

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0168.01 Jason Gelender

HOUSE BILL 06-1003

HOUSE SPONSORSHIP

Pommer, Borodkin, Green, Hefley, Larson, and McFadyen

SENATE SPONSORSHIP

Williams, Isgar, and Wiens

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PRIVATE TOLL ROADS AND TOLL HIGHWAYS, AND, IN**
102 **CONNECTION THEREWITH, SPECIFYING REQUIREMENTS THAT**
103 **MUST BE MET BEFORE A CORPORATION CAN CONSTRUCT A**
104 **PRIVATE TOLL ROAD OR TOLL HIGHWAY.**

Bill Summary

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

Transportation Legislation Review Committee. Requires a corporation formed for the purposes of constructing a private toll road or toll highway (corporation) to:

Specify in its certificate of incorporation a proposed route

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.

for the toll road or toll highway within 3 miles;
Commence work on the toll road or toll highway within 3 years after incorporating and continue the work until it has expended at least \$500,000 or forfeit all rights acquired under its certificate of incorporation and be administratively dissolved;
Comply with all department of transportation (department) standards for state transportation projects when planning, constructing, and maintaining a toll highway;
Before constructing and operating a toll road or toll highway, undertake, at its own expense, the analysis and receive the approvals that would be required for any new segment of a federal interstate highway, including but not limited to: Certification by the executive director of the department (executive director) that all applicable required regional transportation and statewide transportation plans approved by the transportation commission (commission) include the toll road or toll highway and that the corporation has prepared an environmental, economic, and social impact analysis that meets all substantive and approval requirements imposed by specified federal laws and regulations; identification and implementation of all mitigation measures required by specified federal regulations; and transportation planning region approval with attendant incorporation into regional and statewide transportation plans of the proposed toll road or toll highway and the mitigation and financial plans prepared by the corporation;
Bear the responsibility for defending any legal challenge filed in a court to the adequacy of an impact analysis;
Within 45 days following its incorporation, send written notice of its incorporation, its intent to construct a toll road or toll highway, and the route of the toll road or toll highway as specified within its certificate of incorporation to the executive director and to the board of directors of each metropolitan planning organization through which the route of the toll road or toll highway will pass;
Within 45 days following its incorporation, provide written individual notice through a specified process to each person who owns real property within the route specified in the certificate of incorporation of the intent of the corporation to construct a toll road or toll highway and, if applicable, to acquire the person's real property, and record the notice with the office of the clerk and recorder of the county that includes the real property;

File a disclaimer of interest with the clerk and recorder's office in the county of residence of each person to whom the corporation provided written notice that expressly states that the certificate of incorporation does not effect an interest in the person's real property within the route specified in the certificate of incorporation;
Comply with certain standards, procedures, and other requirements specified in the act; and
Obtain plan and land use approval from the board of county commissioners of the county in which property to be affected by the construction is located.

Specifies that a toll road or toll highway shall be included by amendment in an applicable regional and statewide transportation plan only if:

The corporation has complied with all planning, construction, maintenance, and environmental mitigation standards and requirements specified in or developed in accordance with the act;

The applicable transportation planning region and the department certify that the taxpayers of the state or any county will not bear any direct or indirect costs resulting from the construction, operation, or maintenance of the toll road or toll highway; and

The corporation establishes to the satisfaction of the commission that the proposed toll road or toll highway is financially viable and the corporation has or can obtain sufficient financial resources to construct, operate, and maintain the toll road or toll highway.

Requires a corporation that has previously filed a certificate of incorporation that does not comply with the new notice and disclaimer of interest requirements of the act to file a new or amended certificate of incorporation within 30 days of the date the new requirements take effect that certifies that the corporation will satisfy the requirements. Specifies that if a corporation is sold or sells its interest in a toll road or toll highway or real property obtained for the purpose of constructing or operating a toll road or toll highway, the purchaser shall use any real property purchased only for the purpose of constructing or operating a toll road or toll highway.

Allows the executive director to charge a fee to a corporation to cover the reasonable expenses incurred by the executive director and the department in determining whether to grant any approval or certification required to be obtained from the executive director. Requires a corporation to provide written notification to the commission of its intent to sell a property interest in a toll road or toll highway. Allows the commission, within 45 days following notification, to adopt a resolution

that prohibits the corporation from completing the sale of the property interest, and allows the corporation to complete the sale of the property interest if the commission does not adopt such a resolution.

Makes legislative finding and declarations.

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

2 **SECTION 1.** Article 45 of title 7, Colorado Revised Statutes, is
3 **REPEALED AND REENACTED, WITH AMENDMENTS, to read:**

4 **ARTICLE 45**

5 **Toll Road Companies**

6 **7-45-101. Formation of toll road or toll highway company -**
7 **description of corridor.** (1) A TOLL ROAD OR TOLL HIGHWAY COMPANY
8 SHALL BE FORMED UNDER COLORADO LAW, AND ITS FILED FORMATION
9 DOCUMENT SHALL SPECIFY AND MAP A THREE-MILE CORRIDOR WITHIN
10 WHICH A TOLL ROAD OR TOLL HIGHWAY WILL BE LOCATED AND IDENTIFY
11 THE GENERAL LOCATION OF THE TERMINI WITHIN THE CORRIDOR. IF A
12 TOLL ROAD OR TOLL HIGHWAY COMPANY COMPLIES WITH THE PROVISIONS
13 OF THIS ARTICLE, IT SHALL HAVE THE POWER TO ERECT TOLL GATES AND
14 SET AND COLLECT TOLLS.

15 (2) THE SECRETARY OF STATE SHALL MAINTAIN A LIST OF ALL TOLL
16 ROAD AND TOLL HIGHWAY COMPANIES AND SHALL MAKE THE LIST AND
17 THE FILED FORMATION DOCUMENTS FOR ALL TOLL ROAD AND TOLL
18 HIGHWAY COMPANIES AVAILABLE TO THE PUBLIC.

19 (3) NOTHING IN ARTICLES 30 TO 52, 101 TO 117, OR 121 TO 137 OF
20 THIS TITLE SHALL BE CONSTRUED TO AUTHORIZE A TOLL ROAD OR TOLL
21 HIGHWAY COMPANY TO LOCATE ALL OR ANY PART OF ITS THREE-MILE
22 CORRIDOR, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, UPON ANY
23 EXISTING TOLL ROAD, TOLL HIGHWAY, OR PUBLIC HIGHWAY THAT IS, AT

1 THE TIME OF THE FORMATION OF THE COMPANY, USED AS SUCH, OR WITHIN
2 FIVE MILES OF THE ROUTE OR CORRIDOR FOR A FUTURE TOLL ROAD OR
3 TOLL HIGHWAY THAT HAS BEEN DESIGNATED IN ANY PREVIOUSLY FILED
4 FORMATION DOCUMENT EXCEPT AS NECESSARY TO CROSS THE TOLL ROAD,
5 TOLL HIGHWAY, ROUTE, OR CORRIDOR.

6 (4) UPON THE EFFECTIVE DATE OF THIS SUBSECTION (4), ANY TOLL
7 ROAD OR TOLL HIGHWAY COMPANY WHOSE EXISTING CERTIFICATE OF
8 INCORPORATION SPECIFIES THE ROUTE OF A FUTURE TOLL ROAD OR TOLL
9 HIGHWAY, OR ANY AFFILIATE OF SUCH A COMPANY, SHALL HAVE THE
10 EXCLUSIVE RIGHT FOR A PERIOD OF NINETY DAYS TO FILE NEW OR
11 AMENDED FORMATION DOCUMENTS THAN ENCOMPASS LAND WITHIN THE
12 SPECIFIED ROUTE.

13 **7-45-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "ASSOCIATED RAIL CORRIDOR" MEANS A CORRIDOR FOR A RAIL
16 LINE TO BE THAT IS LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY OF
17 A TOLL ROAD OR TOLL HIGHWAY.

18 (2) "ASSOCIATED SERVICE AREA" MEANS A GAS STATION,
19 RESTAURANT, OR OTHER TRAVEL-RELATED SERVICE THAT SERVES
20 MOTORISTS USING A TOLL ROAD OR TOLL HIGHWAY.

21 (3) "ASSOCIATED UTILITY CORRIDOR" MEANS A UTILITY LINE OR
22 SYSTEM AND ANY RELATED INFRASTRUCTURE USED TO CONVEY GAS,
23 ELECTRICITY, WATER, SEWAGE, TELECOMMUNICATIONS SIGNALS, DATA, OR
24 OTHER MEDIA LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY OF A
25 TOLL ROAD OR TOLL HIGHWAY.

