A BILL FOR AN ACT

CONCERNING CONTROLLED MAINTENANCE NEEDS OF REAL PROPERTY ACQUIRED THROUGH A LEASE-PURCHASE AGREEMENT.

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://leg.colorado.gov/.)

Capital Development Committee. The bill specifies that any real property acquired by a state agency or a state institution of higher education through a lease-purchase agreement is not eligible for state controlled maintenance funding. The bill requires any lease-purchase agreement entered into for the acquisition of real property to include a reserve to be used for the controlled maintenance needs of the real
property in a specified amount designed to ensure that there is sufficient money in the reserve to cover the costs of any controlled maintenance needs of the real property. The bill also requires the state treasurer to advise any state agency or state institution of higher education regarding the controlled maintenance reserve requirement.

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

SECTION 1. In Colorado Revised Statutes, 24-30-1303.9, amend (7)(a)(IV) and (7)(a)(V); and add (7)(a)(VI) as follows:

24-30-1303.9. Eligibility for state controlled maintenance funding - legislative declaration. (7) (a) Controlled maintenance funds may not be used for:

(IV) Any work properly categorized as capital construction; or
(V) Facilities described in section 23-1-106 (10.2)(a)(III); OR
(VI) ANY REAL PROPERTY ACQUIRED BY A STATE AGENCY OR A STATE INSTITUTION OF HIGHER EDUCATION THROUGH A LEASE-PURCHASE AGREEMENT WHERE THE LEASE-PURCHASE AGREEMENT REQUIRES AUTHORIZATION SET FORTH IN SECTION 24-82-801.

SECTION 2. In Colorado Revised Statutes, 24-82-801, amend (1)(a) as follows:

24-82-801. Lease-purchase agreements for acquisition of real or personal property - definition. (1) (a) (I) Except as provided in subsection (6) of this section, AND SUBJECT TO THE REQUIREMENT SET FORTH IN SUBSECTION (1)(a)(II) OF THIS SECTION, no lease-purchase agreement for real property that requires total payments exceeding five hundred thousand dollars over the term of the agreement shall be entered into unless such agreement is specifically authorized, prior to its execution, by a bill enacted by the general assembly, other than the annual general appropriation act or a supplemental appropriation act.
(II) (A) For lease-purchase agreements entered into on or after the effective date of this subsection (1)(a)(II), for real property that requires total payments exceeding five hundred thousand dollars over the term of the agreement, the lease-purchase agreement must include a contractual requirement that in the fifteenth calendar year after either the date of the substantial completion of the construction or after the date of acquisition, a second lease-purchase agreement must be entered into in order to establish a reserve to be used for the controlled maintenance needs of the real property in an amount that, at the time the second lease-purchase agreement is executed, equals an estimation of the sum of one percent of the insured value of the real property for each year starting with the sixteenth year after either the date of the substantial completion of the construction or after the date of acquisition and continuing for a total period of twenty-five years. The money in the reserve may be invested and, if invested, the investments must meet the requirements set forth in section 24-36-113. The money in the reserve may be used for any controlled maintenance needs of the real property. A bill enacted by the general assembly as required in subsection (1)(a)(I) of this section authorizing the first lease-purchase agreement must include a reference to the reserve requirement set forth in this subsection (1)(a)(II). The requirement that a lease-purchase agreement may only be authorized by a bill enacted by the general assembly does not apply to the second lease-purchase agreement that must be entered into pursuant to
THIS SUBSECTION (1)(a)(II).

(B) FOR PURPOSES OF THIS SECTION, "CONTROLLED MAINTENANCE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-30-1301 (4); EXCEPT THAT IT MAY INCLUDE ANY MAINTENANCE NEEDS THAT WOULD ORDINARILY BE FUNDED IN A STATE AGENCY’S OR STATE INSTITUTION OF HIGHER EDUCATION'S OPERATING BUDGET. ALSO FOR PURPOSES OF THIS SECTION, "INSURED VALUE" MEANS THE INSURED VALUE OF THE REAL PROPERTY AS DETERMINED THROUGH THE RISK MANAGEMENT PROGRAM ESTABLISHED IN PART 15 OF ARTICLE 30 OF TITLE 24.

SECTION 3. In Colorado Revised Statutes, 24-36-121, add (4)(e) as follows:

24-36-121. Authority to manage state public financing - state public financing cash fund - rules - legislative declaration - definitions. (4) (e) THE STATE TREASURER, AS PART OF HIS OR HER RESPONSIBILITY AS ISSUING MANAGER, SHALL ADVISE THE STATE AGENCY OR THE STATE INSTITUTION OF HIGHER EDUCATION REGARDING THE CONTROLLED MAINTENANCE RESERVE REQUIREMENT SET FORTH IN SECTION 24-82-801 (1)(a)(II).

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

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November 2018 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.