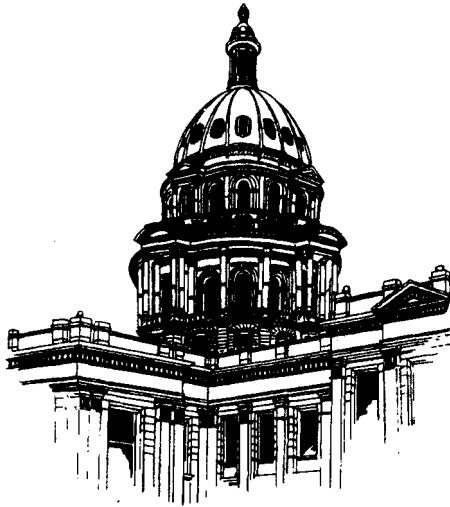




Transportation Legislation Review Committee

**Report to the
COLORADO
GENERAL ASSEMBLY**

**Colorado Legislative Council
Research Publication No. 442
November 1998**

RECOMMENDATIONS FOR 1999

**TRANSPORTATION LEGISLATION
REVIEW COMMITTEE**

**Report to the
Colorado General Assembly**

**Research Publication No. 442
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November 1998

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report for the Transportation Legislation Review Committee. The committee was reconstituted pursuant to Section 43-2-145, C.R.S. (Senate Bill 36, 1986 Session). The purpose of the committee is "to give guidance and direction to the state Department of Transportation in the development of the state transportation system, and to provide legislative overview of and input into such development"

At its meeting on October 15, 1998, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1999 session was approved.

Respectfully submitted,

/s/ Representative Chuck Berry
Chairman
Legislative Council

CB/RK/cs

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TRANSPORTATION LEGISLATION REVIEW COMMITTEE

Members of the Committee

Senator Richard Mutzebaugh Chairman	Representative Ron May Vice Chairman
Representative Vi June	Senator Ray Powers
Representative Bill Swenson	Senator Bill Thiebaut
Mr. George Brewer	Ms. Cynthia Erker
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EXECUTIVE SUMMARY

Committee Charge

Pursuant to Section 43-2-145, C.R.S., the Transportation Legislation Review Committee (TLRC) is authorized to give guidance and direction to the Colorado Department of Transportation (CDOT) in the development of the state transportation system and to provide legislative overview of such development. The committee is directed to review any phase of operations for the CDOT, including planning and construction of highway projects. The committee is also authorized to review any phase of operations for any public highway authority (e.g., E-470 Authority) along with any rural transportation authority responsible for the development of rural transportation systems. In addition, the legislative committee provides guidance to the Regional Transportation District (RTD) and reviews its budget, firebox recovery ratio, and the privatization of bus service.

Committee Activities

The committee held five meetings and one tour and received testimony on a variety of transportation-related matters from representatives of the following organizations: the CDOT, the RTD, and the E-470 Public Highway Authority. One interim meeting was almost entirely devoted to the construction of transportation improvements along six major corridors and the Strategic Transportation Project Investment Program. A tour with members of the Transportation Commission afforded members of the TLRC the opportunity to confer with Woodland Park and southeastern Colorado officials on such issues as transportation interchange improvements, highway access, truck bypass alternatives, and noise-wall construction.

Committee members were briefed by the E-470 Highway Authority on the progress of highway construction projects along E-470 and the recent increase in toll-road usage. Members of the RTD informed the TLRC about the accomplishments of the board and provided an update on Denver's mall shuttle service. The committee also heard testimony from the Department of Revenue (DOR) on proposed legislation which would make it illegal to burn dyed-diesel fuel. Discussion focused on the loss of potential tax revenues and the proposal's implementation through ports of entry personnel.

Representative Matt Smith briefed the committee on the activities of the Commuter Air Service Interim Study Committee and proposed legislation which would increase safety at smaller airports in Colorado. The committee was informed on other legislation that proposed traffic code changes which would make it safer to operate bicycles in urban environments. Committee members also reviewed legislation which would have expanded the TLRC to include members of the House and Senate Transportation Committees. The committee also reviewed legislation to provide additional funding for state highway improvements. But similar to the legislation which would have changed the membership of the TLRC, the funding legislation was not approved by the Legislative Council.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends nine bills for consideration in the 1999 legislative session.

Bill A — Private towing of abandoned vehicles. This bill authorizes the Public Utilities Commission to revoke, suspend, alter, or amend a tow-carrier's license whenever private towing operators violate any of the statutory provisions governing the towing of abandoned vehicles. When a vehicle is privately towed, operators must make a reasonable effort to notify an out-of-state owner or lienholder of the operator's possession of the vehicle. The bill specifies that the owner of record has 30 days to notify the operator of the owner's intent to keep the vehicle. If the operator sells a vehicle abandoned in an impound lot after the holding period, the vehicle must be advertised and sold through a licensed auction dealer or a classified newspaper ad. The bill also requires operators to register with the DOR to place a lien on a towed vehicle. Provisions of this bill make it a Class 1 misdemeanor if the operator files a false lien on a vehicle removed from private property.

Bill B — Monitoring diesel fuel fraud. This bill authorizes ports of entry weigh station personnel to check the fuel tank of vehicles required to stop at ports for tax-exempt diesel fuel. The bill makes it unlawful to operate a motor vehicle using tax-exempt dyed-fuel on any public highway. Violations are considered Class B traffic infractions and the bill specifies increasing penalties for multiple violations within a 12-month period. The bill permits the DOR to conduct audits of persons who commit violations and requires the department to report violations to the federal Internal Revenue Service. Bill B is expected to raise revenues through fines.

Bill C — Protecting vehicles from rocks. Bill C makes three changes to current law. First, the bill excludes certain vehicle-operations that transport aggregate materials along public highways from tarping requirements. Exemptions are provided for: vehicles which transport aggregate materials within a marked construction zone; vehicles that maintain public roads during snow and ice removal operations; and vehicles involved in any emergency operation requested by a law enforcement agency. Second, this proposal allows aggregate materials other than sand to be used on highways to increase traction. Third, Bill C builds upon existing law by expanding a requirement which minimizes the spray of water particles from the rear of vehicles transporting aggregate materials to all vehicles except passenger vehicles.

Bill D — Highway project bid awards. Bill D creates an exemption to the requirement that the CDOT reject bids for highway construction projects if there are less than three bidders. Currently, the department may accept the lowest responsible bid whenever there are two bidders and the cost of the project is less than ten percent over the department's estimate. Under Bill D, if the department's estimate is less than \$1 million, a bid may be awarded that is up to 25 percent over of the department's estimate. This proposal would have allowed the department to proceed without rebidding on an additional 22 of 51 recent highway projects.

Bill E — Hazardous materials in Eisenhower Tunnel. This proposal authorizes the Transportation Commission to regulate the hours during which hazardous materials may be transported through the Eisenhower Tunnel. Currently, these hours are regulated by the Public Utilities Commission.

Bill F — Private operations at Park N Rides. This proposal requires the RTD to obtain the approval of the CDOT before the district can enter into a retail or commercial goods agreement at any transfer facility located on property owned by the CDOT. Commercial enterprises that obtain usage of any transfer facility must pay fair market value to rent a facility. The purpose of offering retail goods and services at facilities is to offer conveniences to transit users. Commercial enterprises that reduce transit services, public parking, or impose a competitive disadvantage to nearby private businesses, shall not be allowed to operate.

Bill G — Credit and debit card payments. This bill authorizes the DOR to accept credit or debit cards as a form of payment for any motor vehicle fines, fees, or taxes owed. This bill allows the department to contract with any third-party provider to process the payments and allow the department to impose a surcharge to cover the processing costs. The surcharge amount must be disclosed to the person paying fees or fines and must not exceed the additional cost of credit that the department absorbs. Surcharges for payment to the DOR can be avoided by those persons who pay with cash or check.

Bill H — Railroad project crossing cap. Bill H increases the annual maximum amount which Class 1 railroads contribute to "grade separation" projects or construction jobs which use bridge construction to separate road and rail traffic from \$1.25 million to \$2.5 million.

Bill I — Use of certified scales for overloads. This bill allows the Colorado State Patrol to have access to public scales for measuring the gross weight of vehicles and loads. Bill I clarifies that when peace officers suspect that a vehicle is overweight, they will be permitted to weigh a vehicle at the nearest certified scale within five miles of where the vehicle is stopped. Scale operators are required to issue a certificate of correct weight. This proposal makes it a Class 2 petty offense for a certified scale operator to refuse a request from a local peace officer to weigh any vehicle that is suspected of being overweight.

STATUTORY AUTHORITY AND RESPONSIBILITIES

The Transportation Legislation Review Committee (TLRC) is established to give guidance and direction in the development of the state transportation system and to provide legislative overview of and input into such development. Currently, the committee is composed of six members of the General Assembly (three Representatives; three Senators) and five citizen members appointed by the Governor.

Specifically, the TLRC is required under Section 43-2-145, C.R.S., to meet at least once a year to review all transportation legislation. Upon completion of its review of the transportation laws, the committee may make recommendations to the Governor and to the General Assembly for such additional legislation as it deems necessary. The committee recommends nine bills this year. The committee is authorized to develop and make recommendations concerning the financing of the state transportation system, however no such recommendations were approved for 1999.

In its oversight role, the TLRC is authorized to review any operations of the Colorado Department of Transportation (CDOT), any public highway authority, the Regional Transportation District (RTD), or any rural transportation authority. The committee may review projects after completion to determine whether the project was completed in the most cost-effective and efficient manner. The committee may also require financial or performance audits to be conducted.

The committee may require the CDOT to prepare and adopt 5-, 10-, and 15-year plans for the development of the state transportation system, and the committee must monitor the progress of such plans. The committee is authorized to consult with the CDOT personnel and other experts in the field of highway construction as may be necessary. The CDOT personnel are required to cooperate with the committee and with any persons assisting the committee in carrying out its statutory duties.

Background (History of the TLRC)

The roots of the TLRC go back to 1953 when the General Assembly reorganized the state highway system and restructured the relationship between state highway, county road, and municipal street systems. First established as the Highway Legislation Review Committee (HLRC), the committee's original charge was to review the implementation and impact of these new highway systems. In 1987, the committee's charge was expanded to include oversight of public highway authorities and projects, such as E-470 and W-470. Public highway authorities are required to report annually each August to the TLRC on their activities in the preceding year and their plans for the coming year. In 1989, the General Assembly required the RTD to respond to the HLRC requests for information.

In 1994, the Department of Highways was renamed the Department of Transportation and the committee's name was correspondingly changed to the Transportation Legislation Review Committee. With the name change, the scope of the department and the committee were also expanded to incorporate all types of transportation. The most recent change occurred in 1997, when the committee's authority was expanded to include oversight of rural transportation authorities.

