

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

B

Attachment B

4.25.12

DRAFT

LLS NO. 12-0952.01 Esther van Mourik x4215

COMMITTEE BILL

Capital Development Committee

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**SHORT TITLE:** "Unspent Proceeds Of FML Lease-Purchase Agreements"

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**A BILL FOR AN ACT**

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

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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>.)*

**Capital Development Committee.** The bill specifies that no later

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

than \_\_\_\_\_, the state treasurer shall ensure that each state-supported institution of higher education submits a certificate of completion for each project funded by the lease-purchase agreement entered into by the state treasurer in 2008. The bill specifies that after such certificates of completion are received by the state treasurer, the state treasurer and the state controller shall calculate the unspent proceeds raised through the 2008 lease-purchase agreement. The bill requires the state treasurer and state controller to provide that calculation to the capital development committee in writing by a specified date and requires the capital development committee to hold a public meeting during the interim to decide what the unspent proceeds should be used to fund, limited to 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 bill requires the capital development committee's decision to be communicated to the state treasurer in writing and requires the state treasurer to ensure that the approved project or projects are funded from the unspent proceeds raised through the 2008 lease-purchase agreement as soon as possible.

The bill also makes transfers necessary to provide state-supported institutions of higher education a proportionate refund of their cash contributions toward the cost of the project.

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

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

4           (a) In 2008, pursuant to the authority specified in section  
5 23-1-106.3, Colorado Revised Statutes, the state treasurer entered into a  
6 lease-purchase agreement to fund several capital construction projects  
7 approved by the general assembly in House Joint Resolution 08-1042;

8           (b) Those approved projects are nearing completion;

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

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

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

4 (f) If the general assembly, through the capital development  
5 committee, waits until the next legislative session to act on the unspent  
6 portion, there may not be sufficient time to complete a full construction  
7 project before the unspent portion is required to be completely spent  
8 pursuant to federal regulations; and

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

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

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

23 **23-1-106.3. Duties and powers of the commission - capital**  
24 **construction projects - federal mineral lease revenues fund - higher**  
25 **education institutions lease-purchase cash fund.**

26 (3) (a) (I) Notwithstanding the provisions of sections 24-82-102 (1) (b)  
27 and 24-82-801, C.R.S., the state of Colorado, acting by and through the

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

18 (II) NO LATER THAN \_\_\_\_\_, THE STATE TREASURER SHALL  
19 ENSURE THAT EACH STATE-SUPPORTED INSTITUTION OF HIGHER  
20 EDUCATION SUBMITS A CERTIFICATE OF COMPLETION FOR EACH PROJECT  
21 FUNDED IN WHOLE OR IN PART BY THE LEASE-PURCHASE AGREEMENT  
22 ENTERED INTO BY THE STATE TREASURER IN 2008 PURSUANT TO THIS  
23 SECTION. AFTER SUCH CERTIFICATES OF COMPLETION ARE RECEIVED BY  
24 THE STATE TREASURER, THE STATE TREASURER AND THE STATE  
25 CONTROLLER SHALL CALCULATE THE AMOUNT OF UNSPENT PROCEEDS  
26 RAISED THROUGH THE 2008 LEASE-PURCHASE AGREEMENT. THE STATE  
27 TREASURER AND THE STATE CONTROLLER SHALL ALSO CALCULATE THE

1 AMOUNT OF THE UNSPENT INSTITUTIONAL SHARES OF THE TOTAL PROJECT  
2 COSTS. THE STATE TREASURER AND STATE CONTROLLER SHALL PROVIDE  
3 THESE AMOUNTS TO THE CAPITAL DEVELOPMENT COMMITTEE IN WRITING  
4 NO LATER THAN \_\_\_\_\_. NO LATER THAN \_\_\_\_\_ DAYS AFTER  
5 RECEIVING SUCH AMOUNTS, THE CAPITAL DEVELOPMENT COMMITTEE  
6 SHALL HOLD A PUBLIC MEETING DURING THE INTERIM BETWEEN THE  
7 SECOND REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY AND  
8 THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY TO  
9 DECIDE, BY MAJORITY VOTE, WHAT THE UNSPENT PROCEEDS RAISED  
10 THROUGH THE 2008 LEASE-PURCHASE AGREEMENT AND THE UNSPENT  
11 INSTITUTIONAL SHARES OF THE TOTAL PROJECT COSTS SHOULD BE USED TO  
12 FUND. THE CAPITAL DEVELOPMENT COMMITTEE'S DECISION SHALL BE  
13 LIMITED TO FUNDING CAPITAL CONSTRUCTION PROJECTS AT  
14 STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION OR, SO LONG AS  
15 SUCH PROJECTS ARE IDENTIFIED AS ELIGIBLE BY BOND COUNSEL,  
16 CONTROLLED MAINTENANCE PROJECTS AT STATE-SUPPORTED  
17 INSTITUTIONS OF HIGHER EDUCATION. THE CAPITAL DEVELOPMENT  
18 COMMITTEE SHALL COMMUNICATE THE DECISION TO THE STATE  
19 TREASURER IN WRITING, AND THE STATE TREASURER SHALL ENSURE THAT  
20 THE APPROVED PROJECT OR PROJECTS ARE FUNDED FROM THE UNSPENT  
21 PROCEEDS RAISED THROUGH THE 2008 LEASE-PURCHASE AGREEMENT AND  
22 THE UNSPENT INSTITUTIONAL SHARES OF THE TOTAL PROJECT COSTS AS  
23 SOON AS POSSIBLE.

