

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 24, 2013
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB13-1274 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 6, line 13, after "BE MADE" insert "SOLELY FROM
2 THE STATE BOARD OF LAND COMMISSIONERS LEASE-PURCHASE FUND WITH
3 TRANSFERS".

4 Page 6, strike lines 18 through 27.

5 Strike page 7.

6 Page 8, strike lines 1 through 11 and substitute:

7 "(2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTION
8 24-82-801, C.R.S., THE STATE BOARD OF LAND COMMISSIONERS MAY
9 INSTRUCT THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE
10 AGREEMENTS ON BEHALF OF THE STATE SCHOOL LANDS FOR THE
11 ACQUISITION, CONSTRUCTION, RENOVATION, AND IMPROVEMENT OF
12 COMMERCIAL REAL PROPERTY THAT THE BOARD WILL THEN OFFER AS
13 LEASE SPACE FOR STATE AGENCIES OR OTHER TENANTS ONLY IF:

14 (I) THE STATE BOARD OF LAND COMMISSIONERS HAS REVIEWED
15 THE LEASED SPACE NEEDS FOR STATE AGENCIES WITH THE DEPARTMENT
16 OF PERSONNEL;

17 (II) THE STATE BOARD OF LAND COMMISSIONERS HAS EVALUATED
18 THE PROJECT WITH THE ASSISTANCE OF THE DEPARTMENT OF PERSONNEL
19 AND THE OFFICE OF STATE PLANNING AND BUDGETING AGAINST THE
20 CAPITOL COMPLEX MASTER PLAN IF THE PROJECT IS RELATED TO CAPITOL
21 COMPLEX LEASED SPACE NEEDS;

1 (III) THE PROJECTED ANNUAL RENT COSTS OF THE STATE AGENCIES
2 THAT WILL BE LOCATED IN THE PROPERTY PLUS ANY CURRENT RENTAL
3 PAYMENT OR RENTAL PAYMENT PROJECTED TO BE RECEIVED FROM OTHER
4 NONSTATE AGENCY TENANTS FOR EACH FISCAL YEAR DURING THE
5 MAXIMUM TERM OF THE PROPOSED LEASE-PURCHASE AGREEMENT WILL
6 EXCEED THE ANNUAL LEASE-PURCHASE PAYMENT FOR THE PROPERTY;

7 (IV) A FINANCIAL PLAN FOR THE LEASE-PURCHASE TRANSACTION
8 THAT INCLUDES THE ITEMS DESCRIBED IN PARAGRAPH (b) OF THIS
9 SUBSECTION (2) HAS BEEN APPROVED BY THE OFFICE OF STATE PLANNING
10 AND BUDGETING AND REVIEWED BY THE CAPITAL DEVELOPMENT
11 COMMITTEE OF THE GENERAL ASSEMBLY PURSUANT TO SUBSECTION (3) OF
12 THIS SECTION;

13 (V) THE STATE BOARD OF LAND COMMISSIONERS APPROVES THE
14 TERMS OF THE LEASE-PURCHASE AGREEMENTS AND ANY ANCILLARY
15 AGREEMENTS;

16 (VI) THE STATE BOARD OF LAND COMMISSIONERS ENSURES THAT
17 THE AGREEMENTS FOR THE LEASE-PURCHASE TRANSACTION ACCURATELY
18 REFLECT THE FINANCIAL PLAN APPROVED BY THE OFFICE OF STATE
19 PLANNING AND BUDGETING AND THE CAPITAL DEVELOPMENT COMMITTEE;
20 AND

21 (VII) THE STATE CONTROLLER HAS APPROVED ALL AGREEMENTS
22 PURSUANT TO SECTION 24-30-202, C.R.S.

