

CHAPTER 84

EDUCATION - POSTSECONDARY

HOUSE BILL 16-1229

BY REPRESENTATIVE(S) Rankin, Hamner, Young, Becker K., Esgar, Ginal, Lee, Lontine, Mitsch Bush, Pettersen, Priola, Rosenthal, Ryden, Salazar, Vigil, Williams;
also SENATOR(S) Steadman, Grantham, Lambert, Kefalas, Merrifield, Cadman.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, 23-1-106.3, **amend** (2) (a) 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. (2) (a) On or before August 15, 2009, and on or before August 15 of each year thereafter THROUGH AUGUST 15, 2015, the state treasurer shall notify the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee of the amount of money in the revenues fund and whether the treasurer determines that there are sufficient moneys in the revenues fund to enter into additional lease-purchase agreements to be funded from the revenues fund. ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, THE STATE SHALL NOT ENTER INTO ANY ADDITIONAL LEASE-PURCHASE AGREEMENTS TO BE FUNDED FROM THE REVENUES FUND.

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

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

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

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

SECTION 3. In Colorado Revised Statutes, 23-19.9-102, **amend** (1) (a) and (1) (b); **add** (1) (a.5); and **repeal** (2) (a) and (2) (b) as follows:

23-19.9-102. Higher education federal mineral lease revenues fund - higher education maintenance and reserve fund - creation - sources of revenues - use.

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

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

(b) The general assembly may annually appropriate moneys in the revenues fund to THE DEPARTMENT OF HIGHER EDUCATION FOR TRANSFER TO THE STATE TREASURER TO directly pay for or pay the costs of financing capital construction projects at state-supported institutions of higher education that are included on a prioritized list of such projects specified in a joint resolution that has taken effect in accordance with section 39 of article V of the state constitution after being sponsored by the joint budget committee of the general assembly, approved by the general assembly, and presented to the governor pursuant to section 23-1-106.3 (1) (b), enacted by Senate Bill 08-233, enacted at the second regular session of the sixty-sixth general assembly. MONEY TRANSFERRED TO THE TREASURER IS CONTINUOUSLY APPROPRIATED TO THE TREASURER FOR THE PURPOSE OF MAKING PAYMENTS RELATED TO THE CAPITAL CONSTRUCTION PROJECTS. The general assembly may also appropriate moneys in the revenues fund to the department of education for distribution by the department, or any board or division within the department that the department may designate, to school districts for capital construction projects at area vocational schools, as defined in section 23-60-103 (1). In making such appropriations, the general assembly shall give priority consideration to capital construction projects at state-supported institutions of higher education that are located in communities that are substantially impacted by energy production or conversion activities, and the department, or any board or division within the department designated to distribute moneys appropriated to the department pursuant to this paragraph (b), shall give priority consideration to capital construction projects at area vocational schools that are located in such

communities. Only capital construction projects that will be used exclusively or primarily for academic purposes shall be eligible for funding pursuant to this paragraph (b).

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

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

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

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

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

~~(V) Notwithstanding any provision of this subsection (2) to the contrary, on May 5, 2011, the state treasurer shall deduct one million one hundred twenty-eight~~

~~thousand six hundred twenty-four dollars from the higher education maintenance and reserve fund and transfer such sum to the general fund.~~

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

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

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

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

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

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

(b) Notwithstanding the provisions of paragraph (a) of subsection (5.4) of this

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

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

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

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

SECTION 6. 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: April 14, 2016