

CHAPTER 222

GOVERNMENT - STATE

HOUSE BILL 12-1357

BY REPRESENTATIVE(S) Brown, Sonnenberg, Vigil, Barker, Baumgardner, Bradford, Coram, Fischer, Gerou, Holbert, Kerr J., Labuda, Pace, Priola, Wilson;
also SENATOR(S) Renfroe, Bacon, Schwartz, Williams S.

AN ACT

CONCERNING THE USE OF UNSPENT MONEYS AFTER COMPLETION OF CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION AUTHORIZED BY A 2008 FEDERAL MINERAL LEASE REVENUES LEASE-PURCHASE AGREEMENT.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) In 2008, pursuant to the authority specified in section 23-1-106.3, Colorado Revised Statutes, the state treasurer entered into a lease-purchase agreement to fund several capital construction projects approved by the general assembly in House Joint Resolution 08-1042;

(b) Those approved projects are nearing completion;

(c) It has been determined that there is an unspent portion of the proceeds raised through the 2008 lease-purchase agreement;

(d) It has been further determined that there is an unspent portion of institutional shares of total project costs;

(e) The unspent portion of the money raised by the lease-purchase agreement will not be accurately determined until certificates of completion for all the funded projects are received by the state treasurer;

(f) If the general assembly, through the capital development committee, waits until the next legislative session to act on the unspent portion, there may not be

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

sufficient time to complete a full construction project before the unspent portion is required to be completely spent pursuant to federal regulations; and

(g) It is therefore important that the general assembly, through the capital development committee, receive an accurate calculation of the unspent portion and that the capital development committee determine the appropriate use of the unspent portion during the interim between legislative sessions.

(2) The general assembly further finds and declares that some state-supported institutions of higher education have not spent the full amount of their share of the cost of the projects. Existing practice for appropriated capital projects allows for a proportionate refund of cash contributions. Therefore, those state-supported institutions of higher education with remaining cash contributions should receive a proportionate refund.

SECTION 2. In Colorado Revised Statutes, 23-1-106.3, **amend** (3) (a) and (4) as follows:

23-1-106.3. Duties and powers of the commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund. (3) (a) (I) Notwithstanding the provisions of sections 24-82-102 (1) (b) and 24-82-801, C.R.S., the state of Colorado, acting by and through the state treasurer, is authorized to execute lease-purchase agreements each for no more than twenty years of annual payments on the projects listed in the joint resolution adopted and approved pursuant to paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section. The lease-purchase agreements authorized pursuant to this paragraph (a) may be for the total amount of the project cost as reflected in the joint resolution. A state-supported institution of higher education may either contribute the full amount of its share of the cost of the project at the commencement of the project or may have its share of the cost of the project included in the lease-purchase agreement. Based upon the total amount of money that one or more lease-purchase agreements is able to raise, the treasurer shall enter into lease-purchase agreements in the order of the prioritized list contained in the joint resolution; except that, if, after funding all previous projects on the list, the amount of money is insufficient to fund the entire project that is next on the list, the treasurer may enter into a lease-purchase agreement on the next project or projects on the list that may be completely funded.

(II) THE STATE TREASURER SHALL ENSURE THAT EACH STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION SUBMITS A CERTIFICATE OF COMPLETION NO LATER THAN AUGUST 1, 2012, FOR EACH PROJECT FUNDED IN WHOLE OR IN PART BY THE LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE TREASURER IN 2008 PURSUANT TO THIS SECTION. AFTER SUCH CERTIFICATES OF COMPLETION ARE RECEIVED BY THE STATE TREASURER, THE STATE TREASURER AND THE STATE CONTROLLER SHALL CALCULATE THE AMOUNT OF UNSPENT PROCEEDS RAISED THROUGH THE 2008 LEASE-PURCHASE AGREEMENT. THE STATE TREASURER AND THE STATE CONTROLLER SHALL ALSO CALCULATE THE AMOUNT OF THE UNSPENT INSTITUTIONAL SHARES OF THE TOTAL PROJECT COSTS. THE STATE TREASURER AND STATE CONTROLLER SHALL PROVIDE THESE AMOUNTS TO THE CAPITAL DEVELOPMENT COMMITTEE IN WRITING NO LATER THAN AUGUST 15, 2012. NO LATER THAN THIRTY DAYS AFTER RECEIVING SUCH AMOUNTS, THE CAPITAL DEVELOPMENT

