

CHAPTER 204

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 08-233

BY SENATOR(S) Windels and Williams, Bacon, Gibbs, Groff, Isgar, Morse, Penry, Schwartz, Tapia, and Tupa;
also REPRESENTATIVE(S) Riesberg and Marostica, Fischer, Frangas, Gallegos, Labuda, Liston, McFadyen, Merrifield, Middleton,
Rose, Summers, and Todd.

AN ACT

CONCERNING THE AUTHORITY OF THE STATE TREASURER TO ENTER INTO CERTAIN LEASE-PURCHASE AGREEMENTS RELATING TO STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-1-106.3. Powers and duties of commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund. (1) (a) AS SOON AS POSSIBLE AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION, AFTER CONSULTATION WITH THE APPROPRIATE GOVERNING BOARDS OF STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, SHALL SUBMIT TO THE OFFICE OF STATE PLANNING AND BUDGETING AND TO THE CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY, ESTABLISHED PURSUANT TO SECTION 2-3-1302, C.R.S., A PRIORITIZED LIST OF CAPITAL CONSTRUCTION PROJECTS AT THE STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO BE CONSTRUCTED USING LEASE-PURCHASE AGREEMENTS FUNDED THROUGH THE HIGHER EDUCATION FEDERAL MINERAL LEASE REVENUES FUND ESTABLISHED PURSUANT TO SECTION 23-19.9-102 (1) AND REFERRED TO IN THIS SECTION AS THE "REVENUES FUND". AS SOON AS POSSIBLE AFTER RECEIPT OF THE LIST FROM THE COMMISSION, THE OFFICE OF STATE PLANNING AND BUDGETING SHALL SUBMIT TO THE CAPITAL DEVELOPMENT COMMITTEE A PRIORITIZED LIST OF CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO BE CONSTRUCTED USING LEASE-PURCHASE AGREEMENTS FUNDED THROUGH THE REVENUES FUND.

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

(b) (I) AS SOON AS POSSIBLE AFTER RECEIPT OF THE PRIORITIZED LIST FROM THE OFFICE OF STATE PLANNING AND BUDGETING, THE CAPITAL DEVELOPMENT COMMITTEE SHALL REVIEW THE PRIORITIZED LISTS SUBMITTED BY THE COMMISSION AND THE OFFICE OF STATE PLANNING AND BUDGETING AND SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY A PRIORITIZED LIST OF CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO BE CONSTRUCTED USING LEASE-PURCHASE AGREEMENTS FUNDED THROUGH THE REVENUES FUND.

(II) AS SOON AS POSSIBLE AFTER RECEIPT OF THE PRIORITIZED LIST FROM THE CAPITAL DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE SHALL REVIEW THE PRIORITIZED LIST SUBMITTED BY THE CAPITAL DEVELOPMENT COMMITTEE AND SHALL SPONSOR A JOINT RESOLUTION SPECIFYING A PRIORITIZED LIST OF CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO BE CONSTRUCTED USING LEASE-PURCHASE AGREEMENTS FUNDED THROUGH THE REVENUES FUND. THE RESOLUTION SHALL CONTAIN A LISTING OF THE MAXIMUM AMOUNT OF PRINCIPAL TO BE RAISED THROUGH LEASE-PURCHASE AGREEMENTS TO BE PAID FROM THE REVENUES FUND, THE MINIMUM AMOUNT OF PRINCIPAL TO BE CONTRIBUTED BY THE INSTITUTION, AND THE TOTAL ANTICIPATED COST OF THE PROJECT.

(III) IF APPROVED BY THE GENERAL ASSEMBLY, THE JOINT RESOLUTION SHALL BE PRESENTED TO THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION.

(IV) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE PRINCIPAL AND INTEREST COMPONENTS OF AMOUNT PAYABLE UNDER ALL LEASE-PURCHASE AGREEMENTS ON THE PROJECTS LISTED IN THE JOINT RESOLUTION ADOPTED AND APPROVED PURSUANT TO THIS PARAGRAPH (b) ENTERED INTO DURING THE FISCAL YEAR COMMENCING JULY 1, 2008, SHALL NOT EXCEED AN AVERAGE OF SIXTEEN MILLION TWO HUNDRED THOUSAND DOLLARS PER YEAR FOR THE FIRST TEN YEARS OF PAYMENTS AND SIXTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS PER YEAR DURING THE SECOND TEN YEARS OF PAYMENTS.

(V) TO THE EXTENT THAT ANY PROJECTS ON THE PRIORITIZED LIST CONTAINED IN THE JOINT RESOLUTION INTRODUCED AND APPROVED PURSUANT TO THIS SUBSECTION (1) ARE NOT THE SUBJECT OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SUBSECTION (3) OF THIS SECTION AND TO THE EXTENT THAT THE STATE TREASURER DETERMINES THAT THERE IS SUFFICIENT MONEY IN THE REVENUES FUND TO ENTER INTO ADDITIONAL LEASE-PURCHASE AGREEMENTS DURING THE FISCAL YEAR COMMENCING JULY 1, 2009, THE REMAINING PROJECTS ON THE PRIORITIZED LIST IN THE JOINT RESOLUTION SHALL BE THE PRIORITIZED LIST FOR LEASE-PURCHASE AGREEMENTS ENTERED INTO DURING THE FISCAL YEAR COMMENCING JULY 1, 2009.

(2) (a) ON OR BEFORE AUGUST 15, 2009, AND ON OR BEFORE AUGUST 15 EACH YEAR THEREAFTER, 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.

(b) AFTER THE NOTIFICATION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (2) IS RECEIVED, AND THE TREASURER HAS DETERMINED THAT THERE ARE SUFFICIENT MONEYS IN THE REVENUES FUND TO ENTER INTO ADDITIONAL LEASE-PURCHASE AGREEMENTS, THE COMMISSION, THE OFFICE OF STATE PLANNING AND BUDGETING, THE CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET COMMITTEE, PURSUANT TO THE PROCEDURES ESTABLISHED IN SUBSECTION (1) OF THIS SECTION, MAY PROMPTLY CONSIDER A NEW PRIORITIZED LIST OF CAPITAL CONSTRUCTION PROJECTS AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO BE CONSTRUCTED USING LEASE-PURCHASE AGREEMENTS FUNDED THROUGH THE REVENUES FUND. A JOINT RESOLUTION INTRODUCED PURSUANT TO THIS PARAGRAPH (b) SHALL ALSO INCLUDE A STATEMENT OF THE MAXIMUM AVERAGE ANTICIPATED STATE-FUNDED PAYMENTS UNDER ALL LEASE-PURCHASE AGREEMENTS TO BE AUTHORIZED THROUGH THE JOINT RESOLUTION.

(3) (a) 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.

(b) (I) THE STATE OF COLORADO, ACTING BY AND THROUGH THE STATE TREASURER, AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO ONE OR MORE LEASE-PURCHASE AGREEMENTS AUTHORIZED BY PARAGRAPH (a) OF THIS SUBSECTION (3) WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION, TRUST, OR COMMERCIAL BANK AS A TRUSTEE, AS LESSOR, INCLUDING BUT NOT LIMITED TO THE NONPROFIT CORPORATION CREATED PURSUANT TO SECTION 24-82-703, C.R.S., OR THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY CREATED PURSUANT TO SECTION 23-15-104.

(II) (A) ANY LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL PROVIDE THAT ALL OF THE OBLIGATIONS OF THE STATE UNDER THE AGREEMENT SHALL BE SUBJECT TO THE ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEYS AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY LEASE-PURCHASE

AGREEMENT SHALL BE MADE FROM THE REVENUES FUND AND ANY MONEY IN THE HIGHER EDUCATION INSTITUTIONS LEASE-PURCHASE CASH FUND ESTABLISHED IN SUBSECTION (4) OF THIS SECTION.

(B) EACH AGREEMENT SHALL ALSO PROVIDE THAT THE OBLIGATIONS OF THE STATE SHALL NOT BE DEEMED OR CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE OF COLORADO CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE OF COLORADO AND SHALL NOT CONSTITUTE A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION. IN THE EVENT THE STATE OF COLORADO DOES NOT RENEW A LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE SOLE SECURITY AVAILABLE TO THE LESSOR SHALL BE THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED LEASE-PURCHASE AGREEMENT.

