

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1301.01 Esther van Mourik x4215

SENATE BILL 20-219

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SENATE SPONSORSHIP

Fields and Sonnenberg, Story

HOUSE SPONSORSHIP

Valdez A. and Rich, Roberts

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Senate Committees  
Appropriations

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE ISSUANCE OF A LEASE-PURCHASE AGREEMENT TO  
102 FUND THE CONTINUATIONS OF CERTAIN PREVIOUSLY FUNDED  
103 CAPITAL CONSTRUCTION PROJECTS.

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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://leg.colorado.gov/>.)*

**Capital Development Committee.** The bill requires the state treasurer, on behalf of the state, to execute a lease-purchase agreement in an amount up to \$65,500,000 plus reasonable and necessary costs to fund certain capital construction needs for state institutions of higher education that are continuations of previously funded projects as specified by the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

capital development committee. The capital development committee is required to post the list of specific projects and the cost of each project on its official website no later than August 15, 2020. The capital development committee is also required to specify in this list, in the event of any excess money as a result of the issuance, what any remainder money must be used for.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 24-82-803 as  
3 follows:

4           **24-82-803. Lease-purchase agreements for certain capital**  
5 **construction projects - legislative declaration.** (1) (a) THE GENERAL  
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7           (I) GIVEN THE UNPRECEDENTED ECONOMIC SITUATION IN WHICH  
8 THE STATE FINDS ITSELF BECAUSE OF THE DECLARED DISASTER  
9 EMERGENCY DUE TO THE COVID-19 PANDEMIC, IT IS IMPORTANT FOR THE  
10 GENERAL ASSEMBLY TO CONSIDER ANY OPTION AVAILABLE TO FUND THE  
11 CONTINUATIONS OF CERTAIN PREVIOUSLY FUNDED CAPITAL  
12 CONSTRUCTION PROJECTS;

13           (II) FUNDING THE CONTINUATIONS OF CERTAIN PREVIOUSLY  
14 FUNDED CAPITAL CONSTRUCTION PROJECTS IS PARTICULARLY IMPORTANT  
15 BECAUSE THERE ARE COST ESCALATIONS DUE TO CONSTRUCTION  
16 INFLATION WHEN A PROJECT IS POSTPONED, THERE ARE REPAIR,  
17 MAINTENANCE, AND UPKEEP COSTS TO MINIMIZE DAMAGE TO THE  
18 ONGOING PROJECT OR EXISTING INFRASTRUCTURE WHILE FUNDING IS  
19 DELAYED, AND THERE MAY BE INCREASED OPERATIONAL COSTS FOR ANY  
20 PROJECT CONTINUATION ALTERNATIVES; AND

21           (III) IN ADDITION, FUNDING THE CONTINUATIONS OF CERTAIN  
22 PREVIOUSLY FUNDED CAPITAL CONSTRUCTION PROJECTS IN A TIME OF

1 ECONOMIC DOWNTURN HELPS BOOST LOCAL ECONOMIES WITH  
2 CONSTRUCTION PROJECTS THAT CAN COMMENCE QUICKLY WHEN MONEY  
3 IS MADE AVAILABLE.

4 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

5 (I) THE DEADLINE TO ISSUE THE LEASE-PURCHASE AGREEMENT IN  
6 SUBSECTION (2)(a) OF THIS SECTION IS MEANT TO PROVIDE THE STATE  
7 TREASURER WITH AS MUCH FLEXIBILITY AS POSSIBLE TO ENSURE THAT THE  
8 LEASE-PURCHASE AGREEMENT IS EXECUTED ON BEHALF OF THE STATE  
9 WITH THE MOST FAVORABLE TERMS THAT THE MARKET WILL ALLOW. THE  
10 GENERAL ASSEMBLY AGREES WITH THE NEED FOR THIS DEADLINE  
11 FLEXIBILITY AND AT THE SAME TIME DECLARES THAT THE  
12 LEASE-PURCHASE AGREEMENT SHOULD BE EXECUTED AS SOON AS  
13 POSSIBLE.

14 (II) IF THERE IS ANY EXCESS MONEY AS A RESULT OF THE  
15 ISSUANCE, IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE REMAINDER  
16 BE CREDITED TO THE EMERGENCY CONTROLLED MAINTENANCE ACCOUNT  
17 CREATED IN SECTION 24-75-302 (3.2).