COMMITTEE SHALL HOLD A PUBLIC MEETING DURING THE INTERIM BETWEEN THE SECOND REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY AND THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY TO DECIDE, BY MAJORITY VOTE, WHAT THE UNSPENT PROCEEDS RAISED THROUGH THE 2008 LEASE-PURCHASE AGREEMENT AND THE UNSPENT INSTITUTIONAL SHARES OF THE TOTAL PROJECT COSTS SHOULD BE USED TO FUND. THE CAPITAL DEVELOPMENT COMMITTEE'S DECISION SHALL BE LIMITED TO FUNDING CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION OR, SO LONG AS SUCH PROJECTS ARE IDENTIFIED AS ELIGIBLE BY BOND COUNSEL, CONTROLLED MAINTENANCE PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION. THE CAPITAL DEVELOPMENT COMMITTEE SHALL COMMUNICATE THE DECISION TO THE STATE TREASURER IN WRITING, AND THE STATE TREASURER SHALL ENSURE THAT THE APPROVED PROJECT OR PROJECTS ARE FUNDED FROM THE UNSPENT PROCEEDS RAISED THROUGH THE 2008 LEASE-PURCHASE AGREEMENT AND THE UNSPENT INSTITUTIONAL SHARES OF THE TOTAL PROJECT COSTS AS SOON AS POSSIBLE.

(4)(a) A local government or the governing board of a state-supported institution of higher education may pay to the state treasurer an amount to assist the state in making payments on any lease-purchase agreement entered into pursuant to paragraph (a) of subsection (3) of this section. State-supported institutions of higher education, including but not limited to the Auraria higher education center and its constituent institutions, are authorized to transfer moneys to the state treasurer pursuant to this subsection (4) for the projects for which the state treasurer executes a lease-purchase agreement pursuant to subsection (3) of this section without an appropriation from the general assembly. The state treasurer shall credit any moneys received pursuant to this subsection (4) to the higher education institutions lease-purchase cash fund, referred to in this subsection (4) as the "fund", which fund is hereby created in the state treasury. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, moneys in the fund are continuously appropriated to the state treasurer to make payments on lease-purchase agreements executed pursuant to paragraph (a) of subsection (3) of this section. Any moneys in the fund not expended for the purpose of this section shall be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(b) (I) WITHIN THIRTY DAYS OF THE STATE TREASURER'S RECEIPT OF THE CERTIFICATE OF COMPLETION FOR THE ACADEMIC BUILDING ON THE CRAIG CAMPUS OF COLORADO NORTHWESTERN COMMUNITY COLLEGE, THE STATE TREASURER SHALL TRANSFER NO MORE THAN TWO MILLION ONE HUNDRED THOUSAND DOLLARS OF SUCH INSTITUTION'S CASH ASSISTANCE PAYMENT TO THE COLORADO COMMUNITY COLLEGE SYSTEM.

(II) WITHIN THIRTY DAYS OF THE STATE TREASURER'S RECEIPT OF THE CERTIFICATE OF COMPLETION FOR THE SCIENCE BUILDING ADDITION AND RENOVATION AT THE AURARIA HIGHER EDUCATION CENTER, THE STATE TREASURER SHALL TRANSFER NO MORE THAN ONE MILLION DOLLARS TO THE AURARIA HIGHER

EDUCATION CENTER.

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

Approved: May 24, 2012