

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 15-0773.01 Esther van Mourik x4215

SENATE BILL 15-211

SENATE SPONSORSHIP

Lambert, Grantham, Steadman, Baumgardner, Kefalas, Sonnenberg

HOUSE SPONSORSHIP

Rankin, Hamner, Young, Becker K., Brown, Vigil

Senate Committees

Appropriations

House Committees

A BILL FOR AN ACT

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

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://www.leg.state.co.us/bills summaries>.)

Joint Budget Committee. The bill specifies that 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, a state

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

agency or state institution of higher education shall set aside additional funding for capital construction, controlled maintenance, capital renewal, and capital outlay as follows:

- ! If the funding source for the appropriation is from a cash fund, the state agency is required to calculate and annually set aside an amount equal to the depreciation of the capital asset acquired, replaced, renovated, or constructed with the appropriation based on the depreciation period by means of a transfer from the cash fund that was the source of the funding for the appropriation to a capital reserve account;
- ! If the funding source for the appropriation is from the general fund, the capital construction fund, or the controlled maintenance trust fund, the state agency or state institution of higher education is required to make an annual depreciation-lease equivalent payment through the operating budget equal to the depreciation of the capital asset acquired, replaced, renovated, or constructed with the appropriation based on the depreciation period. The bill specifies that 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.
- ! If the funding source for the appropriation is a financing arrangement and the source of the funding for the financing payment is:
 - ! From a cash fund, then the state agency is required to calculate and annually set aside, in addition to the funding for the financing payment, an amount equal to one percent of the project cost by means of a controlled maintenance line item in the operating budget paid for from the cash fund that was the source of the funding for the financing payment to a capital reserve account; and
 - ! From the general fund, the capital construction fund, or the controlled maintenance trust fund, then the state agency or state institution of higher education is required to calculate and annually set aside, in addition to the funding for the financing payment, an amount equal to one percent of the project cost by means of a controlled maintenance line item in the operating budget paid for from the source of the funding for the financing payment to the principal of the controlled maintenance trust

fund.

- ! If the funding source for the appropriation is a financing arrangement, the bill allows a state agency or state institution of higher education to choose to finance the required set aside subject to certain requirements if the financing of such a set aside is allowed by federal law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-30-1310 as
3 follows:

4 **24-30-1310. Funding for controlled maintenance or capital**
5 **renewal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "APPROPRIATION" MEANS AN APPROPRIATION IN THE CAPITAL
8 CONSTRUCTION SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT,
9 NOT INCLUDING APPROPRIATIONS FOR INFORMATION TECHNOLOGY
10 PROJECTS, AND NOT INCLUDING ANY APPROPRIATIONS MADE FROM THE
11 INFORMATION TECHNOLOGY ACCOUNT IN THE CAPITAL CONSTRUCTION
12 FUND CREATED IN SECTION 24-75-302 (3.7), AS ENACTED BY HOUSE BILL
13 15-1266.

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

16 (c) "CASH FUND" DOES NOT INCLUDE THE LOTTERY FUND CREATED
17 IN 24-35-210 OR THE LIMITED GAMING FUND CREATED IN SECTION
18 12-47.1-701 (1), C.R.S.

19 (d) "CONTROLLED MAINTENANCE TRUST FUND" MEANS THE
20 CONTROLLED MAINTENANCE TRUST FUND CREATED IN SECTION
21 24-75-302.5.

22 (e) "DEPRECIATION" MEANS AN AMOUNT CALCULATED IN

1 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

2 (f) "DEPRECIATION PERIOD" MEANS A PERIOD DETERMINED IN
3 FISCAL RULES PROMULGATED BY THE STATE CONTROLLER OR THE STATE
4 INSTITUTION OF HIGHER EDUCATION.

