

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 22-130

BY SENATOR(S) Rankin and Hansen, Bridges, Buckner, Cooke, Donovan, Ginal, Gonzales, Jaquez Lewis, Kolker, Lee, Zenzinger;
also REPRESENTATIVE(S) McCluskie, Bennett, Lindsay, Lontine, McLachlan, Michaelson Jenet, Ricks, Tipper, Titone.

CONCERNING THE AUTHORITY FOR STATE PUBLIC ENTITIES TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIPS FOR PUBLIC PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Department of labor and employment authority to dispose of real property. (1) The state of Colorado, acting by and through the division of employment and training in the department of labor and employment, is authorized to dispose of real property with the following legal description: "Lot 13, 14, 15, 16, 17, 18, 19, 20, 21 BLOCK 3 FRISCO TOWN SUB, County of Summit, State of Colorado."

(2) The capital development committee, the state controller, and the office of the state architect must approve all agreements relating to the disposition of the real property prior to closing.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) The proceeds of the disposition of the real property described in subsection (1) of this section must be credited to the employment support fund created in section 8-77-109, Colorado Revised Statutes, to be used for the future improvement of buildings used by the department of labor and employment.

SECTION 2. In Colorado Revised Statutes, **add** article 94 to title 24 as follows:

ARTICLE 94

Public-private Partnerships for State Public Entities

24-94-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) PUBLIC-PRIVATE PARTNERSHIPS ARE AN EFFECTIVE TOOL TO LEVERAGE THE EXPERTISE AND RESOURCES OF BOTH THE PUBLIC AND PRIVATE SECTORS TO ACCOMMODATE MULTIFACETED SOCIAL INFRASTRUCTURE AND OPERATIONAL NEEDS;

(b) PUBLIC-PRIVATE PARTNERSHIPS HAVE A PROVEN TRACK RECORD OF ENABLING PUBLIC PROJECTS TO BE COMPLETED ON TIME AND AT A LOWER COST THAN EITHER THE PUBLIC OR PRIVATE SECTORS ARE ABLE TO ACHIEVE ALONE;

(c) DELIVERING PUBLIC PROJECTS THROUGH PUBLIC-PRIVATE PARTNERSHIPS IS AN EFFECTIVE MODEL TO ACCOMMODATE SOME OF OUR STATE'S MOST PRESSING AND FOUNDATIONAL NEEDS, SUCH AS INCREASED BEHAVIORAL HEALTH CAPACITY, BROADBAND DEPLOYMENT, AFFORDABLE HOUSING DEVELOPMENT, AND CHILD CARE SERVICES;

(d) THE COVID-19 PANDEMIC FORCED THE CLOSURE OF MANY CHILD CARE FACILITIES AND CLASSROOMS, EXACERBATING A CHILD CARE SHORTAGE THAT FORCED MANY PARENTS TO COMPROMISE BETWEEN WORK AND FAMILY LIFE; AND

(e) COLORADO FAMILIES HAVE LONG STRUGGLED WITH THE COST OF CHILD CARE AND IT REMAINS ONE OF THE PRIMARY BARRIERS TO FULL PARTICIPATION IN THE WORKFORCE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS THE INTENT OF THIS ARTICLE 94 TO PERMIT STATE PUBLIC ENTITIES TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIPS TO:

(a) DEVELOP, BUILD, FINANCE, OPERATE, AND MAINTAIN QUALITY, COST-EFFECTIVE PUBLIC PROJECTS THAT PROVIDE ECONOMIC AND SOCIAL VALUE;

(b) PROVIDE A WELL-DEFINED AND TRANSPARENT PROCESS TO FACILITATE COLLABORATION BETWEEN STATE PUBLIC ENTITIES AND PRIVATE PARTNERS WHILE ENABLING ACCESS TO PRIVATE CAPITAL;

(c) BRING INNOVATIVE THINKING AND APPROACHES TO PUBLIC PROJECTS;

(d) REDUCE TOTAL LIFE-CYCLE COSTS OF PUBLIC PROJECTS; AND

(e) ALLOW FOR COST, RISK, AND BENEFIT SHARING BETWEEN PUBLIC AND PRIVATE PARTNERS.

