pursuant to subsection (5.4) of this  
26 section shall be transferred on a quarterly basis for each quarter  
27 commencing on July 1, October 1, January 1, or April 1 of any state fiscal



1 year to the higher education federal mineral lease revenues fund created  
2 in section 23-19.9-102 (1) (a), C.R.S., AS THAT SECTION EXISTED PRIOR  
3 TO ITS REPEAL, and the higher education maintenance and reserve fund  
4 created in section 23-19.9-102 (2) (a), C.R.S., AS THAT SECTION EXISTED  
5 PRIOR TO ITS REPEAL, as specified in said section.

6 (II) ON AND AFTER JULY 1, 2016, ALL MONEYS OTHER THAN BONUS  
7 PAYMENTS, AS DEFINED IN PARAGRAPH (b) OF SUBSECTION (5.3) OF THIS  
8 SECTION, CREDITED TO THE MINERAL LEASING FUND IN EXCESS OF THE  
9 AMOUNTS DISTRIBUTED PURSUANT TO SUBSECTION (5.4) OF THIS SECTION  
10 SHALL BE TRANSFERRED ON A QUARTERLY BASIS FOR EACH QUARTER  
11 COMMENCING ON JULY 1, OCTOBER 1, JANUARY 1, OR APRIL 1 OF ANY  
12 STATE FISCAL YEAR TO THE STATE PUBLIC SCHOOL FUND CREATED IN  
13 SECTION 22-54-114 (1), C.R.S.

14 ~~(b) Notwithstanding the provisions of paragraph (a) of subsection~~  
15 ~~(5.4) of this section, if the amount of moneys in the higher education~~  
16 ~~federal mineral lease revenues fund, established pursuant to section~~  
17 ~~23-19.9-102 (1), C.R.S., including any transfers pursuant to section~~  
18 ~~23-19.9-102 (2) (b), C.R.S., is insufficient to cover the full amount of the~~  
19 ~~payments due to be made under lease-purchase agreements authorized~~  
20 ~~pursuant to section 23-1-106.3 (3), C.R.S., the general assembly may~~  
21 ~~reduce the transfer to the state public school fund by the amount needed~~  
22 ~~to cover the full amount of payments and transfer that amount to the~~  
23 ~~higher education federal mineral lease revenues fund.~~

24 **SECTION 5. Effective date.** This act takes effect upon passage;  
25 except that sections 23-19.9-104, Colorado Revised Statutes, as enacted  
26 in section 3 of this act, 34-63-102 (5.3) (a) (II), Colorado Revised  
27 Statutes, as amended in section 4 of this act, and 34-63-102 (5.5) (a),

1 Colorado Revised Statutes, as amended in section 4 of this act, take effect  
2 July 1, 2016.

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