18 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS  
19 24-82-102 (1)(b) AND 24-82-801, AND PURSUANT TO SECTION 24-36-121,  
20 NO LATER THAN JUNE 30, 2021, THE STATE, ACTING BY AND THROUGH THE  
21 STATE TREASURER, SHALL EXECUTE A LEASE-PURCHASE AGREEMENT FOR  
22 THE PURPOSE DESCRIBED IN SUBSECTION (4) OF THIS SECTION IN AN  
23 AMOUNT UP TO SIXTY-FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS  
24 PLUS REASONABLE AND NECESSARY ADMINISTRATIVE, MONITORING, AND  
25 CLOSING COSTS AND INTEREST, INCLUDING CAPITALIZED INTEREST AND  
26 CREDIT ENHANCEMENT COSTS SUCH AS A DEBT SERVICE RESERVE FUND OR  
27 BOND INSURANCE.

1           (b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE  
2 PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER  
3 THE LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO  
4 SUBSECTION (2)(a) OF THIS SECTION SHALL NOT EXCEED FIVE MILLION FIVE  
5 HUNDRED THOUSAND DOLLARS.

6           (c) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER,  
7 AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO THE  
8 LEASE-PURCHASE AGREEMENT AUTHORIZED BY SUBSECTION (2)(a) OF THIS  
9 SECTION WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION, TRUST, OR  
10 COMMERCIAL BANK AS A TRUSTEE AS THE LESSOR.

11           (d) THE LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY  
12 SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE  
13 OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE  
14 ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY  
15 AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY  
16 LEASE-PURCHASE AGREEMENT MUST BE MADE SUBJECT TO ANNUAL  
17 APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE  
18 CAPITAL CONSTRUCTION FUND, FROM THE GENERAL FUND, OR FROM ANY  
19 OTHER LEGALLY AVAILABLE SOURCE OF MONEY.

20           (e) THE AGREEMENT MUST ALSO PROVIDE THAT THE STATE'S  
21 OBLIGATION DOES NOT CREATE STATE DEBT WITHIN THE MEANING OF ANY  
22 PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR  
23 LIMITING THE CREATION OF STATE DEBT AND IS NOT A MULTIPLE  
24 FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION  
25 OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF  
26 THE STATE CONSTITUTION. IF THE STATE DOES NOT RENEW THE  
27 LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION

1 (2)(a) OF THIS SECTION, THE SOLE SECURITY AVAILABLE TO THE LESSOR IS  
2 THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED  
3 LEASE-PURCHASE AGREEMENT.

4 (f) (I) THE LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED  
5 BY SUBSECTION (2)(a) OF THIS SECTION MAY CONTAIN SUCH TERMS,  
6 PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON  
7 BEHALF OF THE STATE, DEEMS APPROPRIATE, INCLUDING ALL OPTIONAL  
8 TERMS; EXCEPT THAT THE LEASE-PURCHASE AGREEMENT MUST  
9 SPECIFICALLY AUTHORIZE THE STATE OR THE GOVERNING BOARD OF THE  
10 APPLICABLE STATE INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE  
11 TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE  
12 LEASE-PURCHASE AGREEMENT ON OR BEFORE THE EXPIRATION OF THE  
13 TERMS OF THE AGREEMENT.

14 (II) THE STATE TREASURER, ACTING ON BEHALF OF THE STATE, HAS  
15 THE AUTHORITY AS HE OR SHE DEEMS APPROPRIATE TO DETERMINE WHAT  
16 COLLATERAL TO USE FOR THE LEASE-PURCHASE AGREEMENT.

17 (g) THE LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY  
18 SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,  
19 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO  
20 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER  
21 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENT MAY BE ISSUED,  
22 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED  
23 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENT DOES NOT  
24 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENT  
25 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE  
26 TO THE PURCHASERS. THE INSTRUMENT IS NOT A NOTE, BOND, OR ANY  
27 OTHER EVIDENCE OF STATE DEBT WITHIN THE MEANING OF ANY PROVISION

1 OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING  
2 THE CREATION OF STATE DEBT AND IS NOT A MULTIPLE FISCAL-YEAR  
3 DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE  
4 STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE  
5 STATE CONSTITUTION.

6 (h) INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT  
7 AUTHORIZED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,  
8 INCLUDING INTEREST REPRESENTED BY THE INSTRUMENTS, IS EXEMPT  
9 FROM COLORADO INCOME TAX.

