

SB257\_L.002

## HOUSE COMMITTEE OF REFERENCE REPORT

---

 Chairman of Committee

---

 Date
Committee on Education.

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

SB09-257 be amended as follows:

1 Amend reengrossed bill, page 2, after line 1, insert the following:

2 "SECTION 1. 22-43.7-102 (2) (b) (II) and (2) (c), Colorado  
3 Revised Statutes, are amended to read:

4 **22-43.7-102. Legislative findings and declarations.** (2) The  
5 general assembly further finds and declares that:

6 (b) It is necessary and appropriate for the state to build excellent  
7 schools today by assisting school districts, boards of cooperative services,  
8 and charter schools in completing needed public school facility capital  
9 construction projects more quickly by:

10 (II) Subject to the annual appropriation of such moneys by the  
11 general assembly, using a portion of the rental income AND royalties  
12 ~~interest, and other income~~, DERIVED FROM STATE SCHOOL LANDS AND,  
13 UNLESS AND UNTIL THE STATE TREASURER, PURSUANT TO SECTION  
14 22-43.7-104 (2) (b) (I) (B), PROVIDES WRITTEN NOTICE TO THE JOINT  
15 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY THAT THE STATE  
16 TREASURER HAS DETERMINED THAT THE USE OF INTEREST OR INCOME  
17 EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PUBLIC  
18 SCHOOL FUND TO MAKE LEASE PAYMENTS UNDER A LEASE-PURCHASE  
19 AGREEMENT ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2) WILL  
20 PREVENT THE INTEREST COMPONENT OF THE LEASE PAYMENTS FROM  
21 QUALIFYING FOR EXEMPTION FROM FEDERAL INCOME TAXATION AND AT  
22 ANY TIME AFTER THE STATE TREASURER, PURSUANT TO SECTION



1 22-43.7-104 (2) (b) (I) (C), HAS RESCINDED ANY SUCH DETERMINATION,  
2 INTEREST, AND OTHER INCOME, other than land sale proceeds, derived  
3 from state school lands, as well as certain other available state moneys  
4 and matching moneys provided by school districts, boards of cooperative  
5 services, and charter schools, to make lease payments payable under the  
6 terms of the lease-purchase agreements.

7 (c) It is also necessary and appropriate for the state to use a  
8 portion of such rental income AND royalties ~~interest, and other income~~  
9 ~~and available moneys~~ AND, UNLESS AND UNTIL THE STATE TREASURER,  
10 PURSUANT TO SECTION 22-43.7-104 (2) (b) (I) (B), PROVIDES WRITTEN  
11 NOTICE TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY  
12 THAT THE STATE TREASURER HAS DETERMINED THAT THE USE OF INTEREST  
13 OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE  
14 PUBLIC SCHOOL FUND TO MAKE LEASE PAYMENTS UNDER A  
15 LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SECTION  
16 22-43.7-110 (2) WILL PREVENT THE INTEREST COMPONENT OF THE LEASE  
17 PAYMENTS FROM QUALIFYING FOR EXEMPTION FROM FEDERAL INCOME  
18 TAXATION AND AT ANY TIME AFTER THE STATE TREASURER, PURSUANT TO  
19 SECTION 22-43.7-104 (2) (b) (I) (C), HAS RESCINDED ANY SUCH  
20 DETERMINATION, INTEREST AND OTHER INCOME, AS WELL AS CERTAIN  
21 OTHER AVAILABLE STATE MONEYS to continue to provide financial  
22 assistance to school districts, boards of cooperative services, and charter  
23 schools in the form of cash funding for school renovation and controlled  
24 maintenance projects."

25 Renumber succeeding sections accordingly.

26 Page 2, strike lines 10 through 12.

27 Page 3, strike lines 1 and 2 and substitute the following:

28 "(I) (A) UNLESS AND UNTIL THE STATE TREASURER, PURSUANT TO  
29 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), PROVIDES WRITTEN  
30 NOTICE TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY  
31 THAT THE STATE TREASURER HAS DETERMINED THAT THE USE OF INTEREST  
32 OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE  
33 PUBLIC SCHOOL FUND TO MAKE LEASE PAYMENTS UNDER A  
34 LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SECTION  
35 22-43.7-110 (2) WILL PREVENT THE INTEREST COMPONENT OF THE LEASE  
36 PAYMENTS FROM QUALIFYING FOR EXEMPTION FROM FEDERAL";

37 strike line 14 and substitute the following:

