

SB267_L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.SB17-267 be amended as follows:

1 Amend printed bill, page 9, strike lines 14 through 27.

2 Strike pages 10 through 16.

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

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

6 **24-82-1301. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

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

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

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

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

27 **24-82-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE
28 CONTEXT OTHERWISE REQUIRES:

29 (1) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY
30 UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY
31 THE STATE, INCLUDING STATE INSTITUTIONS OF 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).

1 (4) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
2 INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102
3 (10), AND THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE
4 70 OF TITLE 23 BUT DOES NOT INCLUDE THE STATE BOARD FOR
5 COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION.

6 **24-82-1303. Lease-purchase agreements for capital**
7 **construction and transportation projects.** (1) ON OR BEFORE
8 DECEMBER 31, 2017, THE STATE ARCHITECT, THE DIRECTOR OF THE OFFICE
9 OF STATE PLANNING AND BUDGETING OR HIS OR HER DESIGNEE, AND THE
10 STATE INSTITUTIONS OF HIGHER EDUCATION SHALL IDENTIFY AND PREPARE
11 A COLLABORATIVE LIST OF ELIGIBLE STATE FACILITIES THAT CAN BE
12 COLLATERALIZED AS PART OF THE LEASE-PURCHASE AGREEMENTS FOR
13 CAPITAL CONSTRUCTION AND TRANSPORTATION PROJECTS AUTHORIZED IN
14 THIS PART 13. THE TOTAL CURRENT REPLACEMENT VALUE OF THE
15 IDENTIFIED BUILDINGS MUST EQUAL AT LEAST ONE BILLION THREE
16 HUNDRED FIFTY MILLION DOLLARS.

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

28 (b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE
29 PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER
30 ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO SHALL NOT EXCEED
31 ONE HUNDRED MILLION DOLLARS.

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

37 (d) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
38 BY SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE
39 OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE
40 ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY
41 AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY

1 LEASE-PURCHASE AGREEMENT MUST BE MADE, SUBJECT TO ANNUAL
2 ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE TRANSPORTATION
3 COMMISSION CREATED IN SECTION 43-1-106 (1) OR SUBJECT TO ANNUAL
4 APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE
5 FOLLOWING SOURCES OF MONEY:

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

8 (II) FIFTY MILLION DOLLARS ANNUALLY, OR ANY LESSER AMOUNT
9 THAT IS SUFFICIENT TO MAKE A FULL PAYMENT, FROM ANY LEGALLY
10 AVAILABLE MONEY UNDER THE CONTROL OF THE TRANSPORTATION
11 COMMISSION; AND

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

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

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

37 (g) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
38 BY SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,
39 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
40 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
41 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED,

1 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED
2 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS DO NOT
3 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS
4 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE
5 TO THE PURCHASERS. THE INSTRUMENTS ARE NOT NOTES, BONDS, OR ANY
6 OTHER EVIDENCE OF STATE DEBT WITHIN THE MEANING OF ANY PROVISION
7 OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING
8 THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR
9 DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE
10 STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE
11 STATE CONSTITUTION.

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

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

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

33 (3) A STATE INSTITUTION OF HIGHER EDUCATION SHALL TRANSFER
34 TO THE STATE TREASURER TWENTY PERCENT OF THE TOTAL PROJECT COST
35 OF ANY NEW CAPITAL CONSTRUCTION PROJECT THAT RECEIVES FUNDING
36 THROUGH THIS PART 13 WITHOUT AN APPROPRIATION FROM THE GENERAL
37 ASSEMBLY. THE STATE TREASURER SHALL CREDIT ANY MONEY RECEIVED
38 PURSUANT TO THIS SUBSECTION (3) TO THE CAPITAL CONSTRUCTION
39 LEASE-PURCHASE AGREEMENT CASH FUND, REFERRED TO IN THIS
40 SUBSECTION (3) AS THE "FUND", WHICH IS HEREBY CREATED IN THE STATE
41 TREASURY. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE

1 STATE TREASURER TO MAKE PAYMENTS ON LEASE-PURCHASE
2 AGREEMENTS EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS
3 SECTION. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT
4 AND DEPOSIT OF MONEY IN THE FUND IS CREDITED TO THE FUND.

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

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

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

33 (5) PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
34 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE USED AS
35 FOLLOWS:

36 (a) EIGHTY-NINE PERCENT OF THE PROCEEDS SHALL BE CREDITED
37 TO THE STATE HIGHWAY FUND CREATED IN SECTION 43-1-219 AND USED
38 BY THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SECTION
39 43-4-206 (1)(b)(V); AND

40 (b) ELEVEN PERCENT OF THE PROCEEDS SHALL BE USED FOR
41 CONTROLLED MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS IN

1 THE STATE AS FOLLOWS:

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

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

6 (III) FORTY MILLION TWO HUNDRED NINE THOUSAND FIVE
7 HUNDRED THIRTY-FIVE DOLLARS FOR LEVEL III CONTROLLED
8 MAINTENANCE; AND

9 (IV) THE REMAINDER FOR CAPITAL CONSTRUCTION PROJECTS AS
10 PRIORITIZED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL
11 DEVELOPMENT COMMITTEE SHALL POST THE FINAL PRIORITIZED LIST ON
12 THE COMMITTEE'S WEBSITE AND FORWARD THE LIST TO THE OFFICE OF
13 STATE PLANNING AND BUDGETING, THE STATE INSTITUTIONS OF HIGHER
14 EDUCATION, AND THE STATE TREASURER NO LATER THAN NOVEMBER 1,
15 2017.

16 **SECTION 6.** In Colorado Revised Statutes, 23-1-106, **amend**
17 (10.2)(a)(I) and (10.2)(a)(II); and **add** (10.2)(a)(III) as follows:

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

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

38 (III) IF AN ACADEMIC FACILITY IS ACQUIRED OR CONSTRUCTED, OR
39 IF AN AUXILIARY FACILITY IS REPURPOSED FOR USE AS AN ACADEMIC
40 FACILITY, SOLELY FROM CASH FUNDS HELD BY THE STATE INSTITUTION OF
41 HIGHER EDUCATION AND OPERATED AND MAINTAINED FROM SUCH CASH



1 FUNDS, THEN AS OF THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR
2 REPURPOSING THAT OCCURS ON OR AFTER JULY 1, 2018, SUCH FACILITY IS
3 NOT ELIGIBLE FOR CONTROLLED MAINTENANCE FUNDING.

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

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

- 10 (II) Auxiliary facilities as defined in section 23-1-106 (10.3);
11 ~~C.R.S.~~;
12 (III) Leasehold interests in real property; or
13 (IV) Any work properly categorized as capital construction; OR
14 (V) FACILITIES DESCRIBED IN SECTION 23-1-106 (10.2)(a)(III)."

15 Renumber succeeding sections accordingly.

16 Page 54, strike lines 6 through 8 and substitute "for the same. ANY
17 PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS REQUIRED BY
18 SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE STATE HIGHWAY
19 FUND PURSUANT TO SECTION 24-82-1303 (5)(a) SHALL BE USED".

20 Page 55, strike lines 3 through 5 and substitute: "AND, BEGINNING IN 2018,
21 ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
22 REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE CREDITED TO THE
23 STATE HIGHWAY FUND PURSUANT TO SECTION 24-82-1303 (5)(a) AND".

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