10 (i) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER  
11 AND THE GOVERNING BOARDS OF THE INSTITUTIONS OF HIGHER  
12 EDUCATION, IS AUTHORIZED TO ENTER INTO ANCILLARY AGREEMENTS AND  
13 INSTRUMENTS THAT ARE NECESSARY OR APPROPRIATE IN CONNECTION  
14 WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT LIMITED TO  
15 DEEDS, GROUND LEASES, SUB-LEASES, EASEMENTS, OR OTHER  
16 INSTRUMENTS RELATING TO THE REAL PROPERTY ON WHICH THE FACILITIES  
17 ARE LOCATED.

18 (j) THE PROVISIONS OF SECTION 24-30-202 (5)(b) DO NOT APPLY  
19 TO A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY OR TO  
20 ANY ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT  
21 TO THIS SUBSECTION (2). THE STATE CONTROLLER OR HIS OR HER  
22 DESIGNEE SHALL WAIVE ANY PROVISION OF THE FISCAL RULES  
23 PROMULGATED PURSUANT TO SECTION 24-30-202 (1) AND (13) THAT THE  
24 STATE CONTROLLER FINDS INCOMPATIBLE OR INAPPLICABLE WITH RESPECT  
25 TO A LEASE-PURCHASE AGREEMENT OR AN ANCILLARY AGREEMENT OR  
26 INSTRUMENT.

27 (3) (a) BEFORE EXECUTING THE LEASE-PURCHASE AGREEMENT

1 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, IN ORDER TO PROTECT  
2 AGAINST FUTURE INTEREST RATE INCREASES, THE STATE, ACTING BY AND  
3 THROUGH THE STATE TREASURER AND AT THE DISCRETION OF THE STATE  
4 TREASURER, MAY ENTER INTO AN INTEREST RATE EXCHANGE AGREEMENT  
5 PURSUANT TO ARTICLE 59.3 OF TITLE 11. A LEASE-PURCHASE AGREEMENT  
6 EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION IS A  
7 PROPOSED PUBLIC SECURITY FOR THE PURPOSES OF ARTICLE 59.3 OF TITLE  
8 11. ANY PAYMENTS MADE BY THE STATE UNDER AN AGREEMENT ENTERED  
9 INTO PURSUANT TO THIS SUBSECTION (3) MUST BE MADE SOLELY FROM  
10 MONEY MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION  
11 OF A LEASE-PURCHASE AGREEMENT OR FROM MONEY DESCRIBED IN  
12 SUBSECTION (2)(d) OF THIS SECTION.

13 (b) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION  
14 (3) MUST ALSO PROVIDE THAT THE OBLIGATIONS OF THE STATE DO NOT  
15 CREATE STATE DEBT WITHIN THE MEANING OF ANY PROVISION OF THE  
16 STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING THE  
17 CREATION OF STATE DEBT OR ANY MULTIPLE FISCAL-YEAR DIRECT OR  
18 INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN  
19 THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE  
20 CONSTITUTION.

21 (c) ANY MONEY RECEIVED BY THE STATE UNDER AN AGREEMENT  
22 ENTERED INTO PURSUANT TO THIS SUBSECTION (3) SHALL BE USED TO  
23 MAKE PAYMENTS ON THE LEASE-PURCHASE AGREEMENT ENTERED INTO  
24 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO PAY THE COSTS OF  
25 THE PROJECTS FOR WHICH A LEASE-PURCHASE AGREEMENT WAS  
26 EXECUTED.

27 (4) THE PROCEEDS OF THE LEASE-PURCHASE AGREEMENT

1 EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE  
2 USED TO FUND CERTAIN CAPITAL CONSTRUCTION NEEDS FOR STATE  
3 INSTITUTIONS OF HIGHER EDUCATION THAT ARE CONTINUATIONS OF  
4 PREVIOUSLY FUNDED PROJECTS AS SPECIFIED BY THE CAPITAL  
5 DEVELOPMENT COMMITTEE. THE CAPITAL DEVELOPMENT COMMITTEE  
6 SHALL POST THE LIST OF SPECIFIC PROJECTS AND THE COST OF EACH  
7 PROJECT, ON ITS OFFICIAL WEBSITE NO LATER THAN AUGUST 15, 2020. IN  
8 THE EVENT OF ANY EXCESS MONEY AS A RESULT OF THE ISSUANCE, THE  
9 CAPITAL DEVELOPMENT COMMITTEE SHALL ALSO SPECIFY IN THEIR LIST  
10 WHAT ANY REMAINDER MONEY MUST BE USED FOR.

11 **SECTION 2. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, or safety.