

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 11, 2017
Date

Committee on Finance.

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

SB17-267 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 5, line 12, strike "17-____," and substitute
2 "17-267,".

3 Page 6, strike lines 4 through 27.

4 Strike page 7.

5 Page 8, strike lines 1 and 2 and substitute:

6 **"SECTION 3.** In Colorado Revised Statutes, 24-75-219, **repeal**
7 **as amended by Senate Bill 17-262 (2)(c); and repeal as added by**
8 **Senate Bill 17-262 (2)(c.3)(I) and (2)(c.7)(I) as follows:**

9 **24-75-219. Transfers - transportation - capital construction -**
10 **definitions. (2) (c) ~~On June 30, 2018, the state treasurer shall transfer~~**
11 **~~seventy-nine million dollars from the general fund to the highway users~~**
12 **~~tax fund.~~**

13 (c.3) On June 30, 2019, the state treasurer shall transfer:

14 (I) ~~One hundred sixty million dollars from the general fund to the~~
15 ~~highway users tax fund; and~~

16 (c.7) On June 30, 2020, the state treasurer shall transfer:

17 (I) ~~One hundred sixty million dollars from the general fund to the~~
18 ~~highway users tax fund; and"~~.

19 Page 9, strike lines 14 through 27.

20 Strike pages 10 through 16.

1 Page 17, strike lines 1 through 17 and substitute:

2 "SECTION 5. In Colorado Revised Statutes, **add** part 13 to
3 article 82 of title 24 as follows:

4 **24-82-1301. Legislative declaration.** (1) THE GENERAL
5 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

6 (a) DUE TO INSUFFICIENT FUNDING, NECESSARY HIGH-PRIORITY
7 STATE HIGHWAY PROJECTS AND STATE CAPITAL CONSTRUCTION PROJECTS,
8 INCLUDING PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION, IN
9 ALL AREAS OF THE STATE HAVE BEEN DELAYED, AND THE STATE HAS ALSO
10 DELAYED CRITICAL CONTROLLED MAINTENANCE AND UPKEEP OF STATE
11 CAPITAL ASSETS;

12 (b) BY ISSUING LEASE-PURCHASE AGREEMENTS USING STATE
13 BUILDINGS AS COLLATERAL AS AUTHORIZED BY THIS PART 13, THE STATE
14 CAN GENERATE SUFFICIENT FUNDS TO ACCELERATE THE COMPLETION OF
15 MANY OF THE NECESSARY HIGH-PRIORITY STATE HIGHWAY PROJECTS AND
16 CAPITAL CONSTRUCTION PROJECTS THAT HAVE BEEN DELAYED AND
17 BETTER MAINTAIN AND PRESERVE EXISTING STATE CAPITAL ASSETS;

18 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

19 (I) A MAJORITY OF THE ADDITIONAL FUNDING FOR STATE CAPITAL
20 CONSTRUCTION PROJECTS REALIZED FROM ISSUING LEASE-PURCHASE
21 AGREEMENTS BE USED FOR RENOVATION AND RENEWAL PROJECTS; AND

22 (II) MORE OF THE STATE'S EXISTING CAPITAL CONSTRUCTION
23 FUNDING BE DEDICATED TO CONTROLLED MAINTENANCE AND UPKEEP OF
24 STATE CAPITAL ASSETS.

25 **24-82-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY
28 UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY
29 THE STATE, INCLUDING A BUILDING, STRUCTURE, OR FACILITY DETERMINED
30 TO BE ELIGIBLE BY A GOVERNING BOARD OF A STATE INSTITUTION OF
31 HIGHER EDUCATION.

32 (2) "CAPITAL CONSTRUCTION" HAS THE SAME MEANING AS SET
33 FORTH IN SECTION 24-30-1301 (2).

34 (3) "CONTROLLED MAINTENANCE" HAS THE SAME MEANING AS SET
35 FORTH IN SECTION 24-30-1301 (4).

36 (4) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
37 INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102
38 (10), AND THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE
39 70 OF TITLE 23.

