

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0880.01 Julie Pelegrin

HOUSE BILL 01-1361

HOUSE SPONSORSHIP

Lawrence, Larson, and Miller

SENATE SPONSORSHIP

Phillips

House Committees

Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF THE DEPARTMENT OF CORRECTIONS**
102 **TO ENTER INTO LEASE-PURCHASE AGREEMENTS TO FUND**
103 **CONSTRUCTION OF CERTAIN CORRECTIONAL FACILITY**
104 **EXPANSIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Capital Development Committee. Authorizes the executive director of the department of corrections to enter into 10-year lease-purchase agreements for phase II of the San Carlos correctional facility and phase I high-custody bed construction for the Arkansas Valley correctional facility. Specifies the total amount of each lease-purchase

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 19, 2001

HOUSE
2nd Reading Unamended
March 16, 2001

agreement. Specifies allowable provisions of the lease-purchase agreements, and requires inclusion of provisions to allow the department of corrections to pay the lease-purchase agreements early.

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

2 **SECTION 1. Legislative declaration. (1) San Carlos**
3 **correctional facility - Phase II.** The general assembly hereby finds that:

4 (a) In House Bill 90-1327, the general assembly initially approved
5 construction of a two-hundred-fifty-bed special needs unit on the campus
6 of the Colorado state hospital in Pueblo to provide housing for seriously
7 mentally ill persons sentenced to the department of corrections;

8 (b) Phase I of the San Carlos correctional facility, as it was later
9 known, was completed in and has been in use since June 1995, and
10 currently houses two hundred fifty seriously mentally ill inmates;

11 (c) In House Bill 95-1352, the general assembly authorized the
12 department of corrections to begin Phase II planning efforts for the San
13 Carlos correctional facility;

14 (d) Completion of Phase II of the San Carlos correctional facility
15 will double the capacity of the facility, providing housing for an additional
16 two hundred fifty seriously mentally ill inmates;

17 (e) Completion of Phase II of the San Carlos correctional facility
18 is necessary to provide adequate housing for the growing number of
19 seriously mentally ill inmates and to allow the department of corrections
20 to remove these persons from the general inmate population, allowing for
21 better management of the overall inmate population and safer, more
22 effective treatment of the most seriously mentally ill inmates;

23 (f) It is therefore in the best interests of the public to authorize the
24 department of corrections to enter into a lease-purchase agreement to

1 finance phase II of the San Carlos correctional facility to ensure the state
2 has adequate facilities to house and provide treatment for the most
3 seriously mentally ill inmates.

4 (2) **Arkansas Valley correctional facility - Phase I high-custody**
5 **bed construction.** The general assembly further finds that:

6 (a) For 1999 and 2000, prison population projections produced by
7 the staff of the legislative council and the division of criminal justice
8 within the department of public safety have indicated that the prison
9 population in Colorado is and will continue to increase;

10 (b) The department of corrections has identified and substantiated
11 a need for an additional one thousand one hundred fifty high-custody
12 prison beds over the next five years;

13 (c) The general assembly has previously recognized in section
14 17-1-104.9, Colorado Revised Statutes, that it is in the best interests of
15 public safety to incarcerate high-custody inmates in state prison facilities,
16 rather than in private contract prison facilities;

17 (d) The Arkansas Valley correctional facility was opened in 1987
18 with the capacity to house one thousand seven inmates and only sixteen
19 segregation beds and would be appropriate for the siting of additional
20 high-custody inmates through expansion;

21 (e) It is therefore in the best interests of the public to authorize the
22 department of corrections to enter into a lease-purchase agreement to
23 finance phase I high-custody bed construction at the Arkansas Valley
24 correctional facility to ensure the state has adequate facilities to house the
25 most dangerous inmates.

26 **SECTION 2. Lease-purchase agreements - phase II San Carlos**
27 **correctional facility - phase I high-custody beds Arkansas Valley**

1 **correctional facility.** (1) (a) Pursuant to section 17-1-105 (2), Colorado
2 Revised Statutes, the executive director of the department of corrections
3 is hereby authorized to execute a ten-year lease-purchase agreement to
4 finance construction of phase II of the San Carlos correctional facility.
5 The total amount of said lease-purchase agreement shall not exceed
6 twenty-four million two hundred sixty-two thousand five hundred one
7 dollars (\$24,262,501), plus reasonable and necessary administrative,
8 monitoring, and closing costs and interest.