24-94-102. Definitions. AS USED IN THIS ARTICLE 94, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF PERSONNEL.

(2) "DEVELOP" MEANS TO PLAN, DESIGN, DEVELOP, BUILD, ESTABLISH, FINANCE, LEASE, ACQUIRE, INSTALL, CONSTRUCT, RECONSTRUCT, OR EXPAND A PUBLIC PROJECT.

(3) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(4) "FINANCE" MEANS THE SUPPLY BY A PRIVATE PARTNER OF RESOURCES TO ACCOMPLISH ALL OR ANY PART OF THE WORK OR SERVICES FOR A PUBLIC PROJECT, INCLUDING FUNDS, FINANCING, INCOME, REVENUE, COST SHARING, TECHNOLOGY, PERSONNEL, EQUIPMENT, EXPERTISE, DATA, OR ENGINEERING, CONSTRUCTION, OR MAINTENANCE SERVICES.

(5) "OPERATE" MEANS TO FINANCE, OPERATE, MAINTAIN, IMPROVE, EQUIP, MODIFY, REPAIR, OR ADMINISTER A PUBLIC PROJECT.

(6) "PRIVATE PARTNER" MEANS ANY NATURAL PERSON, CORPORATION, GENERAL PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, JOINT VENTURE, BUSINESS TRUST, PUBLIC BENEFIT CORPORATION, NONPROFIT ENTITY, LOCAL GOVERNMENT, OTHER PRIVATE BUSINESS ENTITY, OR ANY COMBINATION THEREOF.

(7) "PUBLIC-PRIVATE AGREEMENT" MEANS ANY AGREEMENT BETWEEN ONE OR MORE PRIVATE PARTNERS AND ONE OR MORE STATE PUBLIC ENTITIES THAT CONTRACTUALLY PROVIDES FOR THE RESPONSIBILITIES OF ALL PARTIES IN NEGOTIATING, DEVELOPING, OR OPERATING ANY ASPECT OF A PROPOSED OR APPROVED PUBLIC PROJECT OR FINANCED PURCHASED OF AN ASSET. "PUBLIC-PRIVATE AGREEMENT" DOES NOT MEAN A GRANT OR INCENTIVE PROGRAM ESTABLISHED IN ANOTHER PROVISION OF LAW OR AN AGREEMENT APPROVED BY THE ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO PARTS 1 AND 3 OF ARTICLE 46 OF THIS TITLE 24.

(8) "PUBLIC-PRIVATE PARTNERSHIP" MEANS AN AGREEMENT BETWEEN ONE OR MORE STATE PUBLIC ENTITIES AND ONE OR MORE PRIVATE PARTNERS BY WHICH A STATE PUBLIC ENTITY MAY ALLOCATE RESPONSIBILITY OR RISK TO A PRIVATE PARTNER TO DEVELOP OR OPERATE A PUBLIC PROJECT AND, IN RETURN, THE PRIVATE PARTNER MAY RECEIVE THE RIGHT TO ALL OR A PORTION OF FEES GENERATED BY THE PUBLIC PROJECT, AVAILABILITY PAYMENTS MADE BY THE STATE PUBLIC ENTITY, OTHER PUBLIC MONEY, OR ANY OTHER LEGALLY AVAILABLE CONSIDERATION. A PUBLIC-PRIVATE PARTNERSHIP DOES NOT CONFER ONTO THE RELATIONSHIP FORMED ANY OF THE ATTRIBUTES OR INCIDENTS OF A PARTNERSHIP PURSUANT TO SECTION 7-60-106 OR THE COMMON LAW. "PUBLIC-PRIVATE PARTNERSHIP" DOES NOT MEAN ANY GRANT OR INCENTIVE PROGRAM ESTABLISHED BY ANOTHER PROVISION OF LAW OR AGREEMENTS THAT ARE APPROVED BY THE ECONOMIC DEVELOPMENT COMMISSION, INCLUDING BUT NOT LIMITED TO GRANT OR INCENTIVE PROGRAMS DESCRIBED IN PARTS 1 AND 3 OF ARTICLE 46 OF THIS TITLE 24.

(9) "PUBLIC PROJECT" MEANS ANY CONSTRUCTION, ALTERATION, REPAIR, DEMOLITION, OR IMPROVEMENT OF ANY STATE-OWNED LAND, BUILDING, STRUCTURE, FACILITY, ASSET, OR OTHER PUBLIC IMPROVEMENT SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC HEALTH, WELFARE, OR SAFETY, AND ANY MAINTENANCE PROGRAMS FOR THE UPKEEP OF SUCH PROJECTS SUBJECT TO PART 2 OF ARTICLE 92 OF THIS TITLE 24. "PUBLIC PROJECT" INCLUDES BUT IS NOT LIMITED TO A PROJECT FOR

CIVIC, CHILD CARE, MEDICAL, UTILITY, TELECOMMUNICATION, CULTURAL, RECREATIONAL, OR EDUCATIONAL FACILITIES OR SERVICES.

(10) "STATE PUBLIC ENTITY" MEANS ANY DEPARTMENT, AGENCY, OR SUBDIVISION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT; EXCEPT THAT "STATE PUBLIC ENTITY" DOES NOT INCLUDE STATE ENTITIES THAT HAVE SPECIFIC STATUTORY AUTHORITY TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIPS, INCLUDING BUT NOT LIMITED TO THE AUTHORITY SPECIFIED IN SECTIONS 23-3.1-301 (1), 23-3.1-306.5, 24-33.5-510, 26-6.9-102, 32-22-105 (1)(a)(VIII), 40-2-123, AND 43-4-806.

(11) "SUBCOMMITTEE" MEANS THE PUBLIC-PRIVATE PARTNERSHIP SUBCOMMITTEE OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102 (4).

(12) "UNIT" MEANS THE PUBLIC-PRIVATE COLLABORATION UNIT CREATED IN SECTION 24-94-103 (2).

24-94-103. Public-private partnerships - oversight of state public entities in the executive branch of state government. (1) WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE 94, THE EXECUTIVE DIRECTOR SHALL:

(a) CREATE REQUIREMENTS REGARDING THE AUTHORITY FOR STATE PUBLIC ENTITIES TO INITIATE REQUESTS FOR PROPOSALS OR BIDS OR TO REVIEW ANY PRIVATE PARTNER-INITIATED PROPOSALS FOR PUBLIC PROJECTS TO BE COMPLETED THROUGH PUBLIC-PRIVATE PARTNERSHIPS SUBJECT TO THE EXECUTIVE DIRECTOR'S APPROVAL PURSUANT TO SECTION 24-94-104(1). THE PROCESSES MAY INCLUDE, BUT NEED NOT LIMITED TO:

(I) COMPLETION OF ANALYSES REGARDING PERCEIVED ADVANTAGES, DISADVANTAGES, RISKS, BENEFITS, COSTS, AND VALUE-FOR-MONEY OF A PROPOSED PUBLIC-PRIVATE PARTNERSHIP;

(II) DOCUMENTED CONSIDERATIONS OF POTENTIAL FUNDING ALTERNATIVES, IMPACTS ON AFFECTED COMMUNITIES, AND THE SUITABILITY AND SCOPE OF A PROPOSED PUBLIC-PRIVATE PARTNERSHIP;

(III) DOCUMENTED CONSIDERATIONS OF THE ENTIRE LIFE CYCLE OF A PROPOSED PUBLIC-PRIVATE PARTNERSHIP, INCLUDING PLANNING, DESIGN,

ENGINEERING, CONSTRUCTION, REPAIR, MAINTENANCE, OPERATIONS, FINANCING, AND HANDOVER;

(IV) DUE DILIGENCE REQUIREMENTS; AND

(V) DEVELOPMENT OF ANY OTHER MATERIALS, ANALYSES, CONSIDERATIONS, REQUIREMENTS, OR REPORTS NECESSARY FOR THE EXECUTIVE DIRECTOR TO MAKE A DETERMINATION THAT THE PROPOSAL FOR A PUBLIC-PRIVATE PARTNERSHIP SERVES AN IMPORTANT SOCIAL OR ECONOMIC VALUE, INCLUDING BUT NOT LIMITED TO INCREASED BEHAVIORAL HEALTH CAPACITY, BROADBAND DEPLOYMENT, AFFORDABLE HOUSING DEVELOPMENT, CHILD CARE SERVICES, OR ANY OTHER PUBLIC BENEFIT.

(b) CREATE REQUIREMENTS REGARDING THE AUTHORITY FOR STATE PUBLIC ENTITIES TO EXECUTE PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS FOR PUBLIC PROJECTS SUBJECT TO THE EXECUTIVE DIRECTOR'S APPROVAL PURSUANT TO SECTION 24-94-104 (1). THE PROCESSES MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) ACCEPTABLE PROJECT DELIVERY METHODS, INCLUDING ALTERNATIVE DELIVERY METHODS, FOR AN APPROVED PUBLIC-PRIVATE PARTNERSHIP PROPOSAL;

(II) ACCEPTABLE FINANCING METHODS FOR AN APPROVED PUBLIC-PRIVATE PARTNERSHIP, INCLUDING BUT NOT LIMITED TO A PLEDGE OF, SECURITY OF, INTEREST IN, OR LIEN ON PROPERTY OR INTEREST IN PROPERTY, AND ANY AMOUNTS, TERMS, AND CONDITIONS TO BE INCLUDED IN PUBLIC-PRIVATE AGREEMENTS;

(III) REPORTING REQUIREMENTS FOR STATE PUBLIC ENTITIES AND PRIVATE PARTNERS THROUGHOUT THE LIFE CYCLE OF AN EXECUTIVE DIRECTOR-APPROVED PUBLIC-PRIVATE PARTNERSHIP;

(IV) POLICIES CONCERNING TRANSPARENCY AND TIMELY REPORTING;
AND

(V) DEVELOPING A FAIR, UNBIASED METHOD OF CHOOSING PROPOSALS BASED ON THE BEST INTERESTS OF THE STATE AND CONSIDERING FINANCIAL COSTS AND BENEFITS TO THE STATE AND PUBLIC PROJECT USERS.

(c) FURTHER DEFINE ANY RELEVANT TERMS IN THIS ARTICLE 94, INCLUDING BUT NOT LIMITED TO PUBLIC-PRIVATE PARTNERSHIP AND PUBLIC-PRIVATE AGREEMENT; AND

(d) DEVELOP COST THRESHOLDS FOR PUBLIC PROJECTS THAT QUALIFY AS A PUBLIC-PRIVATE PARTNERSHIP OR PUBLIC-PRIVATE AGREEMENT, WHICH MAY DEPEND ON THE TYPE OF PROJECT AND THE RESPONSIBLE STATE PUBLIC ENTITY.

(2) THERE IS HEREBY ESTABLISHED THE PUBLIC-PRIVATE COLLABORATION UNIT IN THE DEPARTMENT. THE UNIT SHALL:

(a) IN COORDINATION WITH RELEVANT STATE PUBLIC ENTITIES, IDENTIFY, PRIORITIZE, AND ADVANCE POTENTIAL PUBLIC PROJECTS THAT MAY BE BEST DELIVERED THROUGH A PUBLIC-PRIVATE PARTNERSHIP;

(b) FACILITATE COLLABORATION BETWEEN STATE PUBLIC ENTITIES AND PRIVATE PARTNERS IN CONNECTION WITH PUBLIC PROJECTS;

(c) PROVIDE TECHNICAL ASSISTANCE AND EXPERTISE TO STATE PUBLIC ENTITIES IN CONNECTION WITH ANY ASPECT OF PROPOSED OR APPROVED PUBLIC-PRIVATE PARTNERSHIPS, WHICH MAY INCLUDE ASSISTANCE WITH:

(I) SATISFYING THE REQUIREMENTS ESTABLISHED BY THE EXECUTIVE DIRECTOR IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION;

(II) PROJECT SCREENING, PLANNING, DEVELOPMENT, PROCUREMENT, OPERATIONS, AND MANAGEMENT; AND

(III) SERVING AS A LIAISON WITH FEDERAL AND LOCAL GOVERNMENT OFFICIALS;

(d) CREATE BEST PRACTICES THAT INCORPORATE LESSONS LEARNED FROM OTHER PUBLIC-PRIVATE PARTNERSHIPS FOR EVERY STAGE OF THE LIFE CYCLE OF A PUBLIC-PRIVATE PARTNERSHIP, WHICH MAY INCLUDE:

(I) STANDARDIZING METHODOLOGIES AND PROCESSES;

(II) CREATING TEMPLATES FOR INTERAGENCY AGREEMENTS THAT

IDENTIFY PROJECT RESOURCES AND RESPONSIBILITIES; AND

(III) CREATING TEMPLATES FOR PARTNERSHIP AGREEMENTS THAT ADDRESS RISK ALLOCATIONS, KEY TERMS, AND CONDITIONS;

(e) CONDUCT PUBLIC AND STAKEHOLDER ENGAGEMENT TO ENCOURAGE TRANSPARENCY, ACCOUNTABILITY, AND INFORMATION SHARING REGARDING PUBLIC-PRIVATE PARTNERSHIPS;

(f) TRACK PROPOSED, ONGOING, AND COMPLETED PUBLIC-PRIVATE PARTNERSHIPS;

(g) ATTRACT PRIVATE INVESTMENTS FOR PUBLIC PROJECTS; AND

(h) IN COORDINATION WITH THE DEPARTMENT OF EARLY CHILDHOOD, CREATED IN SECTION 24-1-120.5 (1), DISTRIBUTE FUNDING TO HELP INCREASE THE SUPPLY OF CHILD CARE FACILITIES USING PUBLIC BUILDINGS OR OTHER APPROPRIATE PUBLIC ASSETS.

(3) FOR THE 2023-24 STATE FISCAL YEAR AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL MAKE AN APPROPRIATION FROM THE GENERAL FUND TO THE DEPARTMENT FOR THE STANDARD OPERATING EXPENSES OF THE PUBLIC-PRIVATE COLLABORATION UNIT CREATED IN SUBSECTION (2) OF THIS SECTION, INCLUDING PERSONAL SERVICES AND RELATED COSTS.

(4) ANY ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS UNDER THIS ARTICLE 94 MUST COMPLY WITH SECTION 24-36-121.

24-94-104. State public entity agreements - public-private partnership. (1) A STATE PUBLIC ENTITY IS AUTHORIZED, EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER STATE PUBLIC ENTITY, TO INITIATE SOLICITATIONS, REVIEW ANY PRIVATE PARTNER-INITIATED PROPOSALS, EXECUTE PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, OR EXECUTE PUBLIC-PRIVATE AGREEMENTS TO DEVELOP OR OPERATE A PUBLIC PROJECT SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE 94.

(2) SUBJECT TO SUBSECTION (5) OF THIS SECTION, ANY STATE PUBLIC ENTITY MUST OBTAIN APPROVALS FROM THE EXECUTIVE DIRECTOR IN THE TIME AND MANNER DETERMINED BY THE EXECUTIVE DIRECTOR PURSUANT TO

SECTIONS 24-94-103 (1)(a) AND (1)(b).

(3) ANY PUBLIC-PRIVATE AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST COMPLY WITH APPLICABLE STATE LAWS AND PROCESSES DEVELOPED BY THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 24-94-103 (1)(a) AND 24-94-103 (1)(b).

(4) SUBJECT TO SUBSECTION (2) OF THIS SECTION, STATE PUBLIC ENTITIES MAY REVIEW ANY PRIVATE PARTNER-INITIATED PROPOSALS BUT NEED NOT RESPOND TO SUCH PROPOSALS.

(5) NOTHING IN THIS ARTICLE 94 SHALL BE CONSTRUED TO PROHIBIT, LIMIT, OR OTHERWISE MODIFY THE SPECIFIC STATUTORY AUTHORITY OF STATE PUBLIC ENTITIES, INCLUDING BUT NOT LIMITED TO THE AUTHORITY SPECIFIED IN SECTIONS 23-3.1-301 (1), 23-3.1-306.5, 23-5-101.7, 24-33.5-510, 24-36-121, 26-6.9-102, 32-22-105 (1)(a)(VIII), 33-1-105(1), 33-10-107(1), 36-1-118(1), 40-2-123, AND 43-4-806, AND THE AUTHORITY SPECIFIED IN PARTS 1 AND 3 OF ARTICLE 46 OF THIS TITLE 24 AND PARTS 8 AND 13 OF ARTICLE 82 OF THIS TITLE 24, TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP, A PUBLIC-PRIVATE AGREEMENT, OR OTHER AGREEMENT, OR TO UTILIZE A STATUTORY MECHANISM AS AUTHORIZED BY ANY OTHER PROVISION OF LAW.

24-94-105. Public-private partnership subcommittee - contract review - lease - sale of state property. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A STATE PUBLIC ENTITY THAT INTENDS TO ENTER INTO A CONTRACT, SALE, OR LEASE OF STATE PROPERTY PURSUANT TO SECTION 24-82-102.5 OR 24-94-104 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL SUBMIT THE PROPOSED CONTRACT, SALE, OR LEASE OF STATE PROPERTY TO THE PUBLIC-PRIVATE PARTNERSHIP SUBCOMMITTEE CREATED IN SECTION 24-46-102 (4) FOR THE SUBCOMMITTEE'S REVIEW BEFORE ENTERING INTO THE CONTRACT, SALE, OR LEASE OF STATE PROPERTY. THE STATE PUBLIC ENTITY, IN COORDINATION WITH THE COLORADO ECONOMIC DEVELOPMENT COMMISSION STAFF, SHALL SUBMIT A REPORT TO THE SUBCOMMITTEE REGARDING THE ANTICIPATED USE OF THE STATE PROPERTY IN A TIME AND MANNER ESTABLISHED BY THE SUBCOMMITTEE. THE SUBCOMMITTEE SHALL REVIEW THE REPORT AND MAKE ANY RECOMMENDATIONS IT DEEMS NECESSARY TO THE STATE PUBLIC ENTITY. THE STATE PUBLIC ENTITY MUST CONSIDER THE SUBCOMMITTEE'S RECOMMENDATIONS, BUT NEED NOT INCORPORATE OR ADOPT ANY OF THE

RECOMMENDATIONS.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A STATE PUBLIC ENTITY THAT INTENDS TO ENTER INTO A NEW CONTRACT, SALE, OR LEASE OF STATE PROPERTY PURSUANT TO SECTION 24-82-102.5 OR 24-92-104 WITH EXISTING PRIVATE PARTNERS.

24-94-106. Report. (1) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL ANNUALLY REPORT ON THE IMPLEMENTATION AND USE OF THIS ARTICLE 94 AT ITS PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT".

(2) THE REPORT PRESENTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE:

(a) THE NUMBER OF PUBLIC-PRIVATE PARTNERSHIPS THAT WERE EXECUTED TO DEVELOP OR OPERATE A PUBLIC PROJECT PURSUANT TO THIS ARTICLE 94 DURING THE YEAR IN WHICH THE REPORT IS PRESENTED;

(b) THE PROJECT DELIVERY METHOD AND FINANCING METHOD OF EACH PUBLIC-PRIVATE PARTNERSHIP SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION; AND

(c) AN OVERVIEW OF THE IMPORTANT SOCIAL OR ECONOMIC VALUE OF EACH PUBLIC-PRIVATE PARTNERSHIP SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION.

(3) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL ANNUALLY PROVIDE THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION TO THE JOINT BUDGET COMMITTEE.

SECTION 3. In Colorado Revised Statutes, 24-46-102, **add** (4) as follows:

24-46-102. Colorado economic development commission - creation - membership - definition. (4) BEGINNING ON SEPTEMBER 1, 2022, THE ECONOMIC DEVELOPMENT COMMISSION SHALL ESTABLISH A PUBLIC-PRIVATE PARTNERSHIP SUBCOMMITTEE TO REVIEW PROPOSED

CONTRACTS, SALES, AND LEASES OF STATE PROPERTY AS SPECIFIED IN SECTION 24-94-105. THE SUBCOMMITTEE CONSISTS OF AT LEAST THREE MEMBERS OF THE COMMISSION AS SELECTED BY THE COMMISSION. AT NO TIME SHALL ALL OF THE MEMBERS OF THE SUBCOMMITTEE BE APPOINTEES FROM THE SAME APPOINTING AUTHORITY.

