

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

LLS NO. 14-0316.04 Jason Gelender x4330

**SENATE BILL 14-197**

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**SENATE SPONSORSHIP**

**Jones and Herpin,**

**HOUSE SPONSORSHIP**

**Foote and Kraft-Tharp,**

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**Senate Committees**

Transportation  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE**  
102 **TRANSPARENCY.**

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**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://www.leg.state.co.us/bills summaries>.)*

The bill modifies the board (board) of the high-performance transportation enterprise (enterprise) as follows:

- ! Newly appointed members of the board are subject to senate confirmation and are appointed for 4-year terms. Board members may be reappointed once.

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.*

SENATE  
Amended 2nd Reading  
April 29, 2014

- ! The number of board members is increased to 8 by adding the executive director of the department of transportation as an ex officio nonvoting member.

To increase public notice of and participation in, and legislative oversight of, any public-private partnership (PPP) involving the enterprise, the bill requires the board to:

- ! Hold public meetings, in coordination with interested local governments, at the visioning, initial request for proposal preparation, and draft request for proposal revision stages of a PPP;
- ! Provide full and timely notice in the area of the PPP to state legislators, county and municipal governing bodies, and the general public;
- ! Provide specified information to the public and consider public suggestions and ideas received at the meetings; and
- ! After entering into a PPP, provide the terms of the PPP to the committees of the general assembly that have jurisdiction over transportation and post the terms of the PPP on its web site.

Until the general assembly specifically approves any such provision through the enactment of a joint resolution, the bill prohibits the enterprise from entering into a PPP that includes any of the following provisions:

- ! A term that exceeds 35 years after completion of the project to be developed and implemented by the PPP;
- ! A noncompete clause that prohibits, or imposes financial penalties or obligations on the enterprise for, the development of infrastructure other than infrastructure that is directly above or below the highway lanes of the project being developed and implemented by the PPP, that reduces usage of the project; or
- ! A requirement that the transportation enterprise compensate a private partner for any loss in toll revenues resulting from responses to types of emergencies, weather events, or safety events that occur intermittently but routinely, unless such emergencies occur on an unusually frequent or severe basis during a specific period as defined based on reasonable evidence-based forecasts.

The bill requires the enterprise:

- ! To provide public notice of any change in the status of a high-occupancy vehicle lane as a high-occupancy vehicle lane or the qualifications required to access such a lane for free use as a high-occupancy vehicle lane;
- ! When considering a project that includes one or more high-occupancy vehicle lanes, high-occupancy toll lanes, or

managed lanes, to evaluate the suitability of express bus service or bus rapid transit service for the proposed project corridor and consider funding such service from user fee revenues as part of the costs of the proposed project. The enterprise may use user fee revenues generated by a project within a corridor to support transit within the corridor must expend a minimum of 10% of any user fee revenues shared back from a party to the PPP that governs the operation of the project that generated the user fees to support transit in the project corridor.

! To include additional specified information and meet modified deadlines when annually reporting to the general assembly regarding its activities.

The bill allows the state auditor to audit the enterprise.

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

2 **SECTION 1.** In Colorado Revised Statutes, 43-4-806, **amend** (1)  
3 (b), (1) (c), (2) (a) (I), (2) (a) (II), (6) introductory portion, (6) (g), (9) (a),  
4 and (10); and **add** (1) (d) and (8.5) as follows:

5 **43-4-806. High-performance transportation enterprise -**  
6 **creation - board - funds - powers and duties - limitations - reporting**  
7 **and approval requirements - legislative declaration - definition.**

8 (1) The general assembly hereby finds and declares that:

9 (b) Such innovative means of financing projects include, but are  
10 not limited to, public-private partnerships, operating concession  
11 agreements, user fee-based project financing, and availability payment  
12 and design-build contracting; **and**

13 (c) It is the intent of the general assembly that the  
14 high-performance transportation enterprise created in this section actively  
15 seek out opportunities for public-private partnerships for the purpose of  
16 completing surface transportation infrastructure projects and that this  
17 section be broadly construed to allow the transportation enterprise

1 sufficient flexibility, consistent with the requirements of the state  
2 constitution, to pursue any available means of financing such surface  
3 transportation infrastructure projects that will allow the efficient  
4 completion of the projects; AND

5 (d) IT IS ALSO THE INTENT OF THE GENERAL ASSEMBLY THAT THE  
6 HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE PLACE A HIGH  
7 PRIORITY ON THE MOVEMENT OF PEOPLE, AND NOT ONLY THE MOVEMENT  
8 OF VEHICLES, WHEN SELECTING, PLANNING, DEVELOPING, OR  
9 PARTICIPATING IN A PUBLIC-PRIVATE PARTNERSHIP FOR THE COMPLETION  
10 OR OPERATION OF A SURFACE TRANSPORTATION INFRASTRUCTURE  
11 PROJECT.

12 (2) (a) (I) The high-performance transportation enterprise is  
13 hereby created. The transportation enterprise ~~shall operate~~ OPERATES as  
14 a government-owned business within the department and ~~shall be~~ IS a  
15 division of the department. The board of the transportation enterprise  
16 ~~shall consist~~ CONSISTS of the following ~~seven~~ EIGHT members:

17 (A) Four members appointed by the governor, each of whom ~~shall~~  
18 MUST have professional expertise in transportation planning or  
19 development, local government, design-build contracting, public or  
20 private finance, engineering, environmental issues, or any other area that  
21 the governor believes will benefit the board in the execution of its powers  
22 and performance of its duties. The governor shall appoint one member  
23 who resides within the planning area of the Denver regional council of  
24 governments, one member who resides within the planning area of the  
25 Pikes Peak area council of governments, one member who resides within  
26 the planning area of the north front range metropolitan planning  
27 organization, and one member who resides within the interstate 70

1 mountain corridor. MEMBERS APPOINTED BY THE GOVERNOR ON OR AFTER  
2 THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (A), AS AMENDED,  
3 MUST BE CONFIRMED BY THE SENATE.

4 (B) Three members of the commission appointed by resolution of  
5 the commission. MEMBERS APPOINTED BY THE COMMISSION ON OR AFTER  
6 THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (C), AS AMENDED,  
7 MUST BE CONFIRMED BY THE SENATE.

8 (C) THE EXECUTIVE DIRECTOR, WHO SERVES AS AN EX OFFICIO  
9 NONVOTING MEMBER OF THE BOARD.

10 (II) ~~Initial appointments to the transportation enterprise board~~  
11 ~~shall be made no later than July 1, 2009. Members~~ A MEMBER of the  
12 board shall serve at the pleasure of the appointing authority and without  
13 compensation SERVING ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH  
14 (II), AS AMENDED, SERVES UNTIL HIS OR HER TERM EXPIRES AS SPECIFIED  
15 IN THE GOVERNOR'S EXECUTIVE ORDER OR COMMISSION RESOLUTION BY  
16 WHICH HE OR SHE WAS APPOINTED. Vacancies in the membership of the  
17 transportation enterprise board shall be ARE filled in the same manner as  
18 regular appointments. MEMBERS OF THE BOARD APPOINTED ON OR AFTER  
19 THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II), AS AMENDED, SERVE  
20 FOR FOUR-YEAR TERMS AND MAY BE REAPPOINTED ONCE.

21 (6) In addition to any other powers and duties specified in this  
22 section, the transportation enterprise board shall have HAS the following  
23 powers and duties:

24 (g) (I) SUBJECT TO THE REQUIREMENTS AND LIMITATIONS  
25 SPECIFIED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (g), to  
26 make and enter into contracts or agreements with any private or public  
27 entity to facilitate a public-private partnership, including, but not limited

1 to:

2           ~~(H)~~ (A) An agreement pursuant to which the transportation  
3 enterprise or the enterprise on behalf of the department operates,  
4 maintains, or provides services or property in connection with a surface  
5 transportation infrastructure project; or

6           ~~(H)~~ (B) An agreement pursuant to which a private entity  
7 completes all or any portion of a surface transportation infrastructure  
8 project on behalf of the transportation enterprise;

9           (II) IN ORDER TO ENSURE ADEQUATE PUBLIC NOTICE OF AND  
10 SIGNIFICANT PARTICIPATION IN, AND MEANINGFUL LEGISLATIVE  
11 OVERSIGHT OF, ANY PUBLIC-PRIVATE PARTNERSHIP, THE TRANSPORTATION  
12 ENTERPRISE SHALL:

13           (A) AT THE VISIONING STAGE DURING WHICH THE  
14 TRANSPORTATION ENTERPRISE IS DEVELOPING A SURFACE  
15 TRANSPORTATION INFRASTRUCTURE PROJECT CONCEPT FOR THE  
16 PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING,  
17 IN COORDINATION WITH INTERESTED LOCAL GOVERNMENTS, AT WHICH  
18 MEMBERS OF THE PUBLIC MAY OBTAIN INFORMATION REGARDING THE  
19 CONCEPT BEING DEVELOPED, EXPRESS THEIR OPINIONS AND IDEAS  
20 REGARDING THE CONCEPT, AND MAKE SUGGESTIONS REGARDING  
21 ALTERNATIVE CONCEPTS OR MEANS OF IMPROVING THE CONCEPT. AT EACH  
22 MEETING HELD, THE ENTERPRISE SHALL PROVIDE AN OVERVIEW OF THE  
23 TRANSPORTATION NEEDS THAT IT SEEKS TO ADDRESS AND THE PERCEIVED  
24 ADVANTAGES AND DISADVANTAGES OF THE CONCEPT. THE ENTERPRISE  
25 SHALL CONSIDER THE SUGGESTIONS AND IDEAS PRESENTED BY THE PUBLIC.  
26 THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE OF EACH  
27 MEETING DIRECTLY TO EACH MEMBER OF THE GENERAL ASSEMBLY WHOSE

1 DISTRICT INCLUDES ANY PART OF THE PROJECT CONCEPT AREA AND TO THE  
2 GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT INCLUDES  
3 ANY PART OF THE PROJECT CONCEPT AREA AND SHALL ALSO PROVIDE FULL  
4 AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING  
5 INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY  
6 OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS  
7 AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS  
8 WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE  
9 PARTNERSHIP.

10 (B) BEFORE PREPARING ANY REQUEST FOR PROPOSAL FOR A  
11 PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING,  
12 IN COORDINATION WITH INTERESTED LOCAL GOVERNMENTS, AT WHICH  
13 MEMBERS OF THE PUBLIC MAY OBTAIN INFORMATION REGARDING THE  
14 SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT OR PROJECTS FOR  
15 WHICH THE TRANSPORTATION ENTERPRISE IS CONSIDERING PREPARING A  
16 REQUEST FOR PROPOSAL, EXPRESS THEIR OPINIONS AND IDEAS REGARDING  
17 THE PROPOSED PROJECTS, MAKE SUGGESTIONS REGARDING ALTERNATIVE  
18 PROJECTS OR MEANS OF IMPROVING THE PROJECT OR PROJECTS UNDER  
19 CONSIDERATION, AND QUESTION REPRESENTATIVES OF THE ENTERPRISE.  
20 THE ENTERPRISE SHALL CONSIDER THE SUGGESTIONS AND IDEAS  
21 PRESENTED BY THE PUBLIC. AT EACH MEETING HELD, THE ENTERPRISE  
22 SHALL PROVIDE DETAILED INFORMATION REGARDING THE  
23 TRANSPORTATION NEEDS THAT IT SEEKS TO ADDRESS, ANY POSSIBLE  
24 ALTERNATIVE PROJECTS THAT MIGHT ADDRESS THOSE NEEDS, AND ANY  
25 ALTERNATIVE MEANS, DESCRIBED BY A FINANCIAL ANALYSIS, OF FUNDING  
26 THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT OR PROJECTS,  
27 INCLUDING BUT NOT LIMITED TO ANY ALTERNATIVE MEANS THAT RELY