9 (b) Pursuant to section 17-1-105 (2), Colorado Revised Statutes,
10 the executive director of the department of corrections is further
11 authorized to execute a ten-year lease-purchase agreement to finance
12 phase I high-custody bed construction for the Arkansas Valley
13 correctional facility. The total amount of said lease-purchase agreement
14 shall not exceed thirty-four million eight hundred five thousand one
15 hundred five dollars (\$34,805,105), plus reasonable and necessary
16 administrative, monitoring, and closing costs and interest.

17 (c) Enactment of this act shall satisfy the requirements of sections
18 24-82-102 (1) (b) and 24-82-801, Colorado Revised Statutes, which
19 require authorization of lease-purchase agreements by separate bill.

20 (2) (a) The executive director of the department of corrections
21 shall enter into one or more agreements with one or more for-profit or
22 nonprofit corporations, including but not limited to the nonprofit
23 corporation organized pursuant to section 24-82-703, Colorado Revised
24 Statutes, to act as lessor for purposes of the lease-purchase agreements
25 authorized in subsection (1) of this section.

26 (b) The lease-purchase agreements authorized in subsection (1) of
27 this section shall provide that all of the obligations of the state under such

1 agreements shall be subject to the action of the general assembly and the
2 executive director of the department of corrections in annually making
3 moneys available for all payments thereunder and that such obligations
4 shall not be deemed or construed as creating an indebtedness of the state
5 within the meaning of any provision of the Colorado constitution or the
6 laws of the state of Colorado concerning or limiting the creation of
7 indebtedness by the state of Colorado and shall not constitute a multiple
8 fiscal-year direct or indirect debt or other financial obligation of the state
9 within the meaning of section 20 (4) of article X of the Colorado
10 constitution. In the event the executive director of the department of
11 corrections does not renew either of the lease-purchase agreements
12 authorized in subsection (1) of this section, the sole security available to
13 the lessor shall be the property that is the subject of the nonrenewed
14 lease-purchase agreement.

15 (c) The lease-purchase agreements authorized in subsection (1) of
16 this section may contain such terms, provisions, and conditions as the
17 executive director of the department of corrections may deem appropriate,
18 including all optional terms; except that the lease-purchase agreements
19 shall specifically authorize the department of corrections to receive fee
20 title to the real and personal properties that are the subjects of the
21 lease-purchase agreements on or prior to the expiration of the terms of the
22 lease-purchase agreements. Any title to such properties received by the
23 state on or prior to the expiration of the terms of the lease-purchase
24 agreements shall be held for the benefit and use of the department of
25 corrections.

26 (d) The lease-purchase agreements authorized in subsection (1) of
27 this section may provide for the issuance, distribution, and sale of

1 instruments by the lessor evidencing rights to receive rentals and other
2 payments made and to be made under the lease-purchase agreements. In
3 the event such instruments are issued, distributed, or sold, they shall be
4 issued, distributed, or sold by the lessor and not by the state and shall not
5 create a relationship between the purchasers of such instruments and the
6 state or create any obligation on the part of the state to said purchasers.
7 Such instruments shall not be notes, bonds, or any other evidence of
8 indebtedness of the state within the meaning of any provision of the
9 Colorado constitution or the law of the state concerning or limiting the
10 creation of indebtedness of the state and shall not constitute a multiple
11 fiscal-year direct or indirect debt or other financial obligation of the state
12 within the meaning of section 20 (4) of article X of the Colorado
13 constitution.

14 (e) Interest paid under either of the lease-purchase agreements
15 authorized in subsection (1) of this section, including interest represented
16 by such instruments, shall be exempt from Colorado income tax.

17 (f) The executive director of the department of corrections is
18 authorized to enter into such ancillary agreements and instruments as are
19 deemed necessary or appropriate in connection with the lease-purchase
20 agreements.

21 (3) The provisions of section 24-30-202 (5) (b), Colorado Revised
22 Statutes, shall not apply to the lease-purchase agreements authorized in
23 subsection (1) of this section or any ancillary agreement entered into
24 pursuant to paragraph (f) of subsection (2) of this section. Any provision
25 of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13),
26 Colorado Revised Statutes, which the state controller deems to be
27 incompatible or inapplicable with respect to said lease-purchase

1 agreements or any such ancillary agreement may be waived by the
2 controller or his or her designee.

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