

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
2.13.09

DRAFT

LLS NO. 09-0640.01 Esther van Mourik

SENATE BILL

SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "State Fin Assistance For Loc Gov Constr"

A BILL FOR AN ACT

101 CONCERNING STATE FINANCIAL ASSISTANCE TO FINANCE LOCAL
102 GOVERNMENT CAPITAL CONSTRUCTION PROJECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Joint Select Committee on Job Creation and Economic Growth. In order to increase the level of state financial assistance provided to local governments (applicants) so that local government capital construction projects can be completed more quickly, creates a program that authorizes financial assistance to local governments (program). In creating the program:

- Creates the local government capital construction assistance fund (assistance fund), and, for any state fiscal year commencing on or after a specified date, requires the following moneys to be credited to the assistance fund:
 - A specified amount from the local government permanent fund and any amount the general assembly may transfer from any other legally available sources;
 - All net proceeds from the sale of certificates of participation payable to the state under the terms of lease-purchase agreements; and
 - All matching moneys paid by applicants.
- Requires all interest and income earned on the deposit and investment of moneys in the assistance fund to be credited to the assistance fund.
- Requires the executive director of the department of local affairs (executive director) to ensure the most equitable, efficient, and effective use of the state revenues dedicated to provide financial assistance for local government projects by assessing local government capital construction needs throughout the state based on objective criteria regarding the appropriate prioritization and allocation such financial assistance, and specifies the powers and duties of the executive director with respect to the program.
- With respect to financial assistance, requires the executive director to establish an application timeline, and specifies application requirements, evaluation criteria, and matching moneys requirements, as well as factors to be considered in determining the amount of required applicant matching moneys or the waiver or reduction of matching moneys requirements.
- Requires the executive director to prioritize financial assistance applications for eligible local government projects.
- Specifies that the executive director may provide financial assistance to applicants as matching grants or by instructing the state treasurer to enter into lease-purchase agreements on behalf of the state to finance local government projects.
- Limits the total amount of annual lease payments payable by the state in any state fiscal year, and requires payments above lower specified limits to be made only from applicant matching moneys.
- Specifies additional procedural and legal requirements relating to lease-purchase agreements, including, but not limited to, requirements that the executive director enter

1 MAKE LEASE PAYMENTS PAYABLE UNDER THE TERMS OF THE
2 LEASE-PURCHASE AGREEMENTS;

3 (c) IN ACCORDANCE WITH THE DECISION OF THE COLORADO COURT
4 OF APPEALS IN THE CASE DENOMINATED *COLORADO CRIMINAL JUSTICE*
5 *REFORM COALITION V. ORTIZ*, CASE NO. 04 CA 0879 (APRIL 7, 2005), THE
6 LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BY THE STATE
7 PURSUANT TO THIS PART 34 DO NOT CONSTITUTE A MULTIPLE-FISCAL YEAR
8 DIRECT OR INDIRECT DISTRICT DEBT OR OTHER FINANCIAL OBLIGATION
9 WHATSOEVER FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE
10 STATE CONSTITUTION.

11 **24-32-3402. Definitions.** AS USED IN THIS PART 34, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

13 (1) "APPLICANT" MEANS ANY LOCAL GOVERNMENT THAT MAY
14 SUBMIT AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE EXECUTIVE
15 DIRECTOR.

16 (2) "ASSISTANCE FUND" MEANS THE LOCAL GOVERNMENT CAPITAL
17 CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 24-32-3403 (1).

18 (3) "CAPITAL CONSTRUCTION" SHALL HAVE THE SAME MEANING AS
19 SET FORTH IN SECTION 24-75-301 (1).

20 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF LOCAL AFFAIRS
21 CREATED AND EXISTING PURSUANT TO SECTION 24-1-125.

22 (5) "DIVISION" MEANS THE DIVISION OF LOCAL GOVERNMENT IN
23 THE DEPARTMENT CREATED IN SECTION 24-32-103.

24 (6) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
25 THE DEPARTMENT.

26 (7) "FINANCIAL ASSISTANCE" MEANS MATCHING GRANTS MADE BY
27 THE EXECUTIVE DIRECTOR FROM THE ASSISTANCE FUND TO APPLICANTS OR

1 ANY OTHER EXPENDITURES MADE FROM THE ASSISTANCE FUND FOR THE
2 PURPOSE OF FINANCING LOCAL GOVERNMENT PROJECTS AS AUTHORIZED
3 BY THIS PART 34.

4 (8) "LOCAL GOVERNMENT" MEANS A COUNTY, A MUNICIPALITY AS
5 DEFINED IN SECTION 31-1-101 (6), C.R.S., OR A SPECIAL DISTRICT AS
6 DEFINED IN SECTION 32-1-103 (20), C.R.S.

7 (9) "LOCAL GOVERNMENT PROJECT" OR "PROJECT" MEANS CAPITAL
8 CONSTRUCTION TO BE UNDERTAKEN BY A LOCAL GOVERNMENT.

9 (10) "MATCHING MONEYS" MEANS MONEYS REQUIRED TO BE PAID
10 TO THE STATE OR USED DIRECTLY TO PAY A PORTION OF THE COSTS OF A
11 LOCAL GOVERNMENT PROJECT BY AN APPLICANT AS A CONDITION OF AN
12 AWARD OF FINANCIAL ASSISTANCE TO THE APPLICANT PURSUANT TO
13 SECTION 24-32-3405 (5).

14 **24-32-3403. Local government capital construction assistance**
15 **fund - creation - crediting of moneys to fund - use of fund - creation.**

16 (1) THE LOCAL GOVERNMENT CAPITAL CONSTRUCTION ASSISTANCE FUND
17 IS HEREBY CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE
18 ASSISTANCE FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED OR
19 CREDITED TO THE ASSISTANCE FUND PURSUANT TO SUBSECTION (2) OF THIS
20 SECTION. ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND
21 INVESTMENT OF MONEYS IN THE ASSISTANCE FUND SHALL BE CREDITED TO
22 THE ASSISTANCE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL
23 FUND OR ANY OTHER FUND AT THE END OF ANY STATE FISCAL YEAR.

24 (2) (a) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY
25 1, 2009, FIVE MILLION DOLLARS SHALL BE TRANSFERRED TO THE
26 ASSISTANCE FUND FROM THE LOCAL GOVERNMENT PERMANENT FUND
27 CREATED IN SECTION 34-63-102 (5.3) (a) (I), C.R.S. IF THE AMOUNT OF

1 MONEYS IN THE ASSISTANCE FUND WILL BE INSUFFICIENT TO COVER THE
2 FULL AMOUNT OF THE PAYMENTS DUE TO BE MADE UNDER
3 LEASE-PURCHASE AGREEMENTS AUTHORIZED PURSUANT TO SECTION
4 24-32-3406 (2), THE GENERAL ASSEMBLY MAY TRANSFER FROM ANY
5 OTHER LEGALLY AVAILABLE SOURCES TO THE ASSISTANCE FUND
6 SUFFICIENT MONEYS TO MAKE THE PAYMENTS.

7 (b) FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER
8 JULY 1, 2009, THE FOLLOWING MONEYS SHALL BE CREDITED TO THE
9 ASSISTANCE FUND:

10 (I) THE NET PROCEEDS MADE AVAILABLE TO THE STATE FROM THE
11 SALE OF INSTRUMENTS EVIDENCING RIGHTS TO RECEIVE RENTALS AND
12 OTHER PAYMENTS MADE AND TO BE MADE UNDER THE TERMS OF ANY
13 LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SECTION
14 24-32-3406 (2) UNLESS OTHERWISE REQUIRED BY THE DOCUMENTS
15 PURSUANT TO WHICH THE INSTRUMENTS ARE ISSUED; AND

16 (II) MATCHING MONEYS PAID TO THE STATE FOR USE BY THE STATE
17 IN MAKING SCHEDULED PAYMENTS PAYABLE BY THE STATE UNDER THE
18 TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO
19 SECTION 24-32-3406 (2).

20 (3) SUBJECT TO ANNUAL APPROPRIATION, THE DEPARTMENT MAY
21 EXPEND MONEYS IN THE ASSISTANCE FUND TO PAY THE DIRECT AND
22 INDIRECT ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT IN
23 EXERCISING ITS POWERS AND DUTIES PURSUANT TO THIS PART 34. ANY
24 MONEYS IN THE ASSISTANCE FUND NOT APPROPRIATED FOR A STATE FISCAL
25 YEAR TO THE DEPARTMENT FOR ADMINISTRATIVE COSTS BEFORE THE
26 STATE FISCAL YEAR COMMENCES ARE HEREBY CONTINUOUSLY
27 APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSE OF PROVIDING

1 FINANCIAL ASSISTANCE AND PAYING ANY TRANSACTION COSTS
2 NECESSARILY INCURRED IN CONNECTION WITH THE PROVISION OF
3 FINANCIAL ASSISTANCE AS AUTHORIZED BY THIS PART 34; EXCEPT THAT
4 THE USE OF ANY ASSISTANCE FUND MONEYS TO MAKE LEASE PAYMENTS
5 REQUIRED BY LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO
6 SECTION 24-32-3406 (2) SHALL BE SUBJECT TO ANNUAL APPROPRIATION
7 BY THE GENERAL ASSEMBLY.

8 **24-32-3404. General powers and duties of the executive**
9 **director - rules.** (1) THE EXECUTIVE DIRECTOR SHALL ENSURE THE MOST
10 EQUITABLE, EFFICIENT, AND EFFECTIVE USE OF STATE REVENUES
11 DEDICATED TO PROVIDE FINANCIAL ASSISTANCE FOR LOCAL GOVERNMENT
12 PROJECTS PURSUANT TO THE PROVISIONS OF THIS PART 34 BY ASSESSING
13 LOCAL GOVERNMENT CAPITAL CONSTRUCTION NEEDS THROUGHOUT THE
14 STATE BASED ON OBJECTIVE CRITERIA REGARDING THE APPROPRIATE
15 PRIORITIZATION AND ALLOCATION OF SUCH FINANCIAL ASSISTANCE. THE
16 EXECUTIVE DIRECTOR SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

17 (a) TO ESTABLISH LOCAL GOVERNMENT PROJECT GUIDELINES TO
18 USE IN REVIEWING FINANCIAL ASSISTANCE APPLICATIONS;

19 (b) TO REVIEW FINANCIAL ASSISTANCE APPLICATIONS, DEVELOP A
20 PRIORITIZED LIST OF LOCAL GOVERNMENT PROJECTS TO RECEIVE
21 FINANCIAL ASSISTANCE, AND DETERMINE THE AMOUNT AND TYPE OF
22 FINANCIAL ASSISTANCE THAT SHOULD BE PROVIDED FOR EACH PROJECT;

23 (c) WITH THE SUPPORT OF THE DEPARTMENT, TO ASSIST
24 APPLICANTS THAT CANNOT FEASIBLY MAINTAIN THEIR OWN
25 CONSTRUCTION MANAGEMENT STAFF IN IMPLEMENTING THE LOCAL
26 GOVERNMENT PROJECTS FOR WHICH FINANCIAL ASSISTANCE IS PROVIDED,
27 INCLUDING BUT NOT LIMITED TO PROVIDING ASSISTANCE WITH THE

1 PREPARATION OF REQUESTS FOR BIDS OR PROPOSALS, CONTRACT
2 NEGOTIATIONS, CONTRACT IMPLEMENTATION, AND PROJECT AND
3 CONSTRUCTION MANAGEMENT;

4 (d) WITH THE SUPPORT OF THE GOVERNOR'S ENERGY OFFICE
5 CREATED IN SECTION 24-38.5-101, TO ASSIST APPLICANTS IN
6 IMPLEMENTING ENERGY EFFICIENT DESIGN AND CONSTRUCTION PRACTICES
7 AND ESTABLISHING BUILDING PERFORMANCE STANDARDS AND
8 GUIDELINES, INCLUDING BUT NOT LIMITED TO GREEN BUILDING AND
9 ENERGY EFFICIENCY CRITERIA AS SPECIFIED IN EXECUTIVE ORDER D0012
10 07, "GREENING OF STATE GOVERNMENT: DETAILED IMPLEMENTATION",
11 ISSUED BY THE GOVERNOR ON APRIL 16, 2007, OR ANY SUBSEQUENT
12 EXECUTIVE ORDERS OR OTHER POLICY DIRECTIVES CONCERNING GREEN
13 BUILDING AND ENERGY EFFICIENCY CRITERIA ISSUED BY THE GOVERNOR
14 OR THE GOVERNOR'S ENERGY OFFICE;

15 (e) TO AUTHORIZE THE STATE TREASURER TO ENTER INTO
16 LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE AS AUTHORIZED
17 BY THIS PART 34 IN ORDER TO FINANCE LOCAL GOVERNMENT PROJECTS;

18 (f) TO ENTER INTO SUBLEASE-PURCHASE AGREEMENTS ON BEHALF
19 OF THE STATE TO SUBLEASE TO APPLICANTS LOCAL GOVERNMENT
20 PROJECTS FINANCED BY THE LEASE-PURCHASE AGREEMENTS; AND

21 (g) TO PROMULGATE SUCH RULES, IN ACCORDANCE WITH ARTICLE
22 4 OF THIS TITLE, AS ARE NECESSARY AND PROPER FOR THE
23 ADMINISTRATION OF THIS PART 34, INCLUDING BUT NOT LIMITED TO:

24 (I) RULES ESTABLISHING EVALUATION CRITERIA FOR A MATCHING
25 MONEYS REQUIREMENT WAIVER OR REDUCTION APPLICATION SUBMITTED
26 TO THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 24-32-3405 (6); AND

27 (II) RULES ESTABLISHING THE MEANS BY WHICH LOCAL

1 GOVERNMENT PROJECTS FINANCED IN WHOLE OR IN PART WITH FINANCIAL
2 ASSISTANCE PROVIDED PURSUANT THIS PART 34 ARE TO BE PUBLICLY
3 IDENTIFIED AS HAVING BEEN SO FINANCED.

4 **24-32-3405. Financial assistance for local government projects**
5 **- application requirements - evaluation criteria - local match**

6 **requirements - repeal.** (1) FOR STATE FISCAL YEARS COMMENCING ON
7 OR AFTER JULY 1, 2009, THE EXECUTIVE DIRECTOR SHALL PROVIDE
8 FINANCIAL ASSISTANCE FOR ONE OR MORE LOCAL GOVERNMENT PROJECTS
9 THAT THE APPLICANT OWNS OR WILL HAVE THE RIGHT TO OWN IN THE
10 FUTURE UNDER THE TERMS OF A LEASE-PURCHASE AGREEMENT WITH THE
11 OWNER OR A SUBLEASE-PURCHASE AGREEMENT WITH THE STATE ENTERED
12 INTO PURSUANT TO SECTION 24-32-3406 (2).

