A BILL FOR AN ACT

CONCERNING THE REQUIREMENT THAT THE FEDERAL GOVERNMENT TRANSFER TITLE TO ALL AGRICULTURAL PUBLIC LANDS TO THE 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.
prudently protecting, selling, exchanging, or otherwise disposing of such agricultural public lands. In the event the state board of land commissioners sells agricultural public lands, the United States is entitled to receive 95% of the net proceeds of the sale. The remaining 5% is credited to the internal improvements trust fund. The trust fund is to remain inviolate and intact and only the interest and income earned on the deposit and investment of moneys in the trust fund may be expended and used as follows: 50% is to be credited to the state education fund and 50% may be appropriated by the general assembly for water storage projects recommended by the Colorado water conservation board.

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

SECTION 1. In Colorado Revised Statutes, add article 19.6 to title 24 as follows:

ARTICLE 19.6

Directive to Federal Government -

Ceding of or Extinguishing Title to Agricultural Public Lands

24-19.6-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) A state enabling act is a congressional act that admits a state into the union and outlines the agreements related to admission;

(b) Colorado's enabling act was approved on March 3, 1875;

(c) A recurring theme throughout Colorado's enabling act is that Colorado was to be admitted to the union on equal footing with the original states in all respects whatsoever;

(d) President Ulysses S. Grant's proclamation admitting Colorado into the union on August 1, 1876, also mentions the admission of Colorado on an equal footing with the original states;
(e) Colorado is not on equal footing with the original states because there is a higher percentage of federal land ownership in Colorado compared to the original states;

(f) The federal government owns an average of fifty-one and nine-tenths percent of the land in thirteen western states, compared to four and one-tenth percent in the remaining states;

(g) As part of the effort to set Colorado on equal footing compared to the original states, section 12 of Colorado's enabling act provides that "five per centum of the proceeds of the sales of agricultural public lands lying within said state, which shall be sold by the United States subsequent to the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to the said state for the purpose of making such internal improvements within said state as the legislature thereof may direct; provided, that this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses."

(h) A 1934 federal law regarding grazing districts set forth the assumption that these lands would ultimately be disposed of by the United States;

(i) The enabling act was considered a solemn trust obligation but the lands were never sold by the United States;

(j) In 1976, Congress changed these terms with the "Federal Land Policy and Management Act of 1976", which declared public lands be retained in federal ownership unless
DISPOSAL OF A PARTICULAR PARCEL WILL SERVE THE NATIONAL INTEREST.

This change in terms is seen as an abandonment of the solemn trust obligation and resulted in an estimated fourteen million dollar loss in public education funding for Western states.

(2) The General Assembly hereby further finds and declares that:

(a) Colorado may not assess property taxes on federal lands. The estimated annual impact of this property tax prohibition on all Western lands is over four billion dollars.

(b) Public education relies heavily on state and local property tax revenues;

(c) Colorado's inability to properly fund education is directly related to the high level of federal land ownership in the state;

(d) On May 13, 2004, the Colorado State Board of Education adopted a resolution that endorses an initiative seeking just compensation from the Federal Government for the impact its ownership of lands within Western states has on the ability of the State to fund public education; and

(e) In this era of economic uncertainty, Colorado must hold the United States to its earlier trust agreement to sell its agricultural public lands.

24-19.6-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agricultural public land" means land within the boundaries of the state that is used or could be used for agriculture, except:
(a) Land to which title is held by any individual, corporation, business trust, estate, trust, limited liability company, partnership, association, or other legal entity not including a state or local government or governmental subdivision or agency;

(b) Land to which title is held in trust by the state, a political subdivision of the state, or an independent entity, including all land owned and managed by the state board of land commissioners;

(c) National parks;

(d) Land used for military purposes; and

(e) Land belonging to an Indian reservation or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(2) "Agriculture" has the same meaning as set forth in section 35-1-102 (1), C.R.S.

(3) "Internal improvement" means an improvement located within the state of a fixed and permanent nature, such as real property. An "internal improvement" shall be designed and intended for the benefit of the public. "Internal improvement" does not include any capital construction costs associated with the state capitol, a state institution of higher education, a state corrections facility, or such similar facility for public education, the prevention of crime, or the preservation of the public health, and does not include the general defraying of the expenses related to such facilities.
"Net proceeds" means the proceeds from the sale of agricultural public lands, after subtracting expenses incident to the sale of the agricultural public lands.

24-19.6-103. Ceding of or extinguishing title to agricultural public lands - internal improvements trust fund - creation. (1) On or before December 31, 2015, in order to effectuate Section 12 of the State's enabling act and to place the state on an equal footing with the original states in the union in all respects whatsoever, the United States shall cede or extinguish title to all agricultural public lands and transfer title to the state of Colorado.

(2) The state board of land commissioners shall manage such agricultural public lands to provide for the prudent protection, sale, exchange, or other disposition of such agricultural public lands in order to produce reasonable and consistent income over time. In the event the state board of land commissioners sells any of the agricultural public lands, the United States is entitled to ninety-five percent of the net proceeds of the sale of such agricultural public lands. The remaining five percent of the net proceeds is credited to the internal improvements trust fund, which is hereby created in the state treasury. The trust fund must remain inviolate and intact; only the interest and income earned on the deposit and investment of moneys in the trust fund may be expended and used solely for the purposes described in this subsection (2). All unexpended and unencumbered moneys in the trust fund must remain in the trust fund and may not revert to the general fund.
OR ANY OTHER FUND AT THE END OF A FISCAL YEAR. FIFTY PERCENT OF
THE INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF
MONEYS IN THE TRUST FUND IS ANNUALLY CREDITED TO THE STATE
EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE
STATE CONSTITUTION, AND THE REMAINING FIFTY PERCENT OF THE
INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF
MONEYS IN THE TRUST FUND MAY BE APPROPRIATED BY THE GENERAL
ASSEMBLY FOR WATER STORAGE PROJECTS RECOMMENDED BY THE
COLORADO WATER CONSERVATION BOARD CREATED IN SECTION
37-60-102, C.R.S.

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