

CHAPTER 213

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 96-233

BY SENATORS Wham, Wattenberg, Bishop, Hernandez, Johnson, Lacy, Martinez, Meiklejohn, Norton, Pascoe, Perlmutter, R. Powers, and Schroeder;
also REPRESENTATIVES Taylor, Agler, DeGette, Entz, Lamborn, Lamm, Leyba, and Lyle.

AN ACT

CONCERNING THE MOFFAT TUNNEL, AND, IN CONNECTION THEREWITH, ALLOWING THE MOFFAT TUNNEL COMMISSION TO SELL THE ASSETS OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT, AUTHORIZING THE DEPARTMENT OF LOCAL AFFAIRS TO ASSUME THE POWERS OF THE MOFFAT TUNNEL COMMISSION, AND SUNSETTING THE MOFFAT TUNNEL IMPROVEMENT DISTRICT.

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

SECTION 1. Article 32 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART to read:

**PART 29
MOFFAT TUNNEL**

24-32-2901. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE MOFFAT TUNNEL IMPROVEMENT DISTRICT AND THE MOFFAT TUNNEL COMMISSION WERE ORIGINALLY CREATED TO PROVIDE AN AVENUE OF COMMUNICATION BY MEANS OF A TRANSPORTATION TUNNEL THROUGH THE CONTINENTAL DIVIDE AT OR NEAR JAMES PEAK. THE DISTRICT AND THE MOFFAT TUNNEL COMMISSION HAVE SUCCESSFULLY ACCOMPLISHED THE CONSTRUCTION OF THE TUNNEL AND RETIREMENT OF BONDS ISSUED TO FINANCE THE COSTS OF THE CONSTRUCTION. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE USERS OF THE TUNNEL, ITS APPROACHES, AND EQUIPMENT HAVE UNDERTAKEN THE ONGOING OPERATIONS AND MAINTENANCE RELATING TO THE MOFFAT TUNNEL, ITS APPROACHES, AND NECESSARY WORKS INCIDENTAL TO THE TUNNEL AND THAT THE DEPARTMENT OF LOCAL AFFAIRS CAN MORE EFFICIENTLY ACCOMPLISH THE OVERSIGHT OF THE TUNNEL. IT IS THE BELIEF OF THE GENERAL ASSEMBLY THAT ACCOUNTABILITY FOR THE OPERATION, MAINTENANCE, IMPROVEMENT, AND DISPOSITION OF THE ASSETS

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

OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT CAN BE ACCOMPLISHED BEST BY AUTHORIZING THE MOFFAT TUNNEL COMMISSION TO DISPOSE OF THE ASSETS OF THE DISTRICT AND, ON OR BEFORE FEBRUARY 1, 1998, TRANSFERRING CONTROL OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT AND ITS RIGHTS, RESPONSIBILITIES, PROPERTY, AND OTHER ASSETS TO THE DEPARTMENT OF LOCAL AFFAIRS SO THAT AN UNNECESSARY LAYER OF GOVERNMENT MAY BE ELIMINATED.

24-32-2902. Definitions. AS USED IN THIS PART 29, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE MOFFAT TUNNEL COMMISSION CREATED PURSUANT TO SECTION 32-8-103 (1), C.R.S.

(2) "CONTRACT" OR "CONTRACTUAL" MEANS ANY CONTRACT, LEASE, LICENSE, PERMIT, OR OTHER WRITTEN AUTHORITY FOR THE USE OF THE MOFFAT TUNNEL, ITS APPROACHES, AND EQUIPMENT ACCORDING TO THE TERMS OF THE UNDERLYING AGREEMENT.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF LOCAL AFFAIRS.

(4) "DISTRICT" MEANS THE MOFFAT TUNNEL IMPROVEMENT DISTRICT CREATED PURSUANT TO ARTICLE 8 OF TITLE 32, C.R.S.

(5) "MOFFAT TUNNEL" OR "TUNNEL" SHALL INCLUDE ANY AND ALL PORTIONS OF THE MOFFAT RAILROAD AND WATER TUNNELS, THEIR APPROACHES, OR EQUIPMENT.