23 (b) FOR PURPOSES OF THIS SUBSECTION (2), "ANNUAL RENT COSTS"
24 MEANS BASE RENT TYPICALLY FOUND IN THE LEASED SPACE LINE ITEM IN
25 THE GENERAL APPROPRIATION BILL PLUS ALL OPERATION, MAINTENANCE,
26 AND RELATED COSTS PAID TO A LESSOR OR OTHER THIRD PARTY.

27 (c) THE FINANCIAL PLAN MUST INCLUDE ALL NECESSARY
28 PARAMETERS OF THE LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT
29 LIMITED TO LEASED-SPACE NEEDS, SUBLEASING AGREEMENTS, INCOME,
30 EXPENSES, CAPITAL MAINTENANCE COSTS, INTEREST RATES, RESERVE
31 REQUIREMENTS, AMORTIZATION, EXPECTED RETURN ON INVESTMENT, AND
32 OVERALL BENEFIT TO THE PERMANENT SCHOOL FUND AS RELATED TO THE
33 STATE BOARD'S DUTIES ENUMERATED IN SECTION 10 OF ARTICLE IX OF THE
34 STATE CONSTITUTION. THE FINANCIAL PLAN MUST ALSO INCLUDE ANY
35 OTHER FINANCIAL CONSIDERATION THAT THE OFFICE OF STATE PLANNING
36 AND BUDGETING OR THE CAPITAL DEVELOPMENT COMMITTEE MIGHT
37 REQUEST AFTER THEIR REVIEW OF THE FINANCIAL PLAN. THE STATE BOARD
38 MAY UTILIZE THE SERVICES OF THE STATE'S FINANCIAL ADVISORS IN ORDER
39 TO PREPARE THE FINANCIAL PLAN.

40 (d) THE STATE BOARD SHALL ADOPT A POLICY THAT AT MINIMUM
41 SPECIFIES THAT LEASED SPACE IS AVAILABLE TO A STATE AGENCY
42 THROUGH THE APPLICATION OF THIS SECTION WHEN SUCH A LEASED SPACE

1 ARRANGEMENT IS MUTUALLY BENEFICIAL TO THE STATE BOARD AND THE
2 STATE AGENCY SEEKING TO LEASE SPACE.

3 (e) THE STATE TREASURER SHALL ISSUE THE LEASE-PURCHASE
4 AGREEMENTS AS SPECIFIED IN SECTION 24-36-121, C.R.S.

5 (3) IF THE OFFICE OF STATE PLANNING AND BUDGETING APPROVES
6 THE FINANCIAL PLAN, IT SHALL SUBMIT THE FINANCIAL PLAN TO THE
7 CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY. THE
8 CAPITAL DEVELOPMENT COMMITTEE SHALL REVIEW THE FINANCIAL PLAN
9 AND REFER ITS RECOMMENDATIONS REGARDING THE FINANCIAL PLAN,
10 WITH WRITTEN COMMENTS, TO THE STATE BOARD OF LAND
11 COMMISSIONERS."

12 Page 9, strike line 1 and substitute "PURSUANT TO THIS SECTION MAY NOT
13 EXCEED THE SHORTER OF THE REMAINING USEFUL LIFE OF THE BUILDING
14 OR TWENTY-FIVE YEARS.

15 (c) ANNUAL PAYMENTS ON LEASE-PURCHASE AGREEMENTS THAT
16 THE STATE BOARD OF LAND COMMISSIONERS INSTRUCTED THE STATE
17 TREASURER TO ENTER INTO PURSUANT TO THIS SECTION MUST BE MADE
18 SOLELY FROM THE STATE BOARD OF LAND COMMISSIONERS
19 LEASE-PURCHASE FUND WITH TRANSFERS FIRST FROM THE COMMERCIAL
20 REAL PROPERTY OPERATING FUND CREATED IN SECTION 36-1-153.7,
21 SECOND FROM THE RESERVE DESCRIBED IN PARAGRAPH (d) OF SUBSECTION
22 (8) OF THIS SECTION, AND, IN THE EVENT OF ANY SHORTFALL, FROM THE
23 STATE BOARD OF LAND COMMISSIONERS INVESTMENT AND DEVELOPMENT
24 FUND CREATED IN SECTION 36-1-153."

