

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 20-1301.01 Esther van Mourik x4215

SENATE BILL 20-219

SENATE SPONSORSHIP

Fields and Sonnenberg, Story, Coram, Crowder, Gardner, Holbert, Priola, Rankin, Tate, Todd

HOUSE SPONSORSHIP

Valdez A. and Rich, Roberts

Senate Committees

Appropriations

House Committees

Finance
Appropriations

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.**

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.

HOUSE
Amended 2nd Reading
June 11, 2020

SENATE
3rd Reading Unamended
June 8, 2020

SENATE
2nd Reading Unamended
June 6, 2020

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.

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, WITH PRINCIPAL AMORTIZATION NOT
6 OCCURRING BEFORE JULY 1, 2022.

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

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

21 (e) THE AGREEMENT MUST ALSO PROVIDE THAT THE STATE'S
22 OBLIGATION DOES 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 IS 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. IF THE STATE DOES NOT RENEW THE

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

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

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

18 (g) THE LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY
19 SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,
20 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
21 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
22 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENT MAY BE ISSUED,
23 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED
24 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENT DOES NOT
25 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENT
26 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE
27 TO THE PURCHASERS. THE INSTRUMENT IS NOT A NOTE, BOND, 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 IS 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
20 TO A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY OR TO
21 ANY ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT
22 TO THIS SUBSECTION (2). THE STATE CONTROLLER OR HIS OR HER
23 DESIGNEE SHALL WAIVE ANY PROVISION OF THE FISCAL RULES
24 PROMULGATED PURSUANT TO SECTION 24-30-202 (1) AND (13) THAT THE
25 STATE CONTROLLER FINDS INCOMPATIBLE OR INAPPLICABLE WITH RESPECT
26 TO A LEASE-PURCHASE AGREEMENT OR AN ANCILLARY AGREEMENT OR
27 INSTRUMENT.

1 (3) (a) BEFORE EXECUTING THE 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 (3) MUST BE MADE SOLELY FROM
11 MONEY MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION
12 OF A LEASE-PURCHASE AGREEMENT OR FROM MONEY DESCRIBED IN
13 SUBSECTION (2)(d) OF THIS SECTION.

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

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

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

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