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0238 Committee on Transportation and Energy

JK7801

.A32

no.238

Report to the Colorado General Assembly:

RECOMMENDATIONS FOR 1979  
COMMITTEE ON:

# Transportation and Energy



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COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 238

December, 1978

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The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

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COMMITTEE ON  
TRANSPORTATION AND ENERGY

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 238  
December 1978



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To Members of the Fifty-second Colorado General Assembly:

Submitted herewith is the final report of the Legislative Council Committee on Transportation and Energy for 1978. This report, and the committee's accompanying recommendations were considered by the Legislative Council at its November 27, 1978, meeting. All the bills in this report are transmitted with favorable recommendation.

Respectfully submitted,

/s/ Representative Carl Gustafson  
Chairman  
Colorado Legislative Council

CG/pm

## FOREWORD

The Committee on Transportation and Energy was created by the Legislative Council to plan and conduct an energy symposium, monitor and provide guidance for the two-year (1977-1978) rail plan study, and review the activities and recommendations of the Governor's Highway Legislative Review Committee. The committee report and its accompanying bills were approved by the Legislative Council at its November 27, 1978, meeting and will be forwarded to the General Assembly for its consideration.

The committee and the Legislative Council express appreciation to the many persons who testified before and provided assistance to the committee during the interim study. A particular expression of gratitude is made to the persons who were speakers and panel members at the 1978 Western States Energy Conservation Symposium. A listing of symposium participants is provided in the appendix at the conclusion of the report (see pages 105 and 106).

Mr. Matthew Flora and Mr. Vince Hogan of the Legislative Drafting Office were responsible for preparation of the committee's bills. Mr. Larry Thompson, Research Associate, and Mr. Wallace Pulliam, Principal Analyst, Legislative Council staff, prepared the committee's report.

December, 1978

Lyle C. Kyle  
Director

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## COMMITTEE ON TRANSPORTATION AND ENERGY

The Committee on Transportation and Energy was initially directed by the Legislative Council to plan and conduct an energy symposium with an emphasis on energy conservation and to monitor and provide guidance for the two-year (1977-1978) rail plan study being conducted by URS Company and the Department of Highways. Subsequently, during the interim, the committee requested the Legislative Council to grant it additional authority to review the activities and recommendations of the Governor's Highway Legislative Review Committee.

In response to legislative proposals offered at Energy Symposium I (1977) and the Western States Energy Conservation Symposium (1978), Bill 33, relating to energy forecasting review and evaluation by the Public Utilities Commission, and Bill 46, a Joint Memorial, concerning federal mine health and safety standards, are recommended by the committee.

A review of committee activities regarding the development of a State Rail Plan and a brief summary of the draft of the State Rail Plan is also included in this report. The committee transmits the draft of the State Rail Plan without recommendation. The committee was not presented with a copy of the final plan and it did not have sufficient time to conduct a thorough review and analysis of the draft of the Rail Plan that was available. The committee also believed that the draft of the plan did not contain adequate data in several areas and in some areas data was missing. Such data should be supplied and reviewed prior to a formal recommendation on the State Rail Plan.

### Western States Energy Conservation Symposium

The Western States Energy Conservation Symposium was held on July 5 at the Denver Hilton Hotel as a part of the program of the annual meeting of the National Conference of State Legislatures.

The purpose of the symposium was to provide a forum for the discussion of energy policies and issues to help legislators, other state officials, industry, and interested citizens begin to develop a base for the establishment of a state energy policy. The emphasis of the symposium was on energy conservation issues facing Western states. Among the topics discussed at the symposium by the panelists and guest speakers were solar energy; the economics of energy conservation; the status of Colorado's energy needs; methods to ensure energy efficient buildings; and utilities regulation which promotes energy conservation.

Following the Western States Energy Conservation Symposium, portions of several committee meetings were devoted to a review of the

proposals for energy legislation which had been suggested by participants at last year's and this year's energy symposiums.

There are two proposals which were suggested at Energy Symposium I (1977) which the committee recommends. Bill 33, relates to Public Utilities Commission review of electric and gas utility forecasts and Bill 46, a Joint Memorial which is concerned with the "Federal Mine Safety and Health Act of 1977". The committee discussed at length a proposal for weatherization of the homes of low income and elderly persons but recommends no specific bills on this subject. The committee recommends that a bill on that subject be considered in 1979 by the General Assembly. Several committee members indicated that they will sponsor weatherization legislation after they have had sufficient time to discuss, among other issues, which agency should have jurisdiction on this matter and what the eligibility requirements should be for weatherization assistance.

#### Public Utilities Commission Review of Energy Forecasting -- Bill 33

Bill 33 will require the Public Utilities Commission to perform a review and evaluation of all Colorado natural gas and electric utilities' energy forecasts, forecasting methodologies, and construction plans and submit a report every two years to the Governor and the General Assembly. The bill will also require each electric and gas public utility under the jurisdiction of the commission to submit a long-range energy forecast and plan every two years, plus amendments to the plans and forecasts as they are adopted by the utility.

Although not addressed in Bill 33, the committee urges utilities not under jurisdiction of the Public Utilities Commission to submit to the commission every two years their long-range energy forecasts and plans. No response to this suggestion has been received from the non-regulated utilities.

The committee believes that it is necessary for the PUC to have the energy forecasting review capabilities which will be provided by Bill 33. The commission should be involved with the question of electric utility generating capacity and transmission requirements to meet system needs and to insure a level of system reliability. The committee has concluded that without energy forecasting there may be considerable difficulty in financing construction programs for utilities on a reasonable, consistent, and timely basis. Bill 33 will give the Public Utilities Commission the necessary ability to authorize present and future revenue requirements for utilities consistent with realistic assumptions about future growth.

The committee urges that while the Public Utilities Commission will have primary responsibility for operating the program of reviewing energy forecasts by public utilities, it should cooperate with and utilize data presented by researchers at Colorado State University who are working on energy demand forecasting; these programs must complement and assist one another.

Concerning Federal Standards for Mine Health Safety -- Bill 46 - a Joint Memorial

Under provisions of the "Federal Mine Safety and Health Act of 1977" (P.L. 95-164), states have been excluded from any participation in the regulation and inspection of mines in regards to safety and health standards. The committee recommends Bill 46, a Joint Memorial which urges Congress to enact legislation which would return to states the right to regulate or participate in the regulation of mines relating to mine safety and health standards.

The committee believes that the unrealistic safety and educational standards imposed upon miners by P.L. 95-164 will cause most small coal and metal mining operations to be discontinued in the near future. Testimony given to the committee by representatives of the Division of Mines pointed out that the federal inspections of mines in Colorado now occur less frequently than did the inspections which were conducted by state inspectors. Furthermore, the federal inspectors have not been as willing or able to offer technical assistance to miners as the state inspectors.

Committee Conclusions - Winterization

The committee heard and reviewed a considerable amount of testimony regarding a proposal to appropriate \$3.5 million in General Fund revenues for winterization assistance for about 3,000 eligible Colorado families per year. The goal of a winterization program is to enable low-income individuals and families, including the elderly and near poor, to participate in energy conservation programs designed to lessen the impact of the high cost of energy on the budgets of such individuals and families and to reduce individual and family energy consumption.

The committee was unable to reach a consensus concerning which agency or agencies should be responsible for the winterization program, how much General Fund money should be appropriated for such a program, and what the eligibility requirements should be for qualifying for winterization assistance. Consequently, the committee recommends no legislation on this subject. The committee does recommend the following as a title for a possible winterization bill:

Concerning winterization of residences owned or occupied by low-income elderly persons and low-income disabled persons.

The committee urges the General Assembly to give careful consideration to developing and providing sufficient funding for a winterization program for low-income elderly and low-income disabled persons.

## Colorado State Rail Plan

House Joint Resolution No. 1046 (1977 Session) authorized the Legislative Council to "... submit a plan for rail services" in order to qualify the state for freight rail service assistance from the federal government. The committee was designated by the Legislative Council to be responsible for directing the study and serving as the policy-making body for the study. The Colorado State Rail Plan was drafted by URS Company (a consulting firm) with assistance provided by the Department of Highways. The Department of Highways received authority from the Legislative Council to serve, for the 1977-1978 biennium only, as the designated state agency to the Federal Railroad Administration (FRA) for the purpose of entering into and administering, on behalf of the Legislative Council, the agreement with the FRA for the development of the State Rail Plan.

The committee, during the 1977 interim, required in the Planning Work Statement for Development of a Statewide Rail Plan for Colorado (a document which enumerated the areas of rail planning to be considered during the rail study) that certain procedures be followed by URS Company and the Colorado Department of Highways to ensure legislative involvement and direction in the development of the rail plan. URS Company and the Highway Department appeared before the committee at every 1977 and 1978 interim meeting to submit progress reports and to receive committee directives concerning the study's methodology. Members of the committee were also provided every month with written progress reports on the conduct of the study and summaries of each major phase of the study after that phase had been completed.

