A BILL FOR AN ACT

CONCERNING HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE TRANSPARENCY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

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

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
The number of board members is increased to 8 by adding the executive director of the department of transportation as an ex officio nonvoting member.

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

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

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

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

The bill requires the enterprise:

- To provide public notice of any change in the status of a high-occupancy vehicle lane as a high-occupancy vehicle lane or the qualifications required to access such a lane for free use as a high-occupancy vehicle lane;
- When considering a project that includes one or more high-occupancy vehicle lanes, high-occupancy toll lanes, or...
managed lanes, to evaluate the suitability of express bus service or bus rapid transit service for the proposed project corridor and consider funding such service from user fee revenues as part of the costs of the proposed project. The enterprise may use user fee revenues generated by a project within a corridor to support transit within the corridor must expend a minimum of 10% of any user fee revenues shared back from a party to the PPP that governs the operation of the project that generated the user fees to support transit in the project corridor.

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

The bill allows the state auditor to audit the enterprise.

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

**SECTION 1.** In Colorado Revised Statutes, 43-4-806, amend (1)

(b), (1) (c), (2) (a) (I), (2) (a) (II), (6) introductory portion, (6) (g), (9) (a),

and (10); and add (1) (d) and (8.5) as follows:

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

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

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

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

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

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

(A) Four members appointed by the governor, each of whom must have professional expertise in transportation planning or development, local government, design-build contracting, public or private finance, engineering, environmental issues, or any other area that the governor believes will benefit the board in the execution of its powers and performance of its duties. The governor shall appoint one member who resides within the planning area of the Denver regional council of governments, one member who resides within the planning area of the Pikes Peak area council of governments, one member who resides within the planning area of the north front range metropolitan planning organization, and one member who resides within the interstate 70
mountain corridor. Members appointed by the Governor on or after
the effective date of this sub-subparagraph (A), as amended,
must be confirmed by the Senate.

(B) Three members of the commission appointed by resolution of
the commission. Members appointed by the commission on or after
the effective date of this sub-subparagraph (C), as amended,
must be confirmed by the Senate.

(C) The executive director, who serves as an ex officio
nonvoting member of the board.

(II) Initial appointments to the transportation enterprise board
shall be made no later than July 1, 2009. Members of the
board shall serve at the pleasure of the appointing authority and without
compensation serving on the effective date of this subparagraph
(II), as amended, serves until his or her term expires as specified
in the Governor's executive order or commission resolution by
which he or she was appointed. Vacancies in the membership of the
transportation enterprise board shall be filled in the same manner as
regular appointments. Members of the board appointed on or after
the effective date of this subparagraph (II), as amended, serve
for four-year terms and may be reappointed once.

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

(g) (I) Subject to the requirements and limitations
specified in subparagraphs (II) and (III) of this paragraph (g), to
make and enter into contracts or agreements with any private or public
entity to facilitate a public-private partnership, including, but not limited
to:

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

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

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

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

(B) BEFORE PREPARING ANY REQUEST FOR PROPOSAL FOR A
PUBLIC-PRIVATE PARTNERSHIP, HOLD AT LEAST ONE TOWN HALL MEETING,
in coordination with interested local governments, at which
members of the public may obtain information regarding the
surface transportation infrastructure project or projects for
which the transportation enterprise is considering preparing a
request for proposal, express their opinions and ideas regarding
the proposed projects, make suggestions regarding alternative
projects or means of improving the project or projects under
consideration, and question representatives of the enterprise.
The enterprise shall consider the suggestions and ideas
presented by the public. At each meeting held, the enterprise
shall provide detailed information regarding the
transportation needs that it seeks to address, any possible
alternative projects that might address those needs, and any
alternative means, described by a financial analysis, of funding
the surface transportation infrastructure project or projects,
including but not limited to any alternative means that rely
EXCLUSIVELY ON PUBLIC FUNDING, WITHOUT ENTERING INTO A PUBLIC-PRIVATE PARTNERSHIP. THE ENTERPRISE SHALL PROVIDE FULL AND TIMELY NOTICE OF ANY SUCH MEETINGS DIRECTLY TO EACH MEMBER OF THE GENERAL ASSEMBLY WHOSE DISTRICT INCLUDES ANY PART OF THE PROJECT AREA AND TO THE GOVERNING BODY OF EACH COUNTY AND MUNICIPALITY THAT INCLUDES ANY PART OF THE PROJECT AREA AND SHALL ALSO PROVIDE FULL AND TIMELY NOTICE TO THE GENERAL PUBLIC BY PROVIDING INFORMATIONAL RELEASES TO APPROPRIATE MEDIA SOURCES AND BY OTHER APPROPRIATE MEANS. THE ENTERPRISE SHALL HOLD THE MEETINGS AT LOCATIONS THAT ARE LIKELY TO BE CONVENIENT FOR INDIVIDUALS WHO LIVE IN AREAS TO BE SERVED OR IMPACTED BY THE PUBLIC-PRIVATE PARTNERSHIP.

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

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

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

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

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

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

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

(8.5) THE TRANSPORTATION ENTERPRISE SHALL PROVIDE NOTICE
TO THE PUBLIC OF ANY CHANGE IN THE STATUS OF A HIGH-OCCUPANCY
VEHICLE LANE AS A HIGH-OCCUPANCY VEHICLE LANE OR THE QUALIFICATIONS REQUIRED TO ACCESS SUCH A LANE FOR FREE USE AS A HIGH-OCCUPANCY VEHICLE LANE.

(9) (a) WHEN CONSIDERING A PROPOSED SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT THAT INCLUDES ONE OR MORE HIGH-OCCUPANCY VEHICLE LANES, HIGH-OCCUPANCY TOLL LANES, OR MANAGED LANES, THE TRANSPORTATION ENTERPRISE SHALL EVALUATE THE SUITABILITY OF EXPRESS BUS SERVICE OR BUS RAPID TRANSIT SERVICE FOR THE PROPOSED PROJECT CORRIDOR AND CONSIDER FUNDING SUCH SERVICE FROM USER FEE REVENUES AS PART OF THE COSTS OF THE PROPOSED PROJECT. THE TRANSPORTATION ENTERPRISE MAY EXPEND OR AUTHORIZE THE EXPENDITURE OF USER FEE REVENUES GENERATED BY A SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT WITHIN A CORRIDOR TO SUPPORT TRANSIT, INCLUDING CAPITAL AND OPERATING COSTS OF TRANSIT, FIRST AND FINAL MILE CONNECTIONS, AND TRANSPORTATION DEMAND MANAGEMENT PROGRAMS DESIGNED TO INCREASE TRANSIT OR HIGH-OCCUPANCY VEHICLE RIDERSHIP WITHIN THE CORRIDOR. THE TRANSPORTATION ENTERPRISE SHALL EXPEND A MINIMUM OF TEN PERCENT OF ANY NET USER FEE REVENUES SHARED BACK TO THE TRANSPORTATION ENTERPRISE FROM A PARTY TO THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT THAT GOVERNS THE OPERATION OF THE SURFACE TRANSPORTATION INFRASTRUCTURE PROJECT THAT GENERATED THE USER FEES TO SUPPORT TRANSIT IN THE PROJECT CORRIDOR. The transportation enterprise shall not supplant or duplicate the services provided by any public mass transit operator, as defined in section 43-1-102 (5), railroad, public highway authority created pursuant to part 5 of this article, or regional transportation authority created pursuant to
part 6 of this article except as described in detail in an intergovernmental agreement or other contractual agreement entered into by the transportation enterprise and the operator, railroad, or authority. The creation of and undertaking of surface transportation infrastructure projects by the transportation enterprise pursuant to this part 8 is not intended to discourage any combination of local governments from forming a public highway authority or a regional transportation authority.

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

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

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

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

(III) A statement of the TRANSPORTATION enterprise's revenues, and expenses, and any recommendations for statutory changes that the enterprise deems necessary or desirable.

BY PROJECT IN THE TRANSPORTATION ENTERPRISE'S TRANSPORTATION SPECIAL FUND;

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

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

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

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

(C) CURRENT AND MAXIMUM PERMITTED TOLL RATES;

(D) TRANSIT AND CARPOOLS;

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

(F) TOTAL PROJECT COSTS; AND

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

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

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

(B) A SUMMARY OF THE PROPOSED OR ANTICIPATED TERMS AND PROVISIONS THAT WILL GOVERN THE PROPOSED PUBLIC-PRIVATE PARTNERSHIP THAT INCLUDES, TO THE EXTENT AVAILABLE, THE INFORMATION SPECIFIED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (b).

The summary may include ranges rather than fixed estimates of anticipated terms and provisions regarding the agreement term, toll rates, project costs, profits, and any other quantifiable but not yet quantified proposed terms and provisions.

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

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

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

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

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

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

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

(b) The high-performance transportation enterprise created in section 43-4-806 (2) (a), C.R.S.

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

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

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

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

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

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