

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**REVISED**

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

LLS NO. 13-0370.01 Esther van Mourik x4215

**HOUSE BILL 13-1274**

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**HOUSE SPONSORSHIP**

**Hullinghorst,**

**SENATE SPONSORSHIP**

**Kerr,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

Local Government  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING THE STATE BOARD OF LAND COMMISSIONERS'**  
102 **INVESTMENT IN COMMERCIAL REAL PROPERTY, AND, IN**  
103 **CONNECTION THEREWITH, GRANTING THE STATE BOARD OF**  
104 **LAND COMMISSIONERS THE AUTHORITY TO ENTER INTO**  
105 **LEASE-PURCHASE AGREEMENTS.**

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**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/billsummaries>.)*

**Section 1** of the bill makes amendments to an existing definition

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.*

SENATE  
Amended 2nd Reading  
May 3, 2013

HOUSE  
3rd Reading Unamended  
April 29, 2013

HOUSE  
Amended 2nd Reading  
April 26, 2013

and creates others in order to clarify what the lands are to which the article refers.

**Section 2** of the bill ensures that any lease payments and rental payments for land, including by definition any lease payments from commercial real property, would be distributed in the same way that all revenues generated from state trust lands are currently distributed.

**Section 3** of the bill grants the state board of land commissioners the authority to instruct the state treasurer to enter into lease-purchase agreements on behalf of the state school lands for the acquisition, construction, renovation, and improvement of commercial real property that the board will then lease as office space for state agencies or other tenants. The bill specifies that it is the general assembly's intent that annual lease payments be paid from commercial real property revenues, but sets up secondary and tertiary options in the event of a shortfall. Prior to instructing the state treasurer to enter into such lease-purchase agreements, the bill requires the state board of land commissioners to present a financial plan related to such a lease-purchase agreement to the department of personnel and the office of state planning and budgeting. No later than 60 days after presentation of the financial plan, the capital development committee is required to review the financial plan and may make recommendations. The bill also:

- ! Limits the total amount of annual lease payments payable by the state in any fiscal year;
- ! Specifies additional procedural and legal requirements relating to the lease-purchase agreements; and
- ! Creates the state board of land commissioners lease-purchase fund.

**Section 4** of the bill makes clear that any interest earned on damage deposits that the state board of land commissioners receives from a lessee related to leases on state lands for nonagricultural purposes may be retained by the state board of land commissioners.

**Section 6** of the bill creates the commercial real property operating fund to properly establish how to account for lease revenues generated from all commercial real property investments held by the state board of land commissioners on behalf of any of the state trust funds.

**Sections 7, 8, and 9** of the bill make conforming amendments to statutory sections related to contracting for services and procurement for the commercial real property operating fund that are consistent with a similar state board of land commissioners cash fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 36-1-100.3

1 as follows:

2 **36-1-100.3. Definitions.** As used in this article, unless the context  
3 otherwise requires:

4 (1) "COMMERCIAL REAL PROPERTY" MEANS REAL PROPERTY  
5 INTENDED TO GENERATE INCOME EITHER FROM CAPITAL GAIN OR RENTAL  
6 INCOME, SUCH AS OFFICE BUILDINGS.

7 (2) "LAND" MEANS ANY GROUND, SOIL, WATER, REAL PROPERTY,  
8 COMMERCIAL REAL PROPERTY, MINERALS, MINERAL RESOURCES, OR EARTH  
9 WHATSOEVER.

10 ~~(1)~~(3) "MINERALS" OR "mineral resources" means ANY VALUABLE  
11 INERT OR LIFELESS SUBSTANCE FORMED OR DEPOSITED IN ITS PRESENT  
12 POSITION THROUGH NATURAL AGENCIES AND WHICH IS FOUND EITHER IN  
13 OR ON THE SOIL OR ROCK OF THE EARTH, INCLUDING WITHOUT LIMITATION  
14 those commodities subject to regulation under articles 32, 32.5, 33, and  
15 60 of title 34, C.R.S., including but not limited to oil, gas, coal, sand,  
16 gravel, and other minerals.

17 (4) "PERMANENT SCHOOL FUND" MEANS THE PUBLIC SCHOOL FUND  
18 CREATED IN SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION,  
19 WHICH IS THE SAME AS THE PUBLIC SCHOOL FUND DESCRIBED IN SECTION  
20 22-41-102, C.R.S.

21 (5) "REAL PROPERTY" MEANS BUILDINGS, STRUCTURES, FIXTURES,  
22 AND IMPROVEMENTS ON LAND, AND EVERY ESTATE, INTEREST, PRIVILEGE,  
23 TENEMENT, EASEMENT, RIGHT-OF-WAY, AND OTHER RIGHT IN LAND, LEGAL  
24 OR EQUITABLE, INCLUDING LEASEHOLD INTERESTS.

25 (6) "STATE BOARD OF LAND COMMISSIONERS" OR "STATE BOARD"  
26 MEANS THE STATE BOARD OF LAND COMMISSIONERS DESCRIBED IN  
27 SECTION 36-1-101.5.

1           (7) "STATE SCHOOL LANDS" MEANS AN ENDOWMENT OF LAND  
2 ASSETS HELD IN A PERPETUAL, INTERGENERATIONAL PUBLIC TRUST FOR  
3 THE SUPPORT OF PUBLIC SCHOOLS.

4           **SECTION 2.** In Colorado Revised Statutes, 36-1-116, **amend** (1)  
5 (a) and (2) (a) as follows:

6           **36-1-116. Disposition of rentals, royalties, and timber sale**  
7 **proceeds.** (1) (a) (I) Except for proceeds and payments allocated to the  
8 state land board trust administration fund pursuant to section 36-1-145 (3)  
9 or credited to the public school capital construction assistance fund  
10 created in section 22-43.7-104 (1), C.R.S., pursuant to section  
11 22-43.7-104 (2) (b) (I), C.R.S., and except as provided in subparagraph  
12 (II) of this paragraph (a), proceeds received by the state for the sale of  
13 timber on public school lands, LEASE PAYMENTS AND RENTAL PAYMENTS  
14 FOR SAID LANDS, rental payments for the use and occupation of the  
15 surface of said lands, and rentals or lease payments for sand, gravel, clay,  
16 stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals  
17 on said lands shall be credited to the public school income fund for  
18 distribution as provided by law.

19           (II) (A) Except as provided in sub-subparagraph (B) of this  
20 subparagraph (II), for the 2010-11 state fiscal year and each state fiscal  
21 year thereafter, the proceeds received by the state for the sale of timber  
22 on public school lands, LEASE PAYMENTS AND RENTAL PAYMENTS FOR  
23 SAID LANDS, rental payments for the use and occupation of the surface of  
24 said lands, and rentals or lease payments for sand, gravel, clay, stone,  
25 coal, oil, gas, geothermal resources, gold, silver, or other minerals on said  
26 lands other than proceeds, rentals, and payments allocated to the state  
27 land board trust administration fund pursuant to section 36-1-145 (3) or

1 credited to the public school capital construction assistance fund created  
2 in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2) (b)  
3 (I), C.R.S., shall be credited to the permanent school fund and shall  
4 become part of the principal of the permanent school fund.

5 (B) For the 2012-13 state fiscal year, all proceeds received by the  
6 state for the sale of timber on public school lands, LEASE PAYMENTS AND  
7 RENTAL PAYMENTS FOR SAID LANDS, rental payments for the use and  
8 occupation of the surface of said lands, and rentals or lease payments for  
9 sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver,  
10 or other minerals on said lands other than proceeds, rentals, and payments  
11 allocated to the state land board trust administration fund pursuant to  
12 section 36-1-145 (3) or credited to the public school capital construction  
13 assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to  
14 section 22-43.7-104 (2) (b) (I), C.R.S., shall be transferred to the state  
15 public school fund created in section 22-54-114, C.R.S.

16 (2) (a) Proceeds received by the state for the sale of timber on  
17 lands belonging to any of the state trust funds other than on public school  
18 lands, LEASE PAYMENTS AND RENTAL PAYMENTS FOR SAID LANDS, rental  
19 payments for the use and occupation of the surface of said lands, and  
20 rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas,  
21 geothermal resources, gold, silver, or other minerals on said lands shall  
22 be credited to the proper trust income fund.

23 **SECTION 3.** In Colorado Revised Statutes, **add** 36-1-118.5 as  
24 follows:


25 **36-1-118.5. Lease-purchase agreements for commercial real**  
26 **property - legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY  
27 FINDS AND DECLARES THAT:

1 (a) THE STATE BOARD OF LAND COMMISSIONERS LACKS A  
2 CONSISTENT MECHANISM TO MAKE INVESTMENTS IN LARGE,  
3 ECONOMICALLY VIABLE COMMERCIAL REAL PROPERTY HOLDINGS;

4 (b) THE STATE COULD OPERATE MORE EFFICIENTLY IF REASONABLY  
5 PRICED, WELL-SITUATED LEASE SPACE WERE AVAILABLE;

6 (c) THE STATE BOARD OF LAND COMMISSIONERS CAN GENERATE  
7 REASONABLE AND CONSISTENT REVENUES FOR THE STATE SCHOOL LANDS  
8 BY ACQUIRING COMMERCIAL REAL PROPERTY AND LEASING SPACE TO  
9 STATE AGENCIES AND OTHER TENANTS; AND