26 (4) "COMMENTING STATE AGENCIES" MEANS THE DEPARTMENT OF
27 TRANSPORTATION, THE DEPARTMENT OF PUBLIC HEALTH AND

1 ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, THE
2 DEPARTMENT OF AGRICULTURE, AND THE DEPARTMENT OF LOCAL AFFAIRS.

3 (5) "COMMERCIAL, RESIDENTIAL, AND INDUSTRIAL DEVELOPMENT"
4 MEANS THE DEVELOPMENT OF OFFICES, SHOPS, STORES, HOTELS,
5 RESTAURANTS, BARS, WAREHOUSES, FACTORIES, HOUSES, APARTMENTS,
6 CONDOMINIUMS, AND OTHER BUILDINGS AND STRUCTURES USED FOR THE
7 SALE AND RENTAL OF GOODS OR SERVICES, FOR THE MANUFACTURE,
8 FABRICATION, ASSEMBLY, OR STORAGE OF PRODUCTS, OR FOR SLEEPING OR
9 DWELLING.

10 (6) "COMPANY" MEANS A DOMESTIC CORPORATION, GENERAL
11 PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY,
12 LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY LIMITED
13 PARTNERSHIP, LIMITED PARTNERSHIP ASSOCIATION, NONPROFIT
14 ASSOCIATION, NONPROFIT CORPORATION, COOPERATIVE, OR OTHER
15 ORGANIZATION OR ASSOCIATION THAT IS CREATED UNDER A STATUTE OR
16 COMMON LAW OF THIS STATE AND THAT IS RECOGNIZED UNDER THE LAW
17 OF THIS STATE AS A SEPARATE LEGAL ENTITY.

18 (7) "FILED FORMATION DOCUMENT" MEANS ARTICLES OF
19 INCORPORATION, ARTICLES OF ORGANIZATION, A CERTIFICATE OF LIMITED
20 PARTNERSHIP, ARTICLES OF ASSOCIATION, A STATEMENT OF
21 REGISTRATION, OR ANY OTHER DOCUMENT OF SIMILAR IMPORT FILED BY
22 AN ENTITY WITH THE SECRETARY OF STATE UNDER WHICH THE ENTITY IF
23 FORMED OR OBTAINS ITS LEGAL STATUS IN THIS STATE.

24 (8) "TOLL ROAD" OR "TOLL HIGHWAY" MEANS A SERIES OF
25 IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO PAVING, GRADING,
26 LANDSCAPING, CURBS, GUTTERS, CULVERTS, SIDEWALKS, BIKEWAYS,
27 LIGHTING, BRIDGES, OVERPASSES, UNDERPASSES, FRONTAGE ROADS,

1 ACCESS ROADS, INTERCHANGES, DRAINAGE FACILITIES, MASS TRANSIT
2 LANES, PARK AND RIDE FACILITIES, TOLL COLLECTION FACILITIES,
3 ADMINISTRATIVE OR MAINTENANCE FACILITIES, AND EMERGENCY
4 RESPONSE AND LAW ENFORCEMENT SERVICES. NOTHING IN THIS ARTICLE
5 SHALL BE CONSTRUED TO AFFECT ANY COMMON CARRIER, AS DEFINED IN
6 SECTION 40-1-102 (3), C.R.S., INCLUDING, BUT NOT LIMITED TO, ANY
7 RAILROAD. ANY UTILITY LINE, SYSTEM, OR INFRASTRUCTURE SHALL BE
8 SUBJECT TO A REASONABLE FEE AND REASONABLE RELOCATION
9 PROVISIONS.

10 (9) "TOLL ROAD OR TOLL HIGHWAY COMPANY" MEANS A COMPANY
11 THAT PROPOSES TO CONSTRUCT A TOLL ROAD OR TOLL HIGHWAY IN THIS
12 STATE UNDER THE PROVISIONS OF THIS ARTICLE.

13 **7-45-103. Deadline to commence work - maintenance of effort**
14 **requirement.** A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL
15 COMMENCE WORK, INCLUDING BUT NOT LIMITED TO PLANNING, DESIGN,
16 ENVIRONMENTAL, MITIGATION, AND OTHER PRECONSTRUCTION WORK, ON
17 THE TOLL ROAD OR TOLL HIGHWAY PROPOSED IN THE FILED FORMATION
18 DOCUMENT NO LATER THAN THREE YEARS AFTER THE FILING OF THE
19 DOCUMENT, OR WITHIN ONE YEAR AFTER RECEIVING ALL NECESSARY
20 APPROVALS FOR CONSTRUCTION. IF ANY NECESSARY APPROVAL IS THE
21 SUBJECT OF ADMINISTRATIVE OR JUDICIAL REVIEW, THEN THE ONE-YEAR
22 PERIOD SHALL BE AUTOMATICALLY EXTENDED UNTIL ONE YEAR AFTER ALL
23 ADMINISTRATIVE OR JUDICIAL REVIEW HAS BEEN CONCLUDED. THE TOLL
24 ROAD OR TOLL HIGHWAY COMPANY AND ANY SUCCESSOR TOLL ROAD OR
25 TOLL HIGHWAY COMPANY SHALL CONTINUE THE WORK FROM DAY TO DAY
26 UNTIL AT LEAST FIVE HUNDRED THOUSAND DOLLARS HAVE BEEN
27 EXPENDED ON THE TOLL ROAD OR TOLL HIGHWAY. IF THE TOLL ROAD OR

1 TOLL HIGHWAY COMPANY FAILS TO PERFORM THE REQUIRED WORK, IT
2 SHALL FORFEIT ALL RIGHTS ACQUIRED UNDER ITS FILED FORMATION
3 DOCUMENT AND BE ADMINISTRATIVELY DISSOLVED. IF THE TOLL ROAD OR
4 TOLL HIGHWAY COMPANY PERFORMS THE REQUIRED WORK, IT SHALL HAVE
5 THE EXCLUSIVE RIGHT TO DEVELOP OR SEEK APPROVAL TO DEVELOP A
6 TOLL ROAD OR TOLL HIGHWAY WITHIN THE THREE-MILE CORRIDOR
7 SPECIFIED IN ITS FILED FORMATION DOCUMENT AS REQUIRED BY SECTION
8 7-45-101 (1).

9 **7-45-104. Acquisition of right-of-way.** NOTWITHSTANDING THE
10 PROVISIONS OF SECTION 38-2-101, C.R.S., ON AND AFTER THE EFFECTIVE
11 DATE OF THIS SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL
12 NOT HAVE THE POWER TO EXERCISE THE RIGHT OF EMINENT DOMAIN TO
13 ACQUIRE ANY PART OF THE RIGHT-OF-WAY OF THE THREE-MILE CORRIDOR
14 OF A PROPOSED TOLL ROAD OR TOLL HIGHWAY SPECIFIED IN THE FILED
15 FORMATION DOCUMENT OF THE COMPANY AS REQUIRED BY SECTION
16 7-45-101 (1). NOTHING HEREIN SHALL PROHIBIT A TOLL ROAD OR TOLL
17 HIGHWAY COMPANY FROM ENTERING INTO A PUBLIC-PRIVATE INITIATIVE
18 WITH THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE
19 PROVISIONS OF PART 12 OF ARTICLE 1 OF TITLE 43, C.R.S., AND AS
20 AUTHORIZED IN SECTION 7-45-111 FOR THE PURPOSE OF ENABLING THE
21 CONSTRUCTION OF SUCH A TOLL ROAD OR TOLL HIGHWAY, BUT IN SUCH A
22 CASE THE POWER OF EMINENT DOMAIN SHALL NOT BE EXERCISED BY THE
23 TOLL ROAD OR TOLL HIGHWAY COMPANY AND MAY BE EXERCISED BY THE
24 DEPARTMENT ONLY FOR PURPOSES OF ACQUIRING PROPERTY AND
25 RIGHTS-OF-WAY NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR
26 TOLL HIGHWAY OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE
27 COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN PREPARED PURSUANT

1 TO SECTION 43-1-1103 (5), C.R.S. IN EXERCISING THE POWER OF EMINENT
2 DOMAIN, THE DEPARTMENT SHALL COMPLY WITH ALL LAWS AND
3 ADMINISTRATIVE RULES THAT GOVERN THE DEPARTMENT'S USE OF
4 EMINENT DOMAIN FOR STATE HIGHWAY PROJECTS, AND THE
5 RIGHTS-OF-WAY ACQUIRED SHALL FORM A CORRIDOR NO LARGER THAN
6 THAT APPROVED BY ALL AFFECTED METROPOLITAN PLANNING
7 ORGANIZATIONS, REGIONAL PLANNING COMMISSIONS, AND THE
8 TRANSPORTATION COMMISSION PURSUANT TO SECTIONS 7-45-105 AND
9 7-45-106. IN ACCORDANCE WITH SECTION 43-1-1204, (3) (b), C.R.S., THE
10 DEPARTMENT MAY NOT SELL OR OTHERWISE TRANSFER OWNERSHIP OF
11 PROPERTY OR RIGHTS-OF-WAY ACQUIRED THROUGH THE EXERCISE OF THE
12 POWER OF EMINENT DOMAIN AS AUTHORIZED BY THIS SECTION TO A TOLL
13 ROAD OR TOLL HIGHWAY COMPANY.