### Summary of Draft of Colorado State Rail Plan

The draft of the Colorado State Rail Plan addresses five major areas of interest identified in the Planning Work Statement. The areas of interest are:

- 1) Overview of the Existing Colorado Rail System;
- 2) Analysis of Branch Lines;
- 3) Passenger Train Analysis;
- 4) Energy Impacts; and
- 5) Transportation Safety

### Description of Existing System

An extensive amount of information on the statewide rail system is presented in Section 2 of the Colorado State Rail Plan. The Rail Plan reviews the physical and financial status of railroads operating in Colorado. The areas in the state served by each of the 13 line-haul carriers are described.



The report states that railroads are the major common carrier in Colorado and notes that railroads moved more than 13 million tons of commodities produced in Colorado in 1975, which constitutes more than 50 percent of the total tonnage moved in Colorado that year. Data is reviewed regarding major interstate commodity movements. The Rail Plan, through the use of maps and tables, shows that there is a relative balance in the total freight originating and terminating in the state.

Concerning the statewide rail system, the draft of the Rail Plan recommends that Colorado not increase its present regulatory mandate in railroad affairs. The report contends that the existing framework regarding railroads, as provided by the State Constitution and Colorado Revised Statutes, is adequate. The Rail Plan suggests that there should be a State Rail Affairs entity designated within a Colorado Department of Transportation if said department is ever created. Several committee members contended that a State Rail Affairs entity should not be included within any proposed Department of Transportation, suggesting instead that the Rail Affairs entity be placed within the Public Utilities Commission. Other members question the need for any such department and the committee did not take any action on the issue. The report also concludes that the Public Utilities Commission should continue to represent the state in matters involving rates and traffic, rail traffic control, franchising, and public safety.

### Branch Line Analysis

The time, place, and railroad involved in all Colorado abandonments of branch lines since January 1, 1972, is listed in Section 3 (branch lines) of the Rail Plan. Considerable detail is included in the report regarding the basics of the abandonment process. An analysis of the impact of abandonment upon a community is presented. In addition, the State Rail Plan recommends methods to use in determining whether a branchline should be abandoned.

The draft of the State Rail Plan indicates that there are a total of 86.53 route miles of rail line in Colorado which may be subject to abandonment. Those lines are:

<u>Railroad</u>	<u>Mileage</u>	<u>Location</u>
Atchison, Topeka, and Santa Fe (AT&SF)	4.36	Wilson Junction to Lamar
AT&SF	40.65	Hartman to McClave
AT&SF	11.49	Cheraw to Swink
AT&SF	4.17	Wiley to Big Bend

Union Pacific (UP)	10.86	Greeley Junction to Gill
UP	15.0	Coalmont Branch Coalmont to Walden

86.53

The report's recommendations regarding those rail lines in Colorado which may be subject to abandonment are as follows:

1. Hartman to McClave (owned by Atchison, Topeka, and Santa Fe System) -- Colorado should participate with local officials in obtaining Federal maintenance and rehabilitation assistance to continue the rail line. The report urges that the rail segment from Wiley to Big Bend be allowed to be abandoned.
2. Swink to Cheraw (owned by Atchison, Topeka, and Santa Fe System) -- This line should be subsidized for two to four more years. The matching funds for Federal assistance (subsidy) should come from local sources (approximately \$4,500 to \$7,000 is required annually).
3. Greeley to Gill (owned by Union Pacific) -- This rail line does not need to be retained; therefore, no state action is required.
4. Walden to Coalmont (owned by Union Pacific) -- This line should not be dismantled. There may be possible future use of this line, and no state action is required at this time.

### Passenger Rail Analysis

A review of the nature and area of passenger service provided by railroads in Colorado is included in Section 4 of the draft of the State Rail Plan. The report presents data on the deficits suffered by rail lines offering passenger service. For example, the estimated net income for operating the Rio Grande Zephyr for 1976 was a deficit (before taxes) of over \$2 million.

Included in Section 4 is a select corridor analysis to determine the need for rail passenger service. There was a preliminary screening of 27 potential rail passenger corridors. The conclusion of the screening was that the corridors of Cheyenne-Denver (Boulder), Denver-La Junta, and Denver-Trinidad are the "most promising" rail passenger corridors.

A considerable amount of statistical data is presented in Section 4 in attempting to determine the need (or lack thereof) for expanded rail passenger service. Tables are included in the report

concerning the number of persons now traveling by car, air, and bus in the potential rail passenger corridors. Data is also provided on travel time as well as cost-time effectiveness of various modes of transportation along Colorado's Front Range.

Conclusions presented in Section 4 are that the inter-city bus is the most cost-time efficient of all the modes. Inter-city rail is the most cost-time inefficient transportation mode. The State Rail Plan states that a passenger rail system is not warranted through 1985. The report adds, however, that if there is an annual update of the Rail Plan, assumptions regarding Federal participation, fuel cost, and highway traffic congestion should be reviewed to see if rail passenger service might be feasible at a later date.

### Energy Impacts

A set of evaluation criteria to predict the level of disruption that increased rail (coal train) traffic may have upon a community is included in Section 5 of the State Rail Plan. Maps are provided in the report which give information on 1978 daily coal train movements through Colorado communities as well as projections for coal train movements in 1985.

The report notes that historically coal imports have been significantly higher than exports. However, projections in the Rail Plan show that by 1985 exports will exceed imports by 3.1 million tons per year. There are several tables in Section 5 which detail Colorado's coal import-export status.

Projections of demand for Colorado and Western states coal are presented in the report. Projections of demand for Colorado coal made by energy companies differ considerably from those by the Colorado Geological Survey and the Division of Mines. Demand projections for Colorado coal vary from 16.7 million tons per year up to 50.8 million tons per year. The only explanation given in the report for the wide range in coal demand projections is that the proposed mine mouth gasification plant near Watkins, Colorado may not have been included in some available estimates. The report estimates that the Watkins plant will consume 15 million tons per year of coal.

A comparative cost analysis for Western coal transportation is in Section 5. The analysis produced the following figures:

<u>Mode</u>	<u>Cost per Million End-use BTU's 1975 Dollars</u>
Slurry pipeline/conversion to electricity	\$ 6.18
Unit train/conversion to electricity	6.23

Mine-mouth conversion to electricity/shipment by wire	8.20
Mine-mouth gasification/pipe- line/conversion to electricity	11.28
Mine-mouth gasification/ pipeline/direct-use	2.87

The State Rail Plan concludes that there is sufficient rail capacity to handle all coal movements up through at least 1985. The report states that the recommendations made in the 1976 coal train study (also written by URS Company) are still valid. The Rail Study also recommends that there be a study conducted on the feasibility of construction of an Eastern by-pass (a new, state-owned, rail corridor and rail line running north to south through Eastern Colorado).

### Transportation Safety

Included in Section 6 of the draft of the State Rail Plan is an analysis of 84 crossings in the state which now or by 1985 will warrant grade separations. Each intersection is analyzed based on average daily traffic, railroad trips per day, and accident history. The analysis prioritizes present and 1985 needs for grade crossings. Included in the analysis are individual cost benefit ratios for construction of each of the recommended separations together with specific suggestions on the type of protection devices necessary at each of the priority rail/highway crossings.

The State Rail Plan recommends an allocation formula to determine railroad funding responsibility for crossing separations. The railroad responsibility would be calculated by comparing rail savings (benefits) with total highway and rail savings.

### Committee Conclusions -- Draft of Colorado State Rail Plan

Time did not permit the committee to have a thorough review or analysis of the over 300 pages of text, charts, and maps in the Rail Plan. Consequently, the committee transmits the draft of the Colorado State Rail Plan without recommendation. While the committee believes that the report presents valuable information which will be useful in solving certain rail problems in this state, a number of additions and revisions must be drafted before the Rail Plan can be considered to be in "final" form. Prior to January, 1979, a number of concerned citizens and groups will be offered the opportunity to comment on and propose changes to the State Rail Plan. **Review by the Transportation and Energy Committee** of the draft of the State Rail Plan was only a first step in a lengthy hearing process which should continue through the next Session of the General Assembly.

Brief committee review of the Rail Plan showed that several

significant items of study called for in the Planning Work Statement were not incorporated in the Rail Plan. Several examples can be cited. The Planning Work Statement provided that the Rail Plan should include a review of pending mergers but no information was included on mergers despite the fact that a merger is pending between Burlington Northern Railroad and the St. Louis-San Francisco railroad. No data is provided in the draft of the Rail Plan concerning estimated costs for rail crossing improvements although the Planning Work Statement specifically requested that information be included. The committee requests that a review of any changes which may have been approved in 1978 by Congress which would increase funding to the states for off-systems and on-systems (on Federal-aid system) grade crossing improvements be included in the State Rail Plan.

Information and recommendations on energy impacts, which the committee considers to be extremely important, was not as complete or comprehensive as the committee had requested. Specifically, the committee recommends that additional information be provided in the "final" Rail Plan in the areas of Western coal transportation alternatives; the number of and problems caused by coal trains passing daily through Colorado communities; and specific recommendations and solutions regarding the impact of energy development on transportation in Colorado.

The committee recommends that URS Company and the Department of Highways revise the draft of the State Rail Plan to reflect committee concerns with the Rail Plan and suggests that such revisions and additions be incorporated in the Plan before it is submitted to the First Regular Session of the Fifty-Second General Assembly.

#### Committee Conclusions -- 1979 Update to State Rail Plan

The committee recommends that there be a 1979 update of the State Rail Plan which would address several subjects that could not be covered in the State Rail Plan as presented to the 1978 interim Committee on Transportation and Energy. The committee suggests that URS Company be retained as the consultant for the 1979 update. The 1979 update of the State Rail Plan should contain the following elements:

- 1) Continuing evaluation of branch line abandonments -- The update will set up a procedure and re-evaluation process for other branch lines and Class II railroads that are subsequently identified as subject to abandonment. Lines which become subject to abandonment within the time of the update will be analyzed using the developed procedures.
- 2) Rate structure evaluation -- The update will evaluate the economic incentive for shipment of agricultural products by rail. The committee believes that a railroad system should be maintained which is flexible and responsive to changing shipper requirements. A representative of the Department

of Agriculture suggested that existing rail rates for Colorado agricultural products may not be competitive with the rates charged by other modes.

The committee recommends that an analysis be conducted by the Colorado Department of Agriculture concerning rail freight rates. Non-federal funding for the freight rate analysis will be provided by a \$2,220 in-kind match by the Department of Agriculture. The analysis will compare local freight rates with rail rates available to shippers in surrounding market areas. Rail freight rates will also be compared with motor freight costs to determine whether rail freight rates are competitive with those of other transportation modes. Once the economic status of rail transportation of agricultural products has been determined and evaluated, appropriate legislative or administrative remedies will be presented.

- 3) Eastern by-pass analysis -- The 1979 update will analyze the potential and feasibility of an Eastern by-pass route for trains along the front range corridor of Colorado.

A total of \$151,891 will be available (mostly federal rail planning funds) to conduct the 1979 update of the State Rail Plan. A total of \$30,378 non-federal match is required for the update -- \$6,158 for the continuing analysis of branch line abandonments, \$2,220 for the rate structure evaluation, (to be provided by the Department of Agriculture) and \$22,000 for the Eastern by-pass study. The committee requests that the match money be provided by the Legislative Council and/or another source so that URS Company and the Department of Highways may proceed with the 1979 addition to the Rail Plan.

The committee recommends that there be legislative involvement and direction in the development of the 1979 update. Consequently, the committee recommends that the Highway Department and URS Company be prepared to appear before the House Transportation and Energy Committee and the Senate Transportation Committee during the 1979 Session to answer any committee questions concerning the content and methodology of the update of the State Rail Plan.

#### Activities and Recommendations of Highway Legislative Review Committee

With the approval of the Legislative Council, the committee reviewed this interim the activities and bill recommendations of the Highway Legislative Review Committee. The Highway Legislative Review Committee was appointed by Executive Order of Governor Richard Lamm on June 7, 1978, pursuant to statutory authorization provided in Section 43-2-145, C.R.S. 1973. That statute authorizes the Governor to appoint, once every five years, a fifteen member committee which is directed to "... review the legislation enacted in this part 1 and ... make such recommendations to the governor and to the general assembly for such additional legislation as it deems necessary to correct any

inequities arising out of the passage of this part 1."

Time did not permit the committee to review thoroughly the approximate 30 bills endorsed by the Highway Legislative Review Committee. The committee concluded that they should review several of the "housekeeping" measures submitted by the Highway Legislative Review Committee along with some substantive issues including outdoor advertising on public highways, access control on state highways, and highway finance.

The committee recommends Bills 34 through 45 which will update, revise and clarify a number of provisions in the highway laws.

#### Powers and Duties of State Highway Commission -- Bill 34

Bill 34 will place in one part of the statutes all the powers and duties of the State Highway Commission. Presently, the duties and responsibilities of the commission appear throughout the highway law, while the commission's authority to adopt orders, rules, and regulations to implement those duties and responsibilities is limited to one part (Section 43-1-105, C.R.S. 1973) of the highway law. The bill will also clarify the extent to which the State Highway Commission may delegate certain functions to the Executive Director of the Department of Highways.

Authorities and duties of the commission that were added subsequent to the enactment of the original statute governing commission powers and duties will be placed in reenacted Section 43-1-105. Among those new powers are: to approve the terms and conditions for the sale or exchange of property no longer needed for highway purposes; to approve the designation of any portion of a state highway to be a controlled-access highway; and to approve the designation of any state highway right-of-way under the control of the Highway Department for use by other forms of transportation facilities and modes of transportation.

#### Concerning Legal Services for the Department of Highways -- Bill 35

Two different sections of the highway law contain provisions for legal representation to the Department. Bill 35 will combine the two sections so that legal references will be in one place.

#### Concerning the State Highway Supplementary Fund -- Bill 36

Bill 36 will authorize the Department of Highways to use the State Highway Fund and the State Highway Supplementary Fund interchangeably for payment of departmental expenditures. All highway contract costs are now charged to the State Highway Supplementary Fund since federal funds go into the supplementary fund. Colorado statutes require that construction and many other highway costs be paid out of

the State Highway Fund.

The State Controller has established a single operating fund for all highway costs, the State Highway Supplementary Fund. As a result, there are legal problems every time a contract comes through which is charged to the State Highway Supplementary Fund and attorneys state that it should be charged to the State Highway Fund. Bill 36 will help in resolving these legal problems.

Filing Dates for Construction Budget for Highway Department -- Bill 37

The federal government has changed its fiscal year beginning to October 1 rather than July 1 each year. Bill 37 will conform the requirement for preparation of the Highway Department's budget for highway construction to that of the federal fiscal year. Specifically, the bill will allow an extension of the time when the Department of Highways construction budget shall be adopted to not later than sixty days after receipt of notification of federal highway fund apportionments for the ensuing federal fiscal year.

Testimony given by the Department of Highways indicated that it is impossible to adopt a State Highway Department construction budget without including federal-aid funds for the fiscal year. The committee concluded that the existing requirement that the Highway Commission adopt the construction budget on or before June 1, is no longer appropriate.

County and Municipality Requests for Construction of Roads and Streets -- Bill 38

Bill 38 will clarify the procedure by which the Department of Highways designates which streets are part of the state highway system. The bill will require that by December 31, 1979, the department shall certify such information to the municipality. Instead of annually, as is now provided, the Highway Department must certify to the municipality any changes in the state highway system which have occurred not later than sixty working days after the change.

Bill 38 will specify that counties and municipalities shall annually submit priorities to the Highway Commission for construction of roads and streets on the state highway system. Present statutes require that priorities submitted by counties and municipalities to the Highway Commission are for construction of roads and streets under their specific jurisdiction. This is often interpreted as limiting these submittals to roads and streets that are part of the local system only.



Concerning Sharing of Highway Construction and Maintenance Costs --  
Bill 39

Bill 39 will clarify the statutes (specific authorization does not now exist) by providing that, by mutual agreement, counties, cities, and the state, or any combination thereof, may share any cost of construction or maintenance, or both, of state highways, county roads, and city streets.

Concerning the Effective Date of Regulations Promulgated by Local Governments Relating to State Highways -- Bill 40

Bill 40 will clarify when regulations with respect to state highways which are promulgated by local units of government will become effective. The bill will provide that on streets which are state highways, all regulations adopted after December 31, 1979, shall be approved in writing by the Department of Highways before becoming effective on such streets. However, such regulations shall become effective on such streets sixty days after receipt for review by the department if they are not disapproved in writing by the department during that period.

Concerning Access to and from Public Highways -- Bill 41

Committee review of sections of statute authorizing control of access to state highways indicated that the Department of Highways does not have sufficient authority to regulate access. Testimony before the committee by the Department of Highways noted that an increasing number of requests for access permits is causing a number of problems including: a decrease in the level of mobility on state roads, an increase in air pollution, congestion which may require the widening of present roads, and an increase in safety hazards. The committee concluded that under the present access control statute, efforts by the Highway Department for proper transportation planning have been disrupted.

Bill 41 will clarify and expand upon the Department of Highways authority over access control to and from public highways. Specifically, the bill requires the State Highway Commission to adopt a state highway access code. It will require a person to obtain an access permit before constructing a driveway to or from a state highway. Access permits for construction of a driveway will not be required for driveways in existence on or before June 30, 1979. Bill 41 will authorize the issuing authority to revoke an access permit under certain conditions. The bill will repeal the current statute (42-4-115, C.R.S. 1973) regarding regulation of driveways.

Outdoor Advertising Act -- Bill 42

Testimony given to the committee by representatives of the Department of Highways indicated that the existing Outdoor Advertising Law has a number of conflicting and confusing provisions. Statutory provisions concerning outdoor advertising along public highways are

found in two different parts of Title 43. To avoid a possible loss of ten percent of federal-aid highway funds allocated to Colorado, several changes in state statutes are required to bring said statutes into conformity with recent changes in the Federal Highway Beautification Act of 1965.

The committee recommends Bill 42 which is a complete rewrite of the Outdoor Advertising Act. Under provisions of Bill 42, the Outdoor Advertising Act will be reconstituted into a single statute.

Section 43-1-404 of the bill will allow the erection and maintenance of advertising devices located within areas which are zoned for industrial or commercial uses.