1           "(B) EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH (C)  
2 OF THIS SUBPARAGRAPH (I), IF THE STATE TREASURER DETERMINES  
3 DURING ANY FISCAL YEAR THAT THE USE OF"

4 line 19, strike "AS INTENDED BY THE STATE TREASURER," and substitute  
5 "AND PROVIDES WRITTEN NOTICE TO THE JOINT BUDGET COMMITTEE OF  
6 THE GENERAL ASSEMBLY OF THE DETERMINATION, FOR THE PORTION OF  
7 THE FISCAL YEAR BEGINNING ON THE DATE THE WRITTEN NOTICE IS  
8 PROVIDED TO THE JOINT BUDGET COMMITTEE AND FOR EACH SUBSEQUENT  
9 FISCAL YEAR,".

10 Page 4, after line 8, insert the following:

11           "(C) IF, AFTER MAKING A DETERMINATION AND PROVIDING NOTICE  
12 PURSUANT TO SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), THE  
13 STATE TREASURER MAKES A NEW DETERMINATION DURING ANY FISCAL  
14 YEAR THAT THE USE OF INTEREST OR INCOME EARNED ON THE DEPOSIT  
15 AND INVESTMENT OF MONEYS IN THE PUBLIC SCHOOL FUND TO MAKE  
16 LEASE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT ENTERED INTO  
17 PURSUANT TO SECTION 22-43.7-110 (2) WILL NOT PREVENT THE INTEREST  
18 COMPONENT OF THE LEASE PAYMENTS FROM QUALIFYING FOR EXEMPTION  
19 FROM FEDERAL INCOME TAXATION AND THE STATE TREASURER PROVIDES  
20 WRITTEN NOTICE TO THE JOINT BUDGET COMMITTEE OF THE GENERAL  
21 ASSEMBLY THAT THE STATE TREASURER HAS MADE A NEW  
22 DETERMINATION AND IS RESCINDING THE DETERMINATION MADE  
23 PURSUANT TO SAID SUB-SUBPARAGRAPH (B) AS OF THE DATE THE WRITTEN  
24 NOTICE IS PROVIDED, FOR THE PORTION OF THE FISCAL YEAR BEGINNING ON  
25 THE DATE THE WRITTEN NOTICE IS PROVIDED TO THE JOINT BUDGET  
26 COMMITTEE AND FOR EACH SUBSEQUENT FISCAL YEAR, THE GREATER OF  
27 THIRTY-FIVE PERCENT OF THE GROSS AMOUNT OF PUBLIC SCHOOL LANDS  
28 INCOME RECEIVED DURING THE FISCAL YEAR OR AN AMOUNT OF SUCH  
29 INCOME EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL AMOUNT OF  
30 LEASE PAYMENTS TO BE MADE BY THE STATE UNDER THE TERMS OF  
31 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION  
32 22-43.7-110 (2) AND THE TOTAL AMOUNT OF MATCHING MONEYS TO BE  
33 PAID TO THE STATE AS LEASE PAYMENTS UNDER THE TERMS OF  
34 SUBLEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION  
35 22-43.7-110 (2). THE MONEYS REQUIRED TO BE CREDITED TO THE  
36 ASSISTANCE FUND PURSUANT TO THIS SUB-SUBPARAGRAPH (C) MAY BE  
37 TAKEN FROM ANY SINGLE SOURCE OR COMBINATION OF SOURCES OF  
38 PUBLIC SCHOOL LANDS INCOME.";

39 strike lines 18 and 19 and substitute the following:

1           **"SECTION 3. 22-43.7-104 (4), Colorado Revised Statutes, is**  
2    **amended, and the said 22-43.7-104 is further amended BY THE**  
3    **ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:"**

4    strike line 22 and substitute the following:

5    **"reserve - creation. (4) For each fiscal year commencing on or after**  
6    **July 1, 2008, an emergency reserve of at least one million dollars shall be**  
7    **maintained in the assistance fund except that an emergency reserve need**  
8    **not be maintained in any fiscal year in which the amount of EITHER public**  
9    **school lands income OR PUBLIC SCHOOL LANDS INCOME OTHER THAN**  
10   **INTEREST OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF**  
11   **MONEYS IN THE PUBLIC SCHOOL FUND, OR BOTH, credited to the assistance**  
12   **fund PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION**  
13   **(2) OF THIS SECTION is an amount equal to the difference between the total**  
14   **amount of lease payments to be made by the state under the terms of**  
15   **lease-purchase agreements entered into pursuant to section 22-43.7-110**  
16   **(2) and the total amount of matching moneys to be paid to the state as**  
17   **lease payments under the terms of sublease-purchase agreements entered**  
18   **into pursuant to section 22-43.7-110 (2) rather than, TO THE EXTENT**  
19   **APPLICABLE, thirty-five percent of the gross amount of public school**  
20   **lands income received by the state during the fiscal year OR FIFTY**  
21   **PERCENT OF THE GROSS AMOUNT OF PUBLIC SCHOOL LANDS INCOME OTHER**  
22   **THAN INTEREST OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF**  
23   **MONEYS IN THE PUBLIC SCHOOL FUND RECEIVED BY THE STATE DURING**  
24   **THE FISCAL YEAR. The board may expend moneys from the emergency**  
25   **reserve only to provide emergency financial assistance to address a public**  
26   **school facility emergency in accordance with section 22-43.7-109 (8).**

27           (5) (a) IF THE STATE TREASURER, PURSUANT TO  
28    SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF  
29    SUBSECTION (2) OF THIS SECTION, PROVIDES WRITTEN NOTICE TO THE JOINT  
30    BUDGET COMMITTEE OF THE GENERAL ASSEMBLY THAT THE STATE  
31    TREASURER HAS DETERMINED THAT THE USE OF INTEREST OR INCOME  
32    EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PUBLIC  
33    SCHOOL FUND TO MAKE LEASE PAYMENTS UNDER A LEASE-PURCHASE  
34    AGREEMENT ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2) WILL  
35    PREVENT THE INTEREST COMPONENT OF THE LEASE PAYMENTS FROM  
36    QUALIFYING FOR EXEMPTION FROM FEDERAL INCOME TAXATION, ANY  
37    SUCH INTEREST OR INCOME CREDITED TO THE ASSISTANCE FUND BEFORE  
38    THE TREASURER PROVIDES THE WRITTEN NOTICE SHALL BE SEGREGATED  
39    INTO A SEPARATE RESTRICTED ACCOUNT OF THE ASSISTANCE FUND. ALL  
40    INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF



1 MONEYS IN THE RESTRICTED ACCOUNT SHALL BE CREDITED TO THE  
2 RESTRICTED ACCOUNT. MONEYS IN THE RESTRICTED ACCOUNT SHALL NOT  
3 BE COMMINGLED WITH OTHER MONEYS IN THE ASSISTANCE FUND.  
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MONEYS IN THE  
5 RESTRICTED ACCOUNT SHALL NOT BE USED AND SHALL NOT BE AVAILABLE  
6 TO PAY LEASE PAYMENTS UNDER ANY LEASE-PURCHASE AGREEMENTS  
7 ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2) UNLESS AND UNTIL  
8 THE STATE TREASURER, PURSUANT TO SUB-SUBPARAGRAPH (C) OF  
9 SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS  
10 SECTION, PROVIDES WRITTEN NOTICE TO THE JOINT BUDGET COMMITTEE  
11 OF THE GENERAL ASSEMBLY THAT THE STATE TREASURER IS RESCINDING  
12 THE DETERMINATION MADE PURSUANT TO SUB-SUBPARAGRAPH (B) OF  
13 SAID SUBPARAGRAPH (I) AS OF THE DATE THE WRITTEN NOTICE IS  
14 PROVIDED. MONEYS IN THE RESTRICTED ACCOUNT MAY BE USED FOR THE  
15 OTHER PURPOSES FOR WHICH MONEYS IN THE ASSISTANCE FUND MAY BE  
16 USED UNDER THIS ARTICLE.

17 (6) IF THE AMOUNT OF MONEYS IN THE ASSISTANCE";

18 line 23, after "FUND", insert "THAT, SUBJECT TO THE LIMITATIONS SET  
19 FORTH IN SUBSECTION (5) OF THIS SECTION, IS AVAILABLE TO PAY LEASE  
20 PAYMENTS UNDER ANY LEASE-PURCHASE AGREEMENTS ENTERED INTO  
21 PURSUANT TO SECTION 22-43.7-110 (2)";

22 line 24, strike "ANY LEASE-PURCHASE AGREEMENTS ENTERED";

23 line 25, strike "INTO PURSUANT TO SECTION 22-43.7-110 (2)," and  
24 substitute "THE LEASE-PURCHASE AGREEMENTS,".

\*\* \*\* \*\* \*\* \*\*

