

CHAPTER 179

GOVERNMENT - STATE

SENATE BILL 15-211

BY SENATOR(S) Lambert, Grantham, Steadman, Baumgardner, Kefalas, Sonnenberg, Heath, Newell, Cadman;
also REPRESENTATIVE(S) Rankin, Hamner, Young, Becker K., Brown, Vigil, Lontine, Pettersen, Priola, Ryden, Tate.

AN ACT

**CONCERNING AN AUTOMATIC FUNDING MECHANISM FOR PAYMENT OF FUTURE COSTS
ATTRIBUTABLE TO CERTAIN OF THE STATE'S CAPITAL ASSETS.**

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that while the requirements of Senate Bill 15-211 do not apply to cash funds held by state institutions of higher education, the general assembly strongly encourages state institutions of higher education to implement a similar practice with the cash funds that they manage in an effort to set aside funding for their future capital outlay, capital construction, controlled maintenance, or capital renewal needs.

SECTION 2. In Colorado Revised Statutes, **add** 24-30-1310 as follows:

24-30-1310. Funding for controlled maintenance or capital renewal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "APPROPRIATION" MEANS AN APPROPRIATION IN THE CAPITAL CONSTRUCTION SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT, NOT INCLUDING APPROPRIATIONS FOR INFORMATION TECHNOLOGY PROJECTS, AND NOT INCLUDING ANY APPROPRIATIONS MADE FROM THE INFORMATION TECHNOLOGY CAPITAL ACCOUNT IN THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302 (3.7), AS ENACTED BY HOUSE BILL 15-1266.

(b) "CAPITAL CONSTRUCTION FUND" MEANS THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302.

(c) "CASH FUND" DOES NOT INCLUDE THE LOTTERY FUND CREATED IN SECTION

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

24-35-210 OR THE LIMITED GAMING FUND CREATED IN SECTION 12-47.1-701 (1), C.R.S.

(d) "CONTROLLED MAINTENANCE TRUST FUND" MEANS THE CONTROLLED MAINTENANCE TRUST FUND CREATED IN SECTION 24-75-302.5.

(e) "DEPRECIATION" MEANS AN AMOUNT CALCULATED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(f) "DEPRECIATION PERIOD" MEANS A PERIOD DETERMINED IN FISCAL PROCEDURES ISSUED BY THE STATE CONTROLLER OR THE STATE INSTITUTION OF HIGHER EDUCATION.

(g) "PROJECT COST" MEANS THE DEPRECIABLE COMPONENTS OF THE TOTAL PROJECT COST AS REFLECTED IN THE APPROPRIATION; EXCEPT THAT, IF THE PROJECT IS FINANCED, THE TOTAL PROJECT COST DOES NOT INCLUDE ANY FINANCING COSTS.

(2) FOR EVERY APPROPRIATION IN THE CAPITAL CONSTRUCTION SECTION OF THE 2015-16 ANNUAL GENERAL APPROPRIATION ACT AND EVERY APPROPRIATION IN THE CAPITAL CONSTRUCTION SECTION OF EACH ANNUAL GENERAL APPROPRIATION ACT THEREAFTER, NOT INCLUDING APPROPRIATIONS FOR INFORMATION TECHNOLOGY PROJECTS, ADDITIONAL FUNDING MUST BE SET ASIDE AS FOLLOWS:

(a) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS FROM A CASH FUND, THE STATE AGENCY SHALL ANNUALLY CALCULATE AN AMOUNT EQUAL TO THE DEPRECIATION OF THE CAPITAL ASSET ACQUIRED, REPAIRED, IMPROVED, REPLACED, RENOVATED, OR CONSTRUCTED WITH THE APPROPRIATION BASED ON THE DEPRECIATION PERIOD AND ON JUNE 30 THE STATE CONTROLLER SHALL CREDIT SUCH AMOUNT FROM THE CASH FUND THAT WAS THE SOURCE OF THE FUNDING FOR THE APPROPRIATION TO A CAPITAL RESERVE ACCOUNT ESTABLISHED BY THE STATE AGENCY IN SUCH CASH FUND AS SPECIFIED IN SECTION 24-75-403 (2), AS ENACTED BY HOUSE BILL 15-1280.

(b) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS FROM THE GENERAL FUND, THE CAPITAL CONSTRUCTION FUND, OR THE CONTROLLED MAINTENANCE TRUST FUND, THE GENERAL ASSEMBLY SHALL INCLUDE AN ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENT LINE ITEM PAYABLE FROM THE GENERAL FUND IN THE OPERATING SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT FOR EACH STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION EQUAL TO THE DEPRECIATION OF THE CAPITAL ASSET ACQUIRED, REPAIRED, IMPROVED, REPLACED, RENOVATED, OR CONSTRUCTED WITH THE APPROPRIATION BASED ON THE DEPRECIATION PERIOD, AS CALCULATED BY THE STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION. ON JUNE 30 THE STATE CONTROLLER SHALL CREDIT THE DEPRECIATION-LEASE EQUIVALENT PAYMENT TO THE CAPITAL CONSTRUCTION FUND; EXCEPT THAT, OF SUCH PAYMENT, AN AMOUNT EQUAL TO ONE PERCENT OF THE PROJECT COST WILL BE DEDUCTED FROM THE PAYMENT AND CREDITED TO THE PRINCIPAL OF THE CONTROLLED MAINTENANCE TRUST FUND.

(c) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS A FINANCING ARRANGEMENT, INCLUDING A LEASE-PURCHASE AGREEMENT ALLOWED PURSUANT TO SECTION 24-82-802, AND THE SOURCE OF THE FUNDING FOR THE FINANCING

PAYMENT IS:

(I) FROM A CASH FUND, THEN THE STATE AGENCY SHALL ANNUALLY CALCULATE AN AMOUNT EQUAL TO ONE PERCENT OF THE PROJECT COST AND THE GENERAL ASSEMBLY SHALL INCLUDE AN ANNUAL CONTROLLED MAINTENANCE LINE ITEM PAYABLE FROM THE CASH FUND IN THE OPERATING SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT FOR EACH STATE AGENCY EQUAL TO SUCH AMOUNT. ON JUNE 30 THE STATE CONTROLLER SHALL CREDIT SUCH AMOUNT TO A CAPITAL RESERVE ACCOUNT ESTABLISHED BY THE STATE AGENCY IN THE CASH FUND AS SPECIFIED IN SECTION 24-75-403 (2), AS ENACTED BY HOUSE BILL 15-1280.

(II) FROM THE GENERAL FUND, THE CAPITAL CONSTRUCTION FUND, OR THE CONTROLLED MAINTENANCE TRUST FUND, THEN THE GENERAL ASSEMBLY SHALL INCLUDE AN ANNUAL CONTROLLED MAINTENANCE LINE ITEM PAYABLE FROM THE GENERAL FUND IN THE OPERATING SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT FOR EACH STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION EQUAL TO ONE PERCENT OF THE PROJECT COST, AS CALCULATED BY THE STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION. ON JUNE 30 THE STATE CONTROLLER SHALL CREDIT SUCH AMOUNT TO THE CONTROLLED MAINTENANCE TRUST FUND.

(d) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS A COMBINATION OF THE FUNDING SOURCES DESCRIBED IN PARAGRAPHS (a), (b), AND (c) OF THIS SUBSECTION (2), THEN THE ANNUAL SET ASIDE MUST BE MADE IN PROPORTION TO THE FUNDING SOURCE.

SECTION 3. In Colorado Revised Statutes, 24-75-201.1, **amend** (2) as follows:

24-75-201.1. Restriction on state appropriations - legislative declaration - definitions. (2) The basis for the calculation of the reserve as specified in this section includes all appropriations for expenditure from the general fund for such fiscal year, except for any appropriations for:

(a) Expenditure from the general fund due to a state fiscal emergency as provided for in subparagraph (IV) of paragraph (a) of subsection (1) of this section;

(c) MONEYS THAT ARE CREDITED BY THE STATE CONTROLLER FROM THE GENERAL FUND TO THE CAPITAL CONSTRUCTION FUND OR TO THE PRINCIPAL OF THE CONTROLLED MAINTENANCE TRUST FUND AS SET FORTH IN SECTION 24-30-1310.

SECTION 4. In Colorado Revised Statutes, 24-75-302, **amend** (1) (a) as follows:

24-75-302. Capital construction fund - capital assessment fees - calculation - repeal. (1) (a) There is hereby created the capital construction fund. The fund consists of moneys transferred to the fund by the general assembly AND MONEYS CREDITED TO THE FUND PURSUANT TO SECTION 24-30-1310. Moneys in the capital construction fund may be appropriated for capital construction, capital renewal, controlled maintenance, or state highway reconstruction, repair, and maintenance projects as requested pursuant to section 43-1-113 (2.5), C.R.S.; except that any moneys transferred to the capital construction fund for state highway reconstruction,

repair, and maintenance projects may only be appropriated for such projects. The appropriation for projects must be set forth in a single line item as a total sum. All unappropriated balances in the fund at the close of any fiscal year must remain in the fund and may not revert to the general fund. All unexpended or unencumbered moneys from a capital construction fund appropriation to a state agency or state institution of higher education for any fiscal year reverts to the capital construction fund at the end of the period for which the moneys are appropriated. Except as provided in sections 2-3-1304 (1) (a.5) and 24-30-1303.7 (1), C.R.S., no portion of the unexpended balance of a state agency's or state institution of higher education's capital construction fund appropriation may be used by the state agency or the state institution of higher education for any additional projects that are beyond the scope or design of the original project without further approval by the capital development committee of such additional project. Anticipation warrants or checks may be issued against the revenues of the fund as provided by law. Except as provided in subsection (7) of this section, all interest earned from the investment of moneys in the capital construction fund must remain in the fund and become a part thereof.

SECTION 5. In Colorado Revised Statutes, 24-75-302.5, **amend** (2) (a) as follows:

24-75-302.5. Controlled maintenance - trust fund - legislative declaration.

(2) (a) There is hereby created the controlled maintenance trust fund, the principal of which shall consist of any general fund revenues appropriated or transferred thereto by law, MONIES CREDITED THERETO PURSUANT TO SECTION 24-30-1310, and proceeds of leveraged leasing agreements deposited thereto pursuant to section 24-82-1003 (3). For the 1996-97 fiscal year and fiscal years thereafter, the principal of the trust fund may constitute all or some portion of the state emergency reserve established pursuant to section 24-77-104 and may be expended in any given fiscal year as provided in said section. The principal of the trust fund shall not be expended or appropriated for any purpose other than use as part of the state emergency reserve. The state treasurer may in the state treasurer's discretion deposit, redeposit, invest, and reinvest moneys accrued or accruing to the controlled maintenance trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113.

SECTION 6. 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 11, 2015