

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 22-0759.02 Nicole Myers x4326

SENATE BILL 22-130

SENATE SPONSORSHIP

Rankin and Hansen, Bridges, Buckner, Cooke, Donovan, Ginal, Gonzales, Jaquez Lewis,
Kolker, Lee, Zenzinger

HOUSE SPONSORSHIP

McCluskie,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

Business Affairs & Labor
Appropriations

A BILL FOR AN ACT

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

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://leg.colorado.gov>.)

The bill authorizes a state public entity to enter into an agreement with a private partner to form a public-private partnership to develop or operate a public project. "State public entity" includes the executive, legislative, and judicial branches of state government, but excludes the department of transportation and any institution of higher education. The

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 6, 2022

SENATE
Amended 2nd Reading
April 5, 2022

bill does not impact the authority of the department of transportation or any institution of higher education to enter into a public-private partnership or similar agreement as otherwise authorized by law.

The bill specifies the project delivery methods or agreements that a state public entity may use to develop or operate a public project and that the financing of a public project may be in the amounts and upon the terms and conditions determined by the parties to the agreement. The private partner and state public entity may use any money that may be available for the public project and may enter into specified financing agreements.

The executive director of the department of personnel or the executive director's designee (executive director) is required to oversee any public-private partnership undertaken pursuant to the bill by a state public entity that is in the executive branch of state government. The executive director is also required to ensure that each public-private partnership undertaken by a state public entity that is in the executive branch of state government is in the best interest of the taxpayers of the state.

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

2 **SECTION 1. In Colorado Revised Statutes, add article 94 to title**
3 **24 as follows:**

4 **ARTICLE 94**

5 **Public-private Partnerships for State Public Entities**

6 **24-94-101. Legislative declaration. (1) THE GENERAL ASSEMBLY**
7 **HEREBY FINDS AND DECLARES THAT:**

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

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

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

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

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

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

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

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

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

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

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

27 **24-94-102. Definitions.** AS USED IN THIS ARTICLE 94, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

21 (7) "PUBLIC-PRIVATE AGREEMENT" MEANS ANY AGREEMENT
22 BETWEEN ONE OR MORE PRIVATE PARTNERS AND ONE OR MORE STATE
23 PUBLIC ENTITIES THAT CONTRACTUALLY PROVIDES FOR THE
24 RESPONSIBILITIES OF ALL PARTIES IN NEGOTIATING, DEVELOPING, OR
25 OPERATING ANY ASPECT OF A PROPOSED OR APPROVED PUBLIC PROJECT OR
26 FINANCED PURCHASED OF AN ASSET. "PUBLIC-PRIVATE AGREEMENT" DOES
27 NOT MEAN A GRANT OR INCENTIVE PROGRAM ESTABLISHED IN ANOTHER

1 PROVISION OF LAW OR AN AGREEMENT APPROVED BY THE ECONOMIC
2 DEVELOPMENT COMMISSION PURSUANT TO PARTS 1 AND 3 OF ARTICLE 46
3 OF THIS TITLE 24.

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

19 (9) "PUBLIC PROJECT" MEANS ANY CONSTRUCTION, ALTERATION,
20 REPAIR, DEMOLITION, OR IMPROVEMENT OF ANY STATE-OWNED LAND,
21 BUILDING, STRUCTURE, FACILITY, ASSET, OR OTHER PUBLIC IMPROVEMENT
22 SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC
23 HEALTH, WELFARE, OR SAFETY, AND ANY MAINTENANCE PROGRAMS FOR
24 THE UPKEEP OF SUCH PROJECTS SUBJECT TO PART 2 OF ARTICLE 92 OF THIS
25 TITLE 24. "PUBLIC PROJECT" INCLUDES BUT IS NOT LIMITED TO A PROJECT
26 FOR CIVIC, CHILD CARE, MEDICAL, UTILITY, TELECOMMUNICATION,
27 CULTURAL, RECREATIONAL, OR EDUCATIONAL FACILITIES OR SERVICES.

1 (10) "STATE PUBLIC ENTITY" MEANS ANY DEPARTMENT, AGENCY,
2 OR SUBDIVISION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT;
3 EXCEPT THAT "STATE PUBLIC ENTITY" DOES NOT INCLUDE STATE ENTITIES
4 THAT HAVE SPECIFIC STATUTORY AUTHORITY TO ENTER INTO
5 PUBLIC-PRIVATE PARTNERSHIPS, INCLUDING BUT NOT LIMITED TO THE
6 AUTHORITY SPECIFIED IN SECTIONS 23-3.1-301 (1), 23-3.1-306.5,
7 24-33.5-510, 26-6.9-102, 32-22-105 (1)(a)(VIII), 40-2-123, AND
8 43-4-806.

9 (11) "SUBCOMMITTEE" MEANS THE PUBLIC-PRIVATE PARTNERSHIP
10 SUBCOMMITTEE OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
11 CREATED IN SECTION 24-46-102 (5).

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

14 **24-94-103. Public-private partnerships - oversight of state**
15 **public entities in the executive branch of state government.**

16 (1) WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE 94, THE
17 EXECUTIVE DIRECTOR SHALL:

18 (a) CREATE REQUIREMENTS REGARDING THE AUTHORITY FOR
19 STATE PUBLIC ENTITIES TO INITIATE REQUESTS FOR PROPOSALS OR BIDS OR
20 TO REVIEW ANY PRIVATE PARTNER-INITIATED PROPOSALS FOR PUBLIC
21 PROJECTS TO BE COMPLETED THROUGH PUBLIC-PRIVATE PARTNERSHIPS
22 SUBJECT TO THE EXECUTIVE DIRECTOR'S APPROVAL PURSUANT TO SECTION
23 24-94-104(1). THE PROCESSES MAY INCLUDE, BUT NEED NOT LIMITED TO:

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

27 (II) DOCUMENTED CONSIDERATIONS OF POTENTIAL FUNDING

1 ALTERNATIVES, IMPACTS ON AFFECTED COMMUNITIES, AND THE
2 SUITABILITY AND SCOPE OF A PROPOSED PUBLIC-PRIVATE PARTNERSHIP;

3 (III) DOCUMENTED CONSIDERATIONS OF THE ENTIRE LIFE CYCLE
4 OF A PROPOSED PUBLIC-PRIVATE PARTNERSHIP, INCLUDING PLANNING,
5 DESIGN, ENGINEERING, CONSTRUCTION, REPAIR, MAINTENANCE,
6 OPERATIONS, FINANCING, AND HANDOVER;

7 (IV) DUE DILIGENCE REQUIREMENTS; AND

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

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

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

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

1 IN PUBLIC-PRIVATE AGREEMENTS;
2 (III) REPORTING REQUIREMENTS FOR STATE PUBLIC ENTITIES AND
3 PRIVATE PARTNERS THROUGHOUT THE LIFE CYCLE OF AN EXECUTIVE
4 DIRECTOR-APPROVED PUBLIC-PRIVATE PARTNERSHIP;
5 (IV) POLICIES CONCERNING TRANSPARENCY AND TIMELY
6 REPORTING; AND
7 (V) DEVELOPING A FAIR, UNBIASED METHOD OF CHOOSING
8 PROPOSALS BASED ON THE BEST INTERESTS OF THE STATE AND
9 CONSIDERING FINANCIAL COSTS AND BENEFITS TO THE STATE AND PUBLIC
10 PROJECT USERS.
11 (c) FURTHER DEFINE ANY RELEVANT TERMS IN THIS ARTICLE 94,
12 INCLUDING BUT NOT LIMITED TO PUBLIC-PRIVATE PARTNERSHIP AND
13 PUBLIC-PRIVATE AGREEMENT; AND
14 (d) DEVELOP COST THRESHOLDS FOR PUBLIC PROJECTS THAT
15 QUALIFY AS A PUBLIC-PRIVATE PARTNERSHIP OR PUBLIC-PRIVATE
16 AGREEMENT, WHICH MAY DEPEND ON THE TYPE OF PROJECT AND THE
17 RESPONSIBLE STATE PUBLIC ENTITY.
18 (2) THERE IS HEREBY ESTABLISHED THE PUBLIC-PRIVATE
19 COLLABORATION UNIT IN THE DEPARTMENT. THE UNIT SHALL:
20 (a) IN COORDINATION WITH RELEVANT STATE PUBLIC ENTITIES,
21 IDENTIFY, PRIORITIZE, AND ADVANCE POTENTIAL PUBLIC PROJECTS THAT
22 MAY BE BEST DELIVERED THROUGH A PUBLIC-PRIVATE PARTNERSHIP;
23 (b) FACILITATE COLLABORATION BETWEEN STATE PUBLIC ENTITIES
24 AND PRIVATE PARTNERS IN CONNECTION WITH PUBLIC PROJECTS;
25 (c) PROVIDE TECHNICAL ASSISTANCE AND EXPERTISE TO STATE
26 PUBLIC ENTITIES IN CONNECTION WITH ANY ASPECT OF PROPOSED OR
27 APPROVED PUBLIC-PRIVATE PARTNERSHIPS, WHICH MAY INCLUDE

1 ASSISTANCE WITH:
2 (I) SATISFYING THE REQUIREMENTS ESTABLISHED BY THE
3 EXECUTIVE DIRECTOR IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION;
4 (II) PROJECT SCREENING, PLANNING, DEVELOPMENT,
5 PROCUREMENT, OPERATIONS, AND MANAGEMENT; AND
6 (III) SERVING AS A LIAISON WITH FEDERAL AND LOCAL
7 GOVERNMENT OFFICIALS;
8 (d) CREATE BEST PRACTICES THAT INCORPORATE LESSONS
9 LEARNED FROM OTHER PUBLIC-PRIVATE PARTNERSHIPS FOR EVERY STAGE
10 OF THE LIFE CYCLE OF A PUBLIC-PRIVATE PARTNERSHIP, WHICH MAY
11 INCLUDE:
12 (I) STANDARDIZING METHODOLOGIES AND PROCESSES;
13 (II) CREATING TEMPLATES FOR INTERAGENCY AGREEMENTS THAT
14 IDENTIFY PROJECT RESOURCES AND RESPONSIBILITIES; AND
15 (III) CREATING TEMPLATES FOR PARTNERSHIP AGREEMENTS THAT
16 ADDRESS RISK ALLOCATIONS, KEY TERMS, AND CONDITIONS;
17 (e) CONDUCT PUBLIC AND STAKEHOLDER ENGAGEMENT TO
18 ENCOURAGE TRANSPARENCY, ACCOUNTABILITY, AND INFORMATION
19 SHARING REGARDING PUBLIC-PRIVATE PARTNERSHIPS;
20 (f) TRACK PROPOSED, ONGOING, AND COMPLETED PUBLIC-PRIVATE
21 PARTNERSHIPS;
22 (g) ATTRACT PRIVATE INVESTMENTS FOR PUBLIC PROJECTS; AND
23 (h) IN COORDINATION WITH THE DEPARTMENT OF EARLY
24 CHILDHOOD, CREATED IN SECTION 24-1-120.5 (1), DISTRIBUTE FUNDING TO
25 HELP INCREASE THE SUPPLY OF CHILD CARE FACILITIES USING PUBLIC
26 BUILDINGS OR OTHER APPROPRIATE PUBLIC ASSETS.
27 (3) FOR THE 2023-24 STATE FISCAL YEAR AND FOR EACH STATE

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

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

8 **24-94-104. State public entity agreements - public-private**
9 **partnership.** (1) A STATE PUBLIC ENTITY IS AUTHORIZED, EITHER
10 SEPARATELY OR IN COMBINATION WITH ANY OTHER STATE PUBLIC ENTITY,
11 TO INITIATE SOLICITATIONS, REVIEW ANY PRIVATE PARTNER-INITIATED
12 PROPOSALS, EXECUTE PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, OR
13 EXECUTE PUBLIC-PRIVATE AGREEMENTS TO DEVELOP OR OPERATE A
14 PUBLIC PROJECT SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE 94.

15 (2) SUBJECT TO SUBSECTION (5) OF THIS SECTION, ANY STATE
16 PUBLIC ENTITY MUST OBTAIN APPROVALS FROM THE EXECUTIVE DIRECTOR
17 IN THE TIME AND MANNER DETERMINED BY THE EXECUTIVE DIRECTOR
18 PURSUANT TO SECTIONS 24-94-103 (1)(a) AND (1)(b).

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

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

26 (5) NOTHING IN THIS ARTICLE 94 SHALL BE CONSTRUED TO
27 PROHIBIT, LIMIT, OR OTHERWISE MODIFY THE SPECIFIC STATUTORY

1 AUTHORITY OF STATE PUBLIC ENTITIES, INCLUDING BUT NOT LIMITED TO
2 THE AUTHORITY SPECIFIED IN SECTIONS 23-3.1-301 (1), 23-3.1-306.5,
3 23-5-101.7, 24-33.5-510, 24-36-121, 26-6.9-102, 32-22-105 (1)(a)(VIII),
4 33-1-105(1), 33-10-107(1), 36-1-118(1), 40-2-123, AND 43-4-806, AND
5 THE AUTHORITY SPECIFIED IN PARTS 1 AND 3 OF ARTICLE 46 OF THIS TITLE
6 24 AND PARTS 8 AND 13 OF ARTICLE 82 OF THIS TITLE 24, TO ENTER INTO
7 A PUBLIC-PRIVATE PARTNERSHIP, A PUBLIC-PRIVATE AGREEMENT, OR
8 OTHER AGREEMENT, OR TO UTILIZE A STATUTORY MECHANISM AS
9 AUTHORIZED BY ANY OTHER PROVISION OF LAW.

10 **24-94-105. Public-private partnership subcommittee - contract**
11 **review - lease - sale of state property. (1) EXCEPT AS OTHERWISE**
12 **PROVIDED IN SUBSECTION (2) OF THIS SECTION, A STATE PUBLIC ENTITY**
13 **THAT INTENDS TO ENTER INTO A CONTRACT, SALE, OR LEASE OF STATE**
14 **PROPERTY PURSUANT TO SECTION 24-82-102.5 OR 24-94-104 ON OR AFTER**
15 **THE EFFECTIVE DATE OF THIS SECTION SHALL SUBMIT THE PROPOSED**
16 **CONTRACT, SALE, OR LEASE OF STATE PROPERTY TO THE PUBLIC-PRIVATE**
17 **PARTNERSHIP SUBCOMMITTEE CREATED IN SECTION 24-46-102 (5) FOR THE**
18 **SUBCOMMITTEE'S REVIEW BEFORE ENTERING INTO THE CONTRACT, SALE,**
19 **OR LEASE OF STATE PROPERTY. THE STATE PUBLIC ENTITY, IN**
20 **COORDINATION WITH THE COLORADO ECONOMIC DEVELOPMENT**
21 **COMMISSION STAFF, SHALL SUBMIT A REPORT TO THE SUBCOMMITTEE**
22 **REGARDING THE ANTICIPATED USE OF THE STATE PROPERTY IN A TIME AND**
23 **MANNER ESTABLISHED BY THE SUBCOMMITTEE. THE SUBCOMMITTEE**
24 **SHALL REVIEW THE REPORT AND MAKE ANY RECOMMENDATIONS IT DEEMS**
25 **NECESSARY TO THE STATE PUBLIC ENTITY. THE STATE PUBLIC ENTITY**
26 **MUST CONSIDER THE SUBCOMMITTEE'S RECOMMENDATIONS, BUT NEED**
27 **NOT INCORPORATE OR ADOPT ANY OF THE RECOMMENDATIONS.**

1 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A STATE
2 PUBLIC ENTITY THAT INTENDS TO ENTER INTO A NEW CONTRACT, SALE, OR
3 LEASE OF STATE PROPERTY PURSUANT TO SECTION 24-82-102.5 OR
4 24-92-104 WITH EXISTING PRIVATE PARTNERS.

5 SECTION 2. In Colorado Revised Statutes, 24-46-102, add (5)
6 as follows:

7 24-46-102. Colorado economic development commission -
8 creation - membership - definition. (5) BEGINNING ON SEPTEMBER 1,
9 2022, THE ECONOMIC DEVELOPMENT COMMISSION SHALL ESTABLISH A
10 PUBLIC-PRIVATE PARTNERSHIP SUBCOMMITTEE TO REVIEW PROPOSED
11 CONTRACTS, SALES, AND LEASES OF STATE PROPERTY AS SPECIFIED IN
12 SECTION 24-94-105. THE SUBCOMMITTEE CONSISTS OF AT LEAST THREE
13 MEMBERS OF THE COMMISSION AS SELECTED BY THE COMMISSION. AT NO
14 TIME SHALL ALL OF THE MEMBERS OF THE SUBCOMMITTEE BE APPOINTEES
15 FROM THE SAME APPOINTING AUTHORITY.

16 SECTION 3. In Colorado Revised Statutes, 24-101-105, amend
17 (1)(a)(XIV) and (1)(a)(XV); and add (1)(a)(XVI) as follows:

18 24-101-105. Application of this code. (1) (a) This code shall
19 apply to all publicly funded contracts entered into by all governmental
20 bodies of the executive branch of this state; except that this code shall not
21 apply to:

- 22 (XIV) Annuities; and
- 23 (XV) Real property or interest in real property; AND
- 24 (XVI) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED BY PART 1 OF
25 ARTICLE 94 OF THIS TITLE 24.

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

1 24-82-102.5. Unused state-owned real property - cash fund -
2 legislative declaration - definitions. (2) As used in this section, unless
3 the context otherwise requires:

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

14 (4) (d) The department may enter into contracts with qualified
15 developers for proposals to construct affordable housing, child care
16 facilities, public school facilities, or residential mental and behavioral
17 health care facilities, or to place renewable energy facilities on unused
18 state-owned real property that the department has deemed suitable under
19 subsection (4)(a) of this section, subject to available appropriations.
20 ~~Budget requests under this section must be made through the process~~
21 ~~established in section 24-37-304 (1)(c.3); except that budget requests~~
22 under this section may not be made through a request for a supplemental
23 appropriation. Notwithstanding section 24-82-102 (2)(a), contracts
24 between the state and qualified developers may not require improvements
25 constructed on state property for the purposes of this section to become
26 the property of the state upon termination of a lease for such property.

27 (5) (a) The unused state-owned real property fund is hereby

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

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

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

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

19 (B) PUBLIC-PRIVATE AGREEMENTS, AS DEFINED IN SECTION
20 24-94-102 (7), AND ANY ASSOCIATED COSTS.

21 (II) FOR THE 2022-23 STATE FISCAL YEAR, THE GENERAL
22 ASSEMBLY SHALL MAKE AN APPROPRIATION FROM THE FUND TO THE
23 DEPARTMENT FOR THE STANDARD OPERATING EXPENSES OF THE
24 PUBLIC-PRIVATE COLLABORATION UNIT CREATED IN SECTION 24-94-103
25 (2), INCLUDING PERSONAL SERVICES AND RELATED COSTS.

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

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

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

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

11 

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

20 

21 **SECTION 6. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.