14 **7-45-105. Planning standards and project review.** (1) A TOLL
15 ROAD OR TOLL HIGHWAY COMPANY SHALL NOT COMMENCE THE
16 CONSTRUCTION OF A TOLL ROAD OR TOLL HIGHWAY, OR ANY ASSOCIATED
17 RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY
18 CORRIDOR, UNTIL THE TOLL ROAD OR TOLL HIGHWAY OR THE ASSOCIATED
19 RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY
20 CORRIDOR HAS BEEN REVIEWED BY EVERY METROPOLITAN PLANNING
21 ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT IS LOCATED IN
22 WHOLE OR IN PART WITHIN THE THREE-MILE CORRIDOR DESIGNATED BY
23 THE TOLL ROAD OR TOLL HIGHWAY COMPANY AS REQUIRED BY SECTION
24 7-45-101 (1) AND HAS BEEN INCLUDED IN THE REGIONAL TRANSPORTATION
25 PLAN IN EFFECT FOR THE REGION PURSUANT TO SECTION 43-1-1103,
26 C.R.S., AND IN THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN
27 REQUIRED PURSUANT TO SECTION 43-1-1103 (5), C.R.S. IN DESIGNATED

1 NONATTAINMENT AREAS FOR ANY POLLUTANT PURSUANT TO THE FEDERAL
2 "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET SEQ., AS AMENDED, A
3 METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING
4 COMMISSION SHALL NOT INCLUDE A TOLL ROAD OR TOLL HIGHWAY
5 PROJECT, INCLUDING ANY ASSOCIATED RAIL CORRIDOR, ASSOCIATED
6 SERVICE AREA, OR ASSOCIATED UTILITY CORRIDOR, IN THE REGIONAL
7 TRANSPORTATION PLAN UNLESS THE ORGANIZATION OR COMMISSION HAS
8 PERFORMED AN EMISSIONS ANALYSIS THAT DEMONSTRATES THAT
9 REGIONAL EMISSIONS AND LOCAL PROJECT EMISSIONS WILL CONTINUE TO
10 CONFORM TO THE STATE IMPLEMENTATION PLAN IF THE PROJECT IS ADDED
11 TO THE REGIONAL TRANSPORTATION PLAN. THE TOLL ROAD OR TOLL
12 HIGHWAY COMPANY SHALL PAY THE REASONABLE ACTUAL COSTS FOR THE
13 EMISSIONS ANALYSIS. EACH ORGANIZATION OR COMMISSION MAY
14 CONDITION ITS ADDITION OF A TOLL ROAD OR TOLL HIGHWAY PROJECT
15 INTO THE REGIONAL TRANSPORTATION PLAN UPON ACCEPTABLE
16 ENVIRONMENTAL MITIGATION ACTIVITIES AND COMMITMENTS TO OFFSET
17 INCREMENTAL COSTS OF PUBLIC SERVICES THAT WILL BE NECESSARY AS A
18 RESULT OF DEVELOPMENT OF THE PROJECT WITHIN THE PLANNING REGION.

19 (2) AT LEAST THIRTY DAYS BEFORE A METROPOLITAN PLANNING
20 ORGANIZATION OR REGIONAL PLANNING COMMISSION MAY AMEND ITS
21 REGIONAL TRANSPORTATION PLAN PURSUANT TO SUBSECTION (1) OF THIS
22 SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PROVIDE THE
23 ORGANIZATION OR COMMISSION INFORMATION ON THE TOLL ROAD OR TOLL
24 HIGHWAY PROJECT, INCLUDING ANY ASSOCIATED RAIL CORRIDOR,
25 ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY CORRIDOR, BEING
26 CONSIDERED FOR ADDITION TO THE PLAN THAT INCLUDES THE FINAL
27 ENVIRONMENTAL DOCUMENTATION REQUIRED BY SECTION 7-45-106 (1)

1 (b) (IV) THE OPERATING PLAN FOR THE TOLL ROAD OR TOLL HIGHWAY AND
2 ANY ASSOCIATED RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR
3 ASSOCIATED UTILITY CORRIDOR THE TECHNOLOGY TO BE UTILIZED, AN
4 ASSESSMENT OF PROJECT FEASIBILITY, AND AN ASSESSMENT OF THE
5 LONG-TERM VIABILITY OF THE PROJECT.

6 (3) (a) AT THE DISCRETION OF A METROPOLITAN PLANNING
7 ORGANIZATION OR REGIONAL PLANNING COMMISSION, A REGIONAL PLAN
8 MAY INITIALLY BE AMENDED TO INCLUDE ONLY ENVIRONMENTAL AND
9 PRECONSTRUCTION ACTIVITIES, EXCLUDING RIGHT-OF-WAY ACQUISITION,
10 RELATING TO A TOLL ROAD OR TOLL HIGHWAY PROJECT, INCLUDING ANY
11 ASSOCIATED RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED
12 UTILITY CORRIDOR, AND MAY LATER BE AMENDED TO INCLUDE ACTUAL
13 CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION OF THE PROJECT
14 FOLLOWING AGREEMENT BY THE METROPOLITAN PLANNING
15 ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT ACCEPTABLE
16 ENVIRONMENTAL MITIGATION ACTIVITIES AND COMMITMENTS TO OFFSET
17 INCREMENTAL COSTS OF PUBLIC SERVICES ARE INCLUDED IN THE PROJECT
18 PLANS.

19 (b) UPON REQUEST OF A LOCAL GOVERNMENT LOCATED IN WHOLE
20 OR IN PART WITHIN THE THREE-MILE CORRIDOR OF A PROPOSED TOLL ROAD
21 OR TOLL HIGHWAY AS SPECIFIED PURSUANT TO SECTION 7-45-101 (1), A
22 TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONSULT WITH
23 REPRESENTATIVES FROM THE LOCAL GOVERNMENT AND SHALL CONSIDER
24 AVAILABLE MITIGATION OF DEMONSTRABLE NEGATIVE IMPACTS ON THE
25 LOCAL GOVERNMENT OR ITS CITIZENS THAT WOULD RESULT FROM THE
26 CONSTRUCTION, OPERATION, OR FINANCING OF THE TOLL ROAD OR TOLL
27 HIGHWAY OR ANY ASSOCIATED RAIL CORRIDOR, ASSOCIATED SERVICE

1 AREA, OR ASSOCIATED UTILITY CORRIDOR.

2 **7-45-106. Environmental standards and review.**

3 (1) (a) BEFORE CONSTRUCTING AND OPERATING A TOLL ROAD OR TOLL
4 HIGHWAY OR ANY ASSOCIATED RAIL CORRIDOR, ASSOCIATED SERVICE
5 AREA, OR ASSOCIATED UTILITY CORRIDOR, A TOLL ROAD OR TOLL
6 HIGHWAY COMPANY SHALL PREPARE, AT ITS OWN EXPENSE,
7 ENVIRONMENTAL DOCUMENTATION THAT COMPLIES WITH THE
8 ENVIRONMENTAL STEWARDSHIP GUIDE APPROVED BY THE
9 TRANSPORTATION COMMISSION IN MAY 2005. THE DOCUMENTATION
10 SHALL DESCRIBE THE ENVIRONMENTAL, SOCIAL, AND ECONOMIC EFFECTS
11 OF THE PROPOSED TOLL ROAD OR TOLL HIGHWAY OR ASSOCIATED RAIL
12 CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY
13 CORRIDOR, IDENTIFY FEASIBLE MEASURES TO AVOID OR OTHERWISE
14 MITIGATE THE ADVERSE EFFECTS OF THE PROJECT, AND ESTIMATE THE
15 FINANCIAL COSTS TO IMPLEMENT MITIGATION MEASURES THAT ARE
16 INCLUDED IN THE PROJECT OR HAVE BEEN PREVIOUSLY RECOMMENDED IN
17 WRITING BY THE COMMENTING STATE AGENCIES OR AN AFFECTED
18 METROPOLITAN PLANNING ORGANIZATION OR REGIONAL TRANSPORTATION
19 COMMISSION AND COMPLY WITH FEDERAL AND STATE AIR AND WATER
20 QUALITY STANDARDS, APPROVALS, AND PERMITS.

21 (b) (I) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL NOT
22 BEGIN WORK ON ENVIRONMENTAL DOCUMENTATION REQUIRED BY
23 PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL IT HAS OBTAINED
24 PRELIMINARY APPROVAL FROM THE EXECUTIVE DIRECTOR OF THE
25 DEPARTMENT OF TRANSPORTATION THAT THE SCOPE OF THE PLANNED
26 ENVIRONMENTAL DOCUMENTATION IS CONSISTENT WITH THE
27 ENVIRONMENTAL STEWARDSHIP GUIDE ISSUED BY THE DEPARTMENT IN

1 MAY 2005 AND ALL OTHER REQUIREMENTS OF PARAGRAPH (a) OF THIS
2 SUBSECTION (1).

3 (II) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PROVIDE A
4 COPY OF ANY DRAFT ENVIRONMENTAL DOCUMENTATION IT PREPARES AS
5 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE
6 COMMENTING STATE AGENCIES, AFFECTED METROPOLITAN PLANNING
7 ORGANIZATIONS AND REGIONAL PLANNING COMMISSIONS, AND AFFECTED
8 LOCAL GOVERNMENTS. THE TOLL ROAD OR TOLL HIGHWAY COMPANY
9 SHALL ALSO MAKE THE DRAFT ENVIRONMENTAL DOCUMENTATION
10 ELECTRONICALLY OR OTHERWISE AVAILABLE TO THE PUBLIC. THE
11 COMMENTING STATE AGENCIES MAY, WITHIN SIXTY DAYS, PROVIDE THE
12 TOLL ROAD OR TOLL HIGHWAY COMPANY AND AFFECTED METROPOLITAN
13 PLANNING ORGANIZATIONS AND REGIONAL PLANNING COMMISSIONS WITH
14 THEIR ANALYSES OF THE ADEQUACY OF THE ENVIRONMENTAL
15 DOCUMENTATION AND SHALL MAKE THE ANALYSES AVAILABLE TO THE
16 PUBLIC.

17 (III) EACH OF THE COMMENTING AGENCIES MAY CHARGE A FEE TO
18 A TOLL ROAD OR TOLL HIGHWAY COMPANY TO COVER THE REASONABLE
19 EXPENSES THAT IT INCURRED IN FULFILLING THE REQUIREMENTS OF
20 SUBPARAGRAPHS (I) AND (II), AS APPLICABLE, OF THIS PARAGRAPH (b).

21 (IV) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PREPARE
22 FINAL ENVIRONMENTAL DOCUMENTATION THAT ADDRESSES COMMENTS
23 RECEIVED FROM THE COMMENTING STATE AGENCIES, METROPOLITAN
24 PLANNING ORGANIZATIONS, REGIONAL PLANNING COMMISSIONS, AND
25 OTHER INTERESTED PARTIES. THE FINAL ENVIRONMENTAL
26 DOCUMENTATION SHALL BE MADE AVAILABLE TO THE DEPARTMENT OF
27 TRANSPORTATION AND THE PUBLIC AT LEAST THIRTY DAYS PRIOR TO

1 PUBLICATION OF ANY NOTICE OF HEARING SCHEDULED BY THE
2 COMMISSION PURSUANT TO SUBSECTION (2) OF THIS SECTION.

3 (2) THE TRANSPORTATION COMMISSION CREATED IN SECTION
4 43-1-106, C.R.S., SHALL NOT REVISE THE COMPREHENSIVE STATEWIDE
5 TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5),
6 C.R.S., TO INCLUDE A TOLL ROAD OR TOLL HIGHWAY PROJECT SUBJECT TO
7 THE REQUIREMENTS OF THIS SECTION UNLESS THE COMMISSION, AFTER
8 HOLDING A PUBLIC HEARING, DETERMINES THAT:

9 (a) THE REQUIREMENTS OF SECTION 7-45-105 AND SUBSECTION (1)
10 OF THIS SECTION HAVE BEEN MET;

11 (b) THE PROJECT IS:

12 (I) NECESSARY TO MEET THE TRANSPORTATION NEEDS OF THE
13 STATE;

14 (II) CONSISTENT WITH SECTION 43-1-1103 (5), C.R.S., AND THE
15 POLICIES OF THE TRANSPORTATION COMMISSION;

16 (III) CONSISTENT WITH SECTION 23 U.S.C. SEC. 135; AND

17 (IV) IN THE PUBLIC INTEREST.

18 (c) THE PROJECT SPONSOR HAS ESTABLISHED A RESERVE FUND,
19 PERFORMANCE BOND, OR OTHER APPROPRIATE MECHANISM TO ENSURE
20 FULL PAYMENT OF THE COSTS OF COMPLIANCE WITH FEDERAL AND STATE
21 AIR AND WATER QUALITY STANDARDS, OTHER FEDERAL AND STATE
22 ENVIRONMENTAL REQUIREMENTS, AND MITIGATION MEASURES INCLUDED
23 IN THE PROJECT OR REQUIRED BY THE TRANSPORTATION COMMISSION, A
24 METROPOLITAN PLANNING ORGANIZATION, OR A REGIONAL PLANNING
25 COMMISSION; AND

26 (d) THE PROJECT SPONSOR HAS ENTERED INTO ENFORCEABLE
27 AGREEMENTS WITH THE DEPARTMENT OF TRANSPORTATION, OR

1 AGREEMENTS WITH AFFECTED LOCAL GOVERNMENTS THAT ARE
2 ACCEPTABLE TO THE TRANSPORTATION COMMISSION, TO ENSURE THAT
3 MITIGATION MEASURES INCLUDED IN THE PROJECT OR REQUIRED BY THE
4 TRANSPORTATION COMMISSION, A METROPOLITAN PLANNING
5 ORGANIZATION, OR A REGIONAL PLANNING COMMISSION WILL BE
6 IMPLEMENTED.

7 (3) THE TRANSPORTATION COMMISSION MAY CONDITION ITS
8 ADDITION OF A TOLL ROAD OR TOLL HIGHWAY PROJECT INTO THE
9 COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN UPON ADDITIONAL
10 MITIGATION MEASURES IF THE COMMISSION DETERMINES THAT THE
11 MITIGATION MEASURES ARE IN THE BEST OVERALL PUBLIC INTEREST
12 TAKING INTO CONSIDERATION:

13 (a) THE NEED FOR FAST, SAFE, AND EFFICIENT TRANSPORTATION;

14 (b) PUBLIC SERVICES;

15 (c) THE COSTS OF ELIMINATING OR MINIMIZING THE ADVERSE
16 EFFECTS FOR WHICH THE MITIGATION MEASURES ARE PROPOSED;

17 (d) ENVIRONMENTAL, SOCIAL, AND ECONOMIC VALUES; AND

18 (e) THE FINANCIAL FEASIBILITY OF THE PROJECT.

19 **7-45-107. Construction safety standards.** WHEN CONSTRUCTING
20 AND MAINTAINING A TOLL ROAD OR TOLL HIGHWAY OR ANY ASSOCIATED
21 RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY
22 CORRIDOR A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL COMPLY
23 WITH ALL DEPARTMENT OF TRANSPORTATION SAFETY STANDARDS FOR
24 STATE TRANSPORTATION PROJECTS.