SECTION 4. In Colorado Revised Statutes, 24-101-105, **amend** (1)(a)(XIV) and (1)(a)(XV); and **add** (1)(a)(XVIII) as follows:

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

(XIV) Annuities; ~~and~~

(XV) Real property or interest in real property; AND

(XVIII) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED BY PART 1 OF ARTICLE 94 OF THIS TITLE 24.

SECTION 5. In Colorado Revised Statutes, 24-82-102.5, **amend** (2)(c), (4)(d), and (5) as follows:

24-82-102.5. Unused state-owned real property - cash fund - legislative declaration - definitions. (2) As used in this section, unless the context otherwise requires:

(c) "Unused state-owned real property" means state-owned real property IDENTIFIED IN THE INVENTORY LIST MAINTAINED ON THE DEPARTMENT'S WEBSITE PURSUANT TO SUBSECTION (3) OF THIS SECTION, THAT IS NOT BEING USED AT ITS OPTIMAL OR BEST USE, THAT IS owned by or under the control of a state agency, not including the division of parks and wildlife in the department of natural resources and not including the state board of land commissioners or any state institution of higher education as defined in section 24-30-1301 (18), AND that is not otherwise protected for or dedicated to another use such as an access or a conservation easement.

(4) (d) The department may enter into contracts with qualified developers for proposals to construct affordable housing, child care facilities, public school facilities, or residential mental and behavioral health

care facilities, or to place renewable energy facilities on unused state-owned real property that the department has deemed suitable under subsection (4)(a) of this section, subject to available appropriations. ~~Budget requests under this section must be made through the process established in section 24-37-304 (1)(c.3); except that budget requests under this section may not be made through a request for a supplemental appropriation.~~ Notwithstanding section 24-82-102 (2)(a), contracts between the state and qualified developers may not require improvements constructed on state property for the purposes of this section to become the property of the state upon termination of a lease for such property.

(5) (a) The unused state-owned real property fund is hereby created in the state treasury. Unless otherwise directed, the state treasurer shall credit all proceeds from the sale, rent, or lease, including any leases entered into under section 24-82-102 (2)(a), of unused state-owned real property AND ANY REVENUE GENERATED FROM PUBLIC-PRIVATE AGREEMENTS PURSUANT TO SECTION 24-94-103 to the fund. The fund also consists of any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the unused state-owned real property fund to the fund. Any unexpended and unencumbered money in the fund at the end of a fiscal year remains in the fund. ~~Subject to annual appropriation by the general assembly, the department may expend money from the fund for~~

(c) (I) THE MONEY IN THE UNUSED STATE-OWNED REAL PROPERTY FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR:

(A) The purposes set forth in this section, including for appraisals, surveys, and property improvement, and for any operational costs to administer this section; AND

(B) PUBLIC-PRIVATE AGREEMENTS, AS DEFINED IN SECTION 24-94-102 (7), AND ANY ASSOCIATED COSTS.

(II) FOR THE 2022-23 STATE FISCAL YEAR, THE GENERAL ASSEMBLY SHALL MAKE AN APPROPRIATION FROM THE FUND TO THE DEPARTMENT FOR THE STANDARD OPERATING EXPENSES OF THE PUBLIC-PRIVATE

COLLABORATION UNIT CREATED IN SECTION 24-94-103 (2), INCLUDING PERSONAL SERVICES AND RELATED COSTS.

(d) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER FIFTEEN MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

SECTION 6. Appropriation. (1) For the 2022-23 state fiscal year, \$306,634 is appropriated to the department of personnel. This appropriation is from the unused state-owned real property fund created in section 24-82-102.5 (5)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$283,984 for personal services related to the public-private collaboration unit, which amount is based on an assumption that the department will require an additional 3.0 FTE; and

(b) \$22,650 for operating expenses related to the public-private collaboration unit.

(2) For the 2022-23 state fiscal year, \$49,285 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of personnel from the unused state-owned real property fund created in section 24-82-102.5 (5)(a), C.R.S., and is based on an assumption that the department of law will require an additional 0.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of personnel.

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO