

CHAPTER 355

TRANSPORTATION

HOUSE BILL 04-1456

BY REPRESENTATIVE(S) Berry, and Williams S.;
also SENATOR(S) McElhany, Jones, May R., and Tapia.

AN ACT

**CONCERNING THE AUTHORIZATION OF THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF
NON-RIGHT-OF-WAY PROPERTY FOR THE PURPOSE OF ENTERING INTO A LEASE WITH AN OPTION
TO PURCHASE.**

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

SECTION 1. 43-1-210, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-1-210. Acquisition and disposition of property - fund - repeal.
(6) (a) PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (6), THE DEPARTMENT OF TRANSPORTATION IS AUTHORIZED TO TRANSFER TITLE TO PROPERTY, OTHER THAN RIGHTS-OF-WAY, WITHOUT A FINDING THAT THE PROPERTY IS NO LONGER NEEDED FOR TRANSPORTATION PURPOSES. ANY TRANSACTION AUTHORIZED PURSUANT TO THIS SUBSECTION (6) SHALL INCLUDE THE FOLLOWING PROVISIONS:

(I) THE PURCHASE PRICE PAID TO THE DEPARTMENT OF TRANSPORTATION SHALL BE NOT LESS THAN THE FAIR MARKET VALUE OF THE PROPERTY AS DETERMINED BY AN APPRAISAL FROM A CERTIFIED GENERAL APPRAISER WHO IS CERTIFIED PURSUANT TO SECTION 12-61-706, C.R.S.

(II) SIMULTANEOUS WITH THE TRANSFER OF TITLE, THE DEPARTMENT OF TRANSPORTATION SHALL ENTER INTO A LEASE-PURCHASE AGREEMENT WITH THE PURCHASER THAT INCLUDES THE FOLLOWING PROVISIONS:

(A) ALL OF THE OBLIGATIONS OF THE STATE UNDER SUCH LEASE-PURCHASE AGREEMENT SHALL BE SUBJECT TO THE ACTION OF THE TRANSPORTATION COMMISSION IN ANNUALLY MAKING MONEYS AVAILABLE FOR ALL PAYMENTS THEREUNDER AND THAT SUCH OBLIGATIONS SHALL NOT BE DEEMED OR CONSTRUED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE COLORADO CONSTITUTION OR THE LAWS OF THE STATE OF COLORADO CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE OF COLORADO AND SHALL NOT CONSTITUTE A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE COLORADO CONSTITUTION. IN THE EVENT THE TRANSPORTATION COMMISSION DOES NOT RENEW THE LEASE-PURCHASE AGREEMENT, THE SOLE SECURITY AVAILABLE TO THE LESSOR SHALL BE THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED LEASE-PURCHASE AGREEMENT.

(B) SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY DEEM APPROPRIATE, INCLUDING ALL OPTIONAL TERMS; EXCEPT THAT THE LEASE-PURCHASE AGREEMENT SHALL SPECIFICALLY AUTHORIZE THE STATE TO RECEIVE FEE TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE LEASE-PURCHASE AGREEMENT ON OR PRIOR TO THE EXPIRATION OF THE TERMS OF THE LEASE-PURCHASE AGREEMENT. ANY TITLE TO SUCH PROPERTY RECEIVED BY THE STATE ON OR PRIOR TO THE EXPIRATION OF THE TERMS OF THE LEASE-PURCHASE AGREEMENT SHALL BE HELD FOR THE BENEFIT AND USE OF THE DEPARTMENT OF TRANSPORTATION.

(III) PROCEEDS OF THE SALE SHALL BE DEPOSITED WITH THE STATE TREASURER TO THE CREDIT OF THE DEPARTMENT OF TRANSPORTATION RENOVATION FUND CREATED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6).

(b) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DEPARTMENT OF TRANSPORTATION RENOVATION FUND REFERRED TO IN THIS SUBSECTION (6) AS THE "FUND", THAT SHALL CONSIST OF MONEYS RECEIVED BY THE DEPARTMENT OF TRANSPORTATION AS PROCEEDS OF A SALE AUTHORIZED PURSUANT TO THIS SUBSECTION (6). THE MONEYS IN THE FUND SHALL BE CONTINUALLY APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION TO PAY FOR RENOVATION OF PROPERTY OF THE DEPARTMENT. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SUBSECTION (6) MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(c) NO LATER THAN JANUARY 15, 2005, AND NO LATER THAN JANUARY 15 OF EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR SHALL SUBMIT A REPORT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE CHAIR OF THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE CHAIR OF THE TRANSPORTATION COMMITTEE OF THE SENATE THAT INCLUDES, AT A MINIMUM, THE STATUS OF ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO THIS SUBSECTION (6).

(d) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 2. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

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

Approved: May 28, 2004