25 **7-45-108. County clerk notification.** (1) WITHIN NINETY DAYS
26 OF FILING A FORMATION DOCUMENT PURSUANT TO SECTION 7-45-101, A
27 TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL:

1 (a) CAUSE WRITTEN NOTICE TO BE SENT TO THE CLERK AND
2 RECORDER OF EACH COUNTY THAT INCLUDES TERRITORY THAT IS
3 INCLUDED WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN THE FILED
4 FORMATION DOCUMENT OF THE INTENT OF THE TOLL ROAD OR TOLL
5 HIGHWAY COMPANY TO CONSTRUCT A TOLL ROAD OR TOLL HIGHWAY
6 WITHIN THAT CORRIDOR AND SHALL MAIL THE WRITTEN NOTICE TO EACH
7 PERSON WHO OWNS REAL PROPERTY WITHIN THE THREE-MILE CORRIDOR.
8 THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL SEND THE NOTICE BY
9 CERTIFIED MAIL AND SHALL GENERALLY DESCRIBE THE PROPOSED TOLL
10 ROAD OR TOLL HIGHWAY PROJECT, INCLUDING ITS LOCATION, TERMINI,
11 IMPROVEMENTS, AND OPERATION. THE NOTICE SHALL ALSO EXPLAIN THAT
12 THE PROJECT MAY NOT GO FORWARD UNTIL THE PROCESS FOR APPROVING
13 THE PROJECT REQUIRED BY THIS ARTICLE HAS BEEN COMPLETED,
14 SUMMARIZE THE APPROVAL PROCESS, IDENTIFY OPPORTUNITIES DURING
15 THE PROCESS FOR PUBLIC INVOLVEMENT, AND PROVIDE A CONTACT FOR
16 ADDITIONAL INFORMATION.

17 (b) FILE A DISCLAIMER OF INTEREST WITH THE CLERK AND
18 RECORDER'S OFFICE IN THE COUNTY OF RESIDENCE OF EACH PERSON TO
19 WHOM THE COMPANY PROVIDED WRITTEN NOTICE PURSUANT TO
20 PARAGRAPH (a) OF THIS SUBSECTION (1) THAT EXPRESSLY STATES THAT
21 THE FILED FORMATION DOCUMENT DOES NOT EFFECT AN INTEREST IN THE
22 PERSON'S REAL PROPERTY WITHIN THE THREE-MILE CORRIDOR SPECIFIED
23 IN THE FILED FORMATION DOCUMENT.

24 (2) A TOLL ROAD OR TOLL HIGHWAY COMPANY THAT HAS FILED A
25 FORMATION DOCUMENT PRIOR TO THE EFFECTIVE DATE OF THIS
26 SUBSECTION (2) AND THAT HAS NOT SATISFIED THE NOTICE REQUIREMENTS
27 OF SUBSECTION (1) OF THIS SECTION SHALL FILE A NEW OR AMENDED

1 FORMATION DOCUMENT WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF
2 THIS SUBSECTION (2) THAT INCLUDES THE INFORMATION REQUIRED BY
3 SECTION 7-45-101 (1) AND THAT CERTIFIES THAT THE COMPANY HAS
4 COMPLIED WITH OR WILL COMPLY WITH THE REQUIREMENTS OF SAID
5 SUBSECTION (1) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS
6 SUBSECTION (2).

7 **7-45-109. Use of land by toll road or toll highway company -**
8 **right to repurchase unneeded condemned property.** ANY INTEREST IN
9 REAL PROPERTY THAT IS OBTAINED BY A TOLL ROAD OR TOLL HIGHWAY
10 COMPANY, OTHER THAN A LEASEHOLD INTEREST IN PROPERTY OR
11 RIGHTS-OF-WAY ACQUIRED AND OWNED BY THE DEPARTMENT OF
12 TRANSPORTATION AS AUTHORIZED IN SECTION 7-45-104, WITHIN THE
13 THREE-MILE CORRIDOR SPECIFIED IN ITS FILED FORMATION DOCUMENT AND
14 THAT IS NOT USED FOR A TOLL ROAD OR TOLL HIGHWAY SHALL NOT BE
15 USED FOR COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOPMENT;
16 EXCEPT THAT, THIS LIMITATION ON USE SHALL APPLY ONLY DURING THE
17 PERIOD IN WHICH THE TOLL ROAD OR TOLL HIGHWAY COMPANY IS
18 DEVELOPING OR OPERATING A TOLL ROAD OR TOLL HIGHWAY WITHIN THE
19 CORRIDOR. IF THE DEVELOPMENT OR OPERATION OF A TOLL ROAD OR TOLL
20 HIGHWAY CEASES AFTER THE DEPARTMENT HAS EXERCISED THE POWER OF
21 EMINENT DOMAIN TO ACQUIRE PROPERTY DEEMED AT THE TIME OF
22 ACQUISITION TO BE NECESSARY FOR THE COMPLETION OF THE TOLL ROAD
23 OR TOLL HIGHWAY AS AUTHORIZED IN SECTION 7-45-104, A PERSON FROM
24 WHOM THE DEPARTMENT ACQUIRED PROPERTY THROUGH THE EXERCISE OF
25 EMINENT DOMAIN HAS AN EXCLUSIVE OPTION TO REPURCHASE THE
26 PROPERTY ACQUIRED AT THE PRICE PAID FOR THE PROPERTY AS JUST
27 COMPENSATION BY THE DEPARTMENT. THE PERSON MAY EXERCISE THE

1 OPTION WITHIN EIGHTEEN MONTHS FOLLOWING THE CESSATION OF THE
2 DEVELOPMENT OR OPERATION OF THE TOLL ROAD OR TOLL HIGHWAY.

3 **7-45-110. Sale of interest in or assets of a toll road or toll**
4 **highway company.** (1) IF ANY INTEREST IN A TOLL ROAD OR TOLL
5 HIGHWAY COMPANY IS SOLD OR TRANSFERRED, THE TOLL ROAD OR TOLL
6 HIGHWAY COMPANY SHALL CONTINUE TO COMPLY WITH THE LIMITATIONS
7 SET FORTH IN SECTION 7-45-109.

8 (2) IF A TOLL ROAD OR TOLL HIGHWAY COMPANY SELLS OR
9 TRANSFERS ANY INTEREST IN ITS REAL PROPERTY WITHIN THE THREE-MILE
10 CORRIDOR SPECIFIED IN ITS FILED FORMATION DOCUMENT THAT IS NOT
11 USED FOR THE TOLL ROAD OR TOLL HIGHWAY, THEN THE PURCHASER
12 SHALL COMPLY WITH THE LIMITATIONS SET FORTH IN SECTION 7-45-109.

13 (3) IF A TOLL ROAD OR TOLL HIGHWAY IS INCLUDED IN THE
14 COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN REQUIRED PURSUANT
15 TO SECTION 43-1-1103 (5), C.R.S., BEFORE THE TOLL ROAD OR TOLL
16 HIGHWAY COMPANY COMPLETES A SUBSEQUENT SALE OR TRANSFER OF
17 ASSETS OR RIGHTS GENERATING MORE THAN TWENTY PERCENT OF THE
18 CURRENT REVENUE FROM THE TOLL ROAD OR TOLL HIGHWAY, THE
19 PURCHASER MUST DEMONSTRATE TO THE TRANSPORTATION COMMISSION,
20 AND THE COMMISSION MUST DETERMINE, THAT FOLLOWING THE SALE OR
21 TRANSFER THE RESOURCES NEEDED TO COMPLY WITH FEDERAL AND STATE
22 WATER QUALITY STANDARDS AND OTHER FEDERAL AND STATE
23 ENVIRONMENTAL REQUIREMENTS AND TO IMPLEMENT MITIGATION
24 MEASURES THAT WERE INCLUDED IN THE TOLL ROAD OR TOLL HIGHWAY
25 PROJECT DESCRIPTION OR REQUIRED BY A METROPOLITAN PLANNING
26 ORGANIZATION, A REGIONAL PLANNING COMMISSION, OR THE
27 TRANSPORTATION COMMISSION WILL STILL BE AVAILABLE FOR THOSE

1 PURPOSES.

2 **7-45-111. Public-private initiatives.** NOTHING CONTAINED IN
3 THIS ARTICLE SHALL PROHIBIT A TOLL ROAD OR TOLL HIGHWAY COMPANY
4 FROM ENTERING INTO A PUBLIC-PRIVATE INITIATIVE WITH THE
5 DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE PROVISIONS
6 OF PART 12 OF ARTICLE 1 OF TITLE 43, C.R.S., FOR THE PURPOSE OF
7 ENABLING THE CONSTRUCTION OF A TOLL ROAD OR TOLL HIGHWAY. ANY
8 SUCH PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

9 **SECTION 2.** Part 3 of article 3 of title 43, Colorado Revised
10 Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS,
11 to read:

12 **PART 3**

13 **TOLL ROADS AND TOLL HIGHWAYS - PRIVATE**

14 **43-3-301. Definitions.** AS USED IN THIS PART 3, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "TOLL ROAD" OR "TOLL HIGHWAY" SHALL HAVE THE MEANING
17 AS SET FORTH IN 7-45-102 (8), C.R.S.

18 (2) "TOLL ROAD OR TOLL HIGHWAY COMPANY" SHALL HAVE THE
19 MEANING AS SET FORTH IN SECTION 7-45-102 (9), C.R.S.