13 (2) THE EXECUTIVE DIRECTOR SHALL ESTABLISH A FINANCIAL
14 ASSISTANCE TIMELINE FOR USE BY APPLICANTS IN APPLYING FOR
15 FINANCIAL ASSISTANCE AND OTHERWISE MEETING FINANCIAL ASSISTANCE
16 REQUIREMENTS AND FOR USE BY THE EXECUTIVE DIRECTOR IN REVIEWING
17 FINANCIAL ASSISTANCE APPLICATIONS. THE TIMELINE SHALL SPECIFY:

18 (a) A DEADLINE FOR APPLICANTS TO SUBMIT FINANCIAL
19 ASSISTANCE APPLICATIONS TO THE EXECUTIVE DIRECTOR THAT ALLOWS
20 SUFFICIENT TIME FOR SUBMISSION OF THE APPLICATIONS;

21 (b) THE PERIOD IN WHICH THE EXECUTIVE DIRECTOR WILL REVIEW
22 FINANCIAL ASSISTANCE APPLICATIONS; AND

23 (c) ANY ADDITIONAL DEADLINES OR DEADLINE EXTENSION
24 PERIODS NEEDED TO ENSURE THAT APPLICANTS SEEKING VOTER APPROVAL
25 TO OBTAIN MATCHING MONEYS REQUIRED PURSUANT TO SUBSECTION (5)
26 OF THIS SECTION HAVE SUFFICIENT OPPORTUNITY TO OBTAIN SUCH VOTER
27 APPROVAL OR OTHERWISE NEEDED TO ENSURE THE EFFICIENT AND

1 EFFECTIVE ADMINISTRATION OF THIS PART 34.

2 (3) APPLICATIONS FOR FINANCIAL ASSISTANCE SUBMITTED TO THE
3 EXECUTIVE DIRECTOR SHALL BE IN A FORM PRESCRIBED BY THE EXECUTIVE
4 DIRECTOR AND SHALL INCLUDE:

5 (a) A DESCRIPTION OF THE SCOPE AND NATURE OF THE LOCAL
6 GOVERNMENT PROJECT FOR WHICH FINANCIAL ASSISTANCE IS SOUGHT;

7 (b) A DESCRIPTION OF THE ARCHITECTURAL, FUNCTIONAL, AND
8 CONSTRUCTION STANDARDS THAT ARE TO BE APPLIED TO THE LOCAL
9 GOVERNMENT PROJECT;

10 (c) THE ESTIMATED AMOUNT OF FINANCIAL ASSISTANCE NEEDED
11 FOR THE LOCAL GOVERNMENT PROJECT AND THE FORM AND AMOUNT OF
12 MATCHING MONEYS THAT THE APPLICANT WILL PROVIDE FOR THE PROJECT;

13 (d) A STATEMENT REGARDING THE MEANS BY WHICH THE
14 APPLICANT INTENDS TO PROVIDE MATCHING MONEYS REQUIRED FOR THE
15 LOCAL GOVERNMENT PROJECT, INCLUDING BUT NOT LIMITED TO MEANS
16 SUCH AS VOTER-APPROVED MULTIPLE-FISCAL YEAR DEBT OR OTHER
17 FINANCIAL OBLIGATIONS, GIFTS, GRANTS, DONATIONS, OR ANY OTHER
18 MEANS OF FINANCING PERMITTED BY LAW, OR THE INTENT OF THE
19 APPLICANT TO SEEK A WAIVER OR REDUCTION OF THE MATCHING MONEYS
20 REQUIREMENT PURSUANT TO SUBSECTION (6) OF THIS SECTION. IF AN
21 APPLICANT INTENDS TO RAISE MATCHING MONEYS BY OBTAINING VOTER
22 APPROVAL TO ENTER INTO A SUBLEASE-PURCHASE AGREEMENT THAT
23 CONSTITUTES AN INDEBTEDNESS OF THE DISTRICT, IT SHALL INDICATE
24 WHETHER IT HAS RECEIVED THE REQUIRED VOTER APPROVAL OR, IF THE
25 ELECTION HAS NOT ALREADY BEEN HELD, THE ANTICIPATED DATE OF THE
26 ELECTION.

27 (e) A DESCRIPTION OF ANY EFFORTS BY THE APPLICANT TO

1 COORDINATE LOCAL GOVERNMENT PROJECTS WITH OTHER LOCAL
2 GOVERNMENT ENTITIES OR COMMUNITY-BASED OR OTHER ORGANIZATIONS
3 THAT PROVIDE SERVICES THAT BENEFIT THE COMMUNITY IN ORDER TO
4 MORE EFFICIENTLY OR EFFECTIVELY PROVIDE SUCH SERVICES, INCLUDING
5 BUT NOT LIMITED TO A DESCRIPTION OF ANY FINANCIAL COMMITMENT
6 RECEIVED FROM ANY SUCH ENTITY OR ORGANIZATION THAT WILL ALLOW
7 BETTER LEVERAGING OF ANY FINANCIAL ASSISTANCE AWARDED; AND

8 (f) ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR
9 MAY REQUIRE FOR THE EVALUATION OF THE LOCAL GOVERNMENT
10 PROJECT.

11 (4) THE EXECUTIVE DIRECTOR MAY REQUEST THAT THE DIVISION
12 UNDERTAKE A PRELIMINARY REVIEW OF ANY OR ALL APPLICATIONS FOR
13 FINANCIAL ASSISTANCE, AND THE EXECUTIVE DIRECTOR MAY ALSO
14 REQUEST THAT ANY DEPARTMENT, AGENCY, OR INSTITUTION OF STATE
15 GOVERNMENT WITH EXPERTISE OR EXPERIENCE IN CONSTRUCTION
16 MANAGEMENT PROVIDE ASSISTANCE TO THE EXECUTIVE DIRECTOR WITH
17 REGARD TO THE EVALUATION OF SUCH APPLICATIONS.

18 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6) OF THIS
19 SECTION, THE EXECUTIVE DIRECTOR SHALL APPROVE FINANCIAL
20 ASSISTANCE FOR A LOCAL GOVERNMENT PROJECT ONLY IF THE APPLICANT
21 PROVIDES MATCHING MONEYS IN AN AMOUNT EQUAL TO A PERCENTAGE OF
22 THE TOTAL FINANCING FOR THE PROJECT AFTER CONSIDERATION OF THE
23 APPLICANT'S FINANCIAL CAPACITY, AS DETERMINED BY THE EXECUTIVE
24 DIRECTOR.

25 (6) AN APPLICANT MAY APPLY TO THE EXECUTIVE DIRECTOR FOR
26 A WAIVER OR REDUCTION OF THE MATCHING MONEYS REQUIREMENT
27 SPECIFIED IN SUBSECTION (5) OF THIS SECTION. THE EXECUTIVE DIRECTOR

1 MAY GRANT A WAIVER OR REDUCTION IF HE OR SHE DETERMINES THAT THE
2 WAIVER OR REDUCTION WOULD SIGNIFICANTLY HELP AN APPLICANT
3 COMPLETE A LOCAL GOVERNMENT PROJECT, THAT THE COST OF
4 COMPLYING WITH THE MATCHING MONEYS REQUIREMENT WOULD
5 SIGNIFICANTLY LIMIT THE APPLICANT IN COMPLETING A PROJECT, OR THAT
6 EXTENUATING CIRCUMSTANCES DEEMED SIGNIFICANT BY THE EXECUTIVE
7 DIRECTOR MAKE A WAIVER OR REDUCTION APPROPRIATE.

8 (7) IN DETERMINING THE AMOUNT OF EACH RECOMMENDED
9 AWARD OF FINANCIAL ASSISTANCE, THE EXECUTIVE DIRECTOR SHALL SEEK
10 TO DISTRIBUTE MONEYS AS EQUITABLY AS PRACTICABLE BY CONSIDERING:

11 (a) THE TOTAL FINANCIAL CAPACITY OF EACH APPLICANT;

12 (b) THE NUMBER OF APPLICATIONS RECEIVED; AND

13 (c) THE TOTAL MONEYS AVAILABLE FOR LOCAL GOVERNMENT
14 PROJECTS.

15 **24-32-3406. Financial assistance - grants - lease-purchase**
16 **agreements.** (1) THE EXECUTIVE DIRECTOR MAY PROVIDE FINANCIAL
17 ASSISTANCE FOR LOCAL GOVERNMENT PROJECTS BY PROVIDING MATCHING
18 GRANTS FROM THE ASSISTANCE FUND.

19 (2) SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS,
20 THE EXECUTIVE DIRECTOR MAY ALSO INSTRUCT THE STATE TREASURER TO
21 ENTER INTO LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE TO
22 PROVIDE FINANCIAL ASSISTANCE TO APPLICANTS BY FINANCING LOCAL
23 GOVERNMENT PROJECTS:

24 (a) SUBJECT TO THE LIMITATION SPECIFIED IN PARAGRAPH (b) OF
25 THIS SUBSECTION (2), THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE
26 PAYMENTS PAYABLE BY THE STATE DURING ANY STATE FISCAL YEAR
27 UNDER THE TERMS OF ALL OUTSTANDING LEASE-PURCHASE AGREEMENTS

1 ENTERED INTO BY THE STATE TREASURER AS INSTRUCTED BY THE
2 EXECUTIVE DIRECTOR PURSUANT TO THIS SUBSECTION (2) IS FIVE MILLION
3 DOLLARS.

4 (b) THE STATE TREASURER MAY ENTER INTO LEASE-PURCHASE
5 AGREEMENTS FOR WHICH THE AGGREGATE ANNUAL LEASE PAYMENTS OF
6 PRINCIPAL OR INTEREST FOR ANY FISCAL YEAR EXCEED ONE-HALF OF THE
7 MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS PERMITTED FOR
8 THE FISCAL YEAR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2)
9 ONLY IF THE AGGREGATE AMOUNT OF MATCHING MONEYS EXPECTED TO
10 BE CREDITED TO THE ASSISTANCE FUND PURSUANT TO PARAGRAPH (c) OF
11 THIS SUBSECTION (2) AND SECTION 24-32-3403 (2) (b) (II) AND ANY
12 INTEREST OR INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
13 THE MATCHING MONEYS IS AT LEAST EQUAL TO THE ANNUAL LEASE
14 PAYMENTS THAT EXCEED ONE-HALF OF SAID MAXIMUM TOTAL AMOUNT.

15 (c) WHENEVER THE STATE TREASURER ENTERS INTO A
16 LEASE-PURCHASE AGREEMENT ON BEHALF OF THE STATE PURSUANT TO
17 THIS SUBSECTION (2) TO FINANCE THE CONSTRUCTION OR RENOVATION OF
18 A LOCAL GOVERNMENT BUILDING, THE EXECUTIVE DIRECTOR SHALL ENTER
19 INTO A SUBLEASE-PURCHASE AGREEMENT FOR THE BUILDING ON BEHALF
20 OF THE STATE WITH THE APPLICANT THAT WILL USE THE BUILDING. THE
21 SUBLEASE-PURCHASE AGREEMENT SHALL REQUIRE THE APPLICANT TO
22 PERFORM FOR THE STATE ALL DUTIES OF THE STATE TO MAINTAIN AND
23 OPERATE THE BUILDING THAT ARE REQUIRED BY THE LEASE-PURCHASE
24 AGREEMENT AND TO MAKE PERIODIC RENTAL PAYMENTS TO THE STATE,
25 WHICH PAYMENTS SHALL BE CREDITED TO THE ASSISTANCE FUND AS
26 MATCHING MONEYS OF THE APPLICANT. THE SUBLEASE-PURCHASE
27 AGREEMENT SHALL ALSO PROVIDE FOR THE TRANSFER OF OWNERSHIP OF

1 THE BUILDING FROM THE STATE TO THE APPLICANT UPON THE
2 FULFILLMENT OF BOTH THE STATE'S OBLIGATIONS UNDER THE
3 LEASE-PURCHASE AGREEMENT AND THE APPLICANT'S OBLIGATIONS UNDER
4 THE SUBLEASE-PURCHASE AGREEMENT. A SUBLEASE-PURCHASE
5 AGREEMENT MAY PROVIDE THAT THE LEGAL OBLIGATION OF AN APPLICANT
6 TO MAKE PERIODIC RENTAL PAYMENTS IS SUBJECT TO THE ANNUAL
7 APPROPRIATION OF MONEYS FOR THAT PURPOSE BY THE APPLICANT IF THE
8 ABSENCE OF SUCH A PROVISION WOULD CREATE A DISTRICT
9 MULTIPLE-YEAR FISCAL OBLIGATION WITHOUT VOTER APPROVAL IN
10 ADVANCE IN VIOLATION OF SECTION 20 (4) (b) OF ARTICLE X OF THE STATE
11 CONSTITUTION.

12 (d) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE
13 TREASURER ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2)
14 SHALL PROVIDE THAT ALL PAYMENT OBLIGATIONS OF THE STATE UNDER
15 THE AGREEMENT ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
16 GENERAL ASSEMBLY AND THAT OBLIGATIONS SHALL NOT BE DEEMED OR
17 CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE
18 MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS
19 OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS
20 BY THE STATE.

21 (e) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE
22 TREASURER ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2)
23 MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE STATE
24 TREASURER MAY DEEM APPROPRIATE. THE PROVISIONS SHALL ALLOW THE
25 STATE TO RECEIVE TITLE TO THE REAL AND PERSONAL PROPERTY THAT IS
26 THE SUBJECT OF THE AGREEMENT ON OR PRIOR TO THE EXPIRATION OF THE
27 ENTIRE TERM OF THE AGREEMENT, INCLUDING ALL OPTIONAL RENEWAL

1 TERMS. THE LEASE-PURCHASE AGREEMENT MAY FURTHER PROVIDE FOR
2 THE ISSUANCE, DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING
3 RIGHTS TO RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE
4 MADE UNDER THE AGREEMENT. SUCH INSTRUMENTS SHALL NOT BE NOTES,
5 BONDS, OR ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE STATE WITHIN
6 THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE
7 LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF
8 INDEBTEDNESS BY THE STATE. INTEREST PAID UNDER A LEASE-PURCHASE
9 AGREEMENT, INCLUDING INTEREST REPRESENTED BY SUCH INSTRUMENTS,
10 SHALL BE EXEMPT FROM STATE INCOME TAX.

11 (f) THE EXECUTIVE DIRECTOR MAY ONLY ENTER INTO A
12 SUBLEASE-PURCHASE AGREEMENT ON BEHALF OF THE STATE PURSUANT TO
13 THIS SUBSECTION (2) IF THE STATE TREASURER HAS REVIEWED THE
14 AGREEMENT AND PROVIDED WRITTEN AUTHORIZATION TO THE EXECUTIVE
15 DIRECTOR TO ENTER INTO THE AGREEMENT.

16 (g) IF THE STATE TREASURER DEEMS IT TO BE NECESSARY OR
17 ADVISABLE, THE STATE TREASURER MAY ENTER INTO A LEASE-PURCHASE
18 AGREEMENT ON BEHALF OF THE STATE FOR ONLY A PORTION OF A LOCAL
19 GOVERNMENT PROJECT FOR WHICH FINANCIAL ASSISTANCE IS BEING
20 PROVIDED OR FOR ALL OR A PORTION OF A DIFFERENT LOCAL GOVERNMENT
21 PROJECT.

22 (h) NOTWITHSTANDING THE AUTHORITY OF THE EXECUTIVE
23 DIRECTOR TO INSTRUCT THE STATE TREASURER TO ENTER INTO
24 LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE, IN ORDER TO
25 ENSURE THAT LEASE-PURCHASE AGREEMENTS ARE ENTERED INTO UNDER
26 FAVORABLE FINANCIAL MARKET CONDITIONS, THE STATE TREASURER
27 SHALL HAVE SOLE DISCRETION TO DETERMINE THE TIMING OF THE STATE

1 TREASURER'S ENTRY INTO ANY LEASE-PURCHASE AGREEMENT ON BEHALF
2 OF THE STATE PURSUANT TO THIS SUBSECTION (2).

3 **24-32-3407. Reporting requirements - auditing by state**
4 **auditor.** (1) NO LATER THAN FEBRUARY 15, 2011, AND NO LATER THAN
5 EACH FEBRUARY 15 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL
6 PRESENT A WRITTEN REPORT TO THE LOCAL GOVERNMENT AND ENERGY
7 AND FINANCE COMMITTEES OF THE SENATE AND THE LOCAL GOVERNMENT
8 AND FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES, OR ANY
9 SUCCESSOR COMMITTEES, REGARDING THE PROVISION OF FINANCIAL
10 ASSISTANCE TO APPLICANTS PURSUANT TO THIS PART 34. THE REPORT
11 SHALL INCLUDE, AT A MINIMUM:

12 (a) AN ACCOUNTING OF THE FINANCIAL ASSISTANCE PROVIDED
13 THROUGH THE PRIOR STATE FISCAL YEAR THAT INCLUDES:

14 (I) A STATEMENT OF THE AGGREGATE AMOUNT OF FINANCIAL
15 ASSISTANCE AWARDED THROUGH THE PRIOR STATE FISCAL YEAR,
16 INCLUDING STATEMENTS OF THE AMOUNT OF GRANTS PROVIDED, AND THE
17 AMOUNT OF PAYMENTS MADE AND PAYMENTS COMMITTED TO BE MADE
18 BUT NOT YET MADE IN CONNECTION WITH LEASE-PURCHASE AGREEMENTS;

19 (II) A STATEMENT OF THE AGGREGATE AMOUNT OF FINANCIAL
20 ASSISTANCE PROVIDED AS GRANTS AND THE AGGREGATE AMOUNT OF
21 PAYMENTS MADE IN CONNECTION WITH LEASE-PURCHASE AGREEMENTS
22 DURING THE PRIOR STATE FISCAL YEAR;

23 (III) A LIST OF THE LOCAL GOVERNMENT PROJECTS FOR WHICH
24 FINANCIAL ASSISTANCE HAS BEEN PROVIDED, INCLUDING A BRIEF
25 DESCRIPTION OF EACH PROJECT, A STATEMENT OF THE AMOUNT AND TYPE
26 OF FINANCIAL ASSISTANCE PROVIDED FOR EACH PROJECT AND, WHERE
27 APPLICABLE, THE AMOUNT OF FINANCIAL ASSISTANCE COMMITTED TO BE

1 PROVIDED FOR BUT NOT YET PROVIDED FOR EACH PROJECT, A STATEMENT
2 OF THE AMOUNT OF MATCHING MONEYS PROVIDED BY THE APPLICANT FOR
3 EACH PROJECT AND, WHERE APPLICABLE, THE AMOUNT OF MATCHING
4 MONEYS COMMITTED TO BE PROVIDED BY THE APPLICANT BUT NOT YET
5 PROVIDED FOR EACH PROJECT, AND A SUMMARY OF THE REASONS OF THE
6 EXECUTIVE DIRECTOR FOR PROVIDING FINANCIAL ASSISTANCE FOR THE
7 PROJECT; AND

8 (IV) A LIST OF THE LOCAL GOVERNMENT PROJECTS FOR WHICH
9 FINANCIAL ASSISTANCE HAS BEEN PROVIDED DURING THE PRIOR STATE
10 FISCAL YEAR, INCLUDING A BRIEF DESCRIPTION OF EACH PROJECT, A
11 STATEMENT OF THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE
12 PROVIDED FOR EACH PROJECT, AND A STATEMENT OF THE AMOUNT OF
13 MATCHING MONEYS PROVIDED BY THE APPLICANT FOR EACH PROJECT;

14 (b) A LIST OF THE FINANCIAL ASSISTANCE APPLICATIONS FOR
15 LOCAL GOVERNMENT PROJECTS THAT WERE DENIED FINANCIAL
16 ASSISTANCE DURING THE PRIOR STATE FISCAL YEAR THAT INCLUDES FOR
17 EACH PROJECT:

18 (I) A BRIEF DESCRIPTION OF THE LOCAL GOVERNMENT PROJECT;

19 (II) A STATEMENT OF THE AMOUNT AND TYPE OF FINANCIAL
20 ASSISTANCE REQUESTED FOR THE LOCAL GOVERNMENT PROJECT; AND

21 (III) A SUMMARY OF THE REASONS WHY THE EXECUTIVE DIRECTOR
22 DENIED FINANCIAL ASSISTANCE FOR THE LOCAL GOVERNMENT PROJECT.

23 (2) NO LATER THAN FEBRUARY 15, 2015, THE EXECUTIVE
24 DIRECTOR SHALL PREPARE AND MAKE AVAILABLE ELECTRONICALLY ON
25 THE WEB SITE OF THE DEPARTMENT A REPORT TO THE TAXPAYERS OF THE
26 STATE REGARDING THE PROVISION OF FINANCIAL ASSISTANCE TO
27 APPLICANTS PURSUANT TO THIS PART 34 DURING THE FIVE PRIOR STATE

1 FISCAL YEARS. THE REPORT SHALL INCLUDE, AT A MINIMUM, THE
2 INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION FOR EACH OF
3 THE FIVE PRIOR STATE FISCAL YEARS AND AN AGGREGATION OF ANY OF
4 SUCH INFORMATION THAT CAN FEASIBLY BE AGGREGATED FOR THE FULL
5 FIVE-YEAR PERIOD.

6 (3) THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE
7 CONDUCTED A PERFORMANCE AUDIT OF THE FINANCIAL ASSISTANCE
8 GRANT AND LEASE-PURCHASE PROGRAMS AUTHORIZED BY THIS PART 34.
9 THE STATE AUDITOR SHALL SUBMIT FINDINGS, CONCLUSIONS, AND
10 RECOMMENDATIONS RESULTING FROM THE PERFORMANCE AUDIT TO THE
11 MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE OF THE GENERAL
12 ASSEMBLY AND TO THE MEMBERS OF THE LOCAL GOVERNMENT AND
13 ENERGY AND FINANCE COMMITTEES OF THE SENATE AND THE LOCAL
14 GOVERNMENT AND FINANCE COMMITTEES OF THE HOUSE OF
15 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, NO LATER THAN
16 FEBRUARY 15, 2015.

17 **24-32-3408. Tax increases not required.** NOTHING IN THIS PART
18 34 SHALL BE DEEMED TO REQUIRE A LOCAL GOVERNMENT TO INCREASE
19 TAXES.

20 **SECTION 2.** 34-63-102 (5.3) (a) (I) (A), Colorado Revised
21 Statutes, is amended, and the said 34-63-102 (5.3) (a) (I) is further
22 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH,
23 to read:

24 **34-63-102. Creation of mineral leasing fund - distribution -**
25 **advisory committee - definitions.** (5.3) (a) Bonus payments credited to
26 the mineral leasing fund created in subparagraph (I) of paragraph (a) of
27 subsection (1) of this section shall be distributed on a quarterly basis for

1 each quarter commencing on July 1, October 1, January 1, or April 1 of
2 any state fiscal year as follows:

3 (I) (A) Fifty percent of the bonus payments shall be transferred to
4 the local government permanent fund, which is hereby created in the state
5 treasury. Interest and income derived from the deposit and investment of
6 moneys in the local government permanent fund shall be credited to the
7 permanent fund and shall not be transferred to the general fund or any
8 other fund at the end of any fiscal year. Except as otherwise provided in
9 ~~sub-subparagraph (B)~~ SUB-SUBPARAGRAPHS (B) AND (C) of this
10 subparagraph (I), moneys in the permanent fund shall not be expended for
11 any purpose. The state treasurer may invest moneys in the local
12 government permanent fund in any investment in which the board of
13 trustees of the public employees' retirement association may invest the
14 funds of the association pursuant to section 24-51-206, C.R.S.

15 (C) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,
16 2009, FIVE MILLION DOLLARS SHALL BE TRANSFERRED TO THE LOCAL
17 GOVERNMENT CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN
18 SECTION 24-32-3403 (1), C.R.S., TO PROVIDE FINANCIAL ASSISTANCE FOR
19 LOCAL GOVERNMENT CAPITAL CONSTRUCTION PROJECTS.

20 **SECTION 3. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.