1 EXCLUSIVELY ON PUBLIC FUNDING, WITHOUT ENTERING INTO A  
2 PUBLIC-PRIVATE PARTNERSHIP. THE ENTERPRISE SHALL PROVIDE FULL AND  
3 TIMELY NOTICE OF ANY SUCH MEETINGS DIRECTLY TO EACH MEMBER OF  
4 THE GENERAL ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE  
5 PROJECT AREA AND TO THE GOVERNING BODY OF EACH COUNTY AND  
6 MUNICIPALITY THAT INCLUDES ANY PART OF THE PROJECT AREA AND  
7 SHALL ALSO PROVIDE FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC  
8 BY PROVIDING INFORMATIONAL RELEASES TO APPROPRIATE MEDIA  
9 SOURCES AND BY OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL  
10 HOLD THE MEETINGS AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT  
11 FOR INDIVIDUALS WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE  
12 PUBLIC-PRIVATE PARTNERSHIP.

13 (C) AFTER PREPARING AN INITIAL DRAFT OF, BUT BEFORE ISSUING,  
14 A REQUEST FOR A PROPOSAL FOR A PUBLIC-PRIVATE PARTNERSHIP, HOLD  
15 AT LEAST ONE TOWN HALL MEETING, IN COORDINATION WITH INTERESTED  
16 LOCAL GOVERNMENTS, AT WHICH MEMBERS OF THE PUBLIC MAY OBTAIN  
17 INFORMATION, EXPRESS OPINIONS AND IDEAS, SUGGEST IMPROVEMENTS,  
18 AND QUESTION REPRESENTATIVES OF THE TRANSPORTATION ENTERPRISE  
19 REGARDING THE DRAFT REQUEST FOR PROPOSAL. THE ENTERPRISE SHALL  
20 POST A COPY OF THE DRAFT REQUEST FOR PROPOSAL ON ITS WEB SITE AT  
21 LEAST ONE WEEK BEFORE ANY SUCH MEETING, AND SHALL PROVIDE A  
22 SUMMARY OF THE PARAMETERS OF THE DRAFT REQUEST FOR PROPOSAL TO  
23 MEMBERS OF THE PUBLIC ATTENDING ANY SUCH MEETING. THE  
24 ENTERPRISE SHALL CONSIDER THE SUGGESTIONS AND IDEAS PRESENTED BY  
25 THE PUBLIC. THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE  
26 OF ANY SUCH MEETINGS DIRECTLY TO EACH MEMBER OF THE GENERAL  
27 ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE PROJECT AREA



1 AND TO THE GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT  
2 INCLUDES ANY PART OF THE PROJECT AREA AND SHALL ALSO PROVIDE  
3 FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING  
4 INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY  
5 OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS  
6 AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS  
7 WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE  
8 PARTNERSHIP.

9 (D) AFTER ENTERING INTO A PUBLIC-PRIVATE PARTNERSHIP,  
10 PROVIDE TO THE COMMITTEES OF THE GENERAL ASSEMBLY THAT HAVE  
11 JURISDICTION OVER TRANSPORTATION THE TERMS OF THE PUBLIC-PRIVATE  
12 PARTNERSHIP AND POST THE TERMS OF THE PUBLIC-PRIVATE PARTNERSHIP  
13 ON ITS WEB SITE.