20 **43-3-302. Traffic laws - toll collection - definitions.** (1)(a) THE
21 TRANSPORTATION COMMISSION SHALL REVIEW A TOLL ROAD OR TOLL
22 HIGHWAY COMPANY'S TOLL SCHEDULE AS PART OF THE PROJECT
23 DESCRIPTION SUBMITTED FOR APPROVAL AS PART OF THE STATEWIDE
24 TRANSPORTATION PLAN AND EVERY FIVE YEARS THEREAFTER. THE
25 REVIEW SHALL BE LIMITED TO ENSURING THAT A REDUCED TOLL IS
26 IMPOSED ON HIGH OCCUPANCY VEHICLES AND PUBLIC MASS TRANSIT
27 VEHICLES IN ORDER TO ENCOURAGE THE USE OF SUCH VEHICLES ON THE

1 TOLL ROAD OR TOLL HIGHWAY.

2 (b) AS USED IN THIS SUBSECTION (1):

3 (I) "HIGH OCCUPANCY VEHICLES" MEANS VEHICLES THAT CARRY
4 AT LEAST THE NUMBER OF PERSONS SPECIFIED BY THE TRANSPORTATION
5 COMMISSION.

6 (II) "PUBLIC MASS TRANSIT VEHICLES" MEANS VEHICLES OTHER
7 THAN CHARTER OR SIGHTSEEING VEHICLES THAT:

8 (A) ARE OPERATED BY OR UNDER CONTRACT WITH THE REGIONAL
9 TRANSPORTATION DISTRICT CREATED PURSUANT TO ARTICLE 9 OF TITLE
10 32, C.R.S., OR A REGIONAL TRANSPORTATION AUTHORITY CREATED
11 PURSUANT TO PART 6 OF ARTICLE 4 OF THIS TITLE; AND

12 (B) PROVIDE REGULAR AND CONTINUING GENERAL OR SPECIAL
13 TRANSPORTATION TO THE PUBLIC.

14 (2) STATE AND LOCAL LAW ENFORCEMENT AUTHORITIES ARE
15 AUTHORIZED TO ENTER INTO TRAFFIC AND TOLL ENFORCEMENT
16 AGREEMENTS WITH A TOLL ROAD OR TOLL HIGHWAY COMPANY. ANY
17 FUNDS RECEIVED BY A STATE LAW ENFORCEMENT AUTHORITY PURSUANT
18 TO A TOLL ENFORCEMENT AGREEMENT SHALL BE SUBJECT TO ANNUAL
19 APPROPRIATIONS BY THE GENERAL ASSEMBLY TO THE LAW ENFORCEMENT
20 AUTHORITY FOR THE PURPOSE OF PERFORMING ITS DUTIES PURSUANT TO
21 THE AGREEMENT.

22 (3) A TOLL ROAD OR TOLL HIGHWAY COMPANY MAY ADOPT RULES
23 PERTAINING TO THE ENFORCEMENT OF TOLL COLLECTION AND EVASION
24 AND PROVIDING A CIVIL PENALTY FOR TOLL EVASION. THE CIVIL PENALTY
25 ESTABLISHED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY FOR ANY
26 TOLL EVASION SHALL BE NOT LESS THAN TEN DOLLARS NOR MORE THAN
27 TWO HUNDRED FIFTY DOLLARS, IN ADDITION TO ANY COSTS IMPOSED BY A

1 COURT. A COMPANY MAY USE STATE OF THE ART TECHNOLOGY,
2 INCLUDING BUT NOT LIMITED TO AUTOMATIC VEHICLE IDENTIFICATION
3 PHOTOGRAPHY, TO AID IN THE COLLECTION OF TOLLS AND ENFORCEMENT
4 OF TOLL VIOLATIONS. THE USE OF STATE OF THE ART TECHNOLOGY TO AID
5 IN ENFORCEMENT OF TOLL VIOLATIONS SHALL BE GOVERNED SOLELY BY
6 THIS SECTION.

7 (4) (a) ANY PERSON WHO EVADES A TOLL ESTABLISHED BY A TOLL
8 ROAD OR TOLL HIGHWAY COMPANY SHALL BE SUBJECT TO THE CIVIL
9 PENALTY ESTABLISHED BY THAT COMPANY FOR TOLL EVASION. ANY
10 PEACE OFFICER AS DESCRIBED IN SECTION 16-2.5-101, C.R.S., SHALL HAVE
11 THE AUTHORITY TO ISSUE CIVIL PENALTY ASSESSMENTS OR MUNICIPAL
12 SUMMONS AND COMPLAINTS IF AUTHORIZED PURSUANT TO A MUNICIPAL
13 ORDINANCE FOR THE TOLL EVASION.

14 (b) AT ANY TIME THAT A PERSON IS CITED FOR TOLL EVASION, THE
15 PERSON OPERATING THE MOTOR VEHICLE INVOLVED SHALL BE GIVEN
16 EITHER A NOTICE IN THE FORM OF A CIVIL PENALTY ASSESSMENT NOTICE
17 OR A MUNICIPAL SUMMONS AND COMPLAINT. IF A CIVIL PENALTY
18 ASSESSMENT IS ISSUED, THE NOTICE SHALL BE TENDERED BY A PEACE
19 OFFICER AS DESCRIBED IN SECTION 16-2.5-101, C.R.S., AND SHALL
20 CONTAIN THE NAME AND ADDRESS OF THE PERSON, THE LICENSE NUMBER
21 OF THE MOTOR VEHICLE INVOLVED, THE NUMBER OF THE PERSON'S
22 DRIVER'S LICENSE, THE NATURE OF THE VIOLATION, THE AMOUNT OF THE
23 PENALTY PRESCRIBED FOR THE VIOLATION, THE DATE OF THE NOTICE, A
24 PLACE FOR THE PERSON TO EXECUTE A SIGNED ACKNOWLEDGMENT OF THE
25 PERSON'S RECEIPT OF THE CIVIL PENALTY ASSESSMENT NOTICE, A PLACE
26 FOR THE PERSON TO EXECUTE A SIGNED ACKNOWLEDGMENT OF LIABILITY
27 FOR THE CITED VIOLATION, AND SUCH OTHER INFORMATION AS MAY BE

1 REQUIRED BY LAW TO CONSTITUTE THE NOTICE AS A COMPLAINT TO
2 APPEAR FOR ADJUDICATION OF TOLL EVASION PURSUANT TO THIS SECTION
3 IF THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY ARE NOT PAID WITHIN
4 TWENTY DAYS. EVERY CITED PERSON SHALL EXECUTE THE SIGNED
5 ACKNOWLEDGMENT OF THE PERSON'S RECEIPT OF THE CIVIL PENALTY
6 ASSESSMENT NOTICE.

7 (c) THE ACKNOWLEDGMENT OF LIABILITY SHALL BE EXECUTED AT
8 THE TIME THE CITED PERSON PAYS THE PRESCRIBED PENALTY. THE PERSON
9 CITED SHALL PAY THE TOLL, FEE, AND CIVIL PENALTY AUTHORIZED BY THE
10 TOLL ROAD OR TOLL HIGHWAY COMPANY INVOLVED AT THE OFFICE OF THE
11 COMPANY, EITHER IN PERSON OR BY POSTMARKING THE PAYMENT WITHIN
12 TWENTY DAYS OF THE CITATION. IF THE PERSON CITED DOES NOT PAY THE
13 PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN TWENTY DAYS OF THE
14 NOTICE, THE CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A
15 COMPLAINT TO APPEAR FOR ADJUDICATION OF TOLL EVASION IN COURT OR
16 IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING, AND THE
17 PERSON CITED SHALL, WITHIN THE TIME SPECIFIED IN THE CIVIL PENALTY
18 ASSESSMENT NOTICE, FILE AN ANSWER TO THIS COMPLAINT IN THE
19 MANNER SPECIFIED IN THE NOTICE.

20 (d) IF A MUNICIPAL SUMMONS AND COMPLAINT IS ISSUED, THE
21 ADJUDICATION OF THE VIOLATION SHALL BE CONDUCTED AND THE FORMAT
22 OF THE SUMMONS AND COMPLAINT SHALL BE DETERMINED PURSUANT TO
23 THE TERMS OF THE MUNICIPAL ORDINANCE AUTHORIZING ISSUANCE OF
24 SUCH A SUMMONS AND COMPLAINT. IN NO CASE SHALL THE PENALTY UPON
25 CONVICTION FOR VIOLATION OF A MUNICIPAL ORDINANCE FOR TOLL
26 EVASION EXCEED THE LIMIT ESTABLISHED IN SUBSECTION (3) OF THIS
27 SECTION.