COMMITTEE ACTIVITIES

During the 1998 interim, the Transportation Legislation Review Committee (TLRC) held five meetings and one tour and received information on a variety of transportation-related matters. The TLRC heard highway construction progress reports for the following: the Strategic Transportation Project Investment Program (STPIP); phases for STPIP's 28 priority projects which were completed in 1997; the E-470 toll-road; the activities of the Regional Transportation District (RTD); and a variety of other statewide transportation issues. Many of these statewide transportation projects and issues are discussed in greater detail below.

Colorado Department of Transportation Projects and Issues

The executive director for the Colorado Department of Transportation (CDOT) provided a status report on the funding needed to complete the proposed highway construction in Colorado. He explained that 98 percent of the money allocated by the General Assembly in the past few legislative sessions is already dedicated toward construction projects. The director also explained that the previous estimated shortfall for the 20-year state transportation plan was about \$8 billion. However, the recent increases in federal and state funding for transportation needs has reduced the projected shortfall to about \$4.5 billion. The discussion of highway projects included the STPIP projects which are 28 high-priority projects that include other improvements along six major corridors. The department offered the committee this goal: to provide the best possible multi modal transportation system for Colorado that most effectively moves people, goods, and information.

The Strategic Transportation Project Investment Program: The Transportation Commission has identified 28 high-priority projects which will be placed on an accelerated construction schedule. The Transportation Commission has committed nearly one-third of its annual program toward these 28 projects. Phases of these projects that were completed in FY 1997 include:

- State Highway 285 – Parmalee Gulch Road to Conifer, this project widened a 2.2 mile section of US 285 to four lanes of concrete pavement from Tiny Town to Godard Ranch Ct.;
- US 40 – Berthoud Pass, this project consisted of erosion control, rock-fall mitigation, restoring the vegetation, and highway resurfacing;
- I-70 East – this project included concrete reconstruction and safety enhancements from Cedar Point to Limon and roadway between Byers and Strasburg;
- US Highway 287 – this project involved the reconstruction of a 133-mile section of US 287 near Kiowa County Line north of Eads and north and south of Campo;

- US 50 – Grand Junction area, this project consisted of the reconstruction of the heavily-traveled, 1,000-foot-long 5th Street viaduct;
- State Highway 82 – Aspen area, this project made improvements along SH 82 between Basalt and Aspen;
- US 287 – State Highway to Pike Road, this project widened a 3.5 mile concrete section of the road to four lanes;
- US 160 / US 550 – Farmington Hill, this project reconstructed a major interchange south of Durango;
- US 85 (Santa Fe Drive) – this project completed concrete pavement reconstruction between Hampden Avenue and Big Dry Creek;
- Stapleton Airport Tunnels - I-70 – this project removed the Stapleton Tunnels;
- I-25 and SH 83 (North Academy Blvd.) – this project involved the reconstruction of the interchange; and
- US 287 – Lafayette Bypass, this project consisted of the reconstruction of a four-lane concrete roadway between Dillon and Baseline Roads.

E-470 Public Highway Authority Projects and Issues

The Executive Director and a member of the Board of Directors provided the committee with an update of highway construction projects along E-470. The director explained that on July 1, 1998, E-470 was expanded from five miles to 22.5 miles. This section of highway includes Interstate 25 to C-470 to Smoky Hill Road in Aurora, and a 10-mile independent section of highway between 56th Avenue and 120th Avenue in Adams County and Commerce City. He also mentioned that one stretch of highway included a major interchange at Pena Boulevard. The member from the board mentioned that toll-road usage continues to increase and, after seven years of operation, E-470 has had nearly \$20 million of tolled transactions. He also stated that when all four segments of E-470 are open and operational it will cost approximately \$6 to drive the 46 miles of newly constructed highway. Once completed, there would be a reduction of staff for contractors and environmental engineers.

Regional Transportation District Projects and Issues

The General Manager for the RTD provided a summary of the 1998 RTD budget. The Chairman of the Board mentioned that it had been an excellent year for the RTD, although there had been some problems with public perception. He also stated that ridership on their transit system had not decreased and the board is accomplishing more on the same budgeted amount of money.

The General Manager stated that the federal Transportation Equity Act (TEA-21) provided funding for four projects. These projects include: the southwest corridor, the southeast corridor, and both east and west corridors. He also mentioned that the mall shuttle service is becoming more popular and the buses are operating at capacity. Two new shuttles will be in operation by the end of 1998 and these buses will have double the capacity of the current shuttles.

Dyed-Fuel Tax

The Director for the Motor Carrier Services updated the committee on the implementation of House Bill 98-1333 and its companion bill House Bill 98-1013 concerning off-road fuel tax issues. He further explained that House Bill 98-1013 was postponed indefinitely in House Appropriations and would have made it illegal to burn dyed-diesel fuel. The committee discussion focused on the loss of potential tax revenues and the ease with which ports of entry weigh station personnel could inspect fuel tanks of vehicles which are required to stop at ports for dyed-diesel fuel.

Commuter Air Service

Representative Matt Smith briefed the committee on the activities of the Commuter Air Service Interim Study Committee. He also offered a brief status report on several small airports on the Western Slope. Airport safety and reliability issues were discussed for a number of Western Slope airports in locations such as Hayden, Eagle, and Steamboat Springs. He stated that safety is closely linked to reliability and discussed how legislation proposed by the Commuter Air Service Interim Study Committee would provide additional funding to improve the levels of safety at smaller commuter airports. Representative Smith stated that moneys for these airports would be provided through the flexible funding language in Senate Bill 97-1. Committee discussion focused on the growth of smaller airports and the lack of commuter air service in Colorado. The closing comments were directed at how additional funding could be used to enhance airport safety. The TLRC endorsed the Commuter Air Service Interim Study Committee's proposal.

Bicycle Safety

The Chairman for the Governor's Bicycle Advisory Board spoke to the committee about proposed traffic code changes which would make it safer to operate bicycles in urban environments. The discussion of proposed legislation included: the need for simpler hand turn-signals; the need for vehicles to yield the right-of-way to bicycles traveling lawfully within bicycle lanes; and the need for traffic code changes which maintain a minimum clearance for vehicles which pass bicycles. The discussion also covered the need for clarification in laws which regulate the separation of highway and bicycle lanes and the need for bicyclists to dismount at crosswalks. The committee recognized the need for clarification of responsibilities between motorists and cyclists who often share heavily used roadways, however the TLRC did not make any recommendations on proposed bicycle legislation.

Composition of the TLRC Membership

The committee debated the advantages and costs of legislation which would increase the TLRC membership from 11 members to 23 members to include all members of the House Transportation and Energy Committee and the Senate Transportation Committee. The committee proposed legislation that would have changed the make-up of the committee, but the proposed legislation was not approved by the Legislative Council.

Highway Construction Funding

The TLRC discussed legislation which would have transferred up to \$200 million out of the General Fund to the Capital Construction Fund in FY 1990-00 for highway reconstruction, repair, maintenance, and capacity expansion projects. Out of the \$200 million General Fund transfer, at least \$30 million would have been appropriated to the newly-created Transportation Infrastructure Revolving Fund. This proposed legislation was not approved by the Legislative Council.

In addition, the TLRC reviewed other legislation which would have extended Senate Bill 97-1 and House Bill 98-1202 indefinitely. This legislation would have repealed the provision which requires that the amount of Highway Users Tax Fund (HUTF) state sales and use taxes be reduced whenever there is not enough General Fund revenues to fund expenditures up to the statutory appropriation limit of six percent. Also repealed would have been the contingency which requires that when General Funds are not enough to fund the \$140 million in capital construction outside the six percent appropriation limit, that the amount of sales and use taxes directed to the HUTF be reduced by one-half the difference between the \$140 million and the amount of revenues available for capital construction. This proposed legislation was not approved by the Legislative Council.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following nine bills are recommended to the Colorado General Assembly.

Bill A — Private Towing of Abandoned Vehicles

Bill A authorizes the Public Utilities Commission to revoke, suspend, alter, or amend a tow-carrier's license whenever private towing operators violate any of the statutory provisions governing the towing of abandoned vehicles. When a vehicle is privately towed, operators must make a reasonable effort to notify an out-of-state owner or lienholder of the operator's possession of the vehicle. The bill specifies that the owner of record has 30 days to notify the operator of the owner's intent to keep the vehicle. If the operator sells a vehicle abandoned in an impound lot after the holding period, the vehicle must be advertised and sold through a licensed auction dealer or a classified newspaper ad. The bill also requires operators to register with the Department of Revenue (DOR) to place a lien on a towed vehicle. Provisions of this bill make it a Class 1 misdemeanor if the operator files a false lien on a vehicle removed from private property.

This bill creates a Class 1 misdemeanor which will result in additional fine revenues going to the General Fund and county jails. Therefore, this bill is assessed as having a state and local fiscal impact.

Bill B — Monitoring Diesel Fuel Fraud

Bill B authorizes ports of entry weigh station personnel to check the fuel tank of vehicles required to stop at ports for tax-exempt diesel fuel. The bill makes it unlawful to operate a motor vehicle on any public highway using tax-exempt dyed fuel. Violations are considered Class B traffic infractions and the bill specifies increasing penalties for multiple violations within a 12-month period. The bill permits the DOR to conduct audits of persons who commit violations and requires the department to report violations to the federal Internal Revenue Service. Bill B is expected to raise revenues through fines.

This bill would increase Highway Users Tax Fund (HUTF) revenues from the collection of additional special fuel taxes caused by more compliance and new fines. Therefore, the bill is assessed as having a fiscal impact. It is estimated that Colorado would experience a five to seven percent increase in special fuel tax collections. For FY 1999-00, a five to seven percent increase in special fuel tax collections would generate between \$3.4 and \$4.8 million.

Bill C — Protecting Vehicles From Rocks

Bill C makes three changes to current law. First, the bill excludes certain vehicle-operations that transport aggregate materials along public highways from tarping requirements. Exemptions are provided for: vehicles which transport aggregate materials

within a marked construction zone; vehicles that maintain public roads during snow and ice removal operations; and vehicles involved in any emergency operation requested by a law enforcement agency. Second, this proposal allows aggregate materials other than sand to be used on highways to increase traction. Third, Bill C builds upon existing law by expanding a requirement which minimizes the spray of water particles from the rear of vehicles transporting aggregate materials to all vehicles except passenger vehicles.

This bill does not impact revenues or expenditures for state agencies. The number of traffic citations issued are not expected to change. Therefore, this bill does not have a fiscal impact.