10 (d) IT IS THE GENERAL ASSEMBLY'S INTENT THAT ANNUAL  
11 PAYMENTS ON LEASE-PURCHASE AGREEMENTS THAT THE STATE BOARD OF  
12 LAND COMMISSIONERS INSTRUCTED THE STATE TREASURER TO ENTER INTO  
13 PURSUANT TO THIS SECTION BE MADE SOLELY FROM THE STATE BOARD OF  
14 LAND COMMISSIONERS LEASE-PURCHASE FUND WITH TRANSFERS FIRST  
15 FROM COMMERCIAL REAL PROPERTY REVENUES, SECOND FROM THE  
16 RESERVE ESTABLISHED IN THE STATE BOARD OF LAND COMMISSIONERS  
17 LEASE-PURCHASE FUND, AND, IN THE EVENT OF ANY SHORTFALL, FROM  
18 THE STATE BOARD OF LAND COMMISSIONERS INVESTMENT AND  
19 DEVELOPMENT FUND.

20   
21 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTION  
22 24-82-801, C.R.S., THE STATE BOARD OF LAND COMMISSIONERS MAY  
23 INSTRUCT THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE  
24 AGREEMENTS ON BEHALF OF THE STATE SCHOOL LANDS FOR THE  
25 ACQUISITION, CONSTRUCTION, RENOVATION, AND IMPROVEMENT OF  
26 COMMERCIAL REAL PROPERTY THAT THE BOARD WILL THEN OFFER AS  
27 LEASE SPACE FOR STATE AGENCIES OR OTHER TENANTS ONLY IF:

1 (I) THE STATE BOARD OF LAND COMMISSIONERS HAS REVIEWED  
2 THE LEASED SPACE NEEDS FOR STATE AGENCIES WITH THE DEPARTMENT  
3 OF PERSONNEL;

4 (II) THE STATE BOARD OF LAND COMMISSIONERS HAS EVALUATED  
5 THE PROJECT WITH THE ASSISTANCE OF THE DEPARTMENT OF PERSONNEL  
6 AND THE OFFICE OF STATE PLANNING AND BUDGETING AGAINST THE  
7 CAPITOL COMPLEX MASTER PLAN IF THE PROJECT IS RELATED TO CAPITOL  
8 COMPLEX LEASED SPACE NEEDS;

9 (III) THE PROJECTED ANNUAL RENT COSTS OF THE STATE AGENCIES  
10 THAT WILL BE LOCATED IN THE PROPERTY PLUS ANY CURRENT RENTAL  
11 PAYMENT OR RENTAL PAYMENT PROJECTED TO BE RECEIVED FROM OTHER  
12 NONSTATE AGENCY TENANTS FOR EACH FISCAL YEAR DURING THE  
13 MAXIMUM TERM OF THE PROPOSED LEASE-PURCHASE AGREEMENT WILL  
14 EXCEED THE ANNUAL LEASE-PURCHASE PAYMENT FOR THE PROPERTY;

15 (IV) A FINANCIAL PLAN FOR THE LEASE-PURCHASE TRANSACTION  
16 THAT INCLUDES THE ITEMS DESCRIBED IN PARAGRAPH (b) OF THIS  
17 SUBSECTION (2) HAS BEEN APPROVED BY THE OFFICE OF STATE PLANNING  
18 AND BUDGETING AND REVIEWED AND RECOMMENDED BY THE CAPITAL  
19 DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY PURSUANT TO  
20 SUBSECTION (3) OF THIS SECTION;

21 (V) THE STATE BOARD OF LAND COMMISSIONERS APPROVES THE  
22 TERMS OF THE LEASE-PURCHASE AGREEMENTS AND ANY ANCILLARY  
23 AGREEMENTS;

24 (VI) THE STATE BOARD OF LAND COMMISSIONERS ENSURES THAT  
25 THE AGREEMENTS FOR THE LEASE-PURCHASE TRANSACTION ACCURATELY  
26 REFLECT THE FINANCIAL PLAN APPROVED BY THE OFFICE OF STATE  
27 PLANNING AND BUDGETING AND THE CAPITAL DEVELOPMENT COMMITTEE;

1 AND

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

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

8 (c) THE FINANCIAL PLAN MUST INCLUDE ALL NECESSARY  
9 PARAMETERS OF THE LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT  
10 LIMITED TO LEASED-SPACE NEEDS, SUBLEASING AGREEMENTS, INCOME,  
11 EXPENSES, CAPITAL MAINTENANCE COSTS, INTEREST RATES, RESERVE  
12 REQUIREMENTS, AMORTIZATION, EXPECTED RETURN ON INVESTMENT, AND  
13 OVERALL BENEFIT TO THE PERMANENT SCHOOL FUND AS RELATED TO THE  
14 STATE BOARD'S DUTIES ENUMERATED IN SECTION 10 OF ARTICLE IX OF THE  
15 STATE CONSTITUTION. THE FINANCIAL PLAN MUST ALSO INCLUDE ANY  
16 OTHER FINANCIAL CONSIDERATION THAT THE OFFICE OF STATE PLANNING  
17 AND BUDGETING OR THE CAPITAL DEVELOPMENT COMMITTEE MIGHT  
18 REQUEST AFTER THEIR REVIEW OF THE FINANCIAL PLAN. THE STATE BOARD  
19 MAY UTILIZE THE SERVICES OF THE STATE'S FINANCIAL ADVISORS IN ORDER  
20 TO PREPARE THE FINANCIAL PLAN.

21 (d) THE STATE BOARD SHALL ADOPT A POLICY THAT AT MINIMUM  
22 SPECIFIES THAT LEASED SPACE IS AVAILABLE TO A STATE AGENCY  
23 THROUGH THE APPLICATION OF THIS SECTION WHEN SUCH A LEASED SPACE  
24 ARRANGEMENT IS MUTUALLY BENEFICIAL TO THE STATE BOARD AND THE  
25 STATE AGENCY SEEKING TO LEASE SPACE.

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



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

8           (4) (a) THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE  
9 PAYMENTS OF PRINCIPAL AND INTEREST PAYABLE BY THE STATE DURING  
10 ANY FISCAL YEAR UNDER THE TERMS OF ALL OUTSTANDING  
11 LEASE-PURCHASE AGREEMENTS ENTERED INTO BY THE STATE TREASURER  
12 AS INSTRUCTED BY THE STATE BOARD PURSUANT TO THIS SECTION MAY  
13 NOT EXCEED THE LESSER OF:

14           (I) THE TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS OF  
15 PRINCIPAL AND INTEREST REQUIRED TO BE PAID PER FISCAL YEAR ON ALL  
16 OUTSTANDING LEASE-PURCHASE AGREEMENTS SO LONG AS THE PRINCIPAL  
17 PORTIONS OF THE OUTSTANDING LEASE-PURCHASE AGREEMENTS DO NOT  
18 EXCEED FIFTY MILLION DOLLARS; OR

19           (II) FIVE MILLION DOLLARS PER FISCAL YEAR IN TOTAL ANNUAL  
20 LEASE PAYMENTS OF PRINCIPAL AND INTEREST REQUIRED TO BE PAID ON  
21 ALL OUTSTANDING LEASE-PURCHASE AGREEMENTS.

22           (b) THE TERM OF ANY LEASE-PURCHASE AGREEMENT ENTERED  
23 INTO BY THE STATE TREASURER AS INSTRUCTED BY THE STATE BOARD  
24 PURSUANT TO THIS SECTION MAY NOT EXCEED THE SHORTER OF THE  
25 REMAINING USEFUL LIFE OF THE BUILDING OR TWENTY-FIVE YEARS.

26           (c) ANNUAL PAYMENTS ON LEASE-PURCHASE AGREEMENTS THAT  
27 THE STATE BOARD OF LAND COMMISSIONERS INSTRUCTED THE STATE

1     TREASURER TO ENTER INTO PURSUANT TO THIS SECTION MUST BE MADE  
2     SOLELY FROM THE STATE BOARD OF LAND COMMISSIONERS  
3     LEASE-PURCHASE FUND WITH TRANSFERS FIRST FROM THE COMMERCIAL  
4     REAL PROPERTY OPERATING FUND CREATED IN SECTION 36-1-153.7,  
5     SECOND FROM THE RESERVE DESCRIBED IN PARAGRAPH (d) OF SUBSECTION  
6     (8) OF THIS SECTION, AND, IN THE EVENT OF ANY SHORTFALL, FROM THE  
7     STATE BOARD OF LAND COMMISSIONERS INVESTMENT AND DEVELOPMENT  
8     FUND CREATED IN SECTION 36-1-153.

9             (5) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE  
10     TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS SECTION  
11     SHALL PROVIDE THAT ALL PAYMENT OBLIGATIONS OF THE STATE UNDER  
12     THE AGREEMENT ARE SUBJECT TO ANNUAL APPROPRIATION BY THE  
13     GENERAL ASSEMBLY AND THAT OBLIGATIONS ARE NOT DEEMED OR  
14     CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE  
15     MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS  
16     OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS  
17     BY THE STATE AND DO NOT CONSTITUTE A MULTIPLE FISCAL YEAR DIRECT  
18     OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE  
19     WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE  
20     CONSTITUTION.

