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SENATE BILL 14-197

BY SENATOR(S) Jones and Herpin, Aguilar, Guzman, Heath, Kefalas, Kerr, Newell, Nicholson, Schwartz, Todd, Ulibarri, Carroll;
also REPRESENTATIVE(S) Foote and Kraft-Tharp, Exum, Fischer, Hullinghorst, Labuda, Lebsock, Lee, Melton, Salazar, Schafer, Singer, Tyler.

CONCERNING HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE
TRANSPARENCY.

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

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

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

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

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

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

contracting; and

(c) It is the intent of the general assembly that the high-performance transportation enterprise created in this section actively seek out opportunities for public-private partnerships for the purpose of completing surface transportation infrastructure projects and that this section be broadly construed to allow the transportation enterprise sufficient flexibility, consistent with the requirements of the state constitution, to pursue any available means of financing such surface transportation infrastructure projects that will allow the efficient completion of the projects; AND

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

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

(A) Four members appointed by the governor, each of whom ~~shall~~ MUST have professional expertise in transportation planning or development, local government, design-build contracting, public or private finance, engineering, environmental issues, or any other area that the governor believes will benefit the board in the execution of its powers and performance of its duties. The governor shall appoint one member who resides within the planning area of the Denver regional council of governments, one member who resides within the planning area of the Pikes Peak area council of governments, one member who resides within the planning area of the north front range metropolitan planning organization, and one member who resides within the interstate 70 mountain corridor. MEMBERS APPOINTED BY THE GOVERNOR ON OR AFTER THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (A), AS AMENDED, MUST BE CONFIRMED BY THE SENATE.

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

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

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

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

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

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

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

(II) IN ORDER TO ENSURE ADEQUATE PUBLIC NOTICE OF AND SIGNIFICANT PARTICIPATION IN, AND MEANINGFUL LEGISLATIVE OVERSIGHT

OF, ANY PUBLIC-PRIVATE PARTNERSHIP, THE TRANSPORTATION ENTERPRISE SHALL:

(A) AT THE VISIONING STAGE DURING WHICH THE TRANSPORTATION ENTERPRISE IS DEVELOPING A SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT CONCEPT FOR THE PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING, IN COORDINATION WITH INTERESTED LOCAL GOVERNMENTS, AT WHICH MEMBERS OF THE PUBLIC MAY OBTAIN INFORMATION REGARDING THE CONCEPT BEING DEVELOPED, EXPRESS THEIR OPINIONS AND IDEAS REGARDING THE CONCEPT, AND MAKE SUGGESTIONS REGARDING ALTERNATIVE CONCEPTS OR MEANS OF IMPROVING THE CONCEPT. AT EACH MEETING HELD, THE ENTERPRISE SHALL PROVIDE AN OVERVIEW OF THE TRANSPORTATION NEEDS THAT IT SEEKS TO ADDRESS AND THE PERCEIVED ADVANTAGES AND DISADVANTAGES OF THE CONCEPT. THE ENTERPRISE SHALL CONSIDER THE SUGGESTIONS AND IDEAS PRESENTED BY THE PUBLIC. THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE OF EACH MEETING DIRECTLY TO EACH MEMBER OF THE GENERAL ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE PROJECT CONCEPT AREA AND TO THE GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT INCLUDES ANY PART OF THE PROJECT CONCEPT AREA AND SHALL ALSO PROVIDE FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE PARTNERSHIP.

(B) BEFORE PREPARING ANY REQUEST FOR PROPOSAL FOR A PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING, IN COORDINATION WITH INTERESTED LOCAL GOVERNMENTS, AT WHICH MEMBERS OF THE PUBLIC MAY OBTAIN INFORMATION REGARDING THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT OR PROJECTS FOR WHICH THE TRANSPORTATION ENTERPRISE IS CONSIDERING PREPARING A REQUEST FOR PROPOSAL, EXPRESS THEIR OPINIONS AND IDEAS REGARDING THE PROPOSED PROJECTS, MAKE SUGGESTIONS REGARDING ALTERNATIVE PROJECTS OR MEANS OF IMPROVING THE PROJECT OR PROJECTS UNDER CONSIDERATION, AND QUESTION REPRESENTATIVES OF THE ENTERPRISE. THE ENTERPRISE SHALL CONSIDER THE SUGGESTIONS AND IDEAS PRESENTED BY THE PUBLIC. AT EACH MEETING HELD, THE ENTERPRISE SHALL PROVIDE DETAILED INFORMATION REGARDING THE TRANSPORTATION NEEDS THAT IT

SEEKS TO ADDRESS, ANY POSSIBLE ALTERNATIVE PROJECTS THAT MIGHT ADDRESS THOSE NEEDS, AND ANY ALTERNATIVE MEANS, DESCRIBED BY A FINANCIAL ANALYSIS, OF FUNDING THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT OR PROJECTS, INCLUDING BUT NOT LIMITED TO ANY ALTERNATIVE MEANS THAT RELY EXCLUSIVELY ON PUBLIC FUNDING, WITHOUT ENTERING INTO A PUBLIC-PRIVATE PARTNERSHIP. THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE OF ANY SUCH MEETINGS DIRECTLY TO EACH MEMBER OF THE GENERAL ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE PROJECT AREA AND TO THE GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT INCLUDES ANY PART OF THE PROJECT AREA AND SHALL ALSO PROVIDE FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE PARTNERSHIP.

(C) AFTER PREPARING AN INITIAL DRAFT OF, BUT BEFORE ISSUING, A REQUEST FOR A PROPOSAL FOR A PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING, IN COORDINATION WITH INTERESTED LOCAL GOVERNMENTS, AT WHICH MEMBERS OF THE PUBLIC MAY OBTAIN INFORMATION, EXPRESS OPINIONS AND IDEAS, SUGGEST IMPROVEMENTS, AND QUESTION REPRESENTATIVES OF THE TRANSPORTATION ENTERPRISE REGARDING THE DRAFT REQUEST FOR PROPOSAL. THE ENTERPRISE SHALL POST A COPY OF THE DRAFT REQUEST FOR PROPOSAL ON ITS WEB SITE AT LEAST ONE WEEK BEFORE ANY SUCH MEETING, AND SHALL PROVIDE A SUMMARY OF THE PARAMETERS OF THE DRAFT REQUEST FOR PROPOSAL TO MEMBERS OF THE PUBLIC ATTENDING ANY SUCH MEETING. THE ENTERPRISE SHALL CONSIDER THE SUGGESTIONS AND IDEAS PRESENTED BY THE PUBLIC. THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE OF ANY SUCH MEETINGS DIRECTLY TO EACH MEMBER OF THE GENERAL ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE PROJECT AREA AND TO THE GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT INCLUDES ANY PART OF THE PROJECT AREA AND SHALL ALSO PROVIDE FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE PARTNERSHIP.

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

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

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

(B) A NONCOMPETE CLAUSE THAT PROHIBITS, OR IMPOSES FINANCIAL PENALTIES OR OBLIGATIONS, INCLUDING AN OBLIGATION TO COMPENSATE A PRIVATE PARTNER FOR A LOSS IN TOLL REVENUES, ON THE TRANSPORTATION ENTERPRISE FOR, THE DEVELOPMENT OF SURFACE TRANSPORTATION INFRASTRUCTURE OR OTHER INFRASTRUCTURE, OTHER THAN INFRASTRUCTURE THAT IS DIRECTLY ABOVE OR BELOW THE HIGHWAY LANES OF THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT BEING DEVELOPED AND IMPLEMENTED BY THE PUBLIC-PRIVATE PARTNERSHIP, THAT REDUCES USAGE OF THE PROJECT; OR

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

(IV) THE LEGISLATIVE APPROVAL REQUIREMENT SET FORTH IN

SUBPARAGRAPH (III) OF THIS PARAGRAPH (g) DOES NOT APPLY TO ANY PUBLIC-PRIVATE PARTNERSHIP TO WHICH A PUBLIC HIGHWAY AUTHORITY CREATED PURSUANT TO PART 5 OF THIS ARTICLE OR A REGIONAL TRANSPORTATION AUTHORITY CREATED PURSUANT TO PART 6 OF THIS ARTICLE IS A PARTY IF THE PUBLIC-PRIVATE PARTNERSHIP REQUIRES THE AUTHORITY TO BEAR SUBSTANTIAL RESPONSIBILITY FOR THE DESIGNING, ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION, REPAIR, RECONSTRUCTION, MAINTENANCE, OR OPERATION OF A SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT.

(8.5) THE TRANSPORTATION ENTERPRISE SHALL PROVIDE NOTICE TO THE PUBLIC 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.

(9)(a) WHEN CONSIDERING A PROPOSED SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT THAT INCLUDES ONE OR MORE HIGH-OCCUPANCY VEHICLE LANES, HIGH-OCCUPANCY TOLL LANES, OR MANAGED LANES, THE TRANSPORTATION ENTERPRISE SHALL 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 TRANSPORTATION ENTERPRISE MAY EXPEND OR AUTHORIZE THE EXPENDITURE OF USER FEE REVENUES GENERATED BY A SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT WITHIN A CORRIDOR TO SUPPORT TRANSIT, INCLUDING CAPITAL AND OPERATING COSTS OF TRANSIT, FIRST AND FINAL MILE CONNECTIONS, AND TRANSPORTATION DEMAND MANAGEMENT PROGRAMS DESIGNED TO INCREASE TRANSIT OR HIGH-OCCUPANCY VEHICLE RIDERSHIP WITHIN THE CORRIDOR. THE TRANSPORTATION ENTERPRISE SHALL EXPEND A MINIMUM OF TEN PERCENT OF ANY NET USER FEE REVENUES SHARED BACK TO THE TRANSPORTATION ENTERPRISE FROM A PARTY TO THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT THAT GOVERNS THE OPERATION OF THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT THAT GENERATED THE USER FEES TO SUPPORT TRANSIT IN THE PROJECT CORRIDOR. The transportation enterprise shall not supplant or duplicate the services provided by any public mass transit operator, as defined in section 43-1-102 (5), railroad, public highway authority created pursuant to part 5 of this article, or regional transportation authority created pursuant to part 6 of this article

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

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

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

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

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

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

(IV) A THOROUGH DESCRIPTION OF EACH CURRENT SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING SIGNIFICANT

UPCOMING DECISIONS AND COST ESTIMATES;

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

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

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

(C) CURRENT AND MAXIMUM PERMITTED TOLL RATES;

(D) TRANSIT AND CARPOOLING;

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

(F) TOTAL PROJECT COSTS; AND

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

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

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

(B) A SUMMARY OF THE PROPOSED OR ANTICIPATED TERMS AND PROVISIONS THAT WILL GOVERN THE PROPOSED PUBLIC-PRIVATE PARTNERSHIP THAT INCLUDES, TO THE EXTENT AVAILABLE, THE

INFORMATION SPECIFIED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (b). THE SUMMARY MAY INCLUDE RANGES RATHER THAN FIXED ESTIMATES OF ANTICIPATED TERMS AND PROVISIONS REGARDING THE AGREEMENT TERM, TOLL RATES, PROJECT COSTS, PROFITS, AND ANY OTHER QUANTIFIABLE BUT NOT YET QUANTIFIED PROPOSED TERMS AND PROVISIONS.

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

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

(c) The committees OF THE HOUSE OF REPRESENTATIVES AND THE SENATE THAT HAVE JURISDICTION OVER TRANSPORTATION shall review the report and may recommend legislation. The report ~~shall be~~ IS public and ~~shall~~ MUST be available on the web site of the department on or before THE January 15 ~~of the year before the year in which the report is presented.~~ IMMEDIATELY FOLLOWING THE PROVISION OF THE WRITTEN REPORT TO EACH MEMBER OF THE COMMITTEES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10).

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

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

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

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

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

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

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

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

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

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

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Morgan Carroll
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO