HOUSE BILL 20-1376

A BILL FOR AN ACT

CONCERNING THE MODIFICATION OF TRANSPORTATION FUNDING MECHANISMS, AND, IN CONNECTION THERewith, 

REPEALING THE REQUIREMENT THAT A BALLOT ISSUE SEEKING APPROVAL FOR THE ISSUANCE OF TRANSPORTATION REVENUE ANTICIPATION NOTES BE SUBMITTED TO THE VOTERS OF THE STATE AT THE NOVEMBER 2020 GENERAL ELECTION, 

ELIMINATING SPECIFIED SCHEDULED GENERAL FUND TRANSFERS TO THE STATE HIGHWAY FUND, REDUCING THE AMOUNT OF GENERAL FUND MONEY DEDICATED TO MAKE LEASE-PURCHASE AGREEMENT PAYMENTS DUE DURING STATE FISCAL YEARS 2020-21 AND 2021-22, REPEALING DEPARTMENT OF TRANSPORTATION RULE-MAKING AND REPORTING REQUIREMENTS RELATING TO MOTOR VEHICLES USED FOR

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.
CERTAIN TYPES OF COMMERCIAL PURPOSES, AND MAKING AND REDUCING APPROPRIATIONS.

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/.)

Joint Budget Committee. Current law, enacted by Senate Bills 18-001 and 19-263, requires that a ballot issue seeking approval for the issuance of transportation revenue anticipation notes (TRANs) be submitted to the voters of the state at the November 2020 general election. If the ballot issue is approved, the requirement, enacted by Senate Bill 17-267, that the state execute 2 separate tranches of up to $500 million each of lease-purchase agreements in state fiscal years 2020-21 and 2021-22 for the purpose of funding transportation, will be repealed. Current law, enacted by Senate Bill 19-239, also requires department of transportation (CDOT) rule-making and reporting relating to motor vehicles used for certain types of commercial purposes. The bill:

- Delays from the November 2020 general election to the November 2021 statewide election the requirement that a ballot issue seeking approval for the issuance of transportation revenue anticipation notes (TRANs) be submitted to the voters of the state;
- Amends the ballot issue to reduce the amount of TRANs authorized to be issued by $500 million to offset the additional $500 million of lease-purchase agreement transportation funding that becomes available because the approval of the ballot issue at the November 2020 general election will repeal only the state fiscal year 2021-22 and tranche of Senate Bill 17-267 lease-purchase agreements, rather than both the state fiscal year 2020-21 and 2021-22 tranches of such lease-purchase agreements;
- Eliminates 2 statutory transfers of $50 million each from the general fund to the state highway fund that are scheduled under current law to be made on June 30, 2021, and June 30, 2022;
- Reduces the amount of general fund money dedicated to make lease-purchase agreement payments due in state fiscal years 2020-21 and 2021-22 by $12 million per year by increasing the amount of such payment to be paid by the
department of transportation from its other sources of legally available money by $12 million per year; and Repeals the CDOT rule-making and reporting requirements relating to motor vehicles used for certain types of commercial purposes.

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

SECTION 1. In Colorado Revised Statutes, 24-75-219, amend (5)(c) introductory portion; and repeal (5)(c)(III), (5)(c)(IV), and (5)(d) as follows:

24-75-219. Transfers - transportation - capital construction - definitions - repeal. (5) (c) The state treasurer shall transfer fifty million dollars from the general fund to the state highway fund on June 30, 2020. Except as otherwise provided in subsection (5)(d) of this section and section 43-4-714 (2)(a), on June 30, 2021 on June 30, 2023, and on each succeeding June 30 through June 30, 2040, the state treasurer shall transfer money FIFTY MILLION DOLLARS from the general fund to the state highway fund. as follows:

(III) (A) If a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against", fifty million dollars;

(B) (Deleted by amendment, L. 2019.)

(C) This subsection (5)(c)(III) is repealed, effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the
state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For";

(D) This subsection (5)(c)(III)(D) and subsection (5)(c)(III)(C) of this section are repealed, effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against"; or

(IV) (A) If a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For", ninety-two million five hundred thousand dollars;

(B) (Deleted by amendment, L. 2019.)

(C) This subsection (5)(c)(IV) is repealed, effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against";

(D) This subsection (5)(c)(IV)(D) and subsection (5)(c)(IV)(C) of this section are repealed, effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or
rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For"; or

(d) (I) If the transportation commission allocates money from the transportation revenue anticipation notes reserve account of the state highway fund pursuant to section 43-4-714 (2) during any state fiscal year, the amount of any transfer required by subsection (5)(c)(IV)(A) of this section is reduced by an amount equal to the amount of the allocation from the account.

(II) This subsection (5)(d) is repealed:

(A) (Deleted by amendment, L. 2019.)

(B) Effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against".

(III) This subsection (5)(d)(III) and subsection (5)(d)(II) of this section are repealed, effective January 1, 2021, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2020 general election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For".

SECTION 2. In Colorado Revised Statutes, 24-82-1303, amend as it is effective until a ballot issue is proclaimed by the governor (2)(d)(II) as follows:

24-82-1303. Lease-purchase agreements for capital
construction and transportation projects. (2) (d) Any lease-purchase agreement executed as required by subsection (2)(a) of this section shall provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any lease-purchase agreement must be made, subject to annual allocation pursuant to section 43-1-113 by the transportation commission created in section 43-1-106 (1) or subject to annual appropriation by the general assembly, as applicable, from the following sources of money:

(II) Next, fifty million dollars annually, or any lesser amount that is sufficient to make each full payment due, shall be paid from any legally available money under the control of the transportation commission solely for the purpose of allowing the construction, supervision, and maintenance of state highways to be funded with the proceeds of lease-purchase agreements as specified in subsection (4)(b) of this section and section 43-4-206 (1)(b)(V); EXCEPT THAT, FOR PAYMENTS DUE DURING STATE FISCAL YEARS 2020-21 AND 2021-22, SIXTY-TWO MILLION DOLLARS ANNUALLY, OR ANY LESSER AMOUNT THAT IS SUFFICIENT TO MAKE EACH FULL PAYMENT DUE SHALL BE PAID FROM SUCH LEGALLY AVAILABLE MONEY FOR SAID PURPOSE; and

SECTION 3. In Colorado Revised Statutes, 24-82-1303, repeal as they will become effective only if a ballot issue is proclaimed by the governor (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b), and (2)(d)(II) as follows:

24-82-1303. Lease-purchase agreements for capital
construction and transportation projects. (2) (a) Notwithstanding the provisions of sections 24-82-102 (1)(b) and 24-82-801, and pursuant to section 24-36-121, no sooner than July 1, 2018, the state, acting by and through the state treasurer, shall execute lease-purchase agreements, each for no more than twenty years of annual payments, for the projects described in subsection (4) of this section. The state shall execute the lease-purchase agreements as soon as possible after July 1 of the applicable state fiscal year only in accordance with the following schedule:

(I) During the 2018-19 state fiscal year in an amount up to five hundred million dollars; and

(II) During the 2019-20 state fiscal year, in an amount up to five hundred million dollars.

(III) (Deleted by amendment, L. 2019.)

(IV) (Deleted by amendment, L. 2019.)

(b) The anticipated annual state-funded payments for the principal and interest components of the amount payable under all lease-purchase agreements entered into pursuant to subsection (2)(a) of this section shall not exceed seventy-five million dollars.

(d) Any lease-purchase agreement executed as required by subsection (2)(a) of this section shall provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any lease-purchase agreement must be made, subject to annual allocation pursuant to section 43-1-113 by the transportation commission created in section 43-1-106 (1) or subject to annual appropriation by the general assembly, as applicable, from the
following sources of money:

   (II) Next, for state fiscal year 2020-21 and for each succeeding state fiscal year for which a payment under any lease-purchase agreement must be made, fourteen million five hundred thousand dollars annually, or any lesser amount that is sufficient to make each full payment due, shall be paid from any legally available money under the control of the transportation commission solely for the purpose of allowing the construction, supervision, and maintenance of state highways to be funded with the proceeds of lease-purchase agreements as specified in subsection (4)(b) of this section and section 43-4-206 (1)(b)(V); and

SECTION 4. In Colorado Revised Statutes, 43-1-125, repeal (2)(b) and (7) as follows:

43-1-125. Motor vehicles used for commercial purposes - stakeholder group - reporting - rules - legislative declaration - definition. (2) The general assembly further finds and declares that it is necessary, appropriate, and in the best interest of the state to:

   (b) Authorize the department to promulgate rules that implement stakeholder group and legislative recommendations:

   (7) (a) No later than October 1, 2020, within any statutory parameters established by the general assembly through legislation enacted during the 2020 legislative session, and continuing to give strong consideration to the policy recommendations report provided by the stakeholder group as required by subsection (5)(b) of this section, the department shall promulgate rules to the extent necessary to effectively implement this section. If the general assembly does not impose fees on motor vehicles used for commercial purposes through legislation enacted during the 2020 legislative session and instead enacts legislation that
authorizes the department or any enterprise of the department to impose such fees, the rules may impose fees to the extent authorized by the legislation:

(b) During the 2020 legislative interim, the department shall present a final written report regarding the stakeholder group and rule-making processes and any rules promulgated pursuant to subsection (7)(a) of this section to the transportation legislation review committee created in section 43-2-145.