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

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

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

25 (b) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS FROM THE
26 GENERAL FUND, THE CAPITAL CONSTRUCTION FUND, OR THE CONTROLLED
27 MAINTENANCE TRUST FUND, AN ANNUAL DEPRECIATION-LEASE

1 EQUIVALENT PAYMENT LINE ITEM PAYABLE FROM THE GENERAL FUND
2 MUST BE INCLUDED IN THE OPERATING SECTION OF THE ANNUAL GENERAL
3 APPROPRIATION ACT FOR EACH STATE AGENCY OR STATE INSTITUTION OF
4 HIGHER EDUCATION EQUAL TO THE DEPRECIATION OF THE CAPITAL ASSET
5 ACQUIRED, REPAIRED, IMPROVED, REPLACED, RENOVATED, OR
6 CONSTRUCTED WITH THE APPROPRIATION BASED ON THE DEPRECIATION
7 PERIOD. THE STATE CONTROLLER SHALL CREDIT THE DEPRECIATION-LEASE
8 EQUIVALENT PAYMENT TO THE CAPITAL CONSTRUCTION FUND; EXCEPT
9 THAT, OF SUCH PAYMENT, AN AMOUNT EQUAL TO ONE PERCENT OF THE
10 PROJECT COST WILL BE DEDUCTED FROM THE PAYMENT AND CREDITED TO
11 THE PRINCIPAL OF THE CONTROLLED MAINTENANCE TRUST FUND.

12 (c) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
13 PARAGRAPH (c), IF THE FUNDING SOURCE FOR THE APPROPRIATION IS A
14 FINANCING ARRANGEMENT, INCLUDING A LEASE-PURCHASE AGREEMENT
15 ALLOWED PURSUANT TO SECTION 24-82-802, AND THE SOURCE OF THE
16 FUNDING FOR THE FINANCING PAYMENT IS:

17 (A) FROM A CASH FUND, THEN THE STATE AGENCY SHALL
18 ANNUALLY CALCULATE AN AMOUNT EQUAL TO ONE PERCENT OF THE
19 PROJECT COST AND AN ANNUAL CONTROLLED MAINTENANCE LINE ITEM
20 PAYABLE FROM THE CASH FUND MUST BE INCLUDED IN THE OPERATING
21 SECTION OF THE ANNUAL GENERAL APPROPRIATION ACT FOR EACH STATE
22 AGENCY EQUAL TO SUCH AMOUNT. THE STATE CONTROLLER SHALL CREDIT
23 SUCH AMOUNT TO A CAPITAL RESERVE ACCOUNT ESTABLISHED BY THE
24 STATE AGENCY IN THE CASH FUND AS SPECIFIED IN SECTION 24-75-403 (2),
25 AS ENACTED BY HOUSE BILL 15-1280.

26 (B) FROM THE GENERAL FUND, THE CAPITAL CONSTRUCTION FUND,
27 OR THE CONTROLLED MAINTENANCE TRUST FUND, THEN AN ANNUAL

1 CONTROLLED MAINTENANCE LINE ITEM PAYABLE FROM THE GENERAL
2 FUND MUST BE INCLUDED IN THE OPERATING SECTION OF THE ANNUAL
3 GENERAL APPROPRIATION ACT FOR EACH STATE AGENCY OR STATE
4 INSTITUTION OF HIGHER EDUCATION EQUAL TO ONE PERCENT OF THE
5 PROJECT COST. THE STATE CONTROLLER SHALL CREDIT SUCH AMOUNT TO
6 THE CONTROLLED MAINTENANCE TRUST FUND. _____

7 (II) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS A
8 FINANCING ARRANGEMENT, INCLUDING A LEASE-PURCHASE AGREEMENT
9 ALLOWED PURSUANT TO SECTION 24-82-802, A STATE AGENCY OR STATE
10 INSTITUTION OF HIGHER EDUCATION MAY FINANCE THE SET ASIDES
11 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c). IF A STATE
12 AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION CHOOSES, TO THE
13 EXTENT ALLOWED BY THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
14 AS AMENDED, TO FINANCE THE SET ASIDE, THERE MUST BE INCLUDED IN
15 THE AMOUNT FINANCED A SET ASIDE EQUAL TO ONE PERCENT OF THE
16 PROJECT COST ANNUALLY OVER THE PERIOD OF THE FINANCING
17 ARRANGEMENT. SUCH SET ASIDE MUST BE CREDITED TO EITHER:

18 (A) A CAPITAL RESERVE ACCOUNT ESTABLISHED BY THE STATE
19 AGENCY AS SPECIFIED IN SECTION 24-75-403 (2), AS ENACTED BY HOUSE
20 BILL 15-1280, IN THE CASH FUND THAT WAS THE FUNDING SOURCE FOR
21 THE FINANCING PAYMENT; OR

22 (B) THE PRINCIPAL OF THE CONTROLLED MAINTENANCE TRUST
23 FUND IF THE FUNDING SOURCE FOR THE FINANCING PAYMENT WAS THE
24 GENERAL FUND, THE CAPITAL CONSTRUCTION FUND, OR THE CONTROLLED
25 MAINTENANCE TRUST FUND.

26 (d) IF THE FUNDING SOURCE FOR THE APPROPRIATION IS A
27 COMBINATION OF THE FUNDING SOURCES DESCRIBED IN PARAGRAPHS (a),

1 (b), AND (c) OF THIS SUBSECTION (2), THEN THE ANNUAL SET ASIDE MUST
2 BE MADE IN PROPORTION TO THE FUNDING SOURCE.

3 **SECTION 2.** In Colorado Revised Statutes, 24-75-302, **amend**
4 (1) (a) as follows:

5 **24-75-302. Capital construction fund - capital assessment fees**
6 **- calculation - repeal.** (1) (a) There is hereby created the capital
7 construction fund. The fund consists of moneys transferred to the fund by
8 the general assembly AND MONEYS CREDITED TO THE FUND PURSUANT TO
9 SECTION 24-30-1310. Moneys in the capital construction fund may be
10 appropriated for capital construction, capital renewal, controlled
11 maintenance, or state highway reconstruction, repair, and maintenance
12 projects as requested pursuant to section 43-1-113 (2.5), C.R.S.; except
13 that any moneys transferred to the capital construction fund for state
14 highway reconstruction, repair, and maintenance projects may only be
15 appropriated for such projects. The appropriation for projects must be set
16 forth in a single line item as a total sum. All unappropriated balances in
17 the fund at the close of any fiscal year must remain in the fund and may
18 not revert to the general fund. All unexpended or unencumbered moneys
19 from a capital construction fund appropriation to a state agency or state
20 institution of higher education for any fiscal year reverts to the capital
21 construction fund at the end of the period for which the moneys are
22 appropriated. Except as provided in sections 2-3-1304 (1) (a.5) and
23 24-30-1303.7 (1), C.R.S., no portion of the unexpended balance of a state
24 agency's or state institution of higher education's capital construction fund
25 appropriation may be used by the state agency or the state institution of
26 higher education for any additional projects that are beyond the scope or
27 design of the original project without further approval by the capital

1 development committee of such additional project. Anticipation warrants
2 or checks may be issued against the revenues of the fund as provided by
3 law. Except as provided in subsection (7) of this section, all interest
4 earned from the investment of moneys in the capital construction fund
5 must remain in the fund and become a part thereof.

6 **SECTION 3.** In Colorado Revised Statutes, 24-75-302.5, **amend**
7 (2) (a) as follows:

8 **24-75-302.5. Controlled maintenance - trust fund - legislative**
9 **declaration.** (2) (a) There is hereby created the controlled maintenance
10 trust fund, the principal of which shall consist of any general fund
11 revenues appropriated or transferred thereto by law, MONEYS CREDITED
12 THERETO PURSUANT TO SECTION 24-30-1310, and proceeds of leveraged
13 leasing agreements deposited thereto pursuant to section 24-82-1003 (3).
14 For the 1996-97 fiscal year and fiscal years thereafter, the principal of the
15 trust fund may constitute all or some portion of the state emergency
16 reserve established pursuant to section 24-77-104 and may be expended
17 in any given fiscal year as provided in said section. The principal of the
18 trust fund shall not be expended or appropriated for any purpose other
19 than use as part of the state emergency reserve. The state treasurer may
20 in the state treasurer's discretion deposit, redeposit, invest, and reinvest
21 moneys accrued or accruing to the controlled maintenance trust fund in
22 the types of deposits and investments authorized in sections 24-36-109,
23 24-36-112, and 24-36-113.

24 **SECTION 4. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.