40 **24-82-1303. Lease-purchase agreements for capital**
41 **construction and transportation projects.** (1) ON OR BEFORE

1 DECEMBER 31, 2017, THE STATE ARCHITECT, THE DIRECTOR OF THE OFFICE
2 OF STATE PLANNING AND BUDGETING OR HIS OR HER DESIGNEE, AND THE
3 STATE INSTITUTIONS OF HIGHER EDUCATION SHALL IDENTIFY AND PREPARE
4 A COLLABORATIVE LIST OF ELIGIBLE STATE FACILITIES THAT CAN BE
5 COLLATERALIZED AS PART OF THE LEASE-PURCHASE AGREEMENTS FOR
6 CAPITAL CONSTRUCTION AND TRANSPORTATION PROJECTS AUTHORIZED IN
7 THIS PART 13. THE TOTAL CURRENT REPLACEMENT VALUE OF THE
8 IDENTIFIED BUILDINGS MUST EQUAL AT LEAST ONE BILLION SEVEN
9 HUNDRED MILLION DOLLARS.

10 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS
11 24-82-102 (1)(b) AND 24-82-801, AND PURSUANT TO SECTION 24-36-121,
12 NO SOONER THAN JULY 1, 2018, THE STATE, ACTING BY AND THROUGH THE
13 STATE TREASURER, SHALL EXECUTE LEASE-PURCHASE AGREEMENTS EACH
14 FOR NO MORE THAN TWENTY YEARS OF ANNUAL PAYMENTS FOR THE
15 PROJECTS DESCRIBED IN SUBSECTION (5) OF THIS SECTION. A STATE
16 INSTITUTION OF HIGHER EDUCATION MAY EITHER CONTRIBUTE THE FULL
17 AMOUNT OF ITS SHARE OF THE COST OF THE PROJECT, AS DESCRIBED IN
18 SUBSECTION (3) OF THIS SECTION, AT THE COMMENCEMENT OF THE
19 PROJECT OR MAY HAVE ITS SHARE OF THE COST OF THE PROJECT INCLUDED
20 IN THE LEASE-PURCHASE AGREEMENT.

21 (b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE
22 PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER
23 ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO SHALL NOT EXCEED
24 ONE HUNDRED TWENTY-FIVE MILLION DOLLARS.

25 (c) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER,
26 AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO ONE OR
27 MORE LEASE-PURCHASE AGREEMENTS AUTHORIZED BY SUBSECTION (2)(a)
28 OF THIS SECTION WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION,
29 TRUST, OR COMMERCIAL BANK AS A TRUSTEE AS THE LESSOR.

30 (d) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
31 BY SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE
32 OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE
33 ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY
34 AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY
35 LEASE-PURCHASE AGREEMENT MUST BE MADE, SUBJECT TO ANNUAL
36 ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE TRANSPORTATION
37 COMMISSION CREATED IN SECTION 43-1-106 (1) OR SUBJECT TO ANNUAL
38 APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE
39 FOLLOWING SOURCES OF MONEY:

40 (I) THE CAPITAL CONSTRUCTION LEASE-PURCHASE AGREEMENT
41 CASH FUND CREATED IN SUBSECTION (3) OF THIS SECTION;

1 (II) AN ANNUAL AMOUNT EQUAL TO THE PERCENTAGE OF THE
2 TOTAL ANNUAL PAYMENTS ATTRIBUTABLE TO THE EXECUTED LEASE
3 PURCHASE AGREEMENTS CREDITED TO THE STATE HIGHWAY FUND AS
4 SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION, OR ANY LESSER AMOUNT
5 THAT IS SUFFICIENT TO MAKE A FULL PAYMENT, FROM ANY LEGALLY
6 AVAILABLE MONEY UNDER THE CONTROL OF THE TRANSPORTATION
7 COMMISSION; AND

8 (III) THE REMAINDER OF THE AMOUNT NEEDED, IN ADDITION TO
9 THE AMOUNT SPECIFIED IN SUBSECTION (2)(d)(I) OF THIS SECTION, TO
10 MAKE THE FULL PAYMENT FROM THE GENERAL FUND OR ANY OTHER
11 LEGALLY AVAILABLE SOURCE OF MONEY.