SECTION 5. In Colorado Revised Statutes, 43-4-206, amend (2)(b) introductory portion, (2)(b)(III), and (2)(b)(IV) as follows:

43-4-206. State allocation. (2) (b) Notwithstanding NOTWITHSTANDING section 24-1-136 (11)(a)(I), beginning in 1998, the department of transportation shall report annually to the transportation committee of the senate and the transportation and energy committee of the house of representatives concerning the revenue expended by the department pursuant to subsection (2)(a) of this section and, beginning in 2019, any state general fund money that is credited to the state highway fund pursuant to section 24-75-219 (5) AND any net proceeds of lease-purchase agreements executed as required by section 24-82-1303 (2)(a) that are credited to the state highway fund pursuant to section 24-82-1303 (4)(b) and expended by the department pursuant to subsection (1)(b)(V) of this section, and any net proceeds of transportation revenue anticipation notes issued as authorized by a ballot issue submitted to and approved by the registered electors of the state at the 2019 statewide election pursuant to section 43-4-705 (13)(b) that are credited to the state
The department shall present the report at the joint meeting required under section 43-1-113 (9)(a), and the report shall describe for each fiscal year, if applicable:

(III) The projected amounts of revenue and net proceeds that the department expects to receive under this subsection (2), section 24-75-219 (5) AND section 24-82-1303 (4)(b) AND section 43-4-714 (1)(a) during the fiscal year;

(IV) The amount of revenue and net proceeds that the department has already received under this subsection (2), section 24-75-219 (5) AND section 24-82-1303 (4)(b) AND section 43-4-714 (1)(a) during the fiscal year; and

SECTION 6. In Colorado Revised Statutes, 43-4-705, amend (2)(a)(II); and repeal (2)(a)(II.5) and (13) as follows:

43-4-705. Revenue anticipation notes - ballot issue - repeal.

(2) (a) Subject to the provisions of this subsection (2), the principal of and interest on revenue anticipation notes and any costs associated with the issuance and administration of such notes shall be payable solely from:

(II) Any proceeds of such notes and any earnings from the investment of such note proceeds pledged for such purpose; AND

(II.5) Money transferred from the general fund to the state highway fund pursuant to section 24-75-219 (5)(e); and

(13) (a) Notwithstanding any other provision of this part 7 to the contrary, the executive director shall have the authority to issue revenue anticipation notes pursuant to this part 7 only if voters statewide approve the ballot question submitted at the November 1999 statewide election pursuant to section 43-4-703 (1) and only then to the extent allowed under
the maximum amounts of debt and repayment cost so approved:

(b) (I) Subject to voter approval of the ballot issue submitted at
the November 2020 general election pursuant to subsection (13)(b)(III)
of this section and the repayment funding commitment requirement
specified in subsection (13)(b)(II) of this section, the executive director
shall issue additional transportation revenue anticipation notes in a
maximum amount of one billion eight hundred thirty-seven million
dollars and with a maximum repayment cost of two billion five hundred
sixty million dollars. The maximum repayment term for any notes issued
pursuant to this subsection (13)(b) is twenty years, and the certificate,
trust indenture, or other instrument authorizing their issuance shall
provide that the state may pay the notes in full without penalty no later
than ten years following the date of issuance:

(II) Notwithstanding section 43-1-113 (19) and subsection (12)(a)
of this section, before issuing any revenue anticipation notes as
authorized by subsection (13)(b)(I) of this section, the transportation
commission shall adopt a resolution in which it agrees, subject to the
requirements of section 43-4-706 (2), that it intends to annually allocate
from legally available money under its control any amount needed for
payment of the notes until the notes are fully repaid. The commission
shall first allocate for payment of the notes money transferred from the
general fund to the state highway fund pursuant to section 24-75-219
(5)(b) and any money allocated by the commission from the transportation
revenue anticipation notes reserve account created in section 43-4-714 (2)
and thereafter shall allocate for payment of the notes any other legally
available money under its control:

(III) The secretary of state shall submit to the registered electors
of the state for their approval or rejection at the November 2020 general
election the following ballot issue: "Shall state of Colorado debt be
increased $1,837,000,000, with a maximum repayment cost of
$2,560,000,000, without raising taxes, through the issuance of
transportation revenue anticipation notes for the purpose of addressing
critical priority transportation needs in the state by financing
transportation projects, shall note proceeds and investment earnings on
note proceeds be excluded from state fiscal year spending limits, and shall
the amount of lease-purchase agreements required by current law to be
issued for the purpose of financing transportation projects be reduced?"