21             (6) (a) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE  
22     STATE TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS  
23     SECTION MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE  
24     STATE TREASURER DEEMS APPROPRIATE. THE PROVISIONS SHALL ALLOW  
25     THE BOARD, ON BEHALF OF THE STATE SCHOOL LANDS, TO RECEIVE TITLE  
26     TO THE COMMERCIAL REAL PROPERTY THAT IS THE SUBJECT OF THE  
27     AGREEMENT ON OR PRIOR TO THE EXPIRATION OF THE ENTIRE TERM OF THE

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

12 (b) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE  
13 TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS SECTION  
14 MAY REQUIRE THE STATE TO PROVIDE INSURANCE; EXCEPT THAT NO  
15 INSURANCE IS AUTHORIZED THAT WOULD CAUSE THE ANNUAL  
16 LEASE-PURCHASE PAYMENT TO EXCEED THE ANNUAL RENT COSTS OF THE  
17 STATE AGENCIES PRIOR TO THE LEASE-PURCHASE AGREEMENT PLUS ANY  
18 RENT PROJECTED TO BE RECEIVED FROM OTHER NONSTATE AGENCY  
19 TENANTS.

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

27 (d) IF A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE

1 STATE TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS  
2 SECTION IS EXECUTED, DURING THE TERM OF THE LEASE-PURCHASE  
3 AGREEMENT, MONEYS THAT AT THE TIME OF THE EXECUTION ARE  
4 APPROPRIATED TO A STATE AGENCY FOR RENTAL PAYMENTS SHALL BE  
5 TRANSFERRED TO THE COMMERCIAL REAL PROPERTY OPERATING FUND  
6 CREATED IN SECTION 36-1-153.7.

7 (7) (a) THE STATE BOARD OF LAND COMMISSIONERS LEASE-  
8 PURCHASE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE  
9 PRINCIPAL OF THE FUND CONSISTS OF:

10 (I) TRANSFERS FROM THE COMMERCIAL REAL PROPERTY  
11 OPERATING FUND CREATED IN SECTION 36-1-153.7 AS DIRECTED BY THE  
12 STATE BOARD;

13 (II) TRANSFERS FROM THE STATE BOARD OF LAND COMMISSIONERS  
14 INVESTMENT AND DEVELOPMENT FUND CREATED IN SECTION 36-1-153 AS  
15 DIRECTED BY THE STATE BOARD; AND

16 (III) OTHER REVENUES AS REQUESTED BY THE STATE BOARD AND  
17 APPROVED BY THE GENERAL ASSEMBLY.

18 (b) ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND  
19 INVESTMENT OF MONEYS IN THE STATE BOARD OF LAND COMMISSIONERS  
20 LEASE-PURCHASE FUND ARE CREDITED TO THE FUND AND MAY NOT BE  
21 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF  
22 ANY FISCAL YEAR. ANY UNCOMMITTED FUND BALANCE AT THE END OF A  
23 FISCAL YEAR, NOT INCLUDING ANY AMOUNT HELD IN RESERVE AS  
24 REQUIRED IN PARAGRAPH (d) OF THIS SUBSECTION (7), IS TRANSFERRED TO  
25 THE PERMANENT SCHOOL FUND.

26 (c) MONEYS IN THE STATE BOARD OF LAND COMMISSIONERS  
27 LEASE-PURCHASE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE

1 GENERAL ASSEMBLY IN THE CAPITAL SECTION OF THE ANNUAL GENERAL  
2 APPROPRIATION ACT TO MAKE LEASE OR OTHER PAYMENTS REQUIRED BY  
3 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO THIS  
4 SECTION.

5 (d) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,  
6 2014, A RESERVE CONSISTING OF TEN PERCENT OF THE PRINCIPAL OF ALL  
7 OUTSTANDING LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT  
8 TO THIS SECTION MUST BE MAINTAINED. THE RESERVE MAY ONLY BE  
9 EXPENDED UPON A SPECIFIC APPROPRIATION BY THE GENERAL ASSEMBLY  
10 TO MEET ANY LEASE-PURCHASE PAYMENTS REQUIRED BY  
11 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION  
12 IF THERE ARE INSUFFICIENT REVENUES TO COVER THE LEASE PAYMENT.  
13 THE RESERVE MUST BE REPLENISHED WITHIN THREE YEARS OF  
14 EXPENDITURE.

15 (e) THE STATE CONTROLLER SHALL, IN COOPERATION WITH THE  
16 STATE BOARD AND THE STATE TREASURER, ESTABLISH ACCOUNTS IN THE  
17 STATE BOARD OF LAND COMMISSIONERS LEASE-PURCHASE FUND AS  
18 NECESSARY TO ENSURE THE PROPER ACCOUNTING FOR ALL  
19 LEASE-PURCHASE TRANSACTIONS.

20 (8) NET REVENUE FROM THE DISPOSAL OF THE COMMERCIAL REAL  
21 PROPERTY ORIGINALLY ACQUIRED THROUGH A LEASE-PURCHASE  
22 AGREEMENT AUTHORIZED IN THIS SECTION SHALL BE REINVESTED IN LAND  
23 PURSUANT TO THE PROVISIONS OF SECTION 36-1-124.5.

24 (9) (a) (I) NO LATER THAN NOVEMBER 1, 2013, AND NO LATER  
25 THAN EACH NOVEMBER 1 THEREAFTER, THE STATE BOARD SHALL PRESENT  
26 A FINANCIAL REPORT REGARDING THIS SECTION TO THE JOINT BUDGET  
27 COMMITTEE AND TO THE LEADERSHIP OF THE SENATE AND THE HOUSE OF

1 REPRESENTATIVES OF THE GENERAL ASSEMBLY.

2 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2023.

3 (b) THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE  
4 CONDUCTED A PERFORMANCE AUDIT OF THE LEASE-PURCHASE PROGRAM  
5 AUTHORIZED BY THIS SECTION. THE STATE AUDITOR SHALL SUBMIT  
6 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS RESULTING FROM THE  
7 PERFORMANCE AUDIT TO THE MEMBERS OF THE LEGISLATIVE AUDIT  
8 COMMITTEE, THE MEMBERS OF THE JOINT BUDGET COMMITTEE, AND THE  
9 MEMBERS OF THE CAPITAL DEVELOPMENT COMMITTEE, OR ANY SUCCESSOR  
10 COMMITTEES, NO LATER THAN TWELVE MONTHS AFTER THE ISSUANCE OF  
11 THE FIRST LEASE-PURCHASE AGREEMENT.

12 **SECTION 4.** In Colorado Revised Statutes, 36-1-129, **amend** (2)  
13 (a) and (3) as follows:

14 **36-1-129. Bonds.** (2) (a) In leasing state lands for nonagricultural  
15 purposes, the state board of land commissioners shall require of the lessee  
16 a bond or damage deposit securing the state against loss of rents or other  
17 loss or waste, or occupation of the land for more than thirty days after the  
18 cancellation or expiration of the lease of the lessee, unless the lessee  
19 becomes the purchaser of the land, and THE STATE BOARD OF LAND  
20 COMMISSIONERS SHALL RETAIN ALL INTEREST EARNED ON SUCH A BOND  
21 OR DAMAGE DEPOSIT WHILE HELD BY THE STATE BOARD OF LAND  
22 COMMISSIONERS. In no case shall the lessee be allowed to cut or use more  
23 timber than is necessary for the improvement of the land or for fuel for  
24 the use of the family of the lessee; and the cutting and hauling of timber  
25 to sawmills, to be sawed on shares, is expressly prohibited.

26 (3) All bonds, damage deposits, and earnest moneys collected  
27 pursuant to this article that the state board of land commissioners has

1 deemed forfeited or required for remediation activities shall be credited  
2 to the financial warranty account of the state land board trust  
3 administration fund created in section 36-1-145 (2) (e). Moneys in the  
4 account, INCLUDING INTEREST EARNED ON THE FORFEITED BONDS,  
5 DAMAGE DEPOSITS, AND EARNEST MONEYS DEPOSITED IN THE ACCOUNT,  
6 are continuously appropriated for the remediation or other activities on  
7 the affected property.

8 **SECTION 5.** In Colorado Revised Statutes, 36-1-153, **amend** (2)  
9 as follows:

10 **36-1-153. Investment and development fund.** (2) (a) Moneys  
11 in the fund shall be used at the discretion of the state board of land  
12 commissioners to hire staff, contract for services, make purchases, MAKE  
13 ANNUAL PAYMENTS ON ANY LEASE-PURCHASE AGREEMENTS THE STATE  
14 BOARD INSTRUCTED THE STATE TREASURER TO ENTER INTO AS ALLOWED  
15 IN SECTION 36-1-118.5, and take such other actions as the state board  
16 deems appropriate to provide for the development of additional  
17 value-added benefit for the state's trust lands, including both portfolio  
18 enhancement and additional income. Such actions may include, but are  
19 not limited to, the rezoning, platting, master planning, or other  
20 development activities that increase the value of or rate of return from the  
21 state's trust lands.

