

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 24, 2016
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB16-1229 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend strike everything below the enacting clause and substitute:

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
16 AGREEMENTS TO BE FUNDED FROM THE REVENUES FUND.

17 **SECTION 2.** In Colorado Revised Statutes, 23-19.9-101, **repeal**
18 (2) as follows:

19 **23-19.9-101. Definitions.** As used in this article, unless the
20 context otherwise requires:

21 (2) ~~"Maintenance and reserve fund" means the higher education~~
22 ~~maintenance and reserve fund created in section 23-19.9-102 (2) (a).~~

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

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

2 **23-19.9-102. Higher education federal mineral lease revenues**
3 **fund - higher education maintenance and reserve fund - creation -**
4 **sources of revenues - use.** (1) (a) The higher education federal mineral
5 lease revenues fund is hereby created in the state treasury. For the
6 2008-09 fiscal year and for each succeeding fiscal year THROUGH THE
7 QUARTERLY TRANSFER FOR THE QUARTER COMMENCING ON OCTOBER 1 OF
8 THE 2015-16 FISCAL YEAR, the lesser of the first fifty million dollars of the
9 total amount of moneys required to be transferred to the revenues fund
10 and the maintenance and reserve fund pursuant to section 34-63-102
11 (5.5), C.R.S., or all of such moneys shall be transferred to the revenues
12 fund and the remainder of such moneys shall be transferred to the
13 maintenance and reserve fund. FOR THE QUARTERLY TRANSFERS FOR THE
14 QUARTERS COMMENCING ON JANUARY 1, 2016, AND APRIL 1, 2016, FOR
15 THE 2016-17 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER,
16 MONEY SHALL BE TRANSFERRED TO THE REVENUES FUND AS REQUIRED BY
17 SECTION 34-63-102 (5.5), C.R.S. Interest and income derived from the
18 deposit and investment of the revenues fund shall remain in the revenues
19 fund and shall not be transferred to the general fund or any other fund at
20 the end of any fiscal year. The state treasurer may invest the revenues
21 fund in any investment in which the board of trustees of the public
22 employees' retirement association may invest the funds of the association
23 pursuant to section 24-51-206, C.R.S.

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

27 (b) The general assembly may annually appropriate moneys in the
28 revenues fund to THE DEPARTMENT OF HIGHER EDUCATION FOR TRANSFER
29 TO THE STATE TREASURER TO directly pay for or pay the costs of financing
30 capital construction projects at state-supported institutions of higher
31 education that are included on a prioritized list of such projects specified
32 in a joint resolution that has taken effect in accordance with section 39 of
33 article V of the state constitution after being sponsored by the joint budget
34 committee of the general assembly, approved by the general assembly,
35 and presented to the governor pursuant to section 23-1-106.3 (1) (b),
36 enacted by Senate Bill 08-233, enacted at the second regular session of
37 the sixty-sixth general assembly. MONEY TRANSFERRED TO THE
38 TREASURER IS CONTINUOUSLY APPROPRIATED TO THE TREASURER FOR THE
39 PURPOSE OF MAKING PAYMENTS RELATED TO THE CAPITAL CONSTRUCTION
40 PROJECTS. The general assembly may also appropriate moneys in the
41 revenues fund to the department of education for distribution by the

1 department, or any board or division within the department that the
2 department may designate, to school districts for capital construction
3 projects at area vocational schools, as defined in section 23-60-103 (1).
4 In making such appropriations, the general assembly shall give priority
5 consideration to capital construction projects at state-supported
6 institutions of higher education that are located in communities that are
7 substantially impacted by energy production or conversion activities, and
8 the department, or any board or division within the department designated
9 to distribute moneys appropriated to the department pursuant to this
10 paragraph (b), shall give priority consideration to capital construction
11 projects at area vocational schools that are located in such communities.
12 Only capital construction projects that will be used exclusively or
13 primarily for academic purposes shall be eligible for funding pursuant to
14 this paragraph (b).

15 ~~(2) (a) The higher education maintenance and reserve fund is~~
16 ~~hereby created in the state treasury. The principal of the maintenance and~~
17 ~~reserve fund shall consist of moneys transferred to the maintenance and~~
18 ~~reserve fund pursuant to section 34-63-102 (5.3) (a) (H), C.R.S. Except~~
19 ~~as otherwise provided in paragraph (b) of this subsection (2), the principal~~
20 ~~of the maintenance and reserve fund shall remain in the fund and shall not~~
21 ~~be expended for any purpose. The general assembly may annually~~
22 ~~appropriate interest and income derived from the deposit and investment~~
23 ~~of moneys in the maintenance and reserve fund for controlled~~
24 ~~maintenance projects for the system of public higher education that are~~
25 ~~selected through the process set forth in sections 24-30-1303 (1) (k.5) and~~
26 ~~2-3-1304 (1) (b), C.R.S. The state treasurer may invest the maintenance~~
27 ~~and reserve fund in any investment in which the board of trustees of the~~
28 ~~public employees' retirement association may invest the funds of the~~
29 ~~association pursuant to section 24-51-206, C.R.S.~~