14 (III) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF  
15 THIS PARAGRAPH (g), THE TRANSPORTATION ENTERPRISE SHALL NOT ISSUE  
16 A REQUEST FOR PROPOSAL OR SUBSEQUENTLY ENTER INTO ANY  
17 PUBLIC-PRIVATE PARTNERSHIP PURSUANT TO A REQUEST FOR PROPOSAL  
18 THAT INCLUDES ANY OF THE FOLLOWING PROVISIONS UNLESS THE  
19 GENERAL ASSEMBLY HAS SPECIFICALLY APPROVED THE INCLUSION OF THE  
20 PROVISION OR PROVISIONS IN A PUBLIC-PRIVATE PARTNERSHIP THROUGH  
21 THE ENACTMENT OF A JOINT RESOLUTION THAT INCLUDES ONLY  
22 LANGUAGE THAT APPROVES THE PROVISION OR PROVISIONS:

23 (A) A TERM THAT EXCEEDS THIRTY-FIVE YEARS AFTER  
24 COMPLETION OF THE SURFACE TRANSPORTATION INFRASTRUCTURE  
25 PROJECT THAT IS BEING DEVELOPED AND IMPLEMENTED BY THE  
26 PUBLIC-PRIVATE PARTNERSHIP;

27 (B) A NONCOMPETE CLAUSE THAT PROHIBITS, OR IMPOSES

1 FINANCIAL PENALTIES OR OBLIGATIONS, INCLUDING A LOSS IN TOLL  
2 REVENUES, ON THE TRANSPORTATION ENTERPRISE FOR, THE DEVELOPMENT  
3 OF SURFACE TRANSPORTATION INFRASTRUCTURE OR OTHER  
4 INFRASTRUCTURE, OTHER THAN INFRASTRUCTURE THAT IS DIRECTLY  
5 ABOVE OR BELOW THE HIGHWAY LANES OF THE SURFACE TRANSPORTATION  
6 INFRASTRUCTURE PROJECT BEING DEVELOPED AND IMPLEMENTED BY THE  
7 PUBLIC-PRIVATE PARTNERSHIP, THAT REDUCES USAGE OF THE PROJECT; OR

8 (C) A REQUIREMENT THAT THE TRANSPORTATION ENTERPRISE  
9 ASSUME THE PRIVATE PARTNER'S RISK OF LOSS IN TOLL REVENUES  
10 RESULTING FROM \_\_\_\_\_ TYPES OF EMERGENCIES, WEATHER EVENTS, OR  
11 SAFETY EVENTS THAT OCCUR INTERMITTENTLY BUT ROUTINELY, UNLESS  
12 SUCH EMERGENCIES OR EVENTS OCCUR ON AN UNUSUALLY FREQUENT OR  
13 SEVERE BASIS DURING A SPECIFIC PERIOD AS DEFINED BASED ON  
14 REASONABLE EVIDENCE-BASED FORECASTS.

15 (IV) THE LEGISLATIVE APPROVAL REQUIREMENT SET FORTH IN  
16 SUBPARAGRAPH (III) OF THIS PARAGRAPH (g) DOES NOT APPLY TO ANY  
17 PUBLIC-PRIVATE PARTNERSHIP TO WHICH A PUBLIC HIGHWAY AUTHORITY  
18 CREATED PURSUANT TO PART 5 OF THIS ARTICLE OR A REGIONAL  
19 TRANSPORTATION AUTHORITY CREATED PURSUANT TO PART 6 OF THIS  
20 ARTICLE IS A PARTY IF THE PUBLIC-PRIVATE PARTNERSHIP REQUIRES THE  
21 AUTHORITY TO BEAR SUBSTANTIAL RESPONSIBILITY FOR THE DESIGNING,  
22 ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION, REPAIR,  
23 RECONSTRUCTION, MAINTENANCE, OR OPERATION OF A SURFACE  
24 TRANSPORTATION INFRASTRUCTURE PROJECT.

