

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 14-0316.04 Jason Gelender x4330

SENATE BILL 14-197

SENATE SPONSORSHIP

Jones and Herpin,

HOUSE SPONSORSHIP

Foote and Kraft-Tharp,

Senate Committees

Transportation
Appropriations

House Committees

Transportation & Energy
Appropriations

HOUSE
3rd Reading Unamended
May 5, 2014

A BILL FOR AN ACT

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

HOUSE
2nd Reading Unamended
May 3, 2014

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>.)

SENATE
Amended 3rd Reading
April 30, 2014

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.

SENATE
Amended 2nd Reading
April 29, 2014

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.*

- ! 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.

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

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

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

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

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

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

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

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

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

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

27 (II) A summary of the status of any current surface transportation

1 infrastructure; ~~projects,~~

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

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

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

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

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

16 (C) CURRENT AND MAXIMUM PERMITTED TOLL RATES;

17 (D) TRANSIT AND CARPOOLING;

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

24 (F) TOTAL PROJECT COSTS; AND

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

1 ENTITIES.

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

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

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

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

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

26 (c) The committees OF THE HOUSE OF REPRESENTATIVES AND THE
27 SENATE THAT HAVE JURISDICTION OVER TRANSPORTATION shall review the

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

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

9 **2-3-121. Performance audits of public highway authorities.**

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

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

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

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

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

26 **43-4-808. Toll highways - special provisions - limitations.**

27 (3) Notwithstanding any other provision of law and subject to the

1 requirements of section 43-4-806 (8) AND (8.5) and any limitations set
2 forth in the state constitution or in federal law, the transportation
3 enterprise may:

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

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