12 (e) EACH AGREEMENT MUST ALSO PROVIDE THAT THE
13 OBLIGATIONS OF THE STATE DO NOT CREATE STATE DEBT WITHIN THE
14 MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW
15 CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A
16 MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL
17 OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF
18 ARTICLE X OF THE STATE CONSTITUTION. IF THE STATE DOES NOT RENEW
19 A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION
20 (2)(a) OF THIS SECTION, THE SOLE SECURITY AVAILABLE TO THE LESSOR IS
21 THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED
22 LEASE-PURCHASE AGREEMENT.

23 (f) A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY
24 SUBSECTION (2)(a) OF THIS SECTION MAY CONTAIN SUCH TERMS,
25 PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON
26 BEHALF OF THE STATE, DEEMS APPROPRIATE, INCLUDING ALL OPTIONAL
27 TERMS; EXCEPT THAT EACH LEASE-PURCHASE AGREEMENT MUST
28 SPECIFICALLY AUTHORIZE THE STATE OR THE GOVERNING BOARD OF THE
29 APPLICABLE STATE INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE
30 TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE
31 LEASE-PURCHASE AGREEMENT ON OR BEFORE THE EXPIRATION OF THE
32 TERMS OF THE AGREEMENT.

33 (g) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
34 BY SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,
35 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
36 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
37 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED,
38 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED
39 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS DO NOT
40 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS
41 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE
42 TO THE PURCHASERS. THE INSTRUMENTS ARE NOT NOTES, BONDS, OR ANY

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

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

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

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

28 (3) A STATE INSTITUTION OF HIGHER EDUCATION, BUT NOT THE
29 STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL
30 EDUCATION, SHALL TRANSFER TO THE STATE TREASURER TWENTY
31 PERCENT OF THE TOTAL PROJECT COST OF ANY NEW CAPITAL
32 CONSTRUCTION PROJECT THAT RECEIVES FUNDING THROUGH THIS PART 13
33 WITHOUT AN APPROPRIATION FROM THE GENERAL ASSEMBLY. THE STATE
34 TREASURER SHALL CREDIT ANY MONEY RECEIVED PURSUANT TO THIS
35 SUBSECTION (3) TO THE CAPITAL CONSTRUCTION LEASE-PURCHASE
36 AGREEMENT CASH FUND, REFERRED TO IN THIS SUBSECTION (3) AS THE
37 "FUND", WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEY IN
38 THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE TREASURER TO
39 MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS EXECUTED AS
40 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION. ALL INTEREST AND
41 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE
42 FUND IS CREDITED TO THE FUND.

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

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

24 (c) ANY MONEY RECEIVED BY THE STATE UNDER AN AGREEMENT
25 ENTERED INTO PURSUANT TO THIS SUBSECTION (4) SHALL BE USED TO
26 MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS ENTERED INTO
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO PAY THE COSTS OF
28 THE PROJECT FOR WHICH A LEASE-PURCHASE AGREEMENT WAS EXECUTED.

29 (5) PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
30 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE USED AS
31 FOLLOWS:

32 (a) SEVENTY-SIX AND FIVE-TENTHS PERCENT OF THE PROCEEDS
33 SHALL BE CREDITED TO THE STATE HIGHWAY FUND CREATED IN SECTION
34 43-1-219 AND USED BY THE DEPARTMENT OF TRANSPORTATION IN
35 ACCORDANCE WITH SECTION 43-4-206 (1)(b)(V); AND

36 (b) TWENTY-THREE AND FIVE-TENTHS PERCENT OF THE PROCEEDS
37 SHALL BE USED FOR CONTROLLED MAINTENANCE AND CAPITAL
38 CONSTRUCTION PROJECTS IN THE STATE AS FOLLOWS:

39 (I) THIRTEEN MILLION SIX THOUSAND EIGHTY-ONE DOLLARS FOR
40 LEVEL I CONTROLLED MAINTENANCE;

41 (II) SIXTY MILLION SIX HUNDRED THIRTY-SEVEN THOUSAND THREE
42 HUNDRED FIVE DOLLARS FOR LEVEL II CONTROLLED MAINTENANCE;

1 (III) FORTY MILLION TWO HUNDRED NINE THOUSAND FIVE
2 HUNDRED THIRTY-FIVE DOLLARS FOR LEVEL III CONTROLLED
3 MAINTENANCE; AND

4 (IV) THE REMAINDER FOR CAPITAL CONSTRUCTION PROJECTS AS
5 PRIORITIZED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL
6 DEVELOPMENT COMMITTEE SHALL POST THE FINAL PRIORITIZED LIST ON
7 THE COMMITTEE'S WEBSITE AND FORWARD THE LIST TO THE OFFICE OF
8 STATE PLANNING AND BUDGETING, THE STATE INSTITUTIONS OF HIGHER
9 EDUCATION, AND THE STATE TREASURER NO LATER THAN NOVEMBER 1,
10 2017.

11 **SECTION 6.** In Colorado Revised Statutes, 23-1-106, **amend**
12 (10.2)(a)(I) and (10.2)(a)(II); and **add** (10.2)(a)(III) as follows:

13 **23-1-106. Duties and powers of the commission with respect**
14 **to capital construction and long-range planning - legislative**
15 **declaration - definitions.** (10.2) (a) (I) Notwithstanding any law to the
16 contrary AND EXCEPT AS PROVIDED IN SUBSECTION (10.2)(a)(III) OF THIS
17 SECTION, all academic facilities acquired or constructed, or an auxiliary
18 facility repurposed for use as an academic facility, solely from cash funds
19 held by the state institution of higher education and operated and
20 maintained from such cash funds or from state moneys appropriated for
21 such purpose, or both, including, but not limited to, those facilities
22 described in ~~paragraph (b) of subsection (9)~~ SUBSECTION (9)(b) of this
23 section, that did not previously qualify for state controlled maintenance
24 funding will qualify for state controlled maintenance funding, subject to
25 funding approval by the capital development committee and the eligibility
26 guidelines described in section 24-30-1303.9. ~~C.R.S.~~

27 (II) For purposes of this ~~paragraph (a)~~ SUBSECTION (10.2)(a), the
28 eligibility for state controlled maintenance funding commences on the
29 date of the acceptance of the construction or repurposing of the facility
30 or the closing date of any acquisition. The date of the acceptance of
31 construction or repurposing shall be determined by the office of the state
32 architect.

33 (III) IF AN ACADEMIC FACILITY IS ACQUIRED OR CONSTRUCTED, OR
34 IF AN AUXILIARY FACILITY IS REPURPOSED FOR USE AS AN ACADEMIC
35 FACILITY, SOLELY FROM CASH FUNDS HELD BY THE STATE INSTITUTION OF
36 HIGHER EDUCATION AND OPERATED AND MAINTAINED FROM SUCH CASH
37 FUNDS, THEN AS OF THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR
38 REPURPOSING THAT OCCURS ON OR AFTER JULY 1, 2018, SUCH FACILITY IS
39 NOT ELIGIBLE FOR CONTROLLED MAINTENANCE FUNDING.

40 **SECTION 7.** In Colorado Revised Statutes, 24-30-1303.9,
41 **amend** (7)(a)(II), (7)(a)(III), and (7)(a)(IV); and **add** (7)(a)(V) as
42 follows:

1 **24-30-1303.9. Eligibility for state controlled maintenance**
2 **funding - legislative declaration.** (7) (a) Controlled maintenance funds
3 may not be used for:

4 (II) Auxiliary facilities as defined in section 23-1-106 (10.3);
5 ~~C.R.S.;~~

6 (III) Leasehold interests in real property; ~~or~~

7 (IV) Any work properly categorized as capital construction; OR

8 (V) FACILITIES DESCRIBED IN SECTION 23-1-106 (10.2)(a)(III).

9 **SECTION 8.** In Colorado Revised Statutes, 25.5-4-301, **amend**
10 (1)(a)(I) and (1)(a)(II); and **add** (1)(a)(II.3) as follows:

11 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
12 **adjustments - liens - review or audit procedures.** (1) (a) (I) Except as
13 provided in section 25.5-4-302 and ~~subparagraph (III) of this paragraph~~
14 ~~(a), no~~ SUBSECTION (1)(a)(III) OF THIS SECTION, A recipient or estate of the
15 recipient ~~shall be~~ IS NOT liable for the cost or the cost remaining after
16 payment by medicaid, medicare, or a private insurer of medical benefits
17 authorized by Title XIX of the social security act, by this ~~title~~ TITLE 25.5,
18 or by rules promulgated by the state board, ~~which~~ FOR benefits ~~are~~
19 rendered to the recipient by a provider of medical services WHO IS
20 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AND authorized to
21 render ~~such~~ THE service in the state of Colorado, except FOR those
22 contributions required pursuant to section 25.5-4-209 (1). However, a
23 recipient may enter into a documented agreement with a provider WHO IS
24 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM under which the
25 recipient agrees to pay for items or services that are nonreimbursable
26 under the medical assistance program. Under these circumstances, a
27 recipient is liable for the cost of ~~such~~ THOSE services and items.

28 (II) The provisions of ~~subparagraph (I) of this paragraph (a) shall~~
29 SUBSECTION (1)(a)(I) OF THIS SECTION apply regardless of whether
30 medicaid has actually reimbursed the provider. ~~and regardless of whether~~
31 ~~the provider is enrolled in the Colorado medical assistance program.~~

32 (II.3) IF A PROVIDER WHO IS NOT ENROLLED IN THE MEDICAL
33 ASSISTANCE PROGRAM PROVIDES MEDICAL SERVICES TO A RECIPIENT THAT
34 WOULD BE REIMBURSABLE UNDER THE MEDICAL ASSISTANCE PROGRAM IF
35 THE PROVIDER WERE AN ENROLLED PROVIDER, PRIOR TO PROVIDING
36 MEDICAL SERVICES, THE NONENROLLED PROVIDER SHALL ENTER INTO A
37 WRITTEN AGREEMENT WITH THE RECIPIENT. THE AGREEMENT MUST SET
38 FORTH THE SPECIFIC MEDICAL SERVICES PROVIDED, THE USUAL AND
39 CUSTOMARY COST FOR THE SERVICES, THE COST TO THE RECIPIENT FOR
40 THE SERVICES PROVIDED, AND THE TERMS OF PAYMENT BY THE CLIENT.
41 THE AGREEMENT MUST ALSO INCLUDE THE STATEMENT THAT THE
42 RECIPIENT UNDERSTANDS THAT HE OR SHE WOULD NOT BE LIABLE FOR THE

- 1 COST OF REIMBURSABLE MEDICAL SERVICES IF THE RECIPIENT OBTAINED
2 THE SERVICES FROM AN ENROLLED PROVIDER. THE AGREEMENT MUST BE
3 SIGNED AND DATED BY BOTH THE RECIPIENT AND THE NONENROLLED
4 PROVIDER. UNDER THESE CIRCUMSTANCES, THE RECIPIENT IS LIABLE FOR
5 THE COST OF THE MEDICAL SERVICES."
- 6 Renumber succeeding sections accordingly.
- 7 Page 21, line 15, strike "17-____," and substitute "17-267,".
- 8 Page 22, line 9, strike "17-____," and substitute "17-267,".
- 9 Page 26, line 16, strike "17-____," and substitute "17-267,".
- 10 Page 45, line 24, strike "17-____," and substitute "17-267,".
- 11 Page 46, line 4, strike "17-____," and substitute "17-267,".
- 12 Page 51, line 18, strike "of" and substitute "for".
- 13 Page 51, line 20, strike "OF" and substitute "FOR".
- 14 Page 51, line 27, strike "OF" and substitute "FOR".
- 15 Page 54, strike lines 6 through 8 and substitute "for the same. ANY
16 PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS REQUIRED BY
17 SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE STATE HIGHWAY
18 FUND PURSUANT TO SECTION 24-82-1303 (5)(a) SHALL BE USED".
- 19 Page 55, strike lines 3 through 5 and substitute: "AND, BEGINNING IN 2018,
20 ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
21 REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE
22 STATE HIGHWAY FUND PURSUANT TO SECTION 24-82-1303 (5)(a) AND".
- 23 Page 56, line 18, strike "6 through 15, 17, and 18" and substitute "9
24 through 18, 20, and 21".
- 25 Page 56, line 20, strike "6 through 15, 17, and 18" and substitute "9
26 through 18, 20, and 21".

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