

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0265.01 Esther van Mourik x4215

SENATE BILL 14-091

SENATE SPONSORSHIP

Renfroe, Baumgardner, Cadman, Grantham, Harvey, Lambert, Lundberg, Marble, Scheffel

HOUSE SPONSORSHIP

Wright,

Senate Committees
State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT THAT THE FEDERAL GOVERNMENT
102 TRANSFER TITLE TO ALL AGRICULTURAL PUBLIC LANDS TO THE
103 STATE.

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>.)

The bill requires the United States to cede or extinguish title to all agricultural public lands and transfer title to the state. The state board of land commissioners is required to manage such agricultural public lands in a way that produces reasonable and consistent income over time by

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.

1 (e) COLORADO IS NOT ON EQUAL FOOTING WITH THE ORIGINAL
2 STATES BECAUSE THERE IS A HIGHER PERCENTAGE OF FEDERAL LAND
3 OWNERSHIP IN COLORADO COMPARED TO THE ORIGINAL STATES;

4 (f) THE FEDERAL GOVERNMENT OWNS AN AVERAGE OF FIFTY-ONE
5 AND NINE-TENTHS PERCENT OF THE LAND IN THIRTEEN WESTERN STATES,
6 COMPARED TO FOUR AND ONE-TENTH PERCENT IN THE REMAINING STATES;

7 (g) AS PART OF THE EFFORT TO SET COLORADO ON EQUAL FOOTING
8 COMPARED TO THE ORIGINAL STATES, SECTION 12 OF COLORADO'S
9 ENABLING ACT PROVIDES THAT "FIVE PER CENTUM OF THE PROCEEDS OF
10 THE SALES OF AGRICULTURAL PUBLIC LANDS LYING WITHIN SAID STATE,
11 WHICH SHALL BE SOLD BY THE UNITED STATES SUBSEQUENT TO THE
12 ADMISSION OF SAID STATE INTO THE UNION, AFTER DEDUCTING ALL THE
13 EXPENSES INCIDENT TO THE SAME, SHALL BE PAID TO THE SAID STATE FOR
14 THE PURPOSE OF MAKING SUCH INTERNAL IMPROVEMENTS WITHIN SAID
15 STATE AS THE LEGISLATURE THEREOF MAY DIRECT; PROVIDED, THAT THIS
16 SECTION SHALL NOT APPLY TO ANY LANDS DISPOSED OF UNDER THE
17 HOMESTEAD LAWS OF THE UNITED STATES, OR TO ANY LANDS NOW OR
18 HEREAFTER RESERVED FOR PUBLIC OR OTHER USES.";

19 (h) A 1934 FEDERAL LAW REGARDING GRAZING DISTRICTS SET
20 FORTH THE ASSUMPTION THAT THESE LANDS WOULD ULTIMATELY BE
21 DISPOSED OF BY THE UNITED STATES;

22 (i) THE ENABLING ACT WAS CONSIDERED A SOLEMN TRUST
23 OBLIGATION BUT THE LANDS WERE NEVER SOLD BY THE UNITED STATES;
24 AND

25 (j) IN 1976, CONGRESS CHANGED THESE TERMS WITH THE
26 "FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976", WHICH
27 DECLARED PUBLIC LANDS BE RETAINED IN FEDERAL OWNERSHIP UNLESS

1 DISPOSAL OF A PARTICULAR PARCEL WILL SERVE THE NATIONAL INTEREST.
2 THIS CHANGE IN TERMS IS SEEN AS AN ABANDONMENT OF THE SOLEMN
3 TRUST OBLIGATION AND RESULTED IN AN ESTIMATED FOURTEEN MILLION
4 DOLLAR LOSS IN PUBLIC EDUCATION FUNDING FOR WESTERN STATES.

5 (2) THE GENERAL ASSEMBLY HEREBY FURTHER FINDS AND
6 DECLARES THAT:

7 (a) COLORADO MAY NOT ASSESS PROPERTY TAXES ON FEDERAL
8 LANDS. THE ESTIMATED ANNUAL IMPACT OF THIS PROPERTY TAX
9 PROHIBITION ON ALL WESTERN LANDS IS OVER FOUR BILLION DOLLARS.

10 (b) PUBLIC EDUCATION RELIES HEAVILY ON STATE AND LOCAL
11 PROPERTY TAX REVENUES;

12 (c) COLORADO'S INABILITY TO PROPERLY FUND EDUCATION IS
13 DIRECTLY RELATED TO THE HIGH LEVEL OF FEDERAL LAND OWNERSHIP IN
14 THE STATE;

15 (d) ON MAY 13, 2004, THE COLORADO STATE BOARD OF
16 EDUCATION ADOPTED A RESOLUTION THAT ENDORSES AN INITIATIVE
17 SEEKING JUST COMPENSATION FROM THE FEDERAL GOVERNMENT FOR THE
18 IMPACT ITS OWNERSHIP OF LANDS WITHIN WESTERN STATES HAS ON THE
19 ABILITY OF THE STATE TO FUND PUBLIC EDUCATION; AND

20 (e) IN THIS ERA OF ECONOMIC UNCERTAINTY, COLORADO MUST
21 HOLD THE UNITED STATES TO ITS EARLIER TRUST AGREEMENT TO SELL ITS
22 AGRICULTURAL PUBLIC LANDS.

23 **24-19.6-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "AGRICULTURAL PUBLIC LAND" MEANS LAND WITHIN THE
26 BOUNDARIES OF THE STATE THAT IS USED OR COULD BE USED FOR
27 AGRICULTURE, EXCEPT:

1 (a) LAND TO WHICH TITLE IS HELD BY ANY INDIVIDUAL,
2 CORPORATION, BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY
3 COMPANY, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY NOT
4 INCLUDING A STATE OR LOCAL GOVERNMENT OR GOVERNMENTAL
5 SUBDIVISION OR AGENCY;

6 (b) LAND TO WHICH TITLE IS HELD IN TRUST BY THE STATE, A
7 POLITICAL SUBDIVISION OF THE STATE, OR AN INDEPENDENT ENTITY,
8 INCLUDING ALL LAND OWNED AND MANAGED BY THE STATE BOARD OF
9 LAND COMMISSIONERS;

10 (c) NATIONAL PARKS;

11 (d) LAND USED FOR MILITARY PURPOSES; AND

12 (e) LAND BELONGING TO AN INDIAN RESERVATION OR INDIAN
13 TRIBE, BAND, OR COMMUNITY THAT IS HELD IN TRUST BY THE UNITED
14 STATES OR IS SUBJECT TO A RESTRICTION AGAINST ALIENATION IMPOSED
15 BY THE UNITED STATES.

16 (2) "AGRICULTURE" HAS THE SAME MEANING AS SET FORTH IN
17 SECTION 35-1-102 (1), C.R.S.

18 (3) "INTERNAL IMPROVEMENT" MEANS AN IMPROVEMENT LOCATED
19 WITHIN THE STATE OF A FIXED AND PERMANENT NATURE, SUCH AS REAL
20 PROPERTY. AN "INTERNAL IMPROVEMENT" SHALL BE DESIGNED AND
21 INTENDED FOR THE BENEFIT OF THE PUBLIC. "INTERNAL IMPROVEMENT"
22 DOES NOT INCLUDE ANY CAPITAL CONSTRUCTION COSTS ASSOCIATED WITH
23 THE STATE CAPITOL, A STATE INSTITUTION OF HIGHER EDUCATION, A STATE
24 CORRECTIONS FACILITY, OR SUCH SIMILAR FACILITY FOR PUBLIC
25 EDUCATION, THE PREVENTION OF CRIME, OR THE PRESERVATION OF THE
26 PUBLIC HEALTH, AND DOES NOT INCLUDE THE GENERAL DEFRAYING OF THE
27 EXPENSES RELATED TO SUCH FACILITIES.

1 (4) "NET PROCEEDS" MEANS THE PROCEEDS FROM THE SALE OF
2 AGRICULTURAL PUBLIC LANDS, AFTER SUBTRACTING EXPENSES INCIDENT
3 TO THE SALE OF THE AGRICULTURAL PUBLIC LANDS.

4 **24-19.6-103. Ceding of or extinguishing title to agricultural**
5 **public lands - internal improvements trust fund - creation.** (1) ON OR
6 BEFORE DECEMBER 31, 2015, IN ORDER TO EFFECTUATE SECTION 12 OF
7 THE STATE'S ENABLING ACT AND TO PLACE THE STATE ON AN EQUAL
8 FOOTING WITH THE ORIGINAL STATES IN THE UNION IN ALL RESPECTS
9 WHATSOEVER, THE UNITED STATES SHALL CEDE OR EXTINGUISH TITLE TO
10 ALL AGRICULTURAL PUBLIC LANDS AND TRANSFER TITLE TO THE STATE OF
11 COLORADO.

12 (2) THE STATE BOARD OF LAND COMMISSIONERS SHALL MANAGE
13 SUCH AGRICULTURAL PUBLIC LANDS TO PROVIDE FOR THE PRUDENT
14 PROTECTION, SALE, EXCHANGE, OR OTHER DISPOSITION OF SUCH
15 AGRICULTURAL PUBLIC LANDS IN ORDER TO PRODUCE REASONABLE AND
16 CONSISTENT INCOME OVER TIME. IN THE EVENT THE STATE BOARD OF LAND
17 COMMISSIONERS SELLS ANY OF THE AGRICULTURAL PUBLIC LANDS, THE
18 UNITED STATES IS ENTITLED TO NINETY-FIVE PERCENT OF THE NET
19 PROCEEDS OF THE SALE OF SUCH AGRICULTURAL PUBLIC LANDS. THE
20 REMAINING FIVE PERCENT OF THE NET PROCEEDS IS CREDITED TO THE
21 INTERNAL IMPROVEMENTS TRUST FUND, WHICH IS HEREBY CREATED IN THE
22 STATE TREASURY. THE TRUST FUND MUST REMAIN INVIOLEATE AND INTACT;
23 ONLY THE INTEREST AND INCOME EARNED ON THE DEPOSIT AND
24 INVESTMENT OF MONEYS IN THE TRUST FUND MAY BE EXPENDED AND USED
25 SOLELY FOR THE PURPOSES DESCRIBED IN THIS SUBSECTION (2). ALL
26 UNEXPENDED AND UNENCUMBERED MONEYS IN THE TRUST FUND MUST
27 REMAIN IN THE TRUST FUND AND MAY NOT REVERT TO THE GENERAL FUND

1 OR ANY OTHER FUND AT THE END OF A FISCAL YEAR. FIFTY PERCENT OF
2 THE INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF
3 MONEYS IN THE TRUST FUND IS ANNUALLY CREDITED TO THE STATE
4 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE
5 STATE CONSTITUTION, AND THE REMAINING FIFTY PERCENT OF THE
6 INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF
7 MONEYS IN THE TRUST FUND MAY BE APPROPRIATED BY THE GENERAL
8 ASSEMBLY FOR WATER STORAGE PROJECTS RECOMMENDED BY THE
9 COLORADO WATER CONSERVATION BOARD CREATED IN SECTION
10 37-60-102, C.R.S.

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2014 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.