

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

PREAMENDED

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

LLS NO. 13-0370.01 Esther van Mourik x4215

HOUSE BILL 13-1274

HOUSE SPONSORSHIP

Hullinghorst,

SENATE SPONSORSHIP

Kerr,

House Committees

Finance
Appropriations

Senate Committees

Local Government
Appropriations

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.**

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.*

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.

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.