Bill D — Highway Project Bid Awards

Bill D creates an exemption to the requirement that the CDOT reject bids for highway construction projects if there are less than three bidders. Currently, the department may accept the lowest responsible bid whenever there are two bidders and the cost of the project is less than ten percent over the department's estimate. Under Bill D, if the department's estimate is less than \$1 million, a bid may be awarded that is up to 25 percent over of the department's estimate. This proposal would have allowed the department to proceed without rebidding on an additional 22 of 51 recent highway projects.

This bill could save the CDOT about \$105,000 through a change in the highway construction bidding process. Fewer highway bids would need to be restructured or re-submitted, thus saving the department money.

Bill E — Hazardous Materials In Eisenhower Tunnel

Bill E authorizes the Transportation Commission to regulate the hours during which hazardous materials may be transported through the Eisenhower Tunnel. Currently, these hours are regulated by the Public Utilities Commission.

This bill is assessed as having no fiscal impact.

Bill F — Private Operations At Park N Rides

Under Bill F, the Regional Transportation District (RTD) will now have to obtain the approval of the executive director of the CDOT before the district can enter into a retail or commercial goods agreement at any transfer facility owned by the department. Commercial enterprises that obtain usage of any transfer facility must pay fair market value to rent a facility. The purpose of offering retail goods and services at facilities is to offer conveniences to transit users. Commercial enterprises that reduce transit services, public parking, or impose a competitive disadvantage to nearby private businesses, shall not be allowed to operate.

This bill would increase revenues in the State Highway Fund and is assessed as having a fiscal impact. This proposal would enable the CDOT to lease out retail sites at CDOT-owned transfer facilities and collect rents from merchants who sell retail goods or services. For FY 1999-00, it is estimated that the State Highway Fund could receive up to \$158,400 in rents for retail space.

Bill G — Credit and Debit Card Payments

Bill G authorizes the DOR to accept credit or debit cards as a form of payment for any motor vehicle fines, fees, or taxes owed. This bill allows the department to contract with any third-party provider to process the payments and allow the department to impose a surcharge to cover the processing costs. The surcharge amount must be disclosed to the person paying fees or fines and must not exceed the additional cost of credit that the department absorbs. Surcharges for payment to the DOR can be avoided by those persons who pay with cash or check.

Data to determine the fiscal impact for this bill were not available when this report was published.

Bill H — Railroad Project Crossing Cap

Bill H increases the annual maximum amount which Class 1 railroads contribute to "grade separation" projects or construction jobs which use bridge construction to separate road and rail traffic from \$1.25 million to \$2.5 million.

This bill would not increase state revenues or expenditures for any state agency or department and is assessed as having no fiscal impact.

Bill I — Use of Certified Scales For Overloads

Bill I allows the Colorado State Patrol to have access to public scales for measuring the gross weight of vehicles and loads. Bill I clarifies that when peace officers suspect that a vehicle is overweight, they will be permitted to weigh a vehicle at the nearest certified scale within five miles of where the vehicle is stopped. Scale operators are required to issue a certificate of correct weight. This proposal makes it a Class 2 petty offense for a certified scale operator to refuse a request from a local peace officer to weigh any vehicle that is suspected of being overweight.

This bill would increase revenues to the HUTF through moneys collected from fines. For FY 1999-00, fine revenues are estimated at \$10,000.

MATERIALS AVAILABLE

The materials listed below are available upon request from the Legislative Council staff or they can be found on the Internet at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/comsched/tlrsched.htm.

Meeting Summaries	Topics Discussed
July 15, 1998	E-470 Public Highway Authority on the expansion and increased usage of E-470; Regional Transportation District on their budget, public perception problems, and ridership problems; Colorado Department of Transportation on the usage of off-road fuel and allow Motor Carrier personnel to check for dyed fuel being used for highway travel; Titles and Registrations on process changes concerning motor vehicle registration; The Motor Vehicle Dealer Board on the update of Internet automation services.
August 12, 1998	Colorado Association of Transit Agencies on Colorado's transit needs; Colorado Department of Transportation on unmet needs, and highway construction projects around the state; Colorado State Patrol and the Department of Revenue on legislative proposals.
September 9-10, 1998	Public hearing in Colorado Springs; tour of Woodland Park and southeastern Colorado transportation projects.
October 1, 1998	Final action on legislative bill requests and naming of bill sponsors.
October 9, 1998	Final discussion of legislative proposals and the naming of bill sponsors.

Reports

Reports provided to the committee:

E-470 Public Highway Authority Annual Report to the Transportation Legislation Review Committee, (The 1998 Annual budget), E-470 Public Highway Authority, July 9, 1998.

Colorado Department of Revenue, April 1998 Dealer Board Actions, Colorado Department of Revenue, March through May, 1998.

South Front Range Corridor Assessment Study: Executive Summary, Colorado Department of Transportation, April 1998.

Transportation Commission of Colorado 1998 Fall Road Trip, Report to the Transportation Legislation Review Committee, September 9, and 10, 1998, Colorado Department of Transportation, September 9, and 10, 1998.

Report to the Transportation Legislation Review Committee Regarding Potential Rail Line Acquisition, Colorado Department of Transportation, September 28, 1998.

Bill A

By Representative Swenson

A BILL FOR AN ACT

CONCERNING THE REGULATION OF TOWING CARRIERS THAT TOW ABANDONED
VEHICLES FROM PRIVATE PROPERTY.

Bill Summary

"Private Towing Of Aband Vehicles"

(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. Allows the public utilities commission to suspend or revoke a towing carrier's license if the towing carrier violates the statutory provisions governing the towing of abandoned vehicles.

Adds out-of-state owners and lienholders of abandoned vehicles that are towed from private property to those persons that an operator must notify following the operator's receipt of the department of transportation's vehicle search report. Requires such an operator to make a reasonable effort to ascertain the address of an owner of an abandoned vehicle and whether there are lienholders on the vehicle.

Specifies that the sale of certain private tow abandoned motor vehicles be made by the operator through a licensed motor vehicle auction dealer or a classified newspaper advertisement. Provides that such a sale is not made in a commercially reasonable manner if the vehicle is sold to certain persons with an interest in the operator having possession of the vehicle.

Prohibits an operator from selling an abandoned motor vehicle towed from private property if the owner of the vehicle notifies the operator within a specified time of the owner's intent to claim the vehicle. Permits the operator to proceed with the sale if the owner provides written consent in such notification.

Specifies that a tow operator commits a class 1 misdemeanor by filing a false lien on a vehicle removed from private property, removing a vehicle from private property without proper authorization, or evading an owner of record of a vehicle removed from private property in the operator's possession.

Requires that an operator must register with the department of revenue to perfect a lien upon a towed motor vehicle. Specifies the information contained in such registration. Allows the department of revenue to cancel the registration of an operator who violates the provisions governing the towing and storage of motor vehicles.

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

SECTION 1. 40-13-109, Colorado Revised Statutes, is amended to read:

40-13-109. Suspension or revocation of permit - procedure. The commission, at any time, upon complaint by any interested party, or upon its own motion, by order duly entered, after hearing upon notice to the holder of any permit issued under this article, when it has been established to the satisfaction of the commission that such holder has violated any of the provisions hereof or any of the terms and conditions of such permit, or has exceeded the authority granted by such permit, or has violated or refused to observe any of the proper orders, rules, or regulations of the commission, OR HAS VIOLATED ANY OF THE PROVISIONS SET FORTH IN PART 18 OF ARTICLE 4 OF TITLE 42, C.R.S., may revoke, suspend, alter, or amend any such permit. The holder of such permit shall have all the rights of hearing, review, and appeal as to such order or ruling of the commission as are provided by law. No appeal from or review of any order or ruling of the commission shall be construed so as to supersede or suspend such order or ruling, except upon order of a proper court obtained for such purpose.

SECTION 2. The introductory portion to 42-4-1805 (5), Colorado Revised Statutes, is amended to read:

42-4-1805. Abandonment of motor vehicles - private tow.

(5) Within five working days of the receipt of such report from the department, the operator shall notify by certified mail or by personal delivery to the owner of record and any lienholder, INCLUDING AN OUT-OF-STATE OWNER OF RECORD AND LIENHOLDER. THE OPERATOR SHALL MAKE ALL REASONABLE EFFORTS TO ASCERTAIN THE ADDRESS OF THE OWNER OF RECORD AND WHETHER THERE ARE ANY LIENHOLDERS ON THE VEHICLE. The operator shall send a copy of the notice by certified mail or by personal delivery to the responsible law enforcement agency in which the abandoned motor vehicle is located. Such notice shall contain the following information:

SECTION 3. 42-4-1806 (2), Colorado Revised Statutes, is amended to read:

42-4-1806. Appraisal of abandoned motor vehicles - sale.

(2) (a) Private tow abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a private tow shall be appraised and sold by the operator in a commercially reasonable manner at a public or private sale held not less than thirty days nor more than sixty days after the date the notice required by section 42-4-1805 (5) was mailed. SUCH SALE SHALL BE MADE THROUGH A MOTOR VEHICLE AUCTION DEALER LICENSED IN ACCORDANCE WITH SECTION 12-6-108, C.R.S., OR THROUGH A CLASSIFIED NEWSPAPER ADVERTISEMENT PUBLISHED IN AT LEAST ONE LEGAL NEWSPAPER IN COLORADO. FOR PURPOSES OF THIS SUBSECTION (2), A SALE SHALL NOT BE CONSIDERED COMMERCIALY REASONABLE IF THE VEHICLE IS SOLD TO AN OFFICER OR PARTNER OF THE

OPERATOR THAT HAS POSSESSION OF THE VEHICLE OR TO ANY OTHER PERSON WITH A PROPRIETARY INTEREST IN SUCH OPERATOR.

(b) NO OPERATOR SHALL SELL A MOTOR VEHICLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IF THE OWNER OF RECORD NOTIFIES THE OPERATOR OF THE OWNER'S INTENT TO CLAIM THE VEHICLE BY CERTIFIED MAIL OR IN PERSON WITHIN THIRTY CALENDAR DAYS FROM THE DATE THE NOTICE REQUIRED BY SECTION 42-4-1805 (5) WAS MAILED; EXCEPT THAT THE OPERATOR MAY PROCEED WITH SUCH SALE IF SUCH NOTIFICATION CONTAINS THE OWNER'S WRITTEN CONSENT FOR THE OPERATOR TO SELL THE MOTOR VEHICLE. NOTHING IN THIS PARAGRAPH (b) SHALL PROHIBIT AN OPERATOR FROM SELLING A MOTOR VEHICLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IN THE EVENT THE OPERATOR RECEIVES NO NOTIFICATION DESCRIBED IN THIS PARAGRAPH (b).