(III) ANY LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON BEHALF OF THE STATE OF COLORADO, MAY DEEM APPROPRIATE, INCLUDING ALL OPTIONAL TERMS; EXCEPT THAT EACH LEASE-PURCHASE AGREEMENT SHALL SPECIFICALLY AUTHORIZE THE STATE OF COLORADO OR THE GOVERNING BOARD OF THE APPLICABLE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE LEASE-PURCHASE AGREEMENT ON OR PRIOR TO THE EXPIRATION OF THE TERMS OF THE AGREEMENT. ANY TITLE TO SUCH PROPERTY RECEIVED BY THE STATE ON OR PRIOR TO THE EXPIRATION OF THE TERMS OF THE LEASE-PURCHASE AGREEMENT SHALL BE HELD FOR THE BENEFIT AND USE OF SUCH GOVERNING BOARD.

(IV) ANY LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) MAY PROVIDE FOR THE ISSUANCE, DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED, DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS SHALL NOT CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE TO THE PURCHASERS. THE INSTRUMENTS SHALL NOT BE NOTES, BONDS, OR ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAW OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS OF THE STATE AND SHALL NOT CONSTITUTE A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.

(V) INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), INCLUDING INTEREST REPRESENTED BY THE INSTRUMENTS, SHALL BE EXEMPT FROM COLORADO INCOME TAX.

(VI) THE STATE OF COLORADO, ACTING THROUGH THE STATE TREASURER AND THE GOVERNING BOARD OF THE INSTITUTIONS OF HIGHER EDUCATION, IS AUTHORIZED TO ENTER INTO ANCILLARY AGREEMENTS AND INSTRUMENTS AS ARE DEEMED NECESSARY OR APPROPRIATE IN CONNECTION WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT LIMITED TO DEEDS, GROUND LEASES, SUB-LEASES, EASEMENTS, OR OTHER INSTRUMENTS RELATING TO THE REAL PROPERTY ON WHICH THE FACILITIES ARE LOCATED OR AN AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(c) THE PROVISIONS OF SECTION 24-30-202 (5) (b), C.R.S., SHALL NOT APPLY TO A LEASE-PURCHASE AGREEMENT AUTHORIZED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) OR ANY ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3). ANY PROVISION OF THE FISCAL RULES PROMULGATED PURSUANT TO SECTION 24-30-202 (1) AND (13), C.R.S., THAT THE STATE CONTROLLER DEEMS TO BE INCOMPATIBLE OR INAPPLICABLE WITH RESPECT TO SAID LEASE-PURCHASE AGREEMENTS OR ANY SUCH ANCILLARY AGREEMENT OR INSTRUMENT MAY BE WAIVED BY THE CONTROLLER OR HIS OR HER DESIGNEE.

(4) 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. 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. 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.

(5) (a) PRIOR TO EXECUTING A LEASE-PURCHASE AGREEMENT PURSUANT TO SUBSECTION (3) OF THIS SECTION, IN ORDER TO PROTECT AGAINST FUTURE INTEREST RATE INCREASES, THE STATE OF COLORADO, ACTING BY AND THROUGH THE STATE TREASURER AND AT THE DISCRETION OF THE STATE TREASURER, MAY ENTER INTO AN INTEREST RATE EXCHANGE AGREEMENT PURSUANT TO ARTICLE 59.3 OF TITLE 11, C.R.S. A LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE A PROPOSED PUBLIC SECURITY FOR THE PURPOSES OF ARTICLE 59.3 OF TITLE 11, C.R.S. ANY PAYMENTS MADE BY THE STATE UNDER AN

AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (5) SHALL BE MADE SOLELY FROM MONEYS MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION OF A LEASE-PURCHASE AGREEMENT OR FROM MONEYS APPROPRIATED FROM THE REVENUES FUND OR THE HIGHER EDUCATION INSTITUTIONS LEASE-PURCHASE CASH FUND CREATED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(b) ANY AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (5) SHALL ALSO PROVIDE THAT THE OBLIGATIONS OF THE STATE SHALL NOT BE DEEMED OR CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE OF COLORADO CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE OF COLORADO AND SHALL NOT CONSTITUTE A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.