Bill 42 will revise the permit fee structure for erection and maintenance of advertising devices by providing that each application for a permit (valid for one year) shall be accompanied by payment of twenty cents per square foot of face area of the device. The current permit fee is \$5 for each advertising device. Regarding renewal of permits, if no application is received by December 31 of each year and the Department of Highways has given notice to the applicant to apply for renewal, then the department may remove the advertising device.

The bill states that no permit renewal from the Department of Highways will be required for any advertising device erected in an area zoned for commercial or industrial use so long as the zoning regulations of the local governmental entity are at least as strict as the regulations promulgated by the Department.

Lengthy procedures which now have to be followed for billboard removal will be curtailed considerably under provisions of Bill 42. The bill specifies that when an advertising device shall be conclusively presumed to be abandoned, the Department of Highways will be allowed to remove the advertising device.

Section 43-1-416 of the bill will authorize employees of the Department of Highways to enter into and upon any land upon which advertising devices are located for all purposes required by the Outdoor Advertising Act. Such employees are required, however, to make all "reasonable efforts" to obtain permission from the landowner or tenant of the land prior to entry on the land.

The current Outdoor Advertising Act has several penalty sections for various violations of the Act. Bill 42 will combine in one section all of the penalty provisions. The bill will provide that violators of any part of the Outdoor Advertising Act are guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$1,000 for each offense. Each day of violations of provisions of the Act will constitute a separate offense.

## Committee Conclusions -- Highway Finance

Representatives of the Department of Highways presented to the committee a considerable amount of information regarding the status of the Highway Users Tax Fund and the condition of Colorado's highways. The motor fuel tax has been unable to keep pace with inflation. The cost of repairing highways is going up about 15 percent a year. Partly because cars are getting better gasoline mileage than they used to, receipts from the gasoline tax are growing only 5 percent a year. The Department of Highways indicated that they estimate a budget shortfall in state funds totaling nearly \$20 million in fiscal year 1978-1979, and it is estimated that the shortfall will be nearly \$23 million in 1979-1980. The committee has concluded that there is not enough money to do essential maintenance on highways.

The committee offers for consideration by the General Assembly three possible remedies to overcome the budget shortfall for highway maintenance: (1) credit to the Highway Users Tax Fund, instead of the General Fund, a portion of the state sales and use tax attributable to sales or use of vehicles and related items (Bill 43); (2) increase the 7 cents per gallon motor fuel tax to 9 cents per gallon (Bill 44); and (3) change the motor fuel tax from cents per gallon to a percentage of fuel price converted to cents per gallon at the pump (Bill 45). Although these are options for providing needed revenue to the Department of Highways they should not be considered mutually exclusive nor should they be considered the only possible approaches. Testimony indicated that reduction of off-the-top appropriations from the Highway Users Tax Fund would also be a method to provide the Highway Department with additional revenue. The committee does not wish to prioritize the three bills. Rather, the committee recommends that all three bills be given equal consideration by the 1979 Session of the General Assembly.

### Transfer of Certain Sales and Use Tax Proceeds to the Highway Users Tax Fund -- Bill 43

To generate additional revenue for the Highway Users Tax Fund (HUTF), Bill 43 will provide for a transfer, phased in over a ten year period, of the proceeds of "sales and use taxes attributable to sales or use of vehicles and related items" from the General Fund to the HUTF. This gradual transfer of funds would begin July 1, 1979 and continue through June 30, 1987, at which time the transfer should be completed. Bill 43 will designate the percentage of such sales and use taxes which will remain in the General Fund for each fiscal year from July 1, 1979 through June 30, 1987.

The phrase "sales or use taxes attributable to sales or use of vehicles and related items" is defined in the bill as the revenue raised from the state sales and use taxes imposed on the sales or use of any new or used motor vehicles, including motor homes, motor vehicle batteries, tires, parts, accessories, utility trailers, camper coaches, or camper trailers.

Increasing the Tax Imposed on Motor Fuel and Special Fuel -- Bill 44

Bill 44 will require a 2-cent increase in the state 7-cent motor fuel tax. The 2-cent increase will generate over \$32 million additional highway revenue. The bill will require a distribution of the new fuel tax money of 60 percent for the state, 20 percent for cities, and 20 percent for counties. The distribution of revenue from the existing 7-cent motor fuel tax will remain unchanged.

Providing For Use of a Percentage of the Weighted Average Price Converted to Cents Per Gallon to Compute Motor Fuel and Special Fuel Taxes -- Bill 45

Bill 45 will provide a change in the basis for computing the tax imposed on motor fuel and on special fuel from gallonage only to a percentage of the weighted average retail price converted to cents-per-gallon. The bill defines "weighted average retail sales price of motor vehicle fuel" as the average retail sales price excluding any federal excise tax of the several grades of motor vehicle fuel sold by service stations throughout Colorado weighted to reflect the quantities sold at each different price.

The bill will require the Department of Revenue to determine the weighted average retail sales price of motor fuel by statewide sampling and survey techniques designed to reflect such prices for the seventh month of each fiscal year. The bill will provide that for the first fiscal year and each succeeding fiscal year, the motor fuel tax shall not be less than nine cents per gallon. The maximum fuel tax in any fiscal year will be twelve cents per gallon.

COMMITTEE ON TRANSPORTATION

BILL 33

A BILL FOR AN ACT

1 CONCERNING THE REVIEW AND EVALUATION OF ENERGY FORECASTING OF  
2 ELECTRIC AND GAS PUBLIC UTILITIES BY THE PUBLIC UTILITIES  
3 COMMISSION, AND MAKING AN APPROPRIATION THEREFOR.

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Bill Summary

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

Provides that the public utilities commission shall perform a review and evaluation of all Colorado natural gas and electric utilities' energy forecasts, forecasting methodologies, and construction plans and submit a report every two years on the review and evaluation to the governor and to the general assembly. Also requires each electric and gas public utility under its jurisdiction to submit a long-range energy forecast and plan to the commission every two years, plus amendments to such plans and forecasts as they are adopted by the utility.

---

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

5 SECTION 1. Article 2 of title 40, Colorado Revised Statutes  
6 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to  
7 read:

8 40-2-118. Comprehensive energy report. (1) Beginning  
9 December 1, 1981, and every two years thereafter, the commission  
10 shall transmit to the governor and to the general assembly a  
11 comprehensive energy report on electricity and natural gas

1 projections for use within Colorado. The purpose of the  
2 comprehensive energy report shall be to identify trends relating  
3 to energy supply, demand, and conservation in order to assist the  
4 commission, the governor, and the general assembly in taking  
5 appropriate action to efficiently and economically meet the  
6 state's energy requirements.

7 (2) The comprehensive energy report shall include:

8 (a) The commission's independent review and evaluation of  
9 energy forecasts, forecasting methodologies, and construction  
10 plans of all Colorado natural gas and electric public utilities  
11 under its jurisdiction, including comments and recommendations  
12 thereon;

13 (b) The commission's estimate of future statewide electric  
14 and natural gas energy demand within its jurisdiction, based on  
15 its review and evaluation of utility forecasts;

16 (c) A specification of those cost-effective energy  
17 conservation measures which are required by statute or by  
18 commission order, the energy savings resulting therefrom, and, to  
19 the extent possible, those conservation measures which the  
20 commission intends to investigate; and

21 (d) Recommendations by the commission for legislative or  
22 administrative action relating to energy or public utilities.

23 (3) In preparing its energy report, the commission shall  
24 independently review and evaluate the energy forecasts,  
25 forecasting methodologies, and projected construction and  
26 financial plans of each electric and gas public utility submitted

1 pursuant to subsection (4) of this section. The commission shall  
2 set forth its findings and conclusions regarding the accuracy and  
3 acceptability of the utilities' forecasts. The commission's  
4 review and evaluation and its comprehensive energy report shall  
5 include:

6 (a) Increases in energy demand brought about by increased  
7 population and economic growth and the impact on energy demand of  
8 other socioeconomic factors;

9 (b) The availability of energy and other resources;

10 (c) The long-term stability of utility costs to consumers;

11 (d) The costs and feasibility of projected utility plans  
12 and forecasts and the costs and feasibility of alternative  
13 methods for meeting energy requirements; and

14 (e) The impact on demand of energy conservation, new  
15 technologies, and increased efficiency of utility operations and  
16 facilities.

17 (4) To facilitate the commission in preparing its  
18 comprehensive energy report required by this section:

19 (a) Each electric and gas public utility under the  
20 jurisdiction of the commission shall submit biennially to the  
21 commission a ten-year energy forecast for the utility's service  
22 area, forecasting methodologies, and construction and financial  
23 plans for meeting the projected demands. Such forecasts,  
24 forecasting methodologies, and plans, together with such  
25 sufficient number of copies as the commission may require, shall  
26 be submitted in a manner and at a time to be prescribed by the

1 commission. Whenever an electric or gas public utility adopts  
2 changes in forecasts, forecasting methodologies, or plans  
3 submitted to the commission pursuant to this subsection (4), it  
4 shall report such amendments to the commission in a manner to be  
5 prescribed by the commission. A report submitted by a  
6 cooperative electric association to the federal government may be  
7 submitted to the commission and shall be accepted in lieu of said  
8 forecasts, forecasting methodologies, plans, and costs.

9 (b) The Colorado energy research institute shall develop  
10 the techniques, methods, and models to be used by the commission  
11 in receiving and evaluating the reports submitted by the  
12 utilities.

13 (5) This section shall be repealed, effective March 1,  
14 1984.

15 SECTION 2. Appropriation. There is hereby appropriated,  
16 out of any moneys in the public utilities commission fixed  
17 utility fund not otherwise appropriated, to the department of  
18 regulatory agencies for allocation to the public utilities  
19 commission, for the fiscal year beginning July 1, 1979, the sum  
20 of ninety-nine thousand seven hundred dollars (\$99,700), or so  
21 much thereof as may be necessary, for the implementation of this  
22 act.

23 SECTION 3. Safety clause. The general assembly hereby  
24 finds, determines, and declares that this act is necessary for  
25 the immediate preservation of the public peace, health, and  
26 safety.



COMMITTEE ON TRANSPORTATION

BILL 34

A BILL FOR AN ACT

1 CONCERNING THE POWERS AND DUTIES OF THE STATE HIGHWAY COMMISSION.

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Bill Summary

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

Specifies powers and duties of the state highway commission in addition to others prescribed by law and includes in this section some powers and duties authorized in other sections of the statutes.

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

3 SECTION 1. 43-1-105, Colorado Revised Statutes 1973, is  
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 43-1-105. Powers and duties of the commission. (1) In  
6 addition to all other powers and duties prescribed by law, the  
7 commission has the following powers and duties:

8 (a) To formulate the general policy with respect to the  
9 management, construction, and maintenance of public highways in  
10 the state and, in that capacity, to receive delegations,  
11 including county commissioners and elected members of the  
12 governing body of any city, town, or city and county interested  
13 therein;

1           (b) To make such studies as it deems necessary to guide the  
2 executive director of the state department of highways concerning  
3 the highway needs of the state;

4           (c) To prescribe the administrative practices to be  
5 followed by the executive director of the state department of  
6 highways in the performance of any duty imposed on him by law;

7           (d) To advise and make recommendations to the executive  
8 director of the state department of highways, the governor, and  
9 the general assembly relative to the highway policy of the state;

10          (e) To require the executive director of the state  
11 department of highways to furnish whatever reports, statistics,  
12 information, or assistance it may request in studying any  
13 particular highway problem or with respect to the operation of  
14 the state department of highways generally and to direct said  
15 executive director of the state department of highways to  
16 implement its policies and priorities;

17          (f) To review and approve all budgets of the state  
18 department of highways and all state highway programs, including  
19 priorities for programs and projects, prepared in accordance with  
20 section 43-1-111 and to approve extensions of state highways and  
21 abandonments of state highways and portions thereof within the  
22 state highway system;

23          (g) To make all necessary and reasonable orders, rules, and  
24 regulations in order to carry out its statutory responsibilities,  
25 duties, and functions but not inconsistent therewith, but nothing  
26 in this section shall be deemed or construed to give the

1 commission or any member thereof the power to direct any officer  
2 or employee unless such direction is ordered by the executive  
3 director of the state department of highways pursuant to law;

4 (h) To act as consultants for and to provide such services  
5 and information to the boards of county commissioners and elected  
6 members of the governing body of any city, town, or city and  
7 county as are deemed beneficial to the state of Colorado;

8 (i) To do all other things necessary and appropriate with  
9 respect to the construction, improvement, and maintenance of the  
10 state highways;

11 (j) To approve the establishment, opening, relocation,  
12 widening, alteration, or abandonment of any portion of a state  
13 highway;

14 (k) To approve the terms and conditions for the sale or  
15 exchange of property no longer needed for state highway purposes;

16 (l) To approve the designation of any portion of a state  
17 highway to be a controlled-access highway, as defined in section  
18 42-1-102 (13);

19 (m) To approve the issuance of bonds under the provisions  
20 of part 2 of article 3 of this title; approve applications for  
21 and receipt of funds and the issuance of revenue anticipation  
22 warrants therefor under the provisions of part 4 of article 3 and  
23 part 3 of article 4 of this title; approve the construction,  
24 maintenance, and operation of toll tunnels, and contracts  
25 therefor, under part 4 of article 3 of this title; approve the  
26 issuance of revenue anticipation bonds under the provisions of

1 part 1 of article 4 of this title; and approve the exercise of  
2 the additional powers concerning refunding bonds and warrants set  
3 forth in sections 43-3-216 and 43-4-316;

4 (n) To require the heads of all principal departments whose  
5 budgets include moneys from the highway users tax fund to furnish  
6 whatever reports, statistics, information, or assistance the  
7 commission may require in studying the appropriate expenditure of  
8 such moneys and to review and comment annually on present and  
9 proposed uses of moneys from the highway users tax fund by other  
10 agencies of the state which shall be considered by the governor  
11 and the general assembly prior to allocations and distributions  
12 from said fund;

13 (o) To do those things deemed necessary and appropriate by  
14 the commission with respect to the construction, improvement, and  
15 maintenance of the public roads serving the state parks and  
16 recreation areas and, to this end, to cooperate with the board of  
17 parks and outdoor recreation and the director of the division of  
18 parks and outdoor recreation;

19 (p) To do those things deemed necessary and appropriate by  
20 the commission with respect to the construction, maintenance, and  
21 improvement of recreational trails along and across new or  
22 existing state highways and, to this end, to cooperate with the  
23 board of parks and outdoor recreation and the director of the  
24 division of parks and outdoor recreation and other concerned  
25 state and federal agencies;

26 (q) To approve the designation of any state highway

1 right-of-way or area adjacent thereto under the control of the  
2 state department of highways for use by other forms of  
3 transportation facilities and modes of transportation;

4 (r) To exercise those powers and responsibilities  
5 concerning the regulation of traffic which are required of the  
6 commission in title 42, C.R.S. 1973.

7 (2) The commission shall act only by resolution adopted at  
8 a duly called meeting of the commission, and no individual member  
9 of the commission shall exercise individually any administrative  
10 authority with respect to the state department of highways.

11 SECTION 2. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary for  
13 the immediate preservation of the public peace, health, and  
14 safety.

COMMITTEE ON TRANSPORTATION

BILL 35

A BILL FOR AN ACT

1 CONCERNING LEGAL SERVICES FOR THE STATE DEPARTMENT OF HIGHWAYS.

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Bill Summary

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

Consolidates legal services for the state department of highways into one section. Repeals unnecessary parallel provision.

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

3 SECTION 1. 43-1-108, Colorado Revised Statutes 1973, is  
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 43-1-108. Legal services. (1) The attorney general shall  
6 provide legal services for the state department of highways,  
7 including the commission.

8 (2) The executive director shall cause the attorney general  
9 to bring and prosecute for and defend on behalf of and in the  
10 name of the state department of highways, or any of its divisions  
11 suits and proceedings:

12 (a) To acquire rights-of-way and other property for the  
13 state department of highways as provided by law for highway

1 purposes;

2 (b) To recover damages to property of the state department  
3 of highways;

4 (c) To enforce or recover damages for the breach of  
5 contracts entered into by the state department of highways;

6 (d) To quiet title to or to recover real or personal  
7 property or any interest or right therein;

8 (e) For any other purpose necessary and proper for carrying  
9 out the functions of the state department of highways.

10 SECTION 2. Repeal. 43-1-206, Colorado Revised Statutes  
11 1973, is repealed.

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

COMMITTEE ON TRANSPORTATION

BILL 36

A BILL FOR AN ACT

1 CONCERNING THE STATE HIGHWAY SUPPLEMENTARY FUND.

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Bill Summary

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

Provides that moneys in the state highway supplementary fund shall be available to the state department of highways for general purposes.

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

3 SECTION 1. The introductory portion to 43-4-206 (1) (b),  
4 Colorado Revised Statutes 1973, is amended to read:

5 43-4-206. State allocation. (1) (b) All moneys in the  
6 state highway fund not required for the creation, maintenance,  
7 and application of such highway anticipation or sinking fund AND  
8 ALL MONEYS IN THE STATE HIGHWAY SUPPLEMENTARY FUND shall be  
9 available to pay for:

10 SECTION 2. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.



COMMITTEE ON TRANSPORTATION

BILL 37

A BILL FOR AN ACT

1 CONCERNING THE FILING DATES FOR THE CONSTRUCTION BUDGET FOR THE  
2 STATE DEPARTMENT OF HIGHWAYS.

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Bill Summary

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

Allows that portion of the budget for construction projects to be submitted to the governor as long as sixty days after receipt of notification of federal highway fund apportionments for the ensuing federal fiscal year.

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3 Be it enacted by the General Assembly of the State of Colorado:  
4 SECTION 1. 43-1-111 (4) and (7), Colorado Revised Statutes  
5 1973, are amended to read:  
6 43-1-111. Funds - budgets - fiscal year - reports and  
7 publications. (4) The budget in its prepared form shall be  
8 submitted to the governor for approval and to the controller on  
9 or before June 1 of each year, EXCEPT FOR THAT PORTION OF THE  
10 BUDGET FOR CONSTRUCTION PROJECTS WHICH SHALL BE SUBMITTED AS SOON  
11 AS PRACTICABLE BUT NOT LATER THAN SIXTY DAYS AFTER RECEIPT OF  
12 NOTIFICATION OF FEDERAL HIGHWAY FUND APPORTIONMENTS FOR THE

1       ENSUING FEDERAL FISCAL YEAR.

2           (7) The fiscal year of the division STATE DEPARTMENT OF  
3       HIGHWAYS shall commence on July 1 and end on June 30 of each  
4       year. ~~Commencing-with-the-year-1953~~; The annual budget is to be  
5       prepared ADOPTED by the state highway commission on or before  
6       June 1 of each year for the ensuing fiscal year, EXCEPT FOR THAT  
7       PORTION OF THE BUDGET FOR CONSTRUCTION PROJECTS WHICH SHALL BE  
8       PREPARED AS SOON AS PRACTICABLE BUT NOT LATER THAN SIXTY DAYS  
9       AFTER RECEIPT OF NOTIFICATION OF FEDERAL HIGHWAY FUND  
10       APPORTIONMENTS FOR THE ENSUING FEDERAL FISCAL YEAR.

11           SECTION 2. Safety clause. The general assembly hereby  
12       finds, determines, and declares that this act is necessary for  
13       the immediate preservation of the public peace, health, and  
14       safety.

COMMITTEE ON TRANSPORTATION

BILL 38

A BILL FOR AN ACT

1 CONCERNING REQUESTS BY COUNTIES AND MUNICIPALITIES FOR THE  
2 CONSTRUCTION OF ROADS AND STREETS.

---

Bill Summary

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

Clarifies the procedure by which the state department of highways designates which streets are part of the state highway system. Allows boards of county commissioners and local governing authorities to submit priorities to the state highway commission for the construction of roads and streets on the state highway system. Repeals the use of a highway sufficiency rating method to establish such priorities.

---

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

4 SECTION 1. 43-2-134, Colorado Revised Statutes 1973, is  
5 amended to read:

6 43-2-134. Certification of designations - notice of  
7 change. (1) Within thirty days after December 31, 1953 1979, the  
8 STATE department of highways shall certify by brief description  
9 in duplicate to the ~~city-council--or--local--governing--authority~~  
10 GOVERNING BODY and to the clerk of each ~~city;-city-and-county;~~  
11 ~~and-incorporated-town~~ MUNICIPALITY, which streets, together with

1 the bridges or other structures thereon, if any, in such city;  
2 city-and-county;-or-incorporated-town MUNICIPALITY are presently  
3 designated as part of the state highway system as defined in this  
4 part 1.

5 (2) ~~Annually;--on--or--before--September--first;--in--succeeding~~  
6 ~~years;--the--state--department--of--highways--shall--make--similar~~  
7 ~~certifications~~ THEREAFTER, THE STATE DEPARTMENT OF HIGHWAYS SHALL  
8 INFORM EACH MUNICIPALITY OF ANY CHANGES IN DESIGNATION THAT HAS  
9 OCCURRED WITHIN ITS JURISDICTION NOT LATER THAN SIXTY WORKING  
10 DAYS AFTER THE CHANGE.

11 (3) No change shall be made in the designation of such  
12 street as a part of the state highway system without prior notice  
13 to the city;-city-and-county;-or-incorporated-town MUNICIPALITY  
14 and without opportunity for hearing before the state--highway  
15 commission.

16 SECTION 2. 43-2-137, Colorado Revised Statutes 1973, is  
17 amended to read:

18 43-2-137. Counties submit priorities - instructions. The  
19 boards of county commissioners of the various counties AND CITIES  
20 AND COUNTIES in Colorado shall annually submit to the state  
21 highway commission priorities for the construction of roads AND  
22 streets and--highways--under--their--specific-jurisdiction;--The  
23 ~~counties-may-use-a-highway-sufficiency-rating-method--similar--to~~  
24 ~~that--employed--by-the-state-department-of-highways-and-described~~  
25 ~~in--section--43-2-136;--for--the--purpose--of--establishing--such~~  
26 ~~priorities;--The--state--department-of-highways;--upon-request-of~~

1 the-counties;-shall-furnish-detailed-instructions--regarding--the  
2 performance-of-such-studies-and-their-use-in-the-establishment-of  
3 priorities--for-construction-and-keep-the-counties-informed-as-to  
4 the-latest-developments--and--techniques--regarding--same WITHIN  
5 THEIR SPECIFIC JURISDICTION ON THE STATE HIGHWAY SYSTEM, PLUS ALL  
6 PROPOSED PROJECTS NOT A PART OF THE STATE HIGHWAY SYSTEM BUT  
7 UTILIZING FEDERAL FUNDING. FOR PURPOSES OF THIS SECTION AND  
8 SECTION 43-2-138, THE CITY AND COUNTY OF DENVER SHALL BE  
9 CONSIDERED A COUNTY.

10 SECTION 3. 43-2-138, Colorado Revised Statutes 1973, is  
11 amended to read:

12 43-2-138. Municipalities submit priorities - instructions.  
13 The city council or local governing authority of each  
14 incorporated place situated in Colorado shall ANNUALLY submit to  
15 the state-highway commission, DIRECTLY OR THROUGH THE BOARD OF  
16 COUNTY COMMISSIONERS, priorities for the construction of roads  
17 AND streets and-highways-under-their-specific-jurisdiction:--The  
18 cities--may--use--a--highway-sufficiency-rating-method-similar-to  
19 that-employed-by--the--division--of--highways--and--described--in  
20 section-43-2-136-for-the-purpose-of-establishing-such-priorities:  
21 The--division--of--highways;--upon-request-of-the-city-officials;  
22 shall-furnish-detailed-instructions-regarding-the-performance--of  
23 such-studies-and-their-use-in-the-establishment-of-priorities-for  
24 construction--and--keep--the--cities--informed--as--to-the-latest  
25 developments-and-techniques-regarding-same WITHIN ITS SPECIFIC  
26 JURISDICTION ON THE STATE HIGHWAY SYSTEM, PLUS ALL PROPOSED

1 PROJECTS NOT A PART OF THE STATE HIGHWAY SYSTEM BUT UTILIZING  
2 FEDERAL FUNDING.

3 SECTION 4. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary for  
5 the immediate preservation of the public peace, health, and  
6 safety.

COMMITTEE ON TRANSPORTATION

BILL 39

A BILL FOR AN ACT

1 AUTHORIZING AGREEMENTS BETWEEN THE STATE, COUNTIES, AND  
2 MUNICIPALITIES TO SHARE HIGHWAY CONSTRUCTION AND MAINTENANCE  
3 COSTS.

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Bill Summary

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

Authorizes the state highway commission, counties, and municipalities to agree to share construction and maintenance costs of state highways, county roads, and city streets.

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

5 SECTION 1. 43-2-144, Colorado Revised Statutes 1973, is  
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 43-2-144. Intergovernmental highway contracts. (6) The  
8 state highway commission, counties, and municipalities may  
9 mutually agree to share any costs of the construction or  
10 maintenance, or both, of city streets, county roads, and state  
11 highways pursuant to contracts authorized by this section,  
12 notwithstanding any other provisions of law to the contrary.

1           SECTION 2. Safety clause. The general assembly hereby  
2 finds, determines, and declares that this act is necessary for  
3 the immediate preservation of the public peace, health, and  
4 safety.



COMMITTEE ON TRANSPORTATION

BILL 40

A BILL FOR AN ACT

1 CONCERNING THE EFFECTIVE DATE OF REGULATIONS WITH RESPECT TO  
2 STATE HIGHWAYS PROMULGATED BY CITIES, CITIES AND COUNTIES,  
3 AND INCORPORATED TOWNS.

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Bill Summary

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

Provides that any regulation with respect to state highways promulgated by any city, city and county, or incorporated town shall be approved in writing by the state department of highways. Permits such a regulation to become effective within sixty days, if not disapproved by the state department of highways.

---

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

5 SECTION 1. 42-4-108 (1) (e), Colorado Revised Statutes  
6 1973, is amended to read:

7 42-4-108. Provisions uniform throughout state. (1)

8 (e) Pursuant to section 43-2-135 (1) (g), C.R.S. 1973, no  
9 ~~traffic--ordinance--or--resolution~~ REGULATION of A local  
10 ~~authorities~~ AUTHORITY shall apply to or become effective for any  
11 STREETS WHICH ARE state highway HIGHWAYS, including any part of  
12 the national system of interstate and defense highways, until

1 such ordinance-or-resolution REGULATION has been presented to and  
2 approved in writing by the state department of highways; EXCEPT  
3 THAT SUCH REGULATIONS SHALL BECOME EFFECTIVE ON SUCH STREETS  
4 SIXTY DAYS AFTER RECEIPT FOR REVIEW BY THE STATE DEPARTMENT OF  
5 HIGHWAYS IF NOT DISAPPROVED IN WRITING BY SAID DEPARTMENT DURING  
6 THAT SIXTY-DAY PERIOD.

7 SECTION 2. 43-2-135 (1) (g), Colorado Revised Statutes  
8 1973, is amended to read:

9 43-2-135. Division of authority over streets. (1)  
10 (g) Cities, cities and counties, and incorporated towns shall  
11 regulate and enforce all traffic and parking restrictions on such  
12 streets WHICH ARE STATE HIGHWAYS, but all regulations adopted  
13 after December 31, 1953;--are-subject-to-the-approval-of 1979,  
14 SHALL BE APPROVED IN WRITING BY the state department of highways  
15 before becoming effective ON SUCH STREETS, EXCEPT THAT SUCH  
16 REGULATIONS SHALL BECOME EFFECTIVE ON SUCH STREETS SIXTY DAYS  
17 AFTER RECEIPT FOR REVIEW BY THE STATE DEPARTMENT OF HIGHWAYS IF  
18 NOT DISAPPROVED IN WRITING BY SAID DEPARTMENT DURING THAT  
19 SIXTY-DAY PERIOD.

20 SECTION 3. Safety clause. The general assembly hereby  
21 finds, determines, and declares that this act is necessary for  
22 the immediate preservation of the public peace, health, and  
23 safety.

COMMITTEE ON TRANSPORTATION

BILL 41

A BILL FOR AN ACT

1 CONCERNING ACCESS TO AND FROM PUBLIC HIGHWAYS.

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Bill Summary

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

Provides that the state department of highways can regulate vehicular access to or from any public highway. Directs the state highway commission to adopt a state highway access code. Requires an access permit be obtained before constructing a driveway to or from a state highway. Allows for the issuance and revocation of such permits. Defines words used in the section. Repeals inconsistent section regulating driveways.

---

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

3 SECTION 1. Article 2 of title 43, Colorado Revised Statutes  
4 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to  
5 read:

6 43-2-147. Access to public highways. (1) (a) The state  
7 department of highways and local governments are authorized to  
8 regulate vehicular access to or from any public highway from or  
9 to property adjoining a public highway in order to protect the  
10 public health, safety, and welfare, to maintain smooth traffic  
11 flow, to maintain highway right-of-way drainage, and to protect

1 the functional level of public highways. In furtherance of these  
2 purposes, all state highways are hereby declared to be  
3 controlled-access highways, as defined in section 42-1-102 (13),  
4 C.R.S. 1973. Vehicular access to or from property adjoining a  
5 state highway shall be provided to the general street system,  
6 unless such access has been acquired by a public authority.

7 (b) Parcels of land created by the subdivision, sale, or  
8 lease of land shall have no greater right of access than the  
9 original property prior to subdivision, sale, or lease. No  
10 person may submit an application for subdivision approval to a  
11 local authority unless the subdivision plan or plat ensures that  
12 all lots and parcels created by the subdivision will have access  
13 to the state highway system by way of an internal street system.

14 (c) The provisions of this section shall not be deemed to  
15 deny reasonable access to the general street system.

16 (2) The commission shall adopt a state highway access code,  
17 by rule and regulation, for the implementation of this section,  
18 on or before January 1, 1980. The access code shall address the  
19 design and location of driveways and other points of access to  
20 public highways. The access code shall be consistent with the  
21 authority granted in this section and shall be based upon  
22 consideration of existing and projected traffic volumes, the  
23 functional classification of public highways, future  
24 transportation plans and needs, drainage requirements, the  
25 character and use of lands adjoining the highway, adopted land  
26 use plans, the type and volume of traffic to use the driveway,

1 other operational aspects of the driveway, the use or uses of the  
2 property or properties provided access by the driveway, the  
3 availability of vehicular access from local streets and roads  
4 rather than a state highway, and other considerations deemed  
5 reasonably necessary for compliance with this section.

6 (3) (a) After the effective date of the access code, no  
7 person shall construct or maintain any driveway providing  
8 vehicular access to or from any state highway from or to property  
9 adjoining a state highway without an access permit issued by the  
10 appropriate local authority with the written concurrence of the  
11 state department of highways. If the state department of  
12 highways does not act upon such access permit within forty-five  
13 days after notice by the local authority, such permit shall be  
14 deemed valid. Upon written request by a local authority, the  
15 state department of highways shall administer or assist in the  
16 administration of access permits in that jurisdiction. Access  
17 permits shall be issued only in compliance with the access code  
18 and may include terms and conditions authorized by the access  
19 code.

20 (b) The issuing authority shall establish a reasonable  
21 schedule of fees for access permits issued pursuant to the access  
22 code and this section, which fees shall be sufficient to cover  
23 the costs of administration of access permits.

24 (c) Such access permits may be revoked by the issuing  
25 authority if, at any time, the permitted driveway and its use  
26 fail to meet the requirements of this section, the access code,

1 or the terms and conditions of the permit. The state department  
2 of highways may install barriers across or remove any driveway  
3 providing direct access to a state highway which is constructed  
4 without an access permit. When a permitted driveway is  
5 constructed or utilized in violation of the access code, permit  
6 terms and conditions, or this section, either the issuing  
7 authority or the state department of highways or both may obtain  
8 a court order enjoining violation of the access code, permit  
9 terms and conditions, or this section.

10 (4) (a) The provisions of this section shall not apply to  
11 driveways in existence on June 30, 1979, unless specifically  
12 stated otherwise. Driveways constructed between July 1, 1979,  
13 and the effective date of the access code shall comply with the  
14 driveway code adopted by the state department of highways  
15 pursuant to statutory authority prior to July 1, 1979.

16 (b) Reconstruction or relocation of any driveway, whether  
17 constructed before, on, or after June 30, 1979, may be required  
18 by the state department of highways with written concurrence of  
19 the appropriate local authority, either at the property owner's  
20 expense if the reconstruction or relocation is necessitated by a  
21 change in the use of the property or a change in the type of  
22 driveway operation or at the expense of the state department of  
23 highways if the reconstruction or relocation is necessitated by  
24 changes in road or traffic conditions. The necessity for the  
25 relocation or reconstruction shall be determined by reference to  
26 the standards set forth in the access code.

1           (c) Reconstruction or relocation of any driveway, whether  
2 constructed before, on, or after June 30, 1979, also may be  
3 required in conformance with an access control plan for a segment  
4 of highway which has been jointly adopted by the state department  
5 of highways and the appropriate local authority.

6           (d) The state department of highways, with the concurrence  
7 of the appropriate local authority, may close any driveway  
8 providing direct access to a state highway, whether constructed  
9 before, on, or after June 30, 1979, when access to or from such  
10 driveway creates a substantial danger to traffic safety or  
11 operation, as long as reasonable access to and from the property  
12 from and to the general street system can be provided.

13           (e) Reconstruction, relocation, or closure of a driveway  
14 shall be administered in the same manner as the revocation of a  
15 license under the "State Administrative Procedure Act".

16           (5) The boards of county commissioners may, by resolution,  
17 and other local authorities may, in the manner prescribed in  
18 article 16 of title 31, C.R.S. 1973, adopt by reference the state  
19 highway access code, in whole or in part, or may adopt separate  
20 provisions, for application to local roads and streets that are  
21 not a part of the state highway system.

22           (6) As used in this section, unless the context otherwise  
23 requires:

24           (a) "Access control plan" means a roadway design plan which  
25 designates preferred access locations and their designs for the  
26 purpose of bringing those portions of roadway included in the

1 access control plan into conformance with their functional  
2 classification to the extent feasible.

3 (b) "Appropriate local authority" means the board of county  
4 commissioners if the driveway is to be located in the  
5 unincorporated area of a county and the governing body of the  
6 municipality if the driveway is to be located within an  
7 incorporated municipality.

8 (c) "Functional classification" means a classification  
9 system that defines a public roadway according to its purposes in  
10 the local, regional, or statewide transportation plans. The  
11 commission shall determine the functional classification of all  
12 state highways. The functional classification of county roads  
13 and city streets shall be determined by the appropriate local  
14 authority.

15 (d) "General street system" means the interconnecting  
16 network of city streets, county roads, and state highways in an  
17 area.

18 (e) "Issuing authority" means the entity which issues  
19 access permits and includes the board of county commissioners,  
20 the governing body of a municipality, and the state department of  
21 highways.

22 (f) "Local road" means a county road, as provided in  
23 sections 43-2-108 and 43-2-109, and "local street" means a  
24 municipal street, as provided in sections 43-2-123 and 43-2-124.

25 SECTION 2. Repeal. 42-4-115, Colorado Revised Statutes  
26 1973, as amended, is repealed.



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

COMMITTEE ON TRANSPORTATION

BILL 42

A BILL FOR AN ACT

1 PROVIDING FOR THE REGULATION OF OUTDOOR ADVERTISING.

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Bill Summary

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

Rewrites the outdoor advertising act, the principal changes including clarification of language, changes in billboard removal procedures, allowing erection of new advertising devices in areas zoned for commercial or industrial uses without regard to date of zoning, and changes the flat rate permit fee for billboards to a per square foot fee.

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

3 SECTION 1. Part 4 of article 1 of title 43, Colorado  
4 Revised Statutes 1973, as amended, is REPEALED AND REENACTED,  
5 WITH AMENDMENTS, to read:

6 PART 4

7 ROADSIDE ADVERTISING

8 43-1-401. Short title. This part 4 shall be known and may  
9 be cited as the "Outdoor Advertising Act".

10 43-1-402. Legislative declaration. (1) It is declared to  
11 be the purpose of the general assembly in the passage of this  
12 part 4 that the state of Colorado place itself in a position to

1 receive its full share of funds to be apportioned by the congress  
2 of the United States for expenditures on federal-aid highways in  
3 this state and to control the existing and future use and  
4 maintenance of advertising devices in areas adjacent to the state  
5 highway system in order to protect the public investment in such  
6 highways; to promote the safety and recreational value of public  
7 travel; to promote public pride and public spirit, both on a  
8 statewide and local basis; to attract to this state tourists and  
9 other travelers with a view toward broadening the economic  
10 well-being and general welfare; and to preserve and enhance the  
11 natural and scenic beauty of this state.

12 (2) The general assembly also finds and declares it to be  
13 the policy of this state that tourist and other businesses of  
14 interest to the traveling public are of major importance to the  
15 economic well-being of this state and that tourist-related  
16 advertising devices providing information about goods and  
17 services in the interest of the traveling public are essential to  
18 the economic welfare of such businesses. The general assembly  
19 further finds that the removal of such devices may be harmful to  
20 such businesses and may work a substantial economic hardship in  
21 defined areas of this state where such devices are located.  
22 Further, it is the policy of this state to comply with the  
23 federal highway beautification act and rules and regulations  
24 passed thereunder for exemptions for tourist-related advertising  
25 devices.

26 43-1-403. Definitions. As used in this part 4, unless the

1 context otherwise requires:

2 (1) "Advertising device" means any outdoor sign, display,  
3 device, figure, painting, drawing, message, placard, poster,  
4 billboard, or any other contrivance designed, intended, or used  
5 to advertise or to give information in the nature of advertising  
6 and having the capacity of being visible from the travel way of  
7 any state highway, except any advertising device on a vehicle  
8 using the highway. The term "vehicle using the highway" does not  
9 include any vehicle parked near said highway for advertising  
10 purposes.

11 (2) "Business of outdoor advertising" means the selling of  
12 or being the lessor of any advertising device.

13 (3) "Defined area" means a geographically described  
14 economic area in which tourist-related businesses are located,  
15 which area would suffer substantial economic hardship by the  
16 removal of any tourist-related advertising device providing  
17 directional information about goods and services in the interest  
18 of the traveling public.

19 (4) "Department" means the state department of highways.

20 (5) "Erect" means to construct or allow to be constructed.

21 (6) "Highway" means any road on the state highway system,  
22 as defined in section 43-2-101 (1).

23 (7) "Informational site" means an area established and  
24 maintained within a highway rest area wherein panels for the  
25 display of advertising and informational plaques may be erected  
26 and maintained so as not to be visible from the travel way of any

1 state highway.

2 (8) "Interstate system" means the system of highways as  
3 defined in section 43-2-101 (2).

4 (9) "Maintain" means to preserve, keep in repair, continue,  
5 or replace and advertising device.

6 (10) "Municipality" has the same meaning as defined in  
7 section 31-1-101 (6), C.R.S. 1973.

8 (11) "National policy" means the provisions relating to  
9 control of advertising, signs, displays, and devices adjacent to  
10 the interstate system contained in 23 U.S.C. sec. 131 and the  
11 national standards or regulations promulgated pursuant to such  
12 provisions.

13 (12) "Nonconforming advertising device" means any  
14 advertising device which was lawfully erected and maintained in  
15 accordance with the provisions of this part 4 prior to July 1,  
16 1979, except those advertising devices allowed by section  
17 43-1-404 (1).

18 (13) "On-premise advertising device" means an advertising  
19 device advertising the sale or lease of the property on which it  
20 is located or advertising activities conducted on the property on  
21 which it is located.

22 (14) "Official advertising device" means any advertising  
23 device erected for a public purpose authorized by law, but the  
24 term shall not include devices advertising any private business.

25 (15) "Person" means any individual, corporation,  
26 partnership, association, or organized group of persons, whether

1 incorporated or not, and any government, governmental subdivision  
2 or agency thereof.

3 (16) "Tourist-related advertising device" means any  
4 nonconforming advertising device which provides directional  
5 information about goods and services in the interest of the  
6 traveling public limited to the following: Lodging, campsite,  
7 food service, recreational facility, scenic attraction, gasoline  
8 station or garage.

9 (17) "Visible" means capable of being seen, whether or not  
10 legible, without visual aid by a person of normal acuity.

11 (18) "Would work or suffer a substantial economic hardship"  
12 means tending to cause or causing a significant negative economic  
13 effect, such as a loss of business income, an increase in  
14 unemployment, a reduction in sales taxes or other revenue to the  
15 state or other governmental entity, a reduction in real estate  
16 taxes to the county, and other significant negative economic  
17 factors.

18 43-1-404. Advertising devices allowed - exception. (1)  
19 The following advertising devices as defined in section 43-1-403  
20 may be erected and maintained when in compliance with all  
21 provisions of this part 4 and rules and regulations adopted by  
22 the department:

23 (a) Official advertising devices;

24 (b) On-premises advertising devices;

25 (c) Advertising devices located within areas which are  
26 zoned for industrial or commercial uses under zoning adopted

1 pursuant to law. However, advertising devices may not be allowed  
2 in areas zoned for industrial or commercial purposes if such  
3 zoning classification is created primarily to permit outdoor  
4 advertising devices or is inconsistent with the purposes of this  
5 part 4.

6 (2) Nonconforming advertising devices in compliance with  
7 this part 4 and the rules and regulations adopted by the  
8 department pursuant to this part 4 may be maintained.

9 (3) Nothing in this section shall be construed to allow  
10 advertising devices which are prohibited in bonus areas adjacent  
11 to the interstate system as provided for in section 43-1-406.

12 (4) Notwithstanding paragraph (c) of subsection (1) of this  
13 section, any advertising device which is more than six hundred  
14 sixty feet off the nearest edge of the right-of-way, located  
15 outside urbanized areas as such areas are defined in 23 U.S.C.  
16 sec. 101, and which is visible from the roadway of the interstate  
17 or federal aid primary system and erected with the purpose of its  
18 message being read from such roadway is prohibited. Advertising  
19 devices beyond six hundred sixty feet of the right-of-way which  
20 were lawfully erected under state law prior to January 4, 1975,  
21 shall be compensated for and removed pursuant to this part 4.

22 43-1-405. Informational sites authorized. (1) (a) The  
23 department may erect, administer, and maintain informational  
24 sites for the display of advertising and information of interest  
25 to the traveling public, provided the lease fees are sufficient  
26 to pay the costs of erecting, administering, and maintaining the

1 sites.

2 (b) The department may issue leases for plaques in  
3 informational sites.

4 (c) Leases shall be issued for a period of one year,  
5 beginning each January 1, without proration for periods less than  
6 a year. Each application for an initial lease or for a renewal  
7 of an existing lease shall be accompanied by a fee determined by  
8 the department, not to exceed one hundred dollars.

9 (2) The department may enter into agreements with any  
10 governmental entity to lease land in rest areas for the  
11 construction, maintenance, and administration of information  
12 sites.

13 43-1-406. Bonus areas. (1) No person shall erect or  
14 maintain or allow to be erected or maintained any advertising  
15 device within bonus areas.

16 (2) As used in this section:

17 (a) "Acquired for right-of-way" means acquired for  
18 right-of-way for any public road by the state, a county, a city,  
19 or any other political subdivision of the state by donation,  
20 dedication, purchase, condemnation, use, or any other means. The  
21 date of acquisition shall be the date upon which title, whether  
22 fee title or a lesser interest, vested in the public for  
23 right-of-way purposes under applicable state law.

24 (b) "Center line of the highway" means a line equidistant  
25 from the edges of the median separating the main-traveled ways of  
26 a divided interstate highway or the center line of the



1 main-traveled way of a nondivided interstate highway.

2 (c) "Bonus areas" means any portion of the area within 660  
3 feet of the nearest edge of the right-of-way of any portion of  
4 the federal interstate system of highways which is constructed  
5 upon any part of right-of-way, the entire width of which is  
6 acquired for right-of-way after July 1, 1956. A portion shall be  
7 deemed so constructed if, within such portion, no line normal or  
8 perpendicular to the center line of the highway and extending to  
9 both edges of the right-of-way will intersect any right-of-way  
10 acquired for right-of-way on or before July 1, 1956. Bonus areas  
11 do not include:

12 (I) Kerr areas, which are segments of the interstate system  
13 which traverse commercial or industrial zones within the  
14 boundaries of incorporated municipalities, as such boundaries  
15 existed on September 21, 1959, wherein the use of real property  
16 adjacent to the interstate system is subject to municipal  
17 regulation or control, or which traverse other areas where the  
18 use of land as of September 21, 1959, was clearly established by  
19 state law as industrial or commercial. Signs in Kerr areas are  
20 subject to size, lighting, and spacing requirements.

21 (II) Cotton areas, which are areas adjacent to the  
22 interstate system where any part of the highway right-of-way was  
23 acquired prior to July 1, 1956. Signs in Cotton areas are  
24 prohibited unless such areas are zoned commercial or industrial.  
25 Signs in Cotton areas are subject to size, lighting, and spacing  
26 requirements.

1           (3) A map illustrating the bonus areas shall be maintained  
2 for public inspection at reasonable