SECTION 4. Part 18 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1805.5. Penalty provisions - operators who tow vehicles from private property. (1) AN OPERATOR COMMITS A CLASS 1 MISDEMEANOR IF THE OPERATOR:

- (a) FILES A FALSE LIEN ON A VEHICLE REMOVED FROM PRIVATE PROPERTY;
- (b) REMOVES A VEHICLE FROM PRIVATE PROPERTY IN A MANNER INCONSISTENT WITH THE PROVISIONS SET FORTH IN THIS PART 18; OR
- (c) EVADES THE OWNER OF RECORD OF A VEHICLE REMOVED FROM PRIVATE PROPERTY THAT IS IN THE OPERATOR'S POSSESSION.

SECTION 5. 42-4-1807, Colorado Revised Statutes, is amended to read:

42-4-1807. Liens upon towed motor vehicles. (1) Whenever an operator WHO IS REGISTERED WITH THE DEPARTMENT IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION recovers, removes, or stores a motor vehicle upon instructions from the owner of record thereof or any other legally authorized person in control of such motor vehicle, from the owner or lessee of real property upon which a motor vehicle is illegally parked or the owner's or lessee's agent authorized in writing, or from any duly authorized law enforcement agency or peace officer who has determined that such motor vehicle is an abandoned motor vehicle, such operator shall have a possessory lien upon such motor vehicle and its attached accessories or equipment for all costs of recovery, towing, and storage as authorized in section 42-4-1810 (2) (a). Such lien shall be a first and prior lien on the motor vehicle, and such lien shall be satisfied before all other charges against such motor vehicle.

(2) (a) NO OPERATOR SHALL HAVE A POSSESSORY LIEN UPON A MOTOR VEHICLE DESCRIBED IN SUBSECTION (1) OF THIS SECTION UNLESS SAID OPERATOR IS REGISTERED WITH THE DEPARTMENT. SUCH REGISTRATION SHALL INCLUDE THE FOLLOWING INFORMATION:

- (I) THE LOCATION OF THE OPERATOR'S TOW BUSINESS;
- (II) THE HOURS OF OPERATION OF THE OPERATOR'S TOW BUSINESS;
- (III) THE LOCATION OF THE IMPOUND LOT WHERE VEHICLES MAY BE CLAIMED BY THE OWNER OF RECORD; AND
- (IV) ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY REQUIRE.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY CANCEL THE REGISTRATION OF ANY OPERATOR IF THE EXECUTIVE DIRECTOR FINDS, AFTER

AFFORDING THE OPERATOR DUE NOTICE AND AN OPPORTUNITY TO BE HEARD, THAT THE OPERATOR HAS VIOLATED ANY OF THE PROVISIONS SET FORTH IN THIS PART 18.

SECTION 6. 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.

Colorado Legislative Council Staff

**STATE and LOCAL
FISCAL IMPACT**

*State General Fund Expenditure and Cash Fund Revenue Impact
Local Revenue and Expenditure Impact*

Drafting Number: LLS 99-0045
Prime Sponsor(s): Rep. Swenson

Date: October 27, 1998
Bill Status: Transportation Legislative
Review Committee
Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING THE REGULATION OF TOWING CARRIERS THAT TOW ABANDONED VEHICLES FROM PRIVATE PROPERTY.

Fiscal Impact Summary	FY 1999/2000 *	FY 2000/2001 *
State Revenues		
State Expenditures		
General Fund	\$3,021	\$957
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: The bill would become effective upon the Governor's signature.		
Appropriation Summary for FY 1999-2000: \$3,021 GF to The Department of Revenue		
Local Government Impact: Class 1 misdemeanor fines and county jail costs.		

* The fiscal impact of this bill would be reduced to \$957 if the effective date were changed to July 1, 1999.

Summary of Legislation

The bill would allow the Public Utilities Commission to suspend or revoke a towing carrier's license for violating the statutory provisions concerning the towing of abandoned vehicles (Title 42 Article 4 Part 18 Colorado Revised Statutes). Out-of-state owners and lienholders of abandoned vehicles that are towed from private property would be added to the notification list on the Department of Transportation's vehicle search report. A towing carrier would be required to make a reasonable effort to ascertain the address of an owner of an abandoned vehicle and whether there are lienholders on the vehicle.

A licensed motor vehicle auction dealer or a classified newspaper advertisement would be required for the sale of certain abandoned motor vehicles towed from private property. Such vehicles could not be sold to persons with an interest in the operator having possession of the vehicle. A towing carrier could not sell an abandoned motor vehicle towed from private property if the owner notifies the carrier within thirty calendar days of the publication of the notice to sell, unless the owner provided written permission for the operator to proceed with the sale.

A tow carrier would commit a class 1 misdemeanor by filing a false lien on a vehicle removed from private property, removing a vehicle from private property without proper authorization, or evading an owner of record of a vehicle removed from private property in the operator's possession. A tow carrier would have to register with the Department of Revenue to perfect a lien upon a towed motor vehicle. The Department of Revenue could cancel the registration of an operator who violates the provisions governing the towing and storage of motor vehicles. The bill would become effective upon the Governor's signature.

The bill creates a class 1 misdemeanor which will result in fines that would go to the General Fund and sentences to county jail. Therefore, this bill is assessed as having a state and local fiscal impact.

State Revenues

There are 750 tow carriers that operate in Colorado. It is assumed that all of these carriers would register with the Department of Revenue. The bill would make it a class 1 misdemeanor for a tow carrier to file false liens, to remove a vehicle from private property illegally, and to evade an owner of a towed vehicle. Should this complaint be filed in a county or state court, any fines collected would be General Fund revenue. Complaints filed in municipal court would be local government revenue. The amount of General Fund fine revenue collected has been estimated to be minimal.

State Expenditures

The Department of Regulatory Agencies would not require additional expenditures to implement the provisions of this bill. The bill adds an additional remedy (License suspension or revocation) that the PUC may use when dealing with tow carriers who violate the law.

The Department of Revenue would have some additional costs in registering tow carriers which would be the result of generating forms used to register tow carriers. The costs to the department are for registration forms and computer programming. The department indicated they would absorb 700 hours of computer programming to implement the provisions of this bill. The cost of creating one new form for the registration process would be \$957. Modifying two existing forms and reordering these forms to meet the current effective date in the bill would cost \$1,914. However, the estimated cost of modifying the existing forms would be reduced to \$957 if the effective date were to be established as July 1, 1999. Changing the effective date would allow the department to modify and order the forms through the existing process.

Local Government Impact

The bill creates a new class 1 misdemeanor violation. The court has the discretion of imposing a fine or a sentence to the county jail. The impact to the counties cannot be quantified as imprisonment is not mandatory. Based on a 1993 audit from the State Auditor's Office, the daily

cost to house an offender in a county jail is \$54. Consequently, the potential impact to the counties to house an offender convicted of a class 1 misdemeanor (up to eighteen months) would range from \$0 to \$29,160.

State Appropriations

This fiscal note implies that the Department of Revenue would require \$3,021 in General Fund spending authority to implement the provisions of this bill.

Departments Contacted

Revenue Regulatory Agencies

Bill B

By Representative Kaufman

A BILL FOR AN ACT

CONCERNING THE UNLAWFUL USE OF TAX-EXEMPT FUEL.

Bill Summary

"Monitoring Diesel Fuel Fraud"

(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. Authorizes ports of entry weigh station personnel when inspecting a vehicle required to stop at a port of entry weigh station to check the fuel tank of the vehicle for tax-exempt diesel fuel dyed in accordance with federal regulations. Makes it unlawful for any person to operate a motor vehicle on any public highway using such dyed fuel and specifies increasing penalties for violations within a 12-month period. Allows the department of revenue to conduct audits of persons committing such violations and requires the department to report such violations to the federal internal revenue service.

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

SECTION 1. 42-8-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-8-105. Clearance of motor vehicles at port of entry weigh stations. (3.5) EVERY OWNER OR OPERATOR OF A MOTOR VEHICLE SUBJECT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, WHEN STOPPED FOR A LAWFUL INSPECTION, SHALL PERMIT PERSONNEL OF A PORT OF ENTRY WEIGH STATION TO INSPECT THE FUEL TANK OF THE VEHICLE FOR THE PURPOSE OF ENSURING THAT THE VEHICLE IS NOT OPERATING ON THE PUBLIC HIGHWAYS OF THE STATE USING TAX-EXEMPT DIESEL FUEL IN VIOLATION OF SECTION 42-4-1414.

SECTION 2. Part 14 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1414. Use of dyed fuel on highways prohibited. (1) NO PERSON SHALL OPERATE A MOTOR VEHICLE UPON ANY HIGHWAY OF THE STATE USING DIESEL FUEL DYED TO SHOW THAT NO TAXES HAVE BEEN COLLECTED ON THE FUEL.

(2) (a) ANY PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION.

(b) ANY PERSON WHO COMMITS A SECOND VIOLATION OF SUBSECTION (1) OF THIS SECTION WITHIN A TWELVE-MONTH PERIOD SHALL BE SUBJECT TO AN INCREASED PENALTY PURSUANT TO SECTION 42-4-1701 (4) (a) (1) (N).

(c) ANY PERSON WHO COMMITS A THIRD OR SUBSEQUENT VIOLATION OF SUBSECTION (1) OF THIS SECTION WITHIN A TWELVE-MONTH PERIOD SHALL BE

SUBJECT TO AN INCREASED PENALTY PURSUANT TO SECTION 42-4-1701 (4) (a) (I) (N).

(3) ANY PERSON VIOLATING ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO AUDIT BY THE DEPARTMENT REGARDING PAYMENT OF MOTOR FUEL TAX. THE DEPARTMENT SHALL NOTIFY THE FEDERAL INTERNAL REVENUE SERVICE OF ANY VIOLATION ARISING UNDER THE PROVISIONS OF THIS SECTION.

SECTION 3. 42-4-1701 (4) (a) (I) (N), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by

paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(N) Other offenses:		
42-4-1301 (2)(a.5)	\$ 50.00	\$ 6.00
42-4-1402	50.00	6.00
42-4-1403	15.00	2.00
42-4-1404	15.00	2.00
42-4-1406	35.00	4.00
42-4-1407	35.00	4.00
42-4-314	35.00	4.00
42-4-1408	15.00	2.00
42-4-1408	15.00	2.00
42-4-1414 (2)(a)	500.00	60.00
42-4-1414 (2)(b)	1,000.00	120.00
42-4-1414 (2)(c)	5,000.00	600.00

SECTION 4. **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.

Colorado Legislative Council Staff
STATE and LOCAL
FISCAL IMPACT
State Cash Revenue and Expenditure Impact
Local Cash Fund Revenue Impact

Drafting Number: LLS 99-0047
Prime Sponsor(s): Rep. Kaufman

Date: October 27, 1998
Bill Status: Transportation Legislative Review Committee
Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING THE UNLAWFUL USE OF TAX-EXEMPT FUEL.

Fiscal Impact Summary	FY 1999/2000	FY 2000/2001
State Revenues Cash Fund	\$3,813,500	\$3,813,500
State Expenditures Cash Fund	\$92,140	\$87,810
FTE Position Change	3.2 FTE	3.2 FTE
Other State Impact: TABOR		
Effective Date: The bill would become effective upon the Governor's signature.		
Appropriation Summary for FY 1999-2000 The Department of Revenue would require \$92,140 and 3.2 FTE in Highway User Tax Funds.		
Local Government Impact: Increased HUTF distributions from increased special fuel tax collections.		

Summary of Legislation

The bill would allow Ports of Entry personnel to check a vehicle's fuel tank for dyed tax-exempt diesel fuel when the vehicle is required to stop at a Port of Entry Weigh Station. It would be illegal to operate a motor vehicle on any public highway using dyed diesel fuel and specifies increasing penalties for violations within a 12-month period. The Department of Revenue would conduct audits of persons caught violating the law and the department would be required to report violations to the federal Internal Revenue Service.

State Revenues

Revenues to the Highway Users Tax Fund (HUTF) would increase from an increase in special fuel taxes caused by increased compliance and new fines. Therefore, the bill is assessed as having a fiscal impact. States that have adopted dyed fuel testing programs have experienced a five

to seven percent increase in special fuel tax collections. It is estimated that Colorado would experience a similar increase in special fuel taxes. Colorado collected approximately \$68.4 million in special fuel taxes in FY 1997-98. A five percent increase would generate approximately \$3.4 million in additional special fuel tax collections. A seven percent increase would generate approximately \$4.8 million in additional special fuel tax collections.

The bill also would impose a fine of \$500 and a sixty dollar surcharge for persons convicted of violating the new program one time a year. It is estimated that approximately 713 persons would be convicted of violating this bill one time annually. This would generate approximately \$356,500 in fines annually to the HUTF. An estimated 37 persons would commit subsequent violations within a twelve month period which would result in a \$1,000 fine and one hundred twenty dollar surcharge per offense for a total of \$37,000 in fines. The total estimated fine increase to the HUTF would be \$393,500. An estimated \$47,220 would be collected from the sixty dollar and one hundred twenty dollar surcharge which would go directly to the county with jurisdiction over the matter.

The total increase in HUTF revenue for FY 2000 is \$3,813,500.

State Expenditures

The Motor Carriers Services Division in the Department of Revenue would require 3.2 FTE and \$92,140 HUTF as a result of this bill. Personal services would be for 2.4 FTE Port of Entry Officers (\$69,379) to conduct an estimated 25,000 ten minute fuel tank inspections/tests and issue an estimated 750 citations for violations. An additional 0.8 FTE Administrative Assistant (\$16,435) would be required to collect data on violators for audit purposes, maintain accounts, and develop a tracking system for the program. Operating costs would be \$1,996 and capital outlay costs would be \$4,330.

Local Government Impact

Cities and counties would receive additional HUTF distributions as a result of increased compliance with the special fuel tax. The additional revenues would be distributed to cities and counties using both of the current HUTF distribution formulas. County courts with jurisdiction over the citations would receive the additional surcharges.

State Appropriation

This fiscal note implies that the Department of Revenue would require 3.2 FTE and \$92,140 in HUTF spending authority for FY 1999-2000 to implement this bill.

Departments Contacted

Revenue

Bill C

By Representative Sullivant

A BILL FOR AN ACT

CONCERNING PROTECTION OF VEHICLES.

Bill Summary

"Protecting Vehicles From Rocks"

(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. Permits materials other than sand to be dropped on highways to secure traction. Excludes from the tarping requirement for vehicles transporting aggregate materials vehicles:

- Operating entirely within a marked construction zone;
- Involved in maintenance of public roads during snow or ice removal operations; or
- Involved in emergency operations when requested by a law enforcement agency.

Excludes from the definition of aggregate material hot asphalt, wet concrete, or other materials not susceptible to blowing.

Deletes the rear flap requirement for vehicles transporting aggregate material. Requires splash guards for all vehicles being driven or moved on streets or highways, except:

- Certain passenger cars, pick-up trucks, and trailers;
- Truck tractors or converter dollies when used with other vehicles;
- Vehicles drawn by animals; and
- Bicycles.

Establishes that a violation of the splash guard requirement is a class B traffic infraction.

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

SECTION 1. 42-4-1407, Colorado Revised Statutes, is amended to read:

42-4-1407. Spilling loads on highways prohibited - prevention of spilling of aggregate. (1) No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded or the load thereof securely covered to prevent any of its load from blowing, dropping, sifting, leaking, or otherwise escaping therefrom; except that ~~sand~~ MATERIAL may be dropped for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(2) ~~(a) No vehicle shall be driven or moved on any highway for a distance of more than two miles if the vehicle is transporting aggregate material; unless the vehicle is equipped with rear flaps that provide sufficient protection against such aggregate material from spraying on other vehicles.~~

~~(b) Nothing in this subsection (2) shall apply to sand dropped for the purpose of securing traction or water or other substances that may be sprinkled on a roadway in cleaning or maintaining such roadway.~~

(2.5) (a) No vehicle shall be driven or moved on any highway for a distance of more than two miles if the vehicle is transporting aggregate material with a diameter of one inch or less unless:

(I) The load is covered by a tarp or other cover in a manner that prevents the aggregate material from blowing, dropping, sifting, leaking, or otherwise escaping from the vehicle; or

(II) The vehicle utilizes other technology that prevents the aggregate material from blowing, dropping, sifting, leaking, or otherwise escaping from the vehicle.

(b) NOTHING IN THIS SUBSECTION (2.5) SHALL APPLY TO A VEHICLE:

(I) OPERATING ENTIRELY WITHIN A MARKED CONSTRUCTION ZONE;

(II) INVOLVED IN MAINTENANCE OF PUBLIC ROADS DURING SNOW OR ICE REMOVAL OPERATIONS; OR

(III) INVOLVED IN EMERGENCY OPERATIONS WHEN REQUESTED BY A LAW ENFORCEMENT AGENCY.

(2.7) For the purposes of this section, "aggregate material" means any rock, clay, silts, gravel, limestone, dimension stone, marble, and shale; EXCEPT THAT "AGGREGATE MATERIAL" DOES NOT INCLUDE HOT ASPHALT, INCLUDING ASPHALT PATCHING MATERIAL, WET CONCRETE, OR OTHER MATERIALS NOT SUSCEPTIBLE TO BLOWING.

(3) Any person who violates any provision of this section commits a class B traffic infraction.

SECTION 2. Part 14 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1407.5. Splash guards when required. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "SPLASH GUARDS" MEANS MUD FLAPS, RUBBER, PLASTIC OR FABRIC APRONS, OR OTHER DEVICES DIRECTLY BEHIND THE REAR-MOST WHEELS, DESIGNED TO MINIMIZE THE SPRAY OF WATER AND OTHER SUBSTANCES TO THE REAR.

(b) "SPLASH GUARDS" MUST, AT A MINIMUM, BE WIDE ENOUGH TO COVER THE FULL TREAD OF THE TIRE OR TIRES BEING PROTECTED, HANG PERPENDICULAR FROM THE VEHICLE NOT MORE THAN TEN INCHES ABOVE THE SURFACE OF THE STREET OR HIGHWAY WHEN THE VEHICLE IS EMPTY, AND

GENERALLY MAINTAIN THEIR PERPENDICULAR RELATIONSHIP UNDER NORMAL DRIVING CONDITIONS.

(2) EXCEPT AS OTHERWISE PERMITTED IN THIS SECTION, NO VEHICLE OR MOTOR VEHICLE SHALL BE DRIVEN OR MOVED ON ANY STREET OR HIGHWAY UNLESS THE VEHICLE OR MOTOR VEHICLE IS EQUIPPED WITH SPLASH GUARDS.

(3) THIS SECTION DOES NOT APPLY TO:

(a) PASSENGER CARS, PICK-UP TRUCKS, AND TRAILERS EQUIPPED WITH FENDERS OR COVERS SO LONG AS:

(I) THE TIRES OF THE VEHICLE DO NOT EXTEND BEYOND THE OUTSIDE WIDTH OF THE FENDER OR COVER; OR

(II) THE HEIGHT OF THE VEHICLE HAS NOT BEEN MODIFIED TO RAISE ITS CENTER OF GRAVITY;

(b) TRUCK TRACTORS OR CONVERTER DOLLIES WHEN USED IN COMBINATION WITH OTHER VEHICLES;

(c) VEHICLES DRAWN BY ANIMALS; OR

(d) BICYCLES.

(3) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1999, and shall apply to offenses committed on or after said date.

SECTION 4. 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.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 99-0049
Prime Sponsor(s): Rep. Sullivan

Date: October 27, 1998
Bill Status: Transportation Legislative
Review Committee
Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING SAFETY MEASURES INVOLVING VEHICLES.

Summary of Assessment

The bill would expand the type of material that can be dropped on the highway to secure traction. Vehicles operating within a construction zone, involved in snow and ice removal operations, or emergency operations, would be exempt from the aggregate tarping requirements. Certain materials that are not susceptible to blowing would be excluded from the definition of aggregate material. Vehicles hauling aggregate material would not be required to have rear flaps. The provisions of this bill would not impact revenues or expenditures for state agencies. The number of traffic citations issued are not expected to change as a result of this bill. Therefore, this bill is assessed as having no fiscal impact.

Departments Contacted

Revenue Regulatory Agencies Transportation Public Safety

Bill D

By Representative Swenson

A BILL FOR AN ACT

CONCERNING REQUIREMENTS FOR HIGHWAY PROJECT BID AWARDS WHERE THERE
ARE LESS THAN THREE BIDDERS ON THE PROJECT.

Bill Summary

"Highway Project Bid Awards"

(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. Creates an exception to the requirement that the department of transportation reject all bids for a highway construction project if there are less than 3 bidders on the project and the low responsible bid exceeds the estimate of the department on the project by more than 10% by allowing the executive director of the department to make an award to the low responsible bidder if:

- The department's estimate on the project is less than \$1,000,000;
 - There are 2 bidders; and
 - The award is more than 10%, but less than 25% over the department's estimate.
-

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

SECTION 1. 43-1-113 (16), Colorado Revised Statutes, is amended

to read:

43-1-113. Funds - budgets - fiscal year - reports and publications.

(16) In the event that there are less than three bidders on a highway project, no award shall be made if such award is more than ten percent over the estimate of the department of transportation on the project; EXCEPT THAT, IF THE ESTIMATE OF THE DEPARTMENT ON THE PROJECT IS LESS THAN ONE MILLION DOLLARS AND THERE ARE TWO BIDDERS, THE EXECUTIVE DIRECTOR MAY MAKE AN AWARD OF MORE THAN TEN PERCENT, BUT LESS THAN TWENTY-FIVE PERCENT OVER THE ESTIMATE OF THE DEPARTMENT TO THE LOW RESPONSIBLE BIDDER, AS DEFINED IN SECTION 24-103-101 (3), C.R.S.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Colorado Legislative Council Staff

FISCAL IMPACT
Cash Fund Expenditure Impact

Drafting Number: LLS 99-0050
Prime Sponsor(s): Rep. Swenson

Date: October 27, 1998
Bill Status: Transportation Legislative Review Committee

Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING REQUIREMENTS FOR HIGHWAY PROJECT BID AWARDS WHERE THERE ARE LESS THAN THREE BIDDERS ON THE PROJECT.

Fiscal Impact Summary	FY 1999/2000 *	FY 2000/2001 *
State Revenues		
State Expenditures		
Cash Fund	-\$105,000	-\$105,000
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: The bill would become effective July 4, 1999.		
Appropriation Summary for FY 1999-2000 No Appropriation is required		
Local Government Impact: None		

* Potential savings from re-processing bid may be reduced by increased project costs (see State Expenditures section).

Summary of Legislation

The bill would create an exemption to the current law and allow the Department of Transportation to accept a highway construction project bid when there are less than three bidders and the lowest bid exceeds the department's estimate by more than 10 percent. Additional criteria includes: if the project estimate is less than \$1,000,000; there are two bidders; and the award is more than 10 percent, but less than 25 percent over the department's estimate.

State Expenditures

The bill would allow the Department of Transportation to accept bids that under current law would require the department to reject and re-process the bid. In cases where the department accepted a bid that met the exempt requirements, the cost of restructuring and re-submitting the bid

would be eliminated. Each bid re-processing costs the DOT approximately \$15,000 to restructure and re-advertise. This savings would be offset by the increased cost of the bid. If the increased cost of the bid were more costly than the cost of re-submitting the bid, the costs to the department would increase. If the increased cost of the bid were less than the costs of re-submitting the bid, the DOT would save money. The department had 22 projects in the last three years that would have met the exempt criteria. Since the number and the amount of future bids that would meet this exemption is unknown and the number of times two bidders would bid these projects between 10 and 25 percent over the estimated project cost is not known, no estimate of fiscal impact has been made.

State Appropriation

No additional spending authority would be required.

Departments Contacted

Transportation

Bill E

By Representative Sullivant

A BILL FOR AN ACT

CONCERNING THE AUTHORITY OF THE TRANSPORTATION COMMISSION TO
REGULATE HOURS DURING WHICH HAZARDOUS MATERIALS MAY BE
TRANSPORTED THROUGH THE EISENHOWER TUNNEL.

Bill Summary

"Hazardous Materials In Eisenhower Tunnel"

(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. Corrects a technical error by authorizing the transportation commission to regulate the hours during which hazardous materials may be transported through the Eisenhower tunnel.

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

SECTION 1. 42-20-301 (3), Colorado Revised Statutes, is amended to read:

42-20-301. Route designation. (3) Notwithstanding any other provision of this part 3 or part 1 or 2 of this article to the contrary, the public

~~utilities~~ TRANSPORTATION commission may regulate hours of operation of the Eisenhower-Johnson tunnels, structure numbers F13Y and F13X, respectively, on interstate 70.

SECTION 2. 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.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 99-0051**Prime Sponsor(s):** Rep. Sullivant**Date:** October 19, 1998**Bill Status:** Transportation Legislative
Review Committee**Fiscal Analyst:** Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING THE AUTHORITY OF THE TRANSPORTATION COMMISSION TO REGULATE HOURS DURING WHICH HAZARDOUS MATERIALS MAY BE TRANSPORTED THROUGH THE EISENHOWER TUNNEL

Summary of Assessment

The bill changes the statutory reference as to which state entity regulates the hours during which hazardous materials may be transported through the Eisenhower tunnel. The Transportation Commission has, in fact, regulated these hours. However, the statute indicated that the Public Utilities Commission was responsible for setting these hours. This bill changes the statutory reference to the Transportation Commission. Since the Transportation Commission is already doing this task, there would not be any change to revenues or expenditures to the Department of Transportation or the Department of Regulatory Agencies. Therefore, this bill is assessed as having no fiscal impact.

Departments Contacted

Transportation

Bill F

By Representative S. Williams

A BILL FOR AN ACT

CONCERNING AUTHORIZATION FOR THE PROVISION OF RETAIL OR COMMERCIAL
GOODS AND SERVICES AT PUBLIC TRANSPORTATION TRANSFER FACILITIES
LOCATED ON PROPERTY OWNED BY THE DEPARTMENT OF
TRANSPORTATION.

Bill Summary

"Private Operations At Park N Rides"

(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 the regional transportation district or a public entity other than the department of transportation to obtain the approval of the executive director of the department before entering into any agreement with a person or public entity for the provision of retail or commercial goods and services at a transfer facility that is located on property owned by the department.

Authorizes the executive director of the department of transportation to negotiate and enter into agreements to provide retail and commercial goods and services at transfer facilities that are owned by the department.

Requires any person obtaining the use of a transfer facility for the provision of goods or services at transfer facilities owned or operated by the department of transportation to pay rent to the department at fair market value.

Prohibits the use of such transfer facilities for the provision of goods or services if the use reduces transit services or the availability of public parking.

Subjects any development of a portion of a transfer facility owned or operated by the department of transportation for retail or commercial use to all applicable laws, ordinances, and regulations of any municipality, county, or city and county where the facility is located.

Specifies that, if the Colorado supreme court rules that possessory interests are subject to property taxation, any possessory interests in a transfer facility that is used for commercial or retail purposes shall be subject to property taxation.

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

SECTION 1. 32-9-119.8 (2) and (6), Colorado Revised Statutes, are amended, and the said 32-9-119.8 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

32-9-119.8. Provision of retail and commercial goods and services at district transfer facilities. (2) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, the district shall have the authority to negotiate and enter into agreements with any person or public entity for the provision of retail and commercial goods and services to the public at transfer facilities. The district itself shall not provide retail and commercial goods and services at transfer facilities pursuant to this section, except for the sale of mass transportation tickets, tokens, passes, and other transactions directly and necessarily related to the operation of a mass transportation system.

(2.5) THE DISTRICT SHALL OBTAIN THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION BEFORE NEGOTIATING AND ENTERING INTO ANY AGREEMENT WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT A TRANSFER FACILITY THAT IS LOCATED ON PROPERTY THAT IS OWNED BY THE

DEPARTMENT OF TRANSPORTATION AND LEASED TO THE DISTRICT FOR THE OPERATION OF SUCH TRANSFER FACILITY.

(6) SUBJECT TO SUBSECTION (2.5) OF THIS SECTION, section 43-3-101 (3), C.R.S., shall not bar the provision or sale of retail or commercial goods or services conducted in accordance with the provisions of this section upon any property owned by the Colorado department of transportation and leased to the regional transportation district for the operation of transfer facilities.

SECTION 2. Article 1 of title 43, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 14

**PROVISION OF RETAIL OR COMMERCIAL GOODS AND
SERVICES AT PUBLIC TRANSPORTATION TRANSFER FACILITIES
ON DEPARTMENT-OWNED PROPERTY**

43-1-1401. Definitions. (1) AS USED IN THIS PART 14, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PUBLIC ENTITY" INCLUDES, BUT IS NOT LIMITED TO, A PUBLIC BODY, AS THAT TERM IS DEFINED IN SECTION 32-9-103 (11), C.R.S., AND ANY OTHER GOVERNMENTAL ENTITY, AGENCY, OR OFFICIAL.

(b) "TRANSFER FACILITY" MEANS A PUBLIC PARK-N-RIDE OPERATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT.

43-1-1402. Provision of retail and commercial goods and services at transfer facilities on department property. ANY PUBLIC ENTITY OTHER THAN THE DEPARTMENT SHALL OBTAIN THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT BEFORE NEGOTIATING AND ENTERING INTO ANY AGREEMENT WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT A TRANSFER FACILITY

THAT IS LOCATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT AND LEASED TO THE DISTRICT OR SUCH PUBLIC ENTITY FOR THE OPERATION OF SUCH TRANSFER FACILITY.

43-1-1403. Department transfer facilities - provision of retail and commercial goods and services. (1) THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY TO NEGOTIATE AND ENTER INTO AGREEMENTS WITH ANY PERSON OR PUBLIC ENTITY FOR THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND SERVICES TO THE PUBLIC AT ANY TRANSFER FACILITY THAT IS OWNED OR OPERATED BY THE DEPARTMENT.

(2) ANY PERSON OR PUBLIC ENTITY OBTAINING THE USE OF ANY PORTION OF A TRANSFER FACILITY THAT IS OWNED OR OPERATED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL BE REQUIRED TO COMPENSATE THE DEPARTMENT BY PAYMENT OF RENT AT FAIR MARKET VALUE OR, AT THE DISCRETION OF THE EXECUTIVE DIRECTOR, BY THE PROVISION OF SERVICES OR CAPITAL IMPROVEMENTS TO FACILITIES USED IN TRANSIT SERVICES, ALONE OR IN COMBINATION WITH RENTAL PAYMENTS, SUCH THAT THE TOTAL BENEFIT TO THE DEPARTMENT IS NOT LESS THAN THE FAIR MARKET RENTAL VALUE OF THE PROPERTY USED BY THE PERSON OR PUBLIC ENTITY.

(3) ANY USE OF A TRANSFER FACILITY THAT IS OWNED OR OPERATED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL NOT BE IMPLEMENTED IF THE USE WOULD REDUCE TRANSIT SERVICES OR THE AVAILABILITY OF ADEQUATE PARKING FOR THE PUBLIC OR WOULD RESULT IN A COMPETITIVE DISADVANTAGE TO A PRIVATE BUSINESS REASONABLY NEAR A TRANSFER FACILITY ENGAGING IN THE SALE OF SIMILAR GOODS AND SERVICES. THE PROVISION OF RETAIL AND COMMERCIAL GOODS AND

SERVICES AT TRANSFER FACILITIES THAT ARE OWNED OR OPERATED BY THE DEPARTMENT SHALL BE DESIGNED TO OFFER CONVENIENCE TO TRANSIT CUSTOMERS AND SHALL NOT BE CONDUCTED IN A MANNER THAT ENCOURAGES AUTOMOBILE TRAFFIC FROM NONTRANSIT USERS.

(4) ANY DEVELOPMENT OF ANY PORTION OF A TRANSFER FACILITY OWNED OR OPERATED BY THE DEPARTMENT AND MADE AVAILABLE BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES SHALL BE SUBJECT TO ALL APPLICABLE LAWS, ORDINANCES, AND REGULATIONS OF ANY MUNICIPALITY, COUNTY, OR CITY AND COUNTY IN WHICH THE TRANSFER FACILITY IS LOCATED, INCLUDING PLANNING AND ZONING REGULATIONS.

43-1-1404. Possessory interests in transfer facilities - taxation. NOTWITHSTANDING SECTION 39-3-136, C.R.S., IF THE COLORADO SUPREME COURT RULES THAT THE COLORADO CONSTITUTION REQUIRES THAT POSSESSORY INTERESTS IN EXEMPT LAND, IMPROVEMENTS, AND PERSONAL PROPERTY BE SUBJECT TO PROPERTY TAXATION, ANY PERSON OBTAINING A POSSESSORY INTEREST IN ANY PORTION OF A TRANSFER FACILITY LOCATED ON PROPERTY THAT IS OWNED BY THE DEPARTMENT FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS OR SERVICES PURSUANT TO THIS SECTION SHALL BE DEEMED IN CONTROL OF THAT PORTION OF THE FACILITY AND SHALL BE SUBJECT TO PROPERTY TAXATION TO THE EXTENT OF THE PERSON'S POSSESSORY INTEREST IN THAT PORTION OF THE FACILITY.

SECTION 3. 43-3-101 (3), Colorado Revised Statutes, is amended to read:

43-3-101. Freeways - how declared - commercial enterprises prohibited. (3) Except as provided in section 32-9-119.8, C.R.S., AND PART 14 OF ARTICLE 1 OF THIS TITLE, no commercial enterprise or activity for serving

motorists, other than emergency services for disabled vehicles, shall be conducted or authorized on any property designated as or acquired for or in connection with a freeway or highway by the department of transportation, or any other governmental agency. At locations deemed appropriate by the transportation commission, the department of transportation shall construct local service roads, which open into or connect with a freeway, in such manner as to facilitate the establishment and operation of competitive commercial enterprises for serving users of the freeway on private property abutting such local service roads.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

*Colorado Legislative Council Staff***STATE
FISCAL IMPACT***State Cash Fund Revenue and Expenditure Impact***Drafting Number:** LLS 99-0052**Date:** October 27, 1998**Prime Sponsor(s):** Rep. S. Williams**Bill Status:** Transportation Legislative
Review Committee**Fiscal Analyst:** Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING AUTHORIZATION FOR THE PROVISION OF RETAIL OR COMMERCIAL GOODS AND SERVICES AT PUBLIC TRANSPORTATION TRANSFER FACILITIES LOCATED ON PROPERTY OWNED BY THE DEPARTMENT OF TRANSPORTATION.

Fiscal Impact Summary	FY 1999/2000	FY 2000/2001
State Revenues		
Cash Fund	\$158,400	\$158,400
State Expenditures		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR		
Effective Date: The bill would become effective August 4, 1999.		
Appropriation Summary for FY 1999-2000: The DOT would not require additional appropriation.		
Local Government Impact: None		

Summary of Legislation

Under current law, the Regional Transportation District (RTD) can enter into agreements with an entity to provide retail goods and services at a transfer station. This bill would require that RTD or other entities obtain approval from the Department of Transportation (DOT) before entering into these agreements. The bill would also allow the department to enter into these types of agreements and requires that the department receive full market value for the agreement. Certain limitations apply to the businesses at the transfer sites.

State Revenue

The bill would allow the DOT to enter into agreements for the leasing of DOT owned transfer sites. DOT has 30 sites used by RTD as transfer sites. Twenty-two of these are in high traffic areas and may have room for some retail activity. A 10' by 12' space in a parking facility used for drive through coffee or film processing pays on average about \$600 per month in rent. If the DOT allows such facilities at all 22 sites, and the average rent collected is \$600, the DOT would receive

approximately \$158,400 annually to the State Highway Fund (12 months X \$600 X 22 sites = \$158,400). The Federal Transportation Equity Act for the 21st Century requires money earned from any federal aid projects to be applied to projects that are eligible for federal aid. Therefore, the rental money would be deposited into the State Highway Fund and would not be distributed to the cities and counties.

Impact on Existing Appropriations

The DOT would have some startup costs to negotiate lease agreements with private entities. Startup costs have been estimated at 880 hours or 110 days to complete, and it assumes that all 22 sites have a request for a lease agreement. The estimated staff cost for the DOT is \$26,400. The DOT would reallocate existing resources and workloads to accommodate this new work. DOT indicates some existing departmental projects would be delayed as a result of this bill, although no additional resources would be required. The DOT would review the contracts every five years and adjust their workload accordingly. The DOT would not incur increased expenditures in future years.

State Appropriation

No additional spending authority would be required.

Departments Contacted

Transportation

Bill G

By Representative Gotlieb

A BILL FOR AN ACT

CONCERNING AUTHORIZING THE DEPARTMENT OF REVENUE TO ACCEPT
ADDITIONAL FORMS OF PAYMENT FOR PAYMENT OF MONEYS RELATING
TO THE OPERATION OF MOTOR VEHICLES.

Bill Summary

"Credit & Debit Card Payments"

(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. Allows the department of revenue to accept credit and debit card payments for fees, taxes, and fines payable to the department and related to the operation of motor vehicles. Allows the department to contract with a third-party provider of credit or debit card processing services for the processing of such payments.

Allows the department to impose and the department or any third-party provider operating under a contract with the department for the processing of credit or debit card payments for fees, taxes, and fines to collect a surcharge on persons making such payments. Requires the amount of the surcharge to be disclosed to such persons. States that such persons shall be allowed to avoid the surcharge by paying by cash, check, or similar means. States that the amount of the surcharge shall not exceed such amount as is necessary to defray the additional cost to the department of accepting credit or debit card payments. Makes conforming amendments to the "Uniform Consumer Credit Code".

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

SECTION 1. Part 2 of article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-1-220. Legislative declaration - payment of fees, taxes, and fines with credit or charge cards. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) AT THE PRESENT TIME, THE DEPARTMENT OF REVENUE ONLY ACCEPTS CASH, CHECKS, OR SIMILAR MEANS OF PAYMENT FOR THE PAYMENT OF FEES, TAXES, AND FINES RELATED TO THE OPERATION OF A MOTOR VEHICLE BECAUSE THE DEPARTMENT HAS BEEN PROHIBITED FROM DEFRAYING THE ADDITIONAL COSTS OF ACCEPTING CREDIT OR DEBIT CARD PAYMENTS BY IMPOSING A SURCHARGE ON PERSONS WHO ELECT TO USE A CREDIT OR DEBIT CARD TO PAY SUCH FEES, TAXES, OR FINES;

(b) GRANTING THE DEPARTMENT THE AUTHORITY TO ACCEPT CREDIT OR DEBIT CARDS FOR THE PAYMENT OF SUCH FEES, TAXES, AND FINES WOULD MAKE THE DEPARTMENT MORE EFFICIENT AND IMPROVE THE CUSTOMER SERVICE PROVIDED BY THE DEPARTMENT BY ALLOWING MUCH OF THE DEPARTMENT'S ROUTINE BUSINESS TO BE CONDUCTED THROUGH ELECTRONIC OR TELEPHONE TRANSACTIONS;

(c) VEHICLE OWNERSHIP TAXES AND REGISTRATION FEES HAVE INCREASED AS VEHICLE PRICES HAVE INCREASED AND MANY COLORADO RESIDENTS MAY PREFER TO FINANCE THE PAYMENTS OF SUCH TAXES AND FEES WITH A CREDIT CARD OR AVOID CHECK WRITING BY USING A CREDIT OR DEBIT CARD; AND

(d) IT IS IN THE BEST INTEREST OF ALL COLORADANS TO ALLOW THE DEPARTMENT TO ACCEPT CREDIT OR DEBIT CARD PAYMENTS FOR THE FEES, TAXES,

AND FINES PAYABLE TO THE DEPARTMENT PURSUANT TO THE PROVISIONS OF THIS TITLE.

(2) THE DEPARTMENT MAY ALLOW ANY FEES, TAXES, OR FINES PAYABLE TO THE DEPARTMENT AND RELATED TO THE OPERATION OF A MOTOR VEHICLE TO BE PAID BY CREDIT OR DEBIT CARD IN LIEU OF PAYMENT BY CASH, CHECK, OR SIMILAR MEANS. THE DEPARTMENT MAY PROCESS SUCH CREDIT OR DEBIT CARD PAYMENTS DIRECTLY OR MAY CONTRACT WITH A THIRD-PARTY PROVIDER OF CREDIT OR DEBIT CARD PROCESSING SERVICES FOR THE PROCESSING OF SUCH PAYMENTS IN ACCORDANCE WITH LAW.

(3) THE DEPARTMENT MAY IMPOSE, AND THE DEPARTMENT OR ANY THIRD-PARTY PROVIDER OPERATING UNDER A CONTRACT WITH THE DEPARTMENT TO PROCESS CREDIT OR DEBIT CARD PAYMENTS OF FEES, TAXES, OR FINES PAYABLE TO THE DEPARTMENT MAY COLLECT, AT THE TIME OF PAYMENT, A SURCHARGE FOR THE PRIVILEGE OF USING A CREDIT OR DEBIT CARD. THE AMOUNT OF THE SURCHARGE SHALL BE DISCLOSED TO THE PERSON PAYING FEES, TAXES, OR FINES TO THE DEPARTMENT PRIOR TO PAYMENT BEING MADE, AND SUCH PERSON SHALL BE ALLOWED TO MAKE PAYMENT BY CASH, CHECK, OR SIMILAR MEANS IF HE OR SHE DOES NOT WISH TO PAY THE SURCHARGE. THE AMOUNT OF THE SURCHARGE SHALL NOT EXCEED SUCH AMOUNT AS IS NECESSARY TO DEFRAY THE ADDITIONAL COST TO THE DEPARTMENT OF ACCEPTING CREDIT OR DEBIT CARD PAYMENTS.

SECTION 2. 5-2-109 (3), Colorado Revised Statutes, is amended to read:

5-2-109. Definition: "credit service charge". (3) (a) No seller or lessor in any sales or lease transaction or any company issuing credit or charge cards may impose a surcharge on a holder who elects to use a credit or charge card in lieu of payment by cash, check, or similar means. A surcharge is any

additional amount imposed at the time of the sales or lease transaction by the merchant, seller, or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or charge card. For purposes of this section, charge card includes those cards pursuant to which unpaid balances are payable on demand.

(b) FOR PURPOSES OF THIS SUBSECTION (3), THE PAYMENT OF FEES, TAXES, OR FINES PAYABLE TO THE DEPARTMENT OF REVENUE AND RELATED TO THE OPERATION OF A MOTOR VEHICLE SHALL NOT BE DEEMED A SALES OR LEASE TRANSACTION, AND THE DEPARTMENT, ANY AUTHORIZED AGENT OF THE DEPARTMENT AS DEFINED IN SECTION 42-1-102 (5), C.R.S., OR ANY THIRD-PARTY PROVIDER OPERATING UNDER A CONTRACT WITH THE DEPARTMENT TO PROCESS CREDIT OR CHARGE CARD PAYMENTS MAY IMPOSE, IN ACCORDANCE WITH SECTION 42-1-220 (3), C.R.S., A SURCHARGE UPON PERSONS WHO ELECT TO USE A CREDIT OR CHARGE CARD TO PAY SUCH FEES, TAXES, OR FINES.

SECTION 3. 5-3-110, Colorado Revised Statutes, is amended to read:

5-3-110. Surcharges on credit transactions - prohibition on. (1) No seller or lessor in any sales or lease transaction or any company issuing credit or charge cards may impose a surcharge on a holder who elects to use a credit or charge card in lieu of payment by cash, check, or similar means. A surcharge is any additional amount imposed at the time of the sales or lease transaction by the merchant, seller, or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or charge card. For purposes of this section, charge card includes those cards pursuant to which unpaid balances are payable on demand.

(2) FOR PURPOSES OF THIS SECTION, THE PAYMENT OF FEES, TAXES, OR FINES PAYABLE TO THE DEPARTMENT OF REVENUE PURSUANT AND RELATED TO

THE OPERATION OF A MOTOR VEHICLE SHALL NOT BE DEEMED A SALES OR LEASE TRANSACTION, AND THE DEPARTMENT, ANY AUTHORIZED AGENT OF THE DEPARTMENT AS DEFINED IN SECTION 42-1-102 (5), C.R.S., OR ANY THIRD-PARTY PROVIDER OPERATING UNDER A CONTRACT WITH THE DEPARTMENT TO PROCESS CREDIT OR CHARGE CARD PAYMENTS MAY IMPOSE, IN ACCORDANCE WITH SECTION 42-1-220 (3), C.R.S., A SURCHARGE UPON PERSONS WHO ELECT TO USE A CREDIT OR CHARGE CARD TO PAY SUCH FEES, TAXES, OR FINES.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Bill H

By Representative Spradley

A BILL FOR AN ACT

CONCERNING AN INCREASE IN THE MAXIMUM AMOUNT THAT A RAILROAD CORPORATION MAY BE REQUIRED TO PAY FOR RAILROAD CROSSINGS.

Bill Summary

"Railroad Crossing Project Cap"

(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. Increases the maximum amount that a railroad corporation may be required to pay for railroad crossing construction in any year to \$2.5 million.

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

SECTION 1. 40-4-106 (3) (b) (I), (3) (b) (II), and (3) (b) (IV),

Colorado Revised Statutes, are amended to read:

40-4-106. Rules for public safety - crossings - allocation of expenses. (3) (b) (I) (A) The commission is authorized to approve individual projects wherein the allocation of the total expenses of the separation of grades

to be paid by the railroad corporation or railroad corporations may exceed ~~one~~ TWO million ~~two~~ FIVE hundred ~~fifty~~ thousand dollars. The commission may approve more than one project, the sum totals of which may exceed the ~~one-million-two-hundred-fifty-thousand-dollar~~ TWO-MILLION-FIVE-HUNDRED-THOUSAND-DOLLAR cap set forth in this subparagraph (I), but in no event shall an individual class I railroad corporation pay more than ~~one~~ TWO million ~~two~~ FIVE hundred ~~fifty~~ thousand dollars of the cost of a single project or the cost of more than one project in any calendar year. Nothing in this subparagraph (I) shall preclude any railroad corporation from voluntarily contributing more than its allotted share for grade separation construction in one year and, in such event, all amounts contributed by such railroad exceeding its allotted share in any one year shall be credited to and shall serve to reduce any payment for grade separation construction expenses by that railroad in subsequent years.

(B) Repealed.

(II) If the cost of a project is such that it calls for payment by a railroad corporation in more than one calendar year or if the amount due from the railroad corporation exceeds ~~one~~ TWO million ~~two~~ FIVE hundred ~~fifty~~ thousand dollars and thus must be made in consecutive calendar years, nothing in this section shall be construed to require that the approved project must be subjected to reapplication or rereview by the commission.

(IV) This paragraph (b) shall not apply to any project for the elimination of hazards at any railway-highway crossing when all or any part of the cost of such project will be paid from moneys made available for expenditure ON GRADE SEPARATION PROJECTS under Title 23, U.S.C.; except that any amount paid by a railroad corporation for such an exempt project shall be credited against the ~~one-million-two-hundred-fifty-thousand-dollar~~ TWO-MILLION-FIVE-HUNDRED-THOUSAND-DOLLAR cap set forth in subparagraph (I) of this paragraph (b).

SECTION 2. 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.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 99-0086
Prime Sponsor(s): Rep. Spradley

Date: October 19, 1998
Bill Status: Transportation Legislative
Review Committee
Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING AN INCREASE IN THE MAXIMUM AMOUNT THAT A RAILROAD CORPORATION MAY BE REQUIRED TO PAY FOR RAILROAD CROSSINGS.

Summary of Assessment

The bill would increase the maximum amount that a railroad corporation may be required to pay for railroad crossing construction in any year from \$1.25 million to \$2.5 million. The bill would allow class 1 railroads to pay more of a railroad crossing project. This would not increase state revenues or expenditures for any state agency or department. Therefore, this bill is assessed as having no fiscal impact.

Departments Contacted

Regulatory Agencies

Bill I

By Representative McElhany

A BILL FOR AN ACT

CONCERNING CERTIFIED SCALES USED FOR WEIGHING VEHICLES.

Bill Summary

"Use Of Certified Scales For Overloads"

(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. Clarifies that a peace officer who reasonably believes that a vehicle is overweight may require that the vehicle be driven to the nearest certified scales within 5 miles. Requires certified weighers to weigh any vehicle when requested by a peace officer. Makes it a class 2 petty offense for a certified weigher to refuse to weigh a vehicle when requested to do so by a peace officer.

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

SECTION 1. 42-4-509 (1), Colorado Revised Statutes, is amended to read:

42-4-509. Vehicles weighed - excess removed. (1) Any police or peace officer, as defined in section 18-1-901 (3) (I) (IV), C.R.S., having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales or shall require that such vehicle be driven to the nearest public CERTIFIED scales AS DEFINED IN SECTION 35-14-102 (2), C.R.S., in the event such scales are within five miles.

SECTION 2. 35-14-122 (2) (a), Colorado Revised Statutes, is

amended to read:

35-14-122. Public scales - requirements - weight certificates - procedures - records. (2) (a) (I) It shall be the duty of each certified weigher to weigh upon the certified scales any load delivered at the scales for weighing when engaged to do so by any person and to issue a certificate of correct weight, INCLUDING THE WEIGHING OF A VEHICLE WHEN REQUESTED BY A PEACE OFFICER PURSUANT TO SECTION 42-4-509 (1), C.R.S. The certificate of correct weight shall state the gross weight of the load, the tare weight, the net weight of the load, and the date of weighing. In addition, the weight certificate shall indicate the state license number of the vehicle, or other positive identification, a serial number, the name of the shipper or the owner of the load, the nature of the load, the name of the receiver of the load, whether the driver is off or on the scale, the name of the certified weigher, and the location of the certified scale. For issuing a certificate, the certified weigher may charge a reasonable fee; except that no charge may be made for weighing done or for certificates issued upon the demand of the commissioner or any employee acting in an official capacity under the provisions of this article.

(II) THE FAILURE OF ANY CERTIFIED WEIGHER TO WEIGH A VEHICLE WHEN REQUESTED BY A PEACE OFFICER PURSUANT TO SECTION 42-4-509 (1), C.R.S., SHALL BE A CLASS 2 PETTY OFFENSE AND SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TWO HUNDRED DOLLARS.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1999, and shall apply to offenses committed on or after said date.

SECTION 4. 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.

Colorado Legislative Council Staff
**STATE and LOCAL
FISCAL IMPACT**
State and Local Cash Fund Revenue Impact

Drafting Number: LLS 99-0130

Date: October 27, 1998

Prime Sponsor(s): Rep. McElhany

Bill Status: Transportation Legislative
Review Committee

Fiscal Analyst: Scott Nachtrieb (303-866-4752)

TITLE: CONCERNING CERTIFIED SCALES USED FOR WEIGHING VEHICLES.

Fiscal Impact Summary	FY 1999/2000	FY 2000/2001
State Revenues		
Cash Fund	\$10,000	\$10,000
State Expenditures		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR		
Effective Date: The bill would become effective July 1, 1999.		
Appropriation Summary for FY 1999-2000 No additional appropriation would be required.		
Local Government Impact: Increased fine revenue from a new class 2 petty offense.		

Summary of Legislation

The bill would allow a peace officer to require a vehicle that may be overweight to be driven to the nearest certified scales within 5 miles. Certified weighers would be required to weigh any vehicle when requested by a peace officer. A certified scale operator that refused to weigh a vehicle would commit a class 2 petty offense.

State Revenues

The Highway Users Tax Fund would receive fine revenue collected from the \$200 fine associated with the class 2 petty offense written by the Colorado State Patrol or any that are filed in county court. The court has the discretion of imposing the amount of the fine up to \$200. The amount of revenue generated from this provision is estimated to be minimal. For purposes of this fiscal note, it is assumed that 50 persons would be cited under this new class 2 petty offense by the Colorado State Patrol and the state would collect approximately \$10,000 in fine revenue.

Local Government Impact

Local law enforcement officials could file a similar offense in municipal court under a municipal ordinance. Any revenue generated from this fine would be municipal revenue. The amount of revenue generated from this provision is estimated to be minimal.

State Appropriation

No additional spending authority would be required.

Departments Contacted

Revenue Regulatory Agencies Transportation