(c) ANY MONEYS RECEIVED BY THE STATE UNDER AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (5) SHALL BE USED TO MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SUBSECTION (3) OF THIS SECTION OR TO PAY THE COSTS OF THE PROJECT FOR WHICH A LEASE-PURCHASE AGREEMENT WAS EXECUTED.

SECTION 2. 23-19.9-102 (2) (b), Colorado Revised Statutes, as enacted by Senate Bill 08-218 enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

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

(2) (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 reserve required by section 24-75-201.1 (1) (d) (III), 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.

SECTION 3. 34-63-102 (5.5), Colorado Revised Statutes, as enacted by Senate Bill 08-218 enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

34-63-102. Creation of mineral leasing fund - distribution - advisory committee. (5.5) (a) On and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (c) 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.

(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 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of treasury, to make lease-purchase payments at state-supported institutions of higher education, for the fiscal year beginning July 1, 2008, the sum of ten million dollars (\$10,000,000) cash funds, or so much thereof as may be necessary, for the implementation of this act.

(2) (a) In addition to any other capital construction appropriation, there is hereby appropriated, to the department of higher education, auraria higher education center, for the science building addition and renovation, for the fiscal year beginning July 1, 2008, the sum of twenty-two million two hundred twenty-seven thousand five hundred twenty-six dollars (\$22,227,526) cash funds, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the State Board of Community Colleges and Occupational Education, the Trustees of Metropolitan State College, and the Regents of the University of Colorado. Said sum shall remain available until the construction project is complete or June 30, 2011, whichever comes first.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if any amount of the Auraria higher education center's share of the costs for the science building addition and renovation are included in the principal amount of a lease-purchase agreement entered into pursuant to the provisions of section 23-1-106.3, Colorado Revised Statutes, the appropriation made pursuant to paragraph (a) of this subsection (2) shall be reduced by the same amount.

SECTION 5. Supplemental appropriation. Part IV (11) (A) and the affected totals of section 3 of chapter 394, Session Laws of Colorado 2006, as the said Part IV totals are amended by section 16 (6) (b) of chapter 226, Session Laws of Colorado 2006, and as the said Part IV (11) (A) and the affected totals are further

amended by section 4 of chapter 464 and as the totals are further amended by section 18 of chapter 466, Session Laws of Colorado 2007, are amended to read:

Section 3. Capital Construction Appropriation.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

**PART IV
DEPARTMENT OF HIGHER EDUCATION**

(11) COLORADO SCHOOL OF MINES

(A) Capital Construction

Berthoud Hall Classroom Renovation	880,000				880,000 ^b	
Green Center Improvements	3,397,375		3,397,375			
Marquez Hall Petroleum Engineering Building	40,000,000				40,000,000^b	
	20,000,000				20,000,000 ^b	

Recreation Center	6,904,652			6,904,652 ^a
	<u>6,904,652</u>			
		51,182,027		
		31,182,027		

^a This amount shall be from exempt institutional sources. It meets the criteria in Section 24-75-303 (3) (a) (II), C.R.S., and is shown here for informational purposes only. Therefore, it shall not be accounted for in the State's Capital Construction Fund and the limitations on encumbrance timeliness and use of internal workforce do not apply.

^b These amounts shall be from exempt institutional sources.

TOTALS PART IV

(HIGHER EDUCATION)	\$279,384,681	\$56,498,838	\$222,885,843
	<u>\$259,384,681</u>		<u>\$202,885,843</u>

GRAND TOTALS

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
(CAPITAL CONSTRUCTION)	\$443,647,530		\$120,357,673	\$6,963,802	\$289,909,967*	\$26,416,088
	\$423,647,530				\$269,909,967*	

SECTION 6. Effective date. (1) This act shall take effect upon passage; except that:

(a) This act shall take effect only if Senate Bill 08-218 is enacted at the second regular session of the Sixty-sixth General Assembly and becomes law; and

(b) Sections 4 and 5 of this act shall take effect only if House Joint Resolution 08-1042 is adopted at the second regular session of the Sixty-sixth General Assembly and is signed by the governor.

SECTION 7. 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 12, 2008