25 (8.5) THE TRANSPORTATION ENTERPRISE SHALL PROVIDE NOTICE  
26 TO THE PUBLIC OF ANY CHANGE IN THE STATUS OF A HIGH-OCCUPANCY  
27 VEHICLE LANE AS A HIGH-OCCUPANCY VEHICLE LANE OR THE

1 QUALIFICATIONS REQUIRED TO ACCESS SUCH A LANE FOR FREE USE AS A  
2 HIGH-OCCUPANCY VEHICLE LANE.

3 (9) (a) WHEN CONSIDERING A PROPOSED SURFACE  
4 TRANSPORTATION INFRASTRUCTURE PROJECT THAT INCLUDES ONE OR  
5 MORE HIGH-OCCUPANCY VEHICLE LANES, HIGH-OCCUPANCY TOLL LANES,  
6 OR MANAGED LANES, THE TRANSPORTATION ENTERPRISE SHALL EVALUATE  
7 THE SUITABILITY OF EXPRESS BUS SERVICE OR BUS RAPID TRANSIT SERVICE  
8 FOR THE PROPOSED PROJECT CORRIDOR AND CONSIDER FUNDING SUCH  
9 SERVICE FROM USER FEE REVENUES AS PART OF THE COSTS OF THE  
10 PROPOSED PROJECT. THE TRANSPORTATION ENTERPRISE MAY EXPEND OR  
11 AUTHORIZE THE EXPENDITURE OF USER FEE REVENUES GENERATED BY A  
12 SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT WITHIN A  
13 CORRIDOR TO SUPPORT TRANSIT, INCLUDING CAPITAL AND OPERATING  
14 COSTS OF TRANSIT, FIRST AND FINAL MILE CONNECTIONS, AND  
15 TRANSPORTATION DEMAND MANAGEMENT PROGRAMS DESIGNED TO  
16 INCREASE TRANSIT OR HIGH-OCCUPANCY VEHICLE RIDERSHIP WITHIN THE  
17 CORRIDOR. THE TRANSPORTATION ENTERPRISE SHALL EXPEND A MINIMUM  
18 OF TEN PERCENT OF ANY NET USER FEE REVENUES SHARED BACK TO THE  
19 TRANSPORTATION ENTERPRISE FROM A PARTY TO THE PUBLIC-PRIVATE  
20 PARTNERSHIP AGREEMENT THAT GOVERNS THE OPERATION OF THE  
21 SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT THAT GENERATED  
22 THE USER FEES TO SUPPORT TRANSIT IN THE PROJECT CORRIDOR. The  
23 transportation enterprise shall not supplant or duplicate the services  
24 provided by any public mass transit operator, as defined in section  
25 43-1-102 (5), railroad, public highway authority created pursuant to part  
26 5 of this article, or regional transportation authority created pursuant to  
27 part 6 of this article except as described in detail in an intergovernmental

1 agreement or other contractual agreement entered into by the  
2 transportation enterprise and the operator, railroad, or authority. The  
3 creation of and undertaking of surface transportation infrastructure  
4 projects by the transportation enterprise pursuant to this part 8 is not  
5 intended to discourage any combination of local governments from  
6 forming a public highway authority or a regional transportation authority.

7 (10) (a) No later than ~~February 15, 2010, and no later than~~  
8 ~~February 15~~ NOVEMBER 1, 2014, AND NO LATER THAN NOVEMBER 1 of  
9 each year thereafter, the transportation enterprise shall PROVIDE A  
10 WRITTEN REPORT TO EACH MEMBER OF THE COMMITTEES OF THE HOUSE OF  
11 REPRESENTATIVES AND THE SENATE THAT HAVE JURISDICTION OVER  
12 TRANSPORTATION. NO LATER THAN JANUARY 31, 2015, AND NO LATER  
13 THAN JANUARY 31 OF EACH YEAR THEREAFTER, THE ENTERPRISE SHALL  
14 present a THE report to the SAID committees. ~~of the house of~~  
15 ~~representatives and the senate that have jurisdiction over transportation.~~  
16 THE REPORT PRESENTATION IS IN ADDITION TO THE DEPARTMENTAL  
17 PRESENTATION REQUIRED BY SECTION 2-7-203 (2), C.R.S., AND MUST BE  
18 PRESENTED SEPARATELY BY THE ENTERPRISE RATHER THAN THE  
19 DEPARTMENT, BUT MAY BE PRESENTED AT THE SAME MEETING AS THE  
20 DEPARTMENTAL PRESENTATION.

21 (b) The report ~~shall~~ MUST include, EITHER IN THE TEXT OF THE  
22 REPORT ITSELF OR BY REFERENCE TO SPECIFIC LOCATIONS ON THE  
23 DEPARTMENT'S WEB SITE:

24 (I) A summary of the transportation enterprise's activities for the  
25 previous year;

26 (II) A summary of the status of any current surface transportation  
27 infrastructure; ~~projects;~~

1 (III) A statement of the TRANSPORTATION enterprise's revenues,  
2 ~~and expenses, and any recommendations for statutory changes that the~~  
3 ~~enterprise deems necessary or desirable.~~ EXPENSES, AND COMMITMENTS  
4 BY PROJECT IN THE TRANSPORTATION ENTERPRISE'S TRANSPORTATION  
5 SPECIAL FUND;

6 (IV) A THOROUGH DESCRIPTION OF EACH CURRENT SURFACE  
7 TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING SIGNIFICANT  
8 UPCOMING DECISIONS AND COST ESTIMATES;

9 (V) A SUMMARY OF THE TERMS AND PROVISIONS OF ANY  
10 PUBLIC-PRIVATE PARTNERSHIP ALREADY ENTERED INTO, INCLUDING BUT  
11 NOT LIMITED TO PROVISIONS CONCERNING:

12 (A) THE TERM OF THE PUBLIC-PRIVATE PARTNERSHIP;

13 (B) ANY NONCOMPETE AGREEMENTS THAT ARE PART OF THE  
14 PUBLIC-PRIVATE PARTNERSHIP;

15 (C) CURRENT AND MAXIMUM PERMITTED TOLL RATES;

16 (D) TRANSIT AND CARPOOLING;

17 (E) GUARANTEES FOR PERFORMANCE OF CONSTRUCTION,  
18 MAINTENANCE, OPERATION, OR OTHER OBLIGATIONS OF PARTIES TO THE  
19 PUBLIC-PRIVATE PARTNERSHIP, INCLUDING REQUIRED SURETY BONDS AND  
20 INSURANCE. THE REPORT MUST ALSO INCLUDE EVIDENCE THAT SUCH  
21 GUARANTEES ARE ADEQUATE TO COVER THE ENTIRE TERM OF THE  
22 PUBLIC-PRIVATE PARTNERSHIP.

23 (F) TOTAL PROJECT COSTS; AND

24 (G) THE TOTAL AMOUNT OF PROJECT COSTS, EXPRESSED IN BOTH  
25 A DOLLAR AMOUNT AND AS A PERCENTAGE OF TOTAL PROJECT COSTS,  
26 BEING COVERED BY THE PRIVATE PARTNER AND ANY OTHER PRIVATE  
27 ENTITIES.

1 (VI) A SUMMARY OF EACH SURFACE TRANSPORTATION  
2 INFRASTRUCTURE PROJECT THAT THE TRANSPORTATION ENTERPRISE IS  
3 LIKELY TO SEEK TO DEVELOP AND IMPLEMENT THROUGH A  
4 PUBLIC-PRIVATE PARTNERSHIP THAT INCLUDES:

5 (A) A DESCRIPTION OF THE SURFACE TRANSPORTATION  
6 INFRASTRUCTURE PROJECT TO BE COMPLETED THROUGH THE  
7 PUBLIC-PRIVATE PARTNERSHIP; AND

