

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0370.01 Esther van Mourik x4215

HOUSE BILL 13-1274

HOUSE SPONSORSHIP

Hullingerhorst,

SENATE SPONSORSHIP

Kerr,

House Committees
Finance

Senate Committees

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.

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 (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 INLAND, 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 FIRST FROM COMMERCIAL REAL
14 PROPERTY REVENUES, SECOND FROM THE RESERVE ESTABLISHED IN THE
15 STATE BOARD OF LAND COMMISSIONERS LEASE-PURCHASE FUND, AND, IN
16 THE EVENT OF ANY SHORTFALL, FROM THE STATE BOARD OF LAND
17 COMMISSIONERS INVESTMENT AND DEVELOPMENT FUND.

18 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-82-801,
19 C.R.S., THE STATE BOARD OF LAND COMMISSIONERS MAY INSTRUCT THE
20 STATE TREASURER TO ENTER INTO LEASE-PURCHASE AGREEMENTS ON
21 BEHALF OF THE STATE SCHOOL LANDS FOR THE ACQUISITION,
22 CONSTRUCTION, RENOVATION, AND IMPROVEMENT OF COMMERCIAL REAL
23 PROPERTY THAT THE BOARD WILL THEN OFFER AS LEASE SPACE FOR STATE
24 AGENCIES OR OTHER TENANTS. THE STATE TREASURER SHALL ISSUE THE
25 LEASE-PURCHASE AGREEMENTS AS SPECIFIED IN SECTION 24-36-121,
26 C.R.S.

27 (3) (a) PRIOR TO INSTRUCTING THE STATE TREASURER TO ENTER

1 INTO A LEASE-PURCHASE AGREEMENT PURSUANT TO SUBSECTION (2) OF
2 THIS SECTION, IN ORDER TO ENSURE THE FINANCIAL VIABILITY OF EACH
3 PROJECT THAT IS THE SUBJECT OF SUCH A LEASE-PURCHASE AGREEMENT,
4 THE STATE BOARD OF LAND COMMISSIONERS SHALL:

5 (I) REVIEW THE LEASED SPACE NEEDS FOR STATE AGENCIES WITH
6 THE DEPARTMENT OF PERSONNEL;

7 (II) IF RELATED TO CAPITOL COMPLEX LEASED SPACE NEEDS, WITH
8 THE ASSISTANCE OF THE DEPARTMENT OF PERSONNEL AND THE OFFICE OF
9 STATE PLANNING AND BUDGETING, EVALUATE THE PROJECT AGAINST THE
10 CAPITOL COMPLEX MASTER PLAN;

11 (III) PRESENT TO THE OFFICE OF STATE PLANNING AND BUDGETING
12 AND THE DEPARTMENT OF PERSONNEL A FINANCIAL PLAN FOR THE
13 PROPOSED LEASE-PURCHASE AGREEMENT; AND

14 (IV) NO LATER THAN SIXTY DAYS AFTER THE PRESENTATION OF
15 THE FINANCIAL PLAN AS SPECIFIED IN SUBPARAGRAPH (III) OF THIS
16 PARAGRAPH (a), THE CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL
17 ASSEMBLY ESTABLISHED IN SECTION 2-3-1302, C.R.S., SHALL REVIEW THE
18 FINANCIAL PLAN FOR THE PROPOSED LEASE-PURCHASE AGREEMENT AND
19 MAY MAKE ANY RECOMMENDATIONS TO THE STATE BOARD.

20 (b) FOR PURPOSES OF THIS SUBSECTION (3), A FINANCIAL PLAN
21 MUST INCLUDE ALL NECESSARY PARAMETERS OF THE LEASE-PURCHASE
22 AGREEMENT, INCLUDING BUT NOT LIMITED TO LEASED SPACE NEEDS,
23 SUBLEASING AGREEMENTS, INCOME, EXPENSES, CAPITAL MAINTENANCE
24 COSTS, INTEREST RATES, RESERVE REQUIREMENTS, AMORTIZATION,
25 EXPECTED RETURN ON INVESTMENT, AND OVERALL BENEFIT TO THE
26 PERMANENT SCHOOL FUND AS RELATED TO THE STATE BOARD'S DUTIES
27 ENUMERATED IN SECTION 10 OF ARTICLE IX OF THE STATE CONSTITUTION.

1 THE FINANCIAL PLAN MUST INCLUDE ANY OTHER FINANCIAL
2 CONSIDERATION THAT THE OFFICE OF STATE PLANNING AND BUDGETING,
3 THE DEPARTMENT OF PERSONNEL, OR THE CAPITAL DEVELOPMENT
4 COMMITTEE MIGHT REQUEST AFTER THEIR REVIEW OF THE FINANCIAL
5 PLAN. THE STATE BOARD MAY UTILIZE THE SERVICES OF THE STATE'S
6 FINANCIAL ADVISORS IN ORDER TO PREPARE THE FINANCIAL PLAN.

7 (c) THE STATE BOARD SHALL ADOPT A POLICY THAT AT MINIMUM
8 SPECIFIES THAT LEASED SPACE IS AVAILABLE TO A STATE AGENCY
9 THROUGH THE APPLICATION OF THIS SECTION WHEN SUCH A LEASED SPACE
10 ARRANGEMENT IS MUTUALLY BENEFICIAL TO THE STATE BOARD AND THE
11 STATE AGENCY SEEKING TO LEASE SPACE.

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

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

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

26 (b) THE TERM OF ANY LEASE-PURCHASE AGREEMENT ENTERED
27 INTO BY THE STATE TREASURER AS INSTRUCTED BY THE STATE BOARD

1 PURSUANT TO THIS SECTION MAY NOT EXCEED TWENTY-FIVE YEARS.

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

14 (6) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE
15 TREASURER ON BEHALF OF THE STATE BOARD PURSUANT TO THIS SECTION
16 MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE STATE
17 TREASURER DEEMS APPROPRIATE. THE PROVISIONS SHALL ALLOW THE
18 BOARD, ON BEHALF OF THE SCHOOL LAND TRUST, TO RECEIVE TITLE TO THE
19 COMMERCIAL REAL PROPERTY THAT IS THE SUBJECT OF THE AGREEMENT
20 ON OR PRIOR TO THE EXPIRATION OF THE ENTIRE TERM OF THE
21 AGREEMENT, INCLUDING ALL OPTIONAL RENEWAL TERMS. SUCH
22 LEASE-PURCHASE AGREEMENT MAY FURTHER PROVIDE FOR THE ISSUANCE,
23 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
24 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
25 THE AGREEMENT. SUCH INSTRUMENTS SHALL NOT BE NOTES, BONDS, OR
26 ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE STATE WITHIN THE
27 MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS

1 OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS
2 BY THE STATE. INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT,
3 INCLUDING INTEREST REPRESENTED BY SUCH INSTRUMENTS, IS EXEMPT
4 FROM COLORADO INCOME TAX.

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

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

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

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

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

24 (c) MONEYS IN THE STATE BOARD OF LAND COMMISSIONERS
25 LEASE-PURCHASE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO
26 THE STATE BOARD FOR THE PURPOSE OF PAYING COSTS ASSOCIATED WITH
27 LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO THIS

1 SECTION; EXCEPT THAT THE USE OF ANY FUND MONEYS TO MAKE LEASE OR
2 OTHER PAYMENTS REQUIRED BY LEASE-PURCHASE AGREEMENTS ENTERED
3 INTO PURSUANT TO THIS SECTION IS SUBJECT TO ANNUAL APPROPRIATION
4 BY THE GENERAL ASSEMBLY.

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 SIX MONTHS AFTER THE ISSUANCE OF EACH
11 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 IN ORDER
25 TO MAKE AN ANNUAL PAYMENT ON A LEASE-PURCHASE AGREEMENT THAT
26 THE STATE BOARD INSTRUCTED THE STATE TREASURER TO ENTER INTO AS
27 ALLOWED IN SECTION 36-1-118.5, AND, NO LATER THAN THIRTY DAYS

1 AFTER RECEIPT OF SUCH NOTIFICATION, THE STATE TREASURER SHALL
2 TRANSFER SUCH SUM TO THE STATE BOARD OF LAND COMMISSIONERS
3 LEASE-PURCHASE FUND CREATED IN SECTION 36-1-118.5 (7).

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

6 **36-1-153.7. Commercial real property - commercial real**
7 **property operating fund - created.** (1) (a) THE COMMERCIAL REAL
8 PROPERTY OPERATING FUND, REFERRED TO IN THIS SECTION AS THE
9 "FUND", IS HEREBY CREATED IN THE STATE TREASURY AND CONSISTS OF
10 ALL LEASE INCOME EARNED BY THE STATE BOARD OF LAND
11 COMMISSIONERS FROM COMMERCIAL REAL PROPERTY. THE STATE BOARD
12 OF LAND COMMISSIONERS SHALL CONTROL AND ADMINISTER THE FUND.
13 THE STATE CONTROLLER SHALL, IN COOPERATION WITH THE STATE BOARD
14 OF LAND COMMISSIONERS AND THE STATE TREASURER, ESTABLISH
15 ACCOUNTS IN THE FUND AS NECESSARY TO ENSURE THE PROPER
16 ACCOUNTING FOR ALL COMMERCIAL REAL PROPERTY THAT THE STATE
17 BOARD OF LAND COMMISSIONERS OWNS AND LEASES TO THIRD PARTIES.
18 EACH ACCOUNT MUST CONSIST OF LEASE REVENUE, NOT INCLUDING ANY
19 DAMAGE DEPOSITS AS ALLOWED IN SECTION 36-1-129, FOR THE
20 COMMERCIAL REAL PROPERTY AS SEPARATED BY TRUST AND MUST
21 ACCOUNT FOR ALL EXPENSES FOR THE COMMERCIAL REAL PROPERTY HELD
22 BY EACH TRUST. MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED
23 TO THE STATE BOARD OF LAND COMMISSIONERS AND MAY BE USED TO
24 MAKE ANNUAL PAYMENTS ON ANY LEASE-PURCHASE AGREEMENTS THE
25 STATE BOARD INSTRUCTED THE STATE TREASURER TO ENTER INTO AS
26 ALLOWED IN SECTION 36-1-118.5, TO CONTRACT FOR THE SERVICES OF A
27 THIRD-PARTY PROPERTY MANAGEMENT FIRM AS SPECIFIED IN SUBSECTION

1 (2) OF THIS SECTION, AND FOR ANY OTHER ASSOCIATED PROPERTY
2 MANAGEMENT AND OPERATING COSTS. THE STATE BOARD OF LAND
3 COMMISSIONERS SHALL NOTIFY THE STATE TREASURER IN WRITING OF THE
4 AMOUNT THAT NEEDS TO BE TRANSFERRED FROM THE FUND IN ORDER TO
5 MAKE AN ANNUAL PAYMENT ON A LEASE-PURCHASE AGREEMENT THAT
6 THE STATE BOARD INSTRUCTED THE STATE TREASURER TO ENTER INTO AS
7 ALLOWED IN SECTION 36-1-118.5, AND, NO LATER THAN THIRTY DAYS
8 AFTER RECEIPT OF SUCH NOTIFICATION, THE STATE TREASURER SHALL
9 TRANSFER SUCH SUM TO THE STATE BOARD OF LAND COMMISSIONERS
10 LEASE-PURCHASE FUND CREATED IN SECTION 36-1-118.5 (7). ALL
11 UNENCUMBERED AND UNEXPENDED MONEYS IN THE FUND AT THE END OF
12 EACH QUARTER IN EACH FISCAL YEAR IS DISTRIBUTED AS SPECIFIED IN
13 SECTION 36-1-116.

14 (b) THE STATE CONTROLLER SHALL AUTHORIZE DISBURSEMENTS
15 FROM THE FUND AS DIRECTED BY THE STATE BOARD OF LAND
16 COMMISSIONERS ON RECEIPT OF A VOUCHER FROM THE STATE BOARD
17 STATING THAT THE DISBURSEMENT IS TO ACCOMPLISH A PURPOSE SET
18 FORTH IN SUBSECTION (2) OF THIS SECTION.

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

26 (b) THE TERM OF ANY CONTRACT WITH A THIRD-PARTY PROPERTY
27 MANAGEMENT FIRM THAT THE STATE BOARD OF LAND COMMISSIONERS

1 ENTERS INTO PURSUANT TO THIS SUBSECTION (2) MAY NOT EXCEED THREE
2 YEARS WITH AN OPTION TO RENEW FOR ONE ADDITIONAL YEAR.

3 (c) ANY PROCUREMENTS MADE BY THE THIRD-PARTY
4 MANAGEMENT FIRM ON BEHALF OF THE STATE BOARD OF LAND
5 COMMISSIONERS FOR THE MANAGEMENT OF COMMERCIAL REAL PROPERTY
6 BY THE THIRD-PARTY MANAGEMENT FIRM AUTHORIZED IN THIS
7 SUBSECTION (2) ARE EXEMPT FROM THE "PROCUREMENT CODE", ARTICLES
8 101 TO 112 OF TITLE 24, C.R.S.

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

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

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

1 **24-30-1403. Professional services - listings - preliminary**
2 **selections.** (2) (b) The requirements of paragraph (a) of this subsection
3 (2) shall not apply to the state board of land commissioners, established
4 in article 1 of title 36, C.R.S., in connection with contract expenditures
5 from the state board of land commissioners investment and development
6 fund created in section 36-1-153, C.R.S., OR THE COMMERCIAL REAL
7 PROPERTY OPERATING FUND CREATED IN SECTION 36-1-153.7, C.R.S.

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

10 **24-30-1404. Contracts.** (7) (g) This subsection (7) shall not
11 apply to:

12 (II) The state board of land commissioners, established in article
13 1 of title 36, C.R.S., in connection with contract expenditures from the
14 state board of land commissioners investment and development fund
15 created in section 36-1-153, C.R.S., OR THE COMMERCIAL REAL PROPERTY
16 OPERATING FUND CREATED IN SECTION 36-1-153.7, C.R.S.

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

19 **24-101-105. Application of this code - repeal.** (1) (a) This code
20 shall apply to all publicly funded contracts entered into by all
21 governmental bodies of the executive branch of this state; except that this
22 code shall not apply to:

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

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