1 (5) (a) THE RESPECTIVE COURTS OF THE MUNICIPALITIES,
2 COUNTIES, AND CITIES AND COUNTIES ARE GIVEN JURISDICTION TO TRY ALL
3 CASES ARISING UNDER MUNICIPAL ORDINANCES AND STATE LAWS
4 GOVERNING THE USE OF A TOLL ROAD OR TOLL HIGHWAY OPERATED BY A
5 TOLL ROAD OR TOLL HIGHWAY COMPANY AND ARISING UNDER THE TOLL
6 EVASION CIVIL PENALTY REGULATIONS ENACTED BY A TOLL ROAD OR TOLL
7 HIGHWAY COMPANY. VENUE FOR SUCH CASES SHALL BE IN THE
8 MUNICIPALITY, COUNTY, OR CITY AND COUNTY WHERE THE ALLEGED
9 VIOLATION OF MUNICIPAL ORDINANCE OR STATE LAW OR OF THE
10 CORPORATE REGULATION OCCURRED.

11 (b) AT THE REQUEST OF THE JUDICIAL DEPARTMENT, A TOLL ROAD
12 OR TOLL HIGHWAY COMPANY SHALL CONSIDER ESTABLISHING AN
13 ADMINISTRATIVE TOLL ENFORCEMENT PROCESS AND MAY, BY RESOLUTION,
14 ADOPT RULES CREATING SUCH A PROCESS. THE RULES PERTAINING TO THE
15 ADMINISTRATIVE ENFORCEMENT OF TOLL EVASION SHALL REQUIRE NOTICE
16 TO THE PERSON CITED FOR TOLL EVASION AND PROVIDE TO THE PERSON AN
17 OPPORTUNITY TO APPEAR AT AN OPEN HEARING CONDUCTED BY AN
18 IMPARTIAL HEARING OFFICER AND A RIGHT TO APPEAL THE FINAL
19 ADMINISTRATIVE DETERMINATION OF TOLL EVASION TO THE COUNTY
20 COURT FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

21 (c) IF A TOLL ROAD OR TOLL HIGHWAY COMPANY ESTABLISHES AN
22 ADMINISTRATIVE TOLL ENFORCEMENT PROCESS, NO COURT OF A
23 MUNICIPALITY, COUNTY, OR CITY AND COUNTY SHALL HAVE JURISDICTION
24 TO HEAR TOLL EVASION CASES ARISING ON A PUBLIC HIGHWAY OPERATED
25 BY THE COMPANY.

26 (d) A TOLL EVASION CASE MAY BE ADJUDICATED BY AN IMPARTIAL
27 HEARING OFFICER IN AN ADMINISTRATIVE HEARING CONDUCTED PURSUANT

1 TO THIS SECTION AND THE RULES PROMULGATED BY A TOLL ROAD OR TOLL
2 HIGHWAY COMPANY. THE HEARING OFFICER SHALL BE AN INDEPENDENT
3 CONTRACTOR OF THE TOLL ROAD OR TOLL HIGHWAY COMPANY.

4 (e) A TOLL ROAD OR TOLL HIGHWAY COMPANY MAY FILE A
5 CERTIFIED COPY OF AN ORDER IMPOSING A TOLL, FEE, AND CIVIL PENALTY
6 THAT IS ENTERED BY THE HEARING OFFICER IN AN ADJUDICATION OF A
7 TOLL EVASION WITH THE CLERK OF THE COUNTY COURT IN THE COUNTY IN
8 WHICH THE VIOLATION OCCURRED AT ANY TIME AFTER THE ORDER IS
9 ENTERED. THE CLERK SHALL RECORD THE ORDER IN THE JUDGMENT BOOK
10 OF THE COURT AND ENTER IT IN THE JUDGMENT DOCKET. THE ORDER
11 SHALL HAVE THE EFFECT OF A JUDGMENT OF THE COUNTY COURT, AND THE
12 COURT MAY EXECUTE THE ORDER AS IN THE OTHER CASES.

13 (f) AN ADMINISTRATIVE ADJUDICATION OF A TOLL EVASION BY A
14 TOLL ROAD OR TOLL HIGHWAY COMPANY IS SUBJECT TO JUDICIAL REVIEW.
15 THE ADMINISTRATIVE ADJUDICATION MAY BE APPEALED AS TO MATTERS
16 OF LAW AND FACT TO THE COUNTY COURT FOR THE COUNTY IN WHICH THE
17 VIOLATION OCCURRED. THE APPEAL SHALL BE A REVIEW OF THE RECORD
18 OF THE ADMINISTRATIVE ADJUDICATION AND NOT A DE NOVO HEARING.

19 (g) NOTWITHSTANDING THE SPECIFIC REMEDIES PROVIDED BY THIS
20 SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL HAVE EVERY
21 REMEDY AVAILABLE UNDER THE LAW TO ENFORCE UNPAID TOLLS AND FEES
22 AS DEBTS OWED TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY.

23 (6) THE AGGREGATE AMOUNT OF PENALTIES, EXCLUSIVE OF COURT
24 COSTS, COLLECTED AS A RESULT OF CIVIL PENALTIES IMPOSED PURSUANT
25 TO RULES AUTHORIZED IN SUBSECTION (3) OF THIS SECTION SHALL BE
26 REMITTED TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY IN WHOSE
27 NAME THE CIVIL PENALTY ASSESSMENT NOTICE WAS ISSUED AND SHALL BE

1 APPLIED BY THE COMPANY TO DEFRAY THE COSTS AND EXPENSES OF
2 ENFORCING THE LAWS OF THE STATE AND THE RULES OF THE COMPANY. IF
3 A MUNICIPAL SUMMONS OR COMPLAINT IS ISSUED, THE AGGREGATE
4 PENALTY SHALL BE APPORTIONED PURSUANT TO THE TERMS OF ANY
5 ENFORCEMENT AGREEMENT.

6 (7) (a) IN ADDITION TO THE PENALTY ASSESSMENT PROCEDURE
7 PROVIDED FOR IN SUBSECTION (4) OF THIS SECTION, WHERE AN INSTANCE
8 OF TOLL EVASION IS EVIDENCED BY AUTOMATIC VEHICLE IDENTIFICATION
9 PHOTOGRAPHY OR OTHER TECHNOLOGY NOT INVOLVING A PEACE OFFICER,
10 A CIVIL PENALTY ASSESSMENT NOTICE MAY BE ISSUED AND SENT BY
11 FIRST-CLASS MAIL, OR BY ANY MAIL DELIVERY SERVICE OFFERED BY AN
12 ENTITY OTHER THAN THE UNITED STATES POSTAL SERVICE THAT IS
13 EQUIVALENT TO OR SUPERIOR TO FIRST-CLASS MAIL WITH RESPECT TO
14 DELIVERY SPEED, RELIABILITY, AND PRICE, BY THE TOLL ROAD OR TOLL
15 HIGHWAY COMPANY TO THE REGISTERED OWNER OF THE MOTOR VEHICLE
16 INVOLVED. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE
17 REGISTERED OWNER OF THE VEHICLE INVOLVED, THE LICENSE NUMBER OF
18 THE VEHICLE INVOLVED, THE TIME AND LOCATION OF THE VIOLATION, THE
19 AMOUNT OF THE PENALTY PRESCRIBED FOR THE VIOLATION, A PLACE FOR
20 THE REGISTERED OWNER OF THE VEHICLE TO EXECUTE A SIGNED
21 ACKNOWLEDGMENT OF LIABILITY FOR THE CITED VIOLATION, AND SUCH
22 OTHER INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE THE
23 NOTICE AS A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL
24 EVASION CIVIL PENALTY ASSESSMENT. THE REGISTERED OWNER OF THE
25 VEHICLE INVOLVED IN A TOLL EVASION SHALL BE LIABLE FOR THE TOLL,
26 FEE, AND CIVIL PENALTY IMPOSED BY THE COMPANY, EXCEPT AS
27 OTHERWISE PROVIDED BY PARAGRAPH (b) OF THIS SUBSECTION (7).

1 (b) IN ADDITION TO ANY OTHER LIABILITY PROVIDED FOR IN THIS
2 SECTION, THE OWNER OF A MOTOR VEHICLE WHO IS ENGAGED IN THE
3 BUSINESS OF LEASING OR RENTING MOTOR VEHICLES IS LIABLE FOR
4 PAYMENT OF A TOLL EVASION VIOLATION CIVIL PENALTY; EXCEPT THAT,
5 AT THE DISCRETION OF THE OWNER:

6 (I) THE OWNER MAY OBTAIN PAYMENT FOR A TOLL EVASION
7 VIOLATION CIVIL PENALTY FROM THE PERSON OR COMPANY WHO LEASED
8 OR RENTED THE VEHICLE AT THE TIME OF THE TOLL EVASION THROUGH A
9 CREDIT OR DEBIT CARD PAYMENT AND FORWARD THE PAYMENT ON TO THE
10 TOLL ROAD OR TOLL HIGHWAY COMPANY; OR

11 (II) THE OWNER MAY SEEK TO AVOID LIABILITY FOR A TOLL
12 EVASION VIOLATION CIVIL PENALTY IF THE OWNER OF THE LEASED OR
13 RENTED MOTOR VEHICLE CAN FURNISH SUFFICIENT EVIDENCE THAT, AT
14 THE TIME OF THE TOLL EVASION VIOLATION, THE VEHICLE WAS LEASED OR
15 RENTED TO ANOTHER PERSON. TO AVOID LIABILITY FOR PAYMENT, THE
16 OWNER OF THE MOTOR VEHICLE SHALL, WITHIN THIRTY DAYS AFTER
17 RECEIPT OF THE NOTIFICATION OF THE TOLL EVASION VIOLATION, FURNISH
18 TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY AN AFFIDAVIT
19 CONTAINING THE NAME, ADDRESS, AND STATE DRIVER'S LICENSE NUMBER
20 OF THE PERSON OR COMPANY WHO LEASED OR RENTED THE VEHICLE. AS
21 A CONDITION TO AVOID LIABILITY FOR PAYMENT OF A TOLL EVASION
22 VIOLATION CIVIL PENALTY, ANY PERSON OR COMPANY WHO LEASES OR
23 RENTS MOTOR VEHICLES TO A PERSON SHALL INCLUDE A NOTICE IN THE
24 LEASING OR RENTAL AGREEMENT STATING THAT, PURSUANT TO THE
25 REQUIREMENTS OF THIS SECTION, THE PERSON RENTING OR LEASING THE
26 VEHICLE IS LIABLE FOR PAYMENT OF A TOLL EVASION VIOLATION CIVIL
27 PENALTY INCURRED ON OR AFTER THE DATE THE PERSON RENTING OR

1 LEASING THE VEHICLE TAKES POSSESSION OF THE MOTOR VEHICLE. THE
2 NOTICE SHALL INFORM THE PERSON RENTING OR LEASING THE VEHICLE
3 THAT THE PERSON'S NAME, ADDRESS, AND STATE DRIVER'S LICENSE
4 NUMBER SHALL BE FURNISHED TO THE TOLL ROAD OR TOLL HIGHWAY
5 COMPANY WHEN A TOLL EVASION VIOLATION CIVIL PENALTY IS INCURRED
6 DURING THE TERM OF THE LEASE OR RENTAL AGREEMENT.

7 (c) IF THE PRESCRIBED PENALTY IS NOT PAID WITHIN TWENTY
8 DAYS, IN ORDER TO ENSURE THAT ADEQUATE NOTICE HAS BEEN GIVEN, A
9 TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL SEND A SECOND PENALTY
10 ASSESSMENT NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR
11 BY ANY MAIL DELIVERY SERVICE OFFERED BY AN ENTITY OTHER THAN THE
12 UNITED STATES POSTAL SERVICE THAT IS EQUIVALENT TO OR SUPERIOR TO
13 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, WITH RESPECT TO RECEIPT
14 VERIFICATION AND DELIVERY SPEED, RELIABILITY, AND PRICE, CONTAINING
15 THE SAME INFORMATION AS IS SPECIFIED IN PARAGRAPH (a) OF THIS
16 SUBSECTION (7). THE NOTICE SHALL SPECIFY THAT THE REGISTERED
17 OWNER OF THE VEHICLE MAY PAY THE SAME PENALTY ASSESSMENT AT
18 ANY TIME PRIOR TO THE SCHEDULED HEARING. IF THE REGISTERED OWNER
19 OF THE VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, AND CIVIL
20 PENALTY WITHIN TWENTY DAYS OF THE NOTICE, THE CIVIL PENALTY
21 ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR FOR
22 ADJUDICATION OF A TOLL EVASION IN COURT OR IN AN ADMINISTRATIVE
23 TOLL ENFORCEMENT PROCEEDING AND THE REGISTERED OWNER OF THE
24 VEHICLE SHALL, WITHIN THE TIME SPECIFIED IN THE CIVIL PENALTY
25 ASSESSMENT NOTICE, FILE AN ANSWER TO THE COMPLAINT IN THE MANNER
26 SPECIFIED IN THE NOTICE. IF THE REGISTERED OWNER OF THE VEHICLE
27 FAILS TO PAY IN FULL THE OUTSTANDING TOLL, FEE, AND CIVIL PENALTY

1 SET FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE NOTICE AS
2 SPECIFIED IN THE NOTICE, THE REGISTERED OWNER OF THE VEHICLE SHALL
3 BE DEEMED TO HAVE ADMITTED LIABILITY AND TO HAVE WAIVED THE
4 RIGHT TO A HEARING, AND A FINAL ORDER OF LIABILITY IN DEFAULT
5 AGAINST THE REGISTERED OWNER OF THE VEHICLE MAY BE ENTERED.

6 (8) A COURT WITH JURISDICTION IN A TOLL EVASION CASE
7 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION OR A
8 TOLL ROAD OR TOLL HIGHWAY COMPANY WITH JURISDICTION IN A TOLL
9 EVASION CASE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (5) OF THIS
10 SECTION MAY REPORT TO THE DEPARTMENT OF REVENUE ANY
11 OUTSTANDING JUDGMENT OR WARRANT OR ANY FAILURE TO PAY THE
12 TOLL, FEE, AND CIVIL PENALTY FOR ANY TOLL EVASION. UPON RECEIPT OF
13 A CERTIFIED REPORT FROM A COURT OR A TOLL ROAD OR TOLL HIGHWAY
14 COMPANY STATING THAT THE OWNER OF A REGISTERED VEHICLE HAS
15 FAILED TO PAY A TOLL, FEE, AND CIVIL PENALTY RESULTING FROM A FINAL
16 ORDER ENTERED BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY, THE
17 DEPARTMENT SHALL NOT RENEW THE VEHICLE REGISTRATION OF THE
18 VEHICLE UNTIL THE TOLL, FEE, AND CIVIL PENALTY ARE PAID IN FULL. THE
19 TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONTRACT WITH AND
20 COMPENSATE A VENDOR APPROVED BY THE DEPARTMENT FOR THE DIRECT
21 COSTS ASSOCIATED WITH THE NONRENEWAL OF A VEHICLE REGISTRATION
22 PURSUANT TO THIS SUBSECTION (8). THE DEPARTMENT HAS NO
23 AUTHORITY TO ASSESS ANY POINTS AGAINST A LICENSE UNDER SECTION
24 42-2-127, C.R.S., UPON ENTRY OF A CONVICTION OR JUDGMENT FOR ANY
25 TOLL EVASION.

26 **43-3-303. Toll roads must be kept in repair.** IT IS THE DUTY OF
27 ALL OWNERS OR OPERATORS OF ROADS UPON WHICH TOLLS ARE CHARGED

1 TO KEEP THEIR ROADS IN GOOD REPAIR AT ALL POINTS, AND THE
2 CONDITION OF THE ROADS SHALL BE DETERMINED BY THE GRADE THEREOF
3 AND THE SEASON OF THE YEAR IN WHICH THEY ARE USED.

4 **43-3-304. Noncompete agreements.** A TOLL ROAD OR TOLL
5 HIGHWAY COMPANY MAY NOT ENTER INTO A NONCOMPETE AGREEMENT
6 WITH A PUBLIC ENTITY IF THE AGREEMENT WOULD DEGRADE AN EXISTING
7 ROADWAY OR EITHER DELAY OR PREVENT THE CONSTRUCTION OR
8 UPGRADING OF A ROAD OR HIGHWAY THAT IS INCLUDED IN THE FISCALLY
9 CONSTRAINED REGIONAL TRANSPORTATION PLAN REQUIRED BY SECTION
10 43-1-1103 (1) OR THE FISCALLY CONSTRAINED COMPREHENSIVE
11 STATEWIDE TRANSPORTATION PLAN REQUIRED BY SECTION 43-1-1103 (5).

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