(6) "USER" MEANS ANY LESSEE, LICENSEE, PERMITEE, OR OTHER HOLDER OF ANY INTEREST IN, OR ANY CONTRACTUAL RIGHT TO USE, ANY PORTION OF THE MOFFAT TUNNEL, BUT NOT ANY PERSON CLAIMING BY, THROUGH, OR UNDER SUCH USER. "USER" ALSO INCLUDES THE OWNER OF ANY PERMANENT IMPROVEMENTS LAWFULLY LOCATED ON ANY PORTION OF THE MOFFAT TUNNEL OR ITS APPROACHES.

24-32-2903. Department of local affairs - assumption of obligations - powers - immunity. AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE DEPARTMENT SHALL HAVE AUTHORITY OVER ALL OF THE PROPERTY OF THE DISTRICT TO THE SAME EXTENT AS OTHER PROPERTY OF THE DEPARTMENT; EXCEPT THAT, IF THIS AUTHORITY CONFLICTS WITH OR IS LIMITED BY ANY PROVISION OF THIS PART 29, THE PROVISION OF THIS PART 29 SHALL APPLY. EXCEPT AS OTHERWISE PROVIDED IN THIS PART 29 OR ARTICLE 8 OF TITLE 21, C.R.S., THE STATE SHALL NOT ASSUME ANY LIABILITY FOR THE ACTS, OMISSIONS, INDEBTEDNESS, OR OTHER OBLIGATIONS OF THE BOARD OR THE DISTRICT AND SHALL BE IMMUNE FROM ANY ACTION RELATING TO THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE MOFFAT TUNNEL, ITS APPROACHES, OR EQUIPMENT, PURSUANT TO THE PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

24-32-2904. Contracts for use of tunnel. (1) AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE DEPARTMENT SHALL HAVE THE RIGHT TO ENFORCE THE PROVISIONS OF ANY CONTRACTS AND TO MODIFY THE CONTRACTS UPON MUTUAL AGREEMENT OF THE RESPECTIVE PARTIES TO THE CONTRACTS.

(2) AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE DEPARTMENT SHALL HAVE THE POWER TO ENTER INTO CONTRACTS WITH PERSONS AND WITH PRIVATE AND PUBLIC CORPORATIONS FOR THE RIGHT TO USE THE TUNNEL FOR THE TRANSMISSION OF POWER, FOR TELEPHONE AND OTHER COMMUNICATION LINES, FOR THE TRANSMISSION OF WATER, FOR RAILROAD AND RAILWAY PURPOSES, AND FOR ANY OTHER PURPOSE TO WHICH THE SAME MAY BE ADAPTED. ALL THE CONTRACTS AND RIGHTS OF USE SHALL BE SUBJECT AND SUBORDINATE TO ALL PRIOR CONTRACTS AND MAY NOT IMPAIR THE RIGHTS OF ANY EXISTING LEGAL USER.

(3) USERS SHALL BE RESPONSIBLE FOR THE COST OF MAINTAINING, TO THE EXTENT OF THEIR USE, THE MOFFAT TUNNEL, ITS APPROACHES, AND EQUIPMENT.

24-32-2905. Rules - right to construct and repair. (1) AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE EXECUTIVE DIRECTOR OF THE DEPARTMENT IS AUTHORIZED TO ADOPT REASONABLE RULES RELATING TO THE MOFFAT TUNNEL SUBJECT TO THE PROVISIONS OF THIS PART 29 AND SUBJECT TO EXISTING CONTRACTUAL RIGHTS AND OBLIGATIONS OF THE USERS. ALL RULES AND REGULATIONS OF THE MOFFAT TUNNEL COMMISSION SHALL BE REPEALED UPON THE ADOPTION OF RULES BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT RELATING TO THE MOFFAT TUNNEL PURSUANT TO THIS SUBSECTION (1).

(2) AS PROVIDED THROUGH ANY EXISTING CONTRACTUAL RIGHTS AND IN ACCORDANCE WITH REASONABLE RULES OF THE DEPARTMENT, USERS SHALL HAVE THE RIGHT TO CONSTRUCT AND REPAIR, FOR THEIR OWN BENEFIT AND AT THEIR SOLE COST, BETTERMENTS OR IMPROVEMENTS ON OR TO THE MOFFAT TUNNEL RELATING TO THEIR RESPECTIVE USES, AS LONG AS THE BETTERMENTS OR IMPROVEMENTS DO NOT INTERFERE WITH OTHER EXISTING USES.

24-32-2906. Property of Moffat tunnel improvement district - disposition. (1) (a) AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE DEPARTMENT SHALL HAVE THE AUTHORITY TO CONVEY OR TRANSFER OWNERSHIP OF ALL TANGIBLE PROPERTY, REAL AND PERSONAL, OR ANY INTEREST THEREIN OWNED BY THE DISTRICT FOR FAIR MARKET VALUE. EACH USER SHALL HAVE THE RIGHT TO PURCHASE, TO THE EXTENT OF ITS USE, REAL PROPERTY INTERESTS OF THE DISTRICT AT FAIR MARKET VALUE, WHICH SHALL BE DETERMINED PURSUANT TO THE APPRAISAL PROCEDURES OF THE DEPARTMENT. FAIR MARKET VALUE, AS USED IN THIS SECTION, SHALL NOT INCLUDE ANY IMPROVEMENTS OR THE VALUE OF ANY IMPROVEMENTS OWNED OR PAID FOR BY THE USER. IN ADDITION, WHEN DETERMINING FAIR MARKET VALUE OF ANY PORTION OF OR INTEREST IN THE REAL PROPERTY OF THE DISTRICT, THE VALUE OR DETRIMENT OF ANY LEASE, LICENSE, OR PERMIT GRANTED FOR THE BENEFIT OF THE PARTY ACQUIRING SUCH REAL PROPERTY SHALL NOT BE CONSIDERED. EACH USER SHALL ALSO HAVE A COMMERCIALY REASONABLE RIGHT OF FIRST REFUSAL TO PURCHASE AT THE FAIR MARKET VALUE, TO THE EXTENT OF ITS USE, ANY REAL PROPERTY INTEREST OFFERED FOR CONVEYANCE.

(b) THE PURCHASER OF ANY REAL PROPERTY OR INTEREST THEREIN OF THE DISTRICT, WHETHER THE PURCHASER IS A CURRENT USER OR ANY OTHER PARTY, SHALL TAKE THE PROPERTY SUBJECT TO THEN EXISTING LEASES, CONTRACTS FOR USE,

LICENSES, OR OTHER ENCUMBRANCES ON OR OBLIGATIONS RELATING TO THE PROPERTY AND THE RIGHT OF THE DISTRICT, AND ITS SUCCESSORS AND ASSIGNS, TO REASONABLE ACCESS ACROSS THE INTERESTS CONVEYED FOR ACCESS TO THE TUNNEL.

(2) PROCEEDS FROM ANY CONVEYANCE SHALL BE USED FIRST FOR THE EXPENSES OF THE CONVEYANCE. EXPENSES OF CONVEYANCE, INCLUDING ADMINISTRATIVE COSTS INCURRED BY THE STATE AND LEGAL AND OTHER COSTS INCURRED IN CONNECTION WITH THE SALE OF THE PROPERTY OF THE DISTRICT, SHALL NOT IN THE AGGREGATE EXCEED FOUR PERCENT OF THE PURCHASE PRICE OF THE PROPERTY BEING CONVEYED. ANY REMAINING PROCEEDS SHALL BE IMMEDIATELY TRANSFERRED TO THE COUNTIES AND THE CITY AND COUNTY OF DENVER INCLUDED, IN WHOLE OR IN PART, IN THE DISTRICT AS SPECIFIED IN SECTION 32-8-102, C.R.S., IN SUCH PROPORTION AS THE TOTAL AMOUNT OF TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM EACH COUNTY OR THE CITY AND COUNTY OF DENVER AND ITS TAXPAYERS SINCE THE DISTRICT'S CREATION IS TO THE TOTAL OF ALL TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM THOSE SOURCES SINCE THE DISTRICT'S CREATION. PROCEEDS MAY BE TRANSFERRED DIRECTLY TO THE COUNTIES AND THE CITY AND COUNTY OF DENVER IN CONJUNCTION WITH THE CLOSING OF THE SALE OF THE PROPERTY OF THE DISTRICT, OR THEY MAY BE CREDITED FIRST TO THE CASH FUND CREATED IN SECTION 32-8-126, C.R.S., BEFORE BEING IMMEDIATELY TRANSFERRED TO THE COUNTIES AND THE CITY AND COUNTY OF DENVER.

(3) AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), C.R.S., THE DEPARTMENT MAY ADOPT REASONABLE PROCEDURES CONSISTENT WITH THIS PART 29 FOR THE DISPOSITION OF PROPERTY OF THE DISTRICT. ALL DISPOSITIONS SHALL BE MADE AT FAIR MARKET VALUE AND UNENCUMBERED EXCEPT TO THE EXTENT PROVIDED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION. ALL CONVEYANCES OF PROPERTY SHALL BE MADE IN THE NAME OF THE "MOFFAT TUNNEL IMPROVEMENT DISTRICT, BY AND THROUGH THE DEPARTMENT OF LOCAL AFFAIRS OF THE STATE OF COLORADO ACTING AS THE MOFFAT TUNNEL COMMISSION UNDER AUTHORITY OF SECTION 24-32-2906, C.R.S."

SECTION 2. 32-8-101, Colorado Revised Statutes, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

32-8-101. Purpose of tunnel. THE PURPOSE OF THIS ARTICLE 8 IS TO FACILITATE TRANSPORTATION AND COMMUNICATION BETWEEN THE EASTERN AND WESTERN PORTIONS OF THE STATE THROUGH THE EFFICIENT OPERATION AND MAINTENANCE OF THE EXISTING MOFFAT TUNNEL UNDER THE CONTINENTAL DIVIDE AND TO PROMOTE THE HEALTH, COMFORT, SAFETY, CONVENIENCE, AND WELFARE OF THE PEOPLE OF THE STATE, WITH SPECIAL BENEFIT TO THE PROPERTY WITHIN THE BOUNDARIES OF THE IMPROVEMENT DISTRICT CREATED IN THIS ARTICLE.

SECTION 3. 32-8-103, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

32-8-103. Commission - election - appointment - transfer of powers to the department of local affairs. (3.5) UPON THE EXPIRATION OF THE TERMS OF COMMISSIONERS ELECTED AT THE 1994 GENERAL STATE ELECTION, COMMISSIONERS SHALL NO LONGER BE ELECTED PURSUANT TO THE PROVISIONS OF THIS SECTION AND, INSTEAD, THE GOVERNOR SHALL APPOINT THEIR SUCCESSORS TO SERVE UNTIL THE

DEPARTMENT ASSUMES THE POWERS OF THE BOARD PURSUANT TO SUBSECTION (7). THREE COMMISSIONERS SHALL BE APPOINTED FROM DIVISION NUMBER 1, AND TWO COMMISSIONERS FROM DIVISION 2. UPON A VACANCY OCCURRING IN THE BOARD, THE GOVERNOR SHALL APPOINT A SUCCESSOR TO FILL THE VACANCY TO SERVE FOR THE UNEXPIRED TERM.

(7) THE DEPARTMENT OF LOCAL AFFAIRS SHALL ASSUME THE POWERS OF THE BOARD UPON THE EARLIER OF FEBRUARY 1, 1998, OR AT SUCH TIME AS THE BOARD HAS ADOPTED A RESOLUTION TO ALLOW THE DEPARTMENT OF LOCAL AFFAIRS TO ASSUME THE POWERS OF THE BOARD AND HAS CONVEYED OR ENTERED INTO AGREEMENTS TO CONVEY SUBSTANTIALLY ALL OF THE REAL PROPERTY OF THE DISTRICT AND THE INTERESTS THEREIN. AT SUCH TIME AS THE DEPARTMENT ASSUMES THE POWERS OF THE BOARD PURSUANT TO THIS SUBSECTION (7), THE TERMS OF THE MEMBERS OF THE BOARD SHALL END AND THE BOARD SHALL NO LONGER MANAGE AND CONTROL THE MOFFAT TUNNEL IMPROVEMENT DISTRICT. IMMEDIATELY PRIOR TO THE ASSUMPTION OF THE BOARD'S POWERS BY THE DEPARTMENT OF LOCAL AFFAIRS, THE BOARD SHALL:

(a) PAY IN FULL ALL LIABILITIES OF THE DISTRICT;

(b) TRANSFER ANY REMAINING PROCEEDS FROM THE SALE OF DISTRICT PROPERTY, CASH, OR OTHER MONEYS OF THE DISTRICT TO THE MOFFAT TUNNEL CASH FUND CREATED IN SECTION 32-8-126;

(c) TRANSFER THE RECORDS AND REMAINING ASSETS OF THE DISTRICT, INCLUDING, BUT NOT LIMITED TO, FIXTURES, BOOKS, DOCUMENTS, CONTRACTS, RECORDS OF TITLE, AND SECURITIES TO THE DEPARTMENT OF LOCAL AFFAIRS;

(d) EXECUTE ALL NECESSARY BILLS OF SALE AND INSTRUMENTS OF CONVEYANCE OR ASSIGNMENT TO EVIDENCE THE TRANSFER OF PROPERTY AND TAKE ANY OTHER ACTIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE; AND

(e) PROVIDE A FINAL REPORT TO THE GENERAL ASSEMBLY SETTING FORTH IN DETAIL THE FOLLOWING:

(I) THE INCOME AND EXPENDITURES OF THE DISTRICT SINCE THE MOST RECENT REPORT SUBMITTED PURSUANT TO SECTION 32-8-104 (5);

(II) THE AMOUNTS PAID OR OTHERWISE TRANSFERRED PURSUANT TO THIS SUBSECTION (7); AND

(III) ANY OTHER INFORMATION RELEVANT TO THE BOARD'S COMPLIANCE WITH THIS SUBSECTION (7).

(8) AFTER THE DEPARTMENT OF LOCAL AFFAIRS ASSUMES THE POWERS OF THE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE MOFFAT TUNNEL IMPROVEMENT DISTRICT SHALL BE MANAGED AND CONTROLLED BY THE DEPARTMENT OF LOCAL AFFAIRS CREATED BY SECTION 24-1-125, C.R.S. THE DEPARTMENT OF LOCAL AFFAIRS SHALL BE REFERRED TO IN THIS ARTICLE AS THE "DEPARTMENT". THE DEPARTMENT SHALL HAVE THE POWERS AND DUTIES SET FORTH IN SECTION 32-8-124 AND IN PART 29 OF ARTICLE 32 OF TITLE 24, C.R.S., WITH RESPECT TO THE MOFFAT

TUNNEL IMPROVEMENT DISTRICT AND THE PROPERTIES OF THE DISTRICT.

SECTION 4. 32-8-104, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32-8-104. Officers - bonds - meetings - seal and records - reports. (5) ON OR BEFORE JANUARY 31, 1997, AND EACH YEAR THEREAFTER UNLESS THE DEPARTMENT HAS PREVIOUSLY ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), THE BOARD SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY SETTING FORTH IN DETAIL THE INCOME AND EXPENDITURES OF THE DISTRICT FOR THE PRECEDING CALENDAR YEAR.

SECTION 5. 32-8-107 (1), Colorado Revised Statutes, as amended, is amended to read:

32-8-107. Powers of board. (1) The board has power on behalf of said district:

(a) To employ a chief engineer, and such other engineers, assistants, and employees as may be necessary, and to provide for their compensation;

(b) To secure the services of attorneys and provide for their compensation;

(c) To ~~construct~~; preserve, operate, and maintain, or contract for the ~~construction~~; preservation, operation, and maintenance of ~~said~~ THE MOFFAT tunnel and its approaches and all necessary works incidental thereto; to equip and electrify ~~said~~ THE tunnel, its approaches and connections, and to construct and maintain power plants for the ~~construction~~ lighting, equipment, and electrifying of ~~said~~ THE tunnel, its approaches and connections;

(d) To enter into and execute all contracts, leases, and other instruments in writing necessary or proper to the accomplishment of the purposes of this article;

(e) ~~To acquire on behalf of said district a tunnel site and such other lands and approaches thereto as may be necessary, either by contract or by making application to the United States government for easements or rights-of-way or other rights; but the acquiring of such right or easement shall not prejudice the right of any applicant to also apply to the United States government for the right and easement to conduct water through or over the same land;~~

(f) ~~To exercise the dominant power of eminent domain when in the judgment of the board the exercise of such power is necessary to the accomplishment of the purposes of this article. This power shall be exercised by the board in accordance with the applicable provisions of articles 1 to 7 of title 38, C.R.S. 1973, and laws amendatory or supplemental thereto.~~

(g) To adopt bylaws not in conflict with the constitution and laws of the state, in carrying out the purposes of this article;

(h) To exercise all powers necessary and requisite for the accomplishment of the purposes for which this district is organized and capable of being delegated by the general assembly of the state of Colorado; and no enumeration of particular powers

granted shall be construed to impair any general grant of power contained in this article, nor to limit any such grant to powers of the same class as those so enumerated;

(i) To receive on behalf of ~~said~~ THE district aid or donations from any person or corporation or from the United States government ~~in the construction of said~~ FOR THE PURPOSE OF PRESERVING, OPERATING, OR MAINTAINING THE tunnel AND its approaches and equipment. ~~and for the maintenance thereof.~~

(j) To deposit moneys of the district ~~not then~~ THAT ARE NOT REQUIRED TO BE TRANSFERRED TO EACH OF THE COUNTIES OF THE DISTRICT OR TO THE CITY AND COUNTY OF DENVER PURSUANT TO SECTION 32-8-124(3) AND THAT ARE NOT needed in the conduct of district affairs in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(k) To implement projects and make distributions pursuant to section 32-8-123.

SECTION 6. Article 8 of title 32, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

32-8-108.5. Disposition of district property. (1) (a) UNTIL THE DEPARTMENT ASSUMES THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7), THE BOARD SHALL HAVE THE AUTHORITY TO CONVEY OR TRANSFER OWNERSHIP OF ALL TANGIBLE PROPERTY, REAL AND PERSONAL, OR ANY INTEREST THEREIN OWNED BY THE DISTRICT FOR FAIR MARKET VALUE. EACH USER SHALL HAVE THE RIGHT TO PURCHASE, TO THE EXTENT OF ITS USE, REAL PROPERTY INTERESTS OF THE DISTRICT AT THE PROPERTY'S FAIR MARKET VALUE. FAIR MARKET VALUE, AS USED IN THIS PARAGRAPH (a), SHALL NOT INCLUDE ANY IMPROVEMENTS OR THE VALUE OF ANY IMPROVEMENTS OWNED OR PAID FOR BY THE USER. IN ADDITION, WHEN DETERMINING FAIR MARKET VALUE OF ANY PORTION OR INTEREST IN THE REAL PROPERTY OF THE DISTRICT, THE VALUE OR DETRIMENT OF ANY LEASE, LICENSE, OR PERMIT GRANTED FOR THE BENEFIT OF THE PARTY ACQUIRING THE REAL PROPERTY SHALL NOT BE CONSIDERED. EACH USER SHALL ALSO HAVE A COMMERCIALY REASONABLE RIGHT OF FIRST REFUSAL TO PURCHASE AT THE FAIR MARKET VALUE, TO THE EXTENT OF ITS USE, ANY REAL PROPERTY INTEREST OFFERED FOR CONVEYANCE.

(b) THE PURCHASER OF ANY REAL PROPERTY OR INTEREST THEREIN OF THE DISTRICT, WHETHER THE PURCHASER IS A CURRENT USER OR ANY OTHER PARTY, SHALL TAKE THE PROPERTY SUBJECT TO THEN EXISTING LEASES, CONTRACTS FOR USE, LICENSES, OR OTHER ENCUMBRANCES ON OR OBLIGATIONS RELATING TO THE PROPERTY AND THE RIGHT OF THE DISTRICT, AND ITS SUCCESSORS AND ASSIGNS, TO REASONABLE ACCESS ACROSS THE INTERESTS CONVEYED FOR ACCESS TO THE TUNNEL.

(2) PROCEEDS FROM ANY CONVEYANCE SHALL BE USED FIRST FOR THE EXPENSES OF THE CONVEYANCE. EXPENSES OF CONVEYANCE, INCLUDING ADMINISTRATIVE COSTS INCURRED BY THE BOARD AND LEGAL AND OTHER COSTS INCURRED IN CONNECTION WITH THE SALE OF THE PROPERTY OF THE DISTRICT, SHALL NOT IN THE AGGREGATE EXCEED FOUR PERCENT OF THE PURCHASE PRICE OF THE PROPERTY BEING

CONVEYED. ANY REMAINING PROCEEDS SHALL BE IMMEDIATELY TRANSFERRED TO THE COUNTIES AND THE CITY AND COUNTY OF DENVER INCLUDED, IN WHOLE OR IN PART, IN THE DISTRICT AS SPECIFIED IN SECTION 32-8-102 IN SUCH PROPORTION AS THE TOTAL AMOUNT OF TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM EACH COUNTY OR THE CITY AND COUNTY OF DENVER AND ITS TAXPAYERS SINCE THE DISTRICT'S CREATION IS TO THE TOTAL OF ALL TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM THOSE SOURCES SINCE THE DISTRICTS'S CREATION.