30 ~~(b) (f) If the amount of moneys in the revenues fund will be~~
31 ~~insufficient to cover the full amount of the payments due to be made~~
32 ~~under lease-purchase agreements authorized pursuant to section~~
33 ~~23-1-106.3 (3), the general assembly may transfer from the principal of~~
34 ~~the maintenance and reserve fund or from any other sources to the~~
35 ~~revenues fund sufficient moneys to make the payments.~~

36 ~~(H) If, at any time during a fiscal year, the most recent available~~
37 ~~quarterly revenue estimate prepared by the staff of the legislative council~~
38 ~~indicates that the amount of total general fund revenues for the fiscal year~~
39 ~~will not be sufficient to allow the state to maintain the four percent or~~
40 ~~higher reserve required by section 24-75-201.1 (1), C.R.S., the general~~
41 ~~assembly may make supplemental appropriations of principal of the~~

1 maintenance and reserve fund or the state controller may allow
2 overexpenditures to be made from principal of the maintenance and
3 reserve fund pursuant to and in accordance with the requirements of
4 section 24-75-111, C.R.S., in order to offset any reduction in the amount
5 of one or more general fund appropriations for the fiscal year for
6 operating expenses of state-supported institutions of higher education that
7 resulted from the insufficiency in the amount of total general fund
8 revenues.

9 (III) Notwithstanding any provision of this subsection (2) to the
10 contrary, on June 30, 2009, the state treasurer shall deduct thirty-three
11 million seven hundred thousand dollars from the higher education
12 maintenance and reserve fund and transfer such sum to the general fund;
13 except that, if the balance of moneys in the higher education maintenance
14 and reserve fund on June 30, 2009, is less than thirty-three million seven
15 hundred thousand dollars, the state treasurer shall transfer the balance of
16 moneys in the fund to the general fund.

17 (IV) Notwithstanding any provision of this subsection (2) to the
18 contrary, on April 15, 2010, the state treasurer shall deduct two million
19 three hundred thousand dollars from the higher education maintenance
20 and reserve fund and transfer such sum to the general fund.

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

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

28 **34-63-102. Creation of mineral leasing fund - distribution -**
29 **advisory committee - local government permanent fund created -**
30 **definitions - transfer of moneys - repeal.** (1) (a) (II) On and after July
31 1, 2008, all moneys, including any interest and income derived therefrom,
32 received by the state treasurer pursuant to the provisions of the federal
33 "Mineral Lands Leasing Act" of February 25, 1920, as amended, except
34 those moneys described in section 34-63-104, shall be deposited by the
35 state treasurer into the mineral leasing fund, which fund is hereby created,
36 for use by state agencies, public schools, and political subdivisions of the
37 state as described in subsections (5.3) and (5.4) of this section and for
38 transfer to the higher education federal mineral lease revenues fund
39 created in section 23-19.9-102 (1) (a), C.R.S., ~~the higher education~~
40 ~~maintenance and reserve fund created in section 23-19.9-102 (2) (a);~~

1 ~~C.R.S.~~, and the local government permanent fund created in
2 sub-subparagraph (A) of subparagraph (I) of paragraph (a) of subsection
3 (5.3) of this section, as required by this section and section 23-19.9-102,
4 C.R.S.

5 (5.3) (a) Bonus payments credited to the mineral leasing fund
6 created in subparagraph (II) of paragraph (a) of subsection (1) of this
7 section shall be distributed on a quarterly basis for each quarter
8 commencing on July 1, October 1, January 1, or April 1 of any state fiscal
9 year as follows:

10 (II) Fifty percent of the bonus payments shall be transferred to the
11 higher education ~~maintenance and reserve~~ FEDERAL MINERAL LEASE
12 REVENUES fund created in ~~section 23-19.9-102 (2) (a)~~, SECTION
13 23-19.9-102 (1) (a), C.R.S.

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

25 (II) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a),
26 AS AMENDED, ALL MONEYS OTHER THAN BONUS PAYMENTS, AS DEFINED
27 IN PARAGRAPH (b) OF SUBSECTION (5.3) OF THIS SECTION, CREDITED TO
28 THE MINERAL LEASING FUND IN EXCESS OF THE AMOUNTS DISTRIBUTED
29 PURSUANT TO SUBSECTION (5.4) OF THIS SECTION SHALL BE TRANSFERRED
30 ON A QUARTERLY BASIS FOR EACH QUARTER COMMENCING ON JULY 1,
31 OCTOBER 1, JANUARY 1, OR APRIL 1 OF ANY STATE FISCAL YEAR TO THE
32 HIGHER EDUCATION FEDERAL MINERAL LEASE REVENUES FUND CREATED
33 IN SECTION 23-19.9-102 (1) (a), C.R.S., AS SPECIFIED IN SAID SECTION.

34 (b) Notwithstanding the provisions of paragraph (a) of subsection
35 (5.4) of this section, if the amount of moneys in the higher education
36 federal mineral lease revenues fund, established pursuant to section
37 23-19.9-102 (1), C.R.S., ~~including any transfers pursuant to section~~
38 ~~23-19.9-102 (2) (b), C.R.S.~~, is insufficient to cover the full amount of the
39 payments due to be made under lease-purchase agreements authorized
40 pursuant to section 23-1-106.3 (3), C.R.S., the general assembly may

1 reduce the transfer to the state public school fund by the amount needed
2 to cover the full amount of payments and transfer that amount to the
3 higher education federal mineral lease revenues fund.

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

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

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

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

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