(IV) No later than May 1, 2020, the department shall provide to
the director of research of the legislative council the most recent available
list of qualified federal aid transportation projects, including multimodal
capital projects, that are designated for tier 1 funding as ten-year
development program projects on the department's 2020 development
program project list and that the department will fund with proceeds of
any transportation revenue anticipation notes issued as authorized by this
subsection (13)(b). In order to fully inform the voters of the state
concerning the projects to be funded with proceeds of any such additional
transportation revenue anticipation notes before the voters vote on the
ballot question specified in subsection (13)(b)(III) of this section, the
director of research shall publish the list, including any subsequent
updates to the list made before final approval by the legislative council of
the 2020 ballot information booklet prepared pursuant to section
1-40-124.5, which updates the department shall expeditiously provide to
the director of research, in the ballot information booklet:

(V) (A) (Deleted by amendment, L. 2019.)
(B) This subsection (13)(b) is repealed, effective January 1, 2021, if a majority of the electors voting on the ballot issue in subsection (13)(b)(III) of this section vote "No/Against".

(C) This subsection (13)(b)(V) is repealed, effective January 1, 2021, if a majority of the electors voting on the ballot issue in subsection (13)(b)(III) of this section vote "Yes/For".

SECTION 7. In Colorado Revised Statutes, 43-4-1102, repeal (1) as follows:

43-4-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Account" means the transportation revenue anticipation notes proceeds account of the multimodal transportation options fund created in section 43-4-1103 (1)(b).

SECTION 8. In Colorado Revised Statutes, 43-4-1103, amend (2)(c), (3)(a) introductory portion, (3)(a)(I), and (3)(a)(II) introductory portion; and repeal (1)(b) and (2)(b) as follows:

43-4-1103. Multimodal transportation options fund - creation - revenue sources for fund - use of fund. (1) (b) The transportation revenue anticipation notes proceeds account is hereby created in the fund.

Net proceeds of transportation revenue anticipation notes that the state issues shall be credited to the account as specified in section 43-4-714 (1)(b). The state treasurer shall credit all interest and income derived from the deposit and investment of money in the account to the account.

(2) (b) (I)—Subject to the limitations set forth in subsection (2)(b)(II) of this section, money must be expended from the account as follows:

(A) Eighty-five percent to the commission for local multimodal
projects; and

(B) Fifteen percent to the commission for state multimodal projects that are selected by the commission.

(H) The commission shall ensure, in cooperation with each recipient of such money from the account, that any net proceeds of tax-exempt transportation revenue anticipation notes credited to the account and any interest and income derived from the deposit and investment of any such proceeds are expended only in compliance with all applicable federal laws and regulations governing the use of tax-exempt note proceeds.

(c) With respect to the distribution of money for local multimodal projects required by subsection (2)(a)(I)(A) of this section, and, for net proceeds of taxable transportation revenue anticipation notes and interest and income derived from the deposit and investment of such proceeds only, the distribution of money for local multimodal projects required by subsection (2)(b)(I)(A) of this section, the commission shall establish a formula for disbursement of the amount allocated for local multimodal projects, based on population and transit ridership, in consultation with the transportation advisory committee created in section 43-1-1104, the transit and rail advisory committee of the department, transit advocacy organizations, and bicycle and pedestrian advocacy organizations. Recipients shall provide a match equal to the amount of the award; except that the commission may create a formula for reducing or exempting the match requirement for local governments or agencies due to their size or any other special circumstances.

(3) (a) The department shall annually report to the transportation legislation review committee of the general assembly created in section
43-2-145 (1) regarding its expenditures from the fund and the account including, at a minimum:

(I) An aggregate accounting of all money expended from the fund and the account during the prior fiscal year; and

(II) A listing of all projects receiving funding from the fund and the account during the prior fiscal year that includes for each project:

SECTION 9. In Colorado Revised Statutes, repeal 43-4-714.

SECTION 10. Appropriation - adjustments to 2020 long bill.

(1) To implement this act, appropriations made in the annual general appropriation act to the department of treasury for S.B. 17-267 collateralization lease purchase payments for the 2020-21 state fiscal year are adjusted as follows:

(a) The general fund appropriation is decreased by $12,000,000; and

(b) The cash funds appropriation from various cash funds under the control of the transportation commission pursuant to Section 24-82-1303 (2)(d)(II), C.R.S., is increased by $12,000,000.

SECTION 11. 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.