

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1011.01 Esther van Mourik x4215

HOUSE BILL 18-1374

HOUSE SPONSORSHIP

Hansen and Esgar, Becker J.

SENATE SPONSORSHIP

Kefalas and Baumgardner, Sonnenberg

House Committees

Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CONTROLLED MAINTENANCE NEEDS OF REAL PROPERTY**

102 **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

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.

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.

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

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

4 **24-30-1303.9. Eligibility for state controlled maintenance**
5 **funding - legislative declaration.** (7) (a) Controlled maintenance funds
6 may not be used for:

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

8 (V) Facilities described in section 23-1-106 (10.2)(a)(III); OR

9 (VI) ANY REAL PROPERTY ACQUIRED BY A STATE AGENCY OR A
10 STATE INSTITUTION OF HIGHER EDUCATION THROUGH A LEASE-PURCHASE
11 AGREEMENT WHERE THE LEASE-PURCHASE AGREEMENT REQUIRES
12 AUTHORIZATION SET FORTH IN SECTION 24-82-801.

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

15 **24-82-801. Lease-purchase agreements for acquisition of real**
16 **or personal property - definition.** (1) (a) (I) Except as provided in
17 subsection (6) of this section, AND SUBJECT TO THE REQUIREMENT SET
18 FORTH IN SUBSECTION (1)(a)(II) OF THIS SECTION, no lease-purchase
19 agreement for real property that requires total payments exceeding five
20 hundred thousand dollars over the term of the agreement shall be entered
21 into unless such agreement is specifically authorized, prior to its
22 execution, by a bill enacted by the general assembly, other than the annual
23 general appropriation act or a supplemental appropriation act.

1 (II) (A) FOR LEASE-PURCHASE AGREEMENTS ENTERED INTO ON OR
2 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II), FOR REAL
3 PROPERTY THAT REQUIRES TOTAL PAYMENTS EXCEEDING FIVE HUNDRED
4 THOUSAND DOLLARS OVER THE TERM OF THE AGREEMENT, THE
5 LEASE-PURCHASE AGREEMENT MUST INCLUDE A CONTRACTUAL
6 REQUIREMENT THAT IN THE FIFTEENTH CALENDAR YEAR AFTER EITHER THE
7 DATE OF THE SUBSTANTIAL COMPLETION OF THE CONSTRUCTION OR AFTER
8 THE DATE OF ACQUISITION, A SECOND LEASE-PURCHASE AGREEMENT MUST
9 BE ENTERED INTO IN ORDER TO ESTABLISH A RESERVE TO BE USED FOR THE
10 CONTROLLED MAINTENANCE NEEDS OF THE REAL PROPERTY IN AN AMOUNT
11 THAT, AT THE TIME THE SECOND LEASE-PURCHASE AGREEMENT IS
12 EXECUTED, EQUALS AN ESTIMATION OF THE SUM OF ONE PERCENT OF THE
13 INSURED VALUE OF THE REAL PROPERTY FOR EACH YEAR STARTING WITH
14 THE SIXTEENTH YEAR AFTER EITHER THE DATE OF THE SUBSTANTIAL
15 COMPLETION OF THE CONSTRUCTION OR AFTER THE DATE OF ACQUISITION
16 AND CONTINUING FOR A TOTAL PERIOD OF TWENTY-FIVE YEARS. THE
17 MONEY IN THE RESERVE MAY BE INVESTED AND, IF INVESTED, THE
18 INVESTMENTS MUST MEET THE REQUIREMENTS SET FORTH IN SECTION
19 24-36-113. THE MONEY IN THE RESERVE MAY BE USED FOR ANY
20 CONTROLLED MAINTENANCE NEEDS OF THE REAL PROPERTY. A BILL
21 ENACTED BY THE GENERAL ASSEMBLY AS REQUIRED IN SUBSECTION
22 (1)(a)(I) OF THIS SECTION AUTHORIZING THE FIRST LEASE-PURCHASE
23 AGREEMENT MUST INCLUDE A REFERENCE TO THE RESERVE REQUIREMENT
24 SET FORTH IN THIS SUBSECTION (1)(a)(II). THE REQUIREMENT THAT A
25 LEASE-PURCHASE AGREEMENT MAY ONLY BE AUTHORIZED BY A BILL
26 ENACTED BY THE GENERAL ASSEMBLY DOES NOT APPLY TO THE SECOND
27 LEASE-PURCHASE AGREEMENT THAT MUST BE ENTERED INTO PURSUANT TO

1 THIS SUBSECTION (1)(a)(II).

2 (B) FOR PURPOSES OF THIS SECTION, "CONTROLLED
3 MAINTENANCE" HAS THE SAME MEANING AS SET FORTH IN SECTION
4 24-30-1301 (4); EXCEPT THAT IT MAY INCLUDE ANY MAINTENANCE NEEDS
5 THAT WOULD ORDINARILY BE FUNDED IN A STATE AGENCY'S OR STATE
6 INSTITUTION OF HIGHER EDUCATION'S OPERATING BUDGET. ALSO FOR
7 PURPOSES OF THIS SECTION, "INSURED VALUE" MEANS THE INSURED VALUE
8 OF THE REAL PROPERTY AS DETERMINED THROUGH THE RISK
9 MANAGEMENT PROGRAM ESTABLISHED IN PART 15 OF ARTICLE 30 OF TITLE
10 24.

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

13 24-36-121. Authority to manage state public financing - state
14 public financing cash fund - rules - legislative declaration -
15 definitions. (4) (e) THE STATE TREASURER, AS PART OF HIS OR HER
16 RESPONSIBILITY AS ISSUING MANAGER, SHALL ADVISE THE STATE AGENCY
17 OR THE STATE INSTITUTION OF HIGHER EDUCATION REGARDING THE
18 CONTROLLED MAINTENANCE RESERVE REQUIREMENT SET FORTH IN
19 SECTION 24-82-801 (1)(a)(II).

20 SECTION 4. Act subject to petition - effective date. This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

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