24 (4) (a) A local government or the governing board of a  
25 state-supported institution of higher education may pay to the state  
26 treasurer an amount to assist the state in making payments on any  
27 lease-purchase agreement entered into pursuant to paragraph (a) of

1 subsection (3) of this section. State-supported institutions of higher  
2 education, including but not limited to the Auraria higher education  
3 center and its constituent institutions, are authorized to transfer moneys  
4 to the state treasurer pursuant to this subsection (4) for the projects for  
5 which the state treasurer executes a lease-purchase agreement pursuant  
6 to subsection (3) of this section without an appropriation from the general  
7 assembly. The state treasurer shall credit any moneys received pursuant  
8 to this subsection (4) to the higher education institutions lease-purchase  
9 cash fund, referred to in this subsection (4) as the "fund", which fund is  
10 hereby created in the state treasury. EXCEPT AS PROVIDED IN  
11 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS  
12 SECTION, moneys in the fund are continuously appropriated to the state  
13 treasurer to make payments on lease-purchase agreements executed  
14 pursuant to paragraph (a) of subsection (3) of this section. Any moneys  
15 in the fund not expended for the purpose of this section shall be invested  
16 by the state treasurer as provided by law. All interest and income derived  
17 from the investment and deposit of moneys in the fund shall be credited  
18 to the fund. EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION  
19 (4), any unexpended and unencumbered moneys remaining in the fund at  
20 the end of a fiscal year shall remain in the fund and shall not be credited  
21 or transferred to the general fund or another fund.

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

1 (II) WITHIN \_\_\_\_\_ DAYS OF THE STATE TREASURER'S RECEIPT  
2 OF THE CERTIFICATE OF COMPLETION FOR THE SCIENCE BUILDING ADDITION  
3 AND RENOVATION AT THE AURARIA HIGHER EDUCATION CENTER, THE  
4 STATE TREASURER SHALL TRANSFER NO MORE THAN NINETY-ONE  
5 THOUSAND DOLLARS TO THE AURARIA HIGHER EDUCATION CENTER.

6 (c) WITHIN \_\_\_\_\_ DAYS OF THE STATE TREASURER'S RECEIPT  
7 OF THE CERTIFICATE OF COMPLETION FOR THE SCIENCE BUILDING ADDITION  
8 AND RENOVATION AT THE AURARIA HIGHER EDUCATION CENTER, THE  
9 STATE TREASURER SHALL RECALCULATE THE INSTITUTION'S PORTION OF  
10 THE LEASE-PURCHASE AGREEMENT PAYMENT THAT THE AURARIA HIGHER  
11 EDUCATION CENTER AND ITS CONSTITUENT INSTITUTIONS INCURRED IN  
12 ORDER TO CONTRIBUTE ITS SHARE OF THE COST OF THE PROJECT TO  
13 ENSURE THAT THE INSTITUTION REALIZES SAVINGS OF NO MORE THAN  
14 EIGHT HUNDRED EIGHTY THOUSAND DOLLARS OVER TWENTY YEARS OF  
15 ANNUAL PAYMENTS UNDER THE LEASE-PURCHASE AGREEMENT. <{AHEC  
16 is arguably entitled to two different proportional refunds. One for their  
17 actual cash contribution, which is taken care of in subparagraph (II)  
18 of paragraph (b) of subsection (4) above. The second is for their share  
19 of the COP proceeds, that they used to make the remaining cash  
20 contribution. The draft is currently written so that AHEC's share of the  
21 COP proceeds is proportionately refunded by recalculating AHEC's  
22 COP payment. Another option would be to give AHEC the proportional  
23 refund in cash. They would still make a payment on their share of the  
24 COP proceeds, but the payment would not be reduced. The question is  
25 where that cash would come from. The total is approximately \$900,000.  
26 One option would be to specify that AHEC's proportional refund would  
27 come from the unspent proceeds raised through the 2008

1 lease-purchase agreement. This would of course reduce the available  
2 unspent proceeds for other projects. Another option would be to specify  
3 that AHEC's proportional refund be transferred out of the higher  
4 education institutions lease-purchase cash fund. However, that's not  
5 where the contribution is currently held, so that transfer wouldn't be  
6 technically correct. I'm not sure if the Treasurer has an opinion on  
7 this.}>

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