25 Page 9, line 14, before "A" insert "(a)".

26 Page 9, line 18, strike "SCHOOL LAND TRUST," and substitute "STATE
27 SCHOOL LANDS,".

28 Page 10, after line 4 insert:

29 "(b) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE
30 TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS SECTION
31 MAY REQUIRE THE STATE TO PROVIDE INSURANCE; EXCEPT THAT NO
32 INSURANCE IS AUTHORIZED THAT WOULD CAUSE THE ANNUAL
33 LEASE-PURCHASE PAYMENT TO EXCEED THE ANNUAL RENT COSTS OF THE
34 STATE AGENCIES PRIOR TO THE LEASE-PURCHASE AGREEMENT PLUS ANY
35 RENT PROJECTED TO BE RECEIVED FROM OTHER NONSTATE AGENCY
36 TENANTS.

1 (c) ANY PROVISION OF THE FISCAL RULES PROMULGATED
2 PURSUANT TO SECTION 24-30-202 (1) AND (13), C.R.S., THAT THE STATE
3 CONTROLLER DEEMS TO BE INCOMPATIBLE OR INAPPLICABLE WITH
4 RESPECT TO A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE
5 TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS SECTION
6 OR ANY ANCILLARY AGREEMENT MAY BE WAIVED BY THE STATE
7 CONTROLLER OR HIS OR HER DESIGNEE.

8 (d) IF A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE
9 STATE TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS
10 SECTION IS EXECUTED, DURING THE TERM OF THE LEASE-PURCHASE
11 AGREEMENT, MONEYS THAT AT THE TIME OF THE EXECUTION ARE
12 APPROPRIATED TO A STATE AGENCY FOR RENTAL PAYMENTS SHALL BE
13 TRANSFERRED TO THE COMMERCIAL REAL PROPERTY OPERATING FUND
14 CREATED IN SECTION 36-1-153.7."

15 Page 10, strike lines 25 through 27.

16 Page 11, strike lines 1 through 4 and substitute "LEASE-PURCHASE FUND
17 ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO
18 MAKE LEASE OR OTHER PAYMENTS REQUIRED BY LEASE-PURCHASE
19 AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION."

20 Page 12, line 10, strike "SIX" and substitute "TWELVE" and strike "EACH"
21 and substitute "THE FIRST".

22 Page 13, line 24, strike "IN ORDER".

23 Page 13, strike lines 25 through 27 and substitute "TO THE STATE BOARD
24 OF LAND COMMISSIONERS LEASE-PURCHASE FUND CREATED IN SECTION
25 36-1-118.5 (7), AND NO LATER THAN THIRTY DAYS".

26 Page 14, strike lines 24 and 25.

27 Page 14, line 26, strike "ALLOWED IN SECTION 36-1-118.5, TO".

28 Page 15, strike lines 2 through 10 and substitute "MANAGEMENT AND
29 OPERATING COSTS. MONEYS IN THE FUND MAY BE TRANSFERRED TO THE
30 STATE BOARD OF LAND COMMISSIONERS LEASE-PURCHASE FUND CREATED
31 IN SECTION 36-1-118.5 (7). THE STATE BOARD OF LAND COMMISSIONERS
32 SHALL NOTIFY THE STATE TREASURER IN WRITING OF THE AMOUNT THAT
33 NEEDS TO BE TRANSFERRED FROM THE FUND TO THE STATE BOARD OF

1 LAND COMMISSIONERS LEASE-PURCHASE FUND. THE STATE TREASURER
2 SHALL TRANSFER SUCH AMOUNT NO LATER THAN THIRTY DAYS AFTER
3 RECEIPT OF SUCH NOTIFICATION. ALL".

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