8 (B) A SUMMARY OF THE PROPOSED OR ANTICIPATED TERMS AND  
9 PROVISIONS THAT WILL GOVERN THE PROPOSED PUBLIC-PRIVATE  
10 PARTNERSHIP THAT INCLUDES, TO THE EXTENT AVAILABLE, THE  
11 INFORMATION SPECIFIED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (b).  
12 THE SUMMARY MAY INCLUDE RANGES RATHER THAN FIXED ESTIMATES OF  
13 ANTICIPATED TERMS AND PROVISIONS REGARDING THE AGREEMENT TERM,  
14 TOLL RATES, PROJECT COSTS, PROFITS, AND ANY OTHER QUANTIFIABLE BUT  
15 NOT YET QUANTIFIED PROPOSED TERMS AND PROVISIONS.

16 (VII) ANY DIFFERENCES BETWEEN THE PROPOSED OR ANTICIPATED  
17 TERMS AND PROVISIONS RELATED TO A SOLICITATION FOR A  
18 PUBLIC-PRIVATE PARTNERSHIP REPORTED PURSUANT TO SUBPARAGRAPH  
19 (VI) OF THIS PARAGRAPH (b) AND THE ACTUAL TERMS AND PROVISIONS OF  
20 ANY PUBLIC-PRIVATE PARTNERSHIP AGREEMENT THAT RESULTS FROM THE  
21 SOLICITATION REPORTED PURSUANT TO SUBPARAGRAPH (V) OF THIS  
22 PARAGRAPH (b); AND

23 (VIII) ANY RECOMMENDATIONS FOR STATUTORY CHANGES THAT  
24 THE TRANSPORTATION ENTERPRISE DEEMS NECESSARY OR DESIRABLE.

25 (c) The committees OF THE HOUSE OF REPRESENTATIVES AND THE  
26 SENATE THAT HAVE JURISDICTION OVER TRANSPORTATION shall review the  
27 report and may recommend legislation. The report shall be IS public and

1 ~~shall~~ MUST be available on the web site of the department on or before  
2 THE January 15 of the year before the year in which the report is  
3 ~~presented~~. IMMEDIATELY FOLLOWING THE PROVISION OF THE WRITTEN  
4 REPORT TO EACH MEMBER OF THE COMMITTEES PURSUANT TO PARAGRAPH  
5 (a) OF THIS SUBSECTION (10).

6 **SECTION 2.** In Colorado Revised Statutes, **amend** 2-3-121 as  
7 follows:

8 **2-3-121. Performance audits of public highway authorities.**

9 (1) At the discretion of the legislative audit committee, the state auditor  
10 shall conduct or cause to be conducted a performance audit of:

11 (a) Any public highway authority created and operating pursuant  
12 to part 5 of article 4 of title 43, C.R.S.; except that the legislative audit  
13 committee may not require the state auditor to conduct such a  
14 performance audit during any year in which the transportation legislation  
15 review committee created in section 43-2-145 (1), C.R.S., is required or  
16 authorized to meet; OR

17 (b) THE HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE  
18 CREATED IN SECTION 43-4-806 (2) (a), C.R.S.

19 (2) The state auditor shall prepare a report and recommendations  
20 on each audit conducted and shall present the report and  
21 recommendations to the committee. The state auditor shall pay the costs  
22 of any audit conducted pursuant to this section.

23 **SECTION 3.** In Colorado Revised Statutes, 43-4-808, **amend** (3)  
24 introductory portion as follows:

25 **43-4-808. Toll highways - special provisions - limitations.**

26 (3) Notwithstanding any other provision of law and subject to the  
27 requirements of section 43-4-806 (8) AND (8.5) and any limitations set

1     forth in the state constitution or in federal law, the transportation  
2     enterprise may:

3             **SECTION 4. Applicability.** This act applies to public-private  
4     partnerships entered into on or after the effective date of this act.

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