(3) THE BOARD MAY ADOPT REASONABLE PROCEDURES CONSISTENT WITH THIS ARTICLE FOR THE DISPOSITION OF PROPERTY OF THE DISTRICT. ALL DISPOSITIONS SHALL BE MADE AT FAIR MARKET VALUE AND UNENCUMBERED EXCEPT TO THE EXTENT PROVIDED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

32-8-124. Administration of district - department of local affairs. AFTER THE DEPARTMENT HAS ASSUMED THE POWERS OF THE BOARD PURSUANT TO SECTION 32-8-103 (7) AND ANNUALLY THEREAFTER ON OR BEFORE JULY 1, THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF REVENUE NECESSARY FOR ADMINISTRATIVE COSTS OF THE DEPARTMENT RELATING TO THE PROPERTY OF THE DISTRICT. AFTER SETTING ASIDE SUFFICIENT REVENUE NECESSARY FOR ADMINISTRATIVE COSTS, WHICH MAY BE PAID FROM THE AVAILABLE CASH, SECURITIES, AND OTHER MONEYS OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT, NOT INCLUDING PROCEEDS FROM SALES OF DISTRICT PROPERTY, THE DEPARTMENT SHALL TRANSFER ALL CASH, SECURITIES, AND OTHER MONEYS OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT, INCLUDING ANY REMAINING PROCEEDS FROM SALES OF DISTRICT PROPERTY, TO EACH OF THE COUNTIES AND THE CITY AND COUNTY OF DENVER INCLUDED, IN WHOLE OR IN PART, IN THE DISTRICT AS SPECIFIED IN SECTION 32-8-102 IN SUCH PROPORTION AS THE TOTAL AMOUNT OF TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM EACH COUNTY OR CITY AND COUNTY OF DENVER AND ITS TAXPAYERS SINCE THE DISTRICT'S CREATION IS TO THE TOTAL OF ALL TAXES AND ASSESSMENTS RECEIVED BY THE DISTRICT FROM THOSE SOURCES SINCE THE DISTRICT'S CREATION.

32-8-125. Moffat tunnel improvement district - sunset. (1) AT SUCH TIME AS THE DISTRICT DOES NOT OWN ANY REAL PROPERTY, ALL REMAINING PROPERTY INTERESTS, TANGIBLE AND INTANGIBLE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, BOOKS, DOCUMENTS, CONTRACTS, RECORDS OF TITLE, AND OTHER RECORDS OF THE DISTRICT SHALL BE TRANSFERRED TO THE DEPARTMENT. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL EXECUTE ALL NECESSARY BILLS OF SALE AND INSTRUMENTS OF CONVEYANCE OR ASSIGNMENT TO EVIDENCE THE TRANSFER OF PROPERTY AND SHALL TAKE ANY OTHER ACTIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(2) UPON THE COMPLETION OF ALL ACTIONS REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL CERTIFY THAT ALL SUCH ACTIONS HAVE BEEN COMPLETED AND THAT THE MOFFAT TUNNEL IMPROVEMENT DISTRICT IS DISSOLVED. THE DISTRICT SHALL BE DISSOLVED AS OF THE EFFECTIVE DATE OF SUCH CERTIFICATION, AND A COPY OF THE CERTIFICATION SHALL BE FILED WITH THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 24-1-136 (9), C.R.S.

32-8-126. Moffat tunnel cash fund - created. ALL CASH, PROCEEDS, AND OTHER MONEYS COLLECTED BY THE DEPARTMENT PURSUANT TO THIS ARTICLE AND PART 29

OF ARTICLE 32 OF TITLE 24, C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE MOFFAT TUNNEL CASH FUND, WHICH FUND IS HEREBY CREATED. MONEYS IN THE FUND NOT SUBJECT TO IMMEDIATE TRANSFER PURSUANT TO SECTION 24-32-2906, C.R.S., SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF THE ADMINISTRATION OF THIS ARTICLE AND PART 29 OF ARTICLE 32 OF TITLE 24, C.R.S.

SECTION 7. Repeal. (1) 32-8-105, 32-8-106, and 32-8-109 to 32-8-121, Colorado Revised Statutes, as amended, are repealed.

(2) After the department has assumed the powers of the board pursuant to section 32-8-103 (7), 32-8-104, 32-8-108, 32-8-108.5, 32-8-122, and 32-8-123 are repealed.

SECTION 8. 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 9. 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 23, 1996