22 (b) THE STATE BOARD OF LAND COMMISSIONERS SHALL NOTIFY  
23 THE STATE TREASURER IN WRITING OF THE AMOUNT THAT NEEDS TO BE  
24 TRANSFERRED FROM THE INVESTMENT AND DEVELOPMENT FUND TO  
25 THE STATE BOARD OF LAND COMMISSIONERS LEASE-PURCHASE FUND  
26 CREATED IN SECTION 36-1-118.5 (7), AND NO LATER THAN THIRTY DAYS  
27 AFTER RECEIPT OF SUCH NOTIFICATION, THE STATE TREASURER SHALL

1 TRANSFER SUCH SUM TO THE STATE BOARD OF LAND COMMISSIONERS  
2 LEASE-PURCHASE FUND CREATED IN SECTION 36-1-118.5 (7).

3 **SECTION 6.** In Colorado Revised Statutes, **add** 36-1-153.7 as  
4 follows:

5 **36-1-153.7. Commercial real property - commercial real**  
6 **property operating fund - created.** (1) (a) THE COMMERCIAL REAL  
7 PROPERTY OPERATING FUND, REFERRED TO IN THIS SECTION AS THE  
8 "FUND", IS HEREBY CREATED IN THE STATE TREASURY AND CONSISTS OF  
9 ALL LEASE INCOME EARNED BY THE STATE BOARD OF LAND  
10 COMMISSIONERS FROM COMMERCIAL REAL PROPERTY. THE STATE BOARD  
11 OF LAND COMMISSIONERS SHALL CONTROL AND ADMINISTER THE FUND.  
12 THE STATE CONTROLLER SHALL, IN COOPERATION WITH THE STATE BOARD  
13 OF LAND COMMISSIONERS AND THE STATE TREASURER, ESTABLISH  
14 ACCOUNTS IN THE FUND AS NECESSARY TO ENSURE THE PROPER  
15 ACCOUNTING FOR ALL COMMERCIAL REAL PROPERTY THAT THE STATE  
16 BOARD OF LAND COMMISSIONERS OWNS AND LEASES TO THIRD PARTIES.  
17 EACH ACCOUNT MUST CONSIST OF LEASE REVENUE, NOT INCLUDING ANY  
18 DAMAGE DEPOSITS AS ALLOWED IN SECTION 36-1-129, FOR THE  
19 COMMERCIAL REAL PROPERTY AS SEPARATED BY TRUST AND MUST  
20 ACCOUNT FOR ALL EXPENSES FOR THE COMMERCIAL REAL PROPERTY HELD  
21 BY EACH TRUST. MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED  
22 TO THE STATE BOARD OF LAND COMMISSIONERS AND MAY BE USED TO  
23 CONTRACT FOR THE SERVICES OF A THIRD-PARTY PROPERTY  
24 MANAGEMENT FIRM AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AND  
25 FOR ANY OTHER ASSOCIATED PROPERTY MANAGEMENT AND OPERATING  
26 COSTS. MONEYS IN THE FUND MAY BE TRANSFERRED TO THE STATE BOARD  
27 OF LAND COMMISSIONERS LEASE-PURCHASE FUND CREATED IN SECTION



1 36-1-118.5 (7). THE STATE BOARD OF LAND COMMISSIONERS SHALL  
2 NOTIFY THE STATE TREASURER IN WRITING OF THE AMOUNT THAT NEEDS  
3 TO BE TRANSFERRED FROM THE FUND TO THE STATE BOARD OF LAND  
4 COMMISSIONERS LEASE-PURCHASE FUND. THE STATE TREASURER SHALL  
5 TRANSFER SUCH AMOUNT NO LATER THAN THIRTY DAYS AFTER RECEIPT OF  
6 SUCH NOTIFICATION. ALL UNENCUMBERED AND UNEXPENDED MONEYS IN  
7 THE FUND AT THE END OF EACH QUARTER IN EACH FISCAL YEAR IS  
8 DISTRIBUTED AS SPECIFIED IN SECTION 36-1-116.

9 (b) THE STATE CONTROLLER SHALL AUTHORIZE DISBURSEMENTS  
10 FROM THE FUND AS DIRECTED BY THE STATE BOARD OF LAND  
11 COMMISSIONERS ON RECEIPT OF A VOUCHER FROM THE STATE BOARD  
12 STATING THAT THE DISBURSEMENT IS TO ACCOMPLISH A PURPOSE SET  
13 FORTH IN SUBSECTION (2) OF THIS SECTION.

14 (2) (a) THE STATE BOARD OF LAND COMMISSIONERS MAY  
15 CONTRACT FOR THE SERVICES OF A THIRD-PARTY PROPERTY MANAGEMENT  
16 FIRM TO MANAGE ANY COMMERCIAL REAL PROPERTY. THE STATE BOARD  
17 OF LAND COMMISSIONERS SHALL SELECT THE THIRD-PARTY PROPERTY  
18 MANAGEMENT FIRM THROUGH A COMPETITIVE BID PROCESS. BIDS MUST BE  
19 EVALUATED USING STANDARD COMMERCIAL REAL PROPERTY  
20 MANAGEMENT CRITERIA.

21 (b) THE TERM OF ANY CONTRACT WITH A THIRD-PARTY PROPERTY  
22 MANAGEMENT FIRM THAT THE STATE BOARD OF LAND COMMISSIONERS  
23 ENTERS INTO PURSUANT TO THIS SUBSECTION (2) MAY NOT EXCEED THREE  
24 YEARS WITH AN OPTION TO RENEW FOR ONE ADDITIONAL YEAR.

25 (c) ANY PROCUREMENTS MADE BY THE THIRD-PARTY  
26 MANAGEMENT FIRM ON BEHALF OF THE STATE BOARD OF LAND  
27 COMMISSIONERS FOR THE MANAGEMENT OF COMMERCIAL REAL PROPERTY

1 BY THE THIRD-PARTY MANAGEMENT FIRM AUTHORIZED IN THIS  
2 SUBSECTION (2) ARE EXEMPT FROM THE "PROCUREMENT CODE", ARTICLES  
3 101 TO 112 OF TITLE 24, C.R.S.

4 (d) PURSUANT TO SECTIONS 24-36-103 AND 24-36-104, C.R.S.,  
5 THE THIRD-PARTY MANAGEMENT FIRM MUST MAINTAIN LEASE REVENUE  
6 IT COLLECTS IN A DEPOSITORY AUTHORIZED IN SECTION 24-75-603, C.R.S.,  
7 IN DISTINCT BANK ACCOUNTS FOR EACH TRUST.

8 (e) THE THIRD-PARTY MANAGEMENT FIRM MUST PRODUCE  
9 QUARTERLY MANAGEMENT REPORTS THAT DETAIL THE GROSS REVENUES  
10 AND EXPENSES FOR EACH COMMERCIAL REAL PROPERTY. THE STATE  
11 BOARD OF LAND COMMISSIONERS SHALL PROVIDE A COPY OF SUCH  
12 MANAGEMENT REPORTS, AFTER ITS REVIEW, TO THE DEPARTMENT OF  
13 NATURAL RESOURCES' CONTROLLER. THE THIRD-PARTY MANAGEMENT  
14 FIRM SHALL DISBURSE REVENUES TO THE STATE NO LESS FREQUENTLY  
15 THAN ON A QUARTERLY BASIS TO COINCIDE WITH THE RECORDING OF  
16 REVENUES AND EXPENSES AS DIRECTED BY THE STATE CONTROLLER. THE  
17 REVENUES TRANSFERRED TO THE STATE SHALL BE NET OF ACTUAL  
18 EXPENSES FOR THE COMMERCIAL REAL PROPERTY. THE THIRD-PARTY  
19 MANAGEMENT FIRM MAY RETAIN SUFFICIENT CASH FOR THE WORKING  
20 CAPITAL NEEDS OF THE COMMERCIAL REAL PROPERTY.

21 **SECTION 7.** In Colorado Revised Statutes, 24-30-1403, **amend**  
22 (2) (b) as follows:

23 **24-30-1403. Professional services - listings - preliminary**  
24 **selections.** (2) (b) The requirements of paragraph (a) of this subsection  
25 (2) shall not apply to the state board of land commissioners, established  
26 in article 1 of title 36, C.R.S., in connection with contract expenditures  
27 from the state board of land commissioners investment and development

1 fund created in section 36-1-153, C.R.S., OR THE COMMERCIAL REAL  
2 PROPERTY OPERATING FUND CREATED IN SECTION 36-1-153.7, C.R.S.

3 **SECTION 8.** In Colorado Revised Statutes, 24-30-1404, **amend**  
4 (7) (g) (II) as follows:

5 **24-30-1404. Contracts.** (7) (g) This subsection (7) shall not  
6 apply to:

7 (II) The state board of land commissioners, established in article  
8 1 of title 36, C.R.S., in connection with contract expenditures from the  
9 state board of land commissioners investment and development fund  
10 created in section 36-1-153, C.R.S., OR THE COMMERCIAL REAL PROPERTY  
11 OPERATING FUND CREATED IN SECTION 36-1-153.7, C.R.S.

12 **SECTION 9.** In Colorado Revised Statutes, 24-101-105, **amend**  
13 (1) (a) (VI) as follows:

14 **24-101-105. Application of this code - repeal.** (1) (a) This code  
15 shall apply to all publicly funded contracts entered into by all  
16 governmental bodies of the executive branch of this state; except that this  
17 code shall not apply to:

18 (VI) The state board of land commissioners in connection with  
19 contract expenditures from the state board of land commissioners  
20 investment and development fund created in section 36-1-153 (1), C.R.S.,  
21 OR THE COMMERCIAL REAL PROPERTY OPERATING FUND CREATED IN  
22 SECTION 36-1-153.7, C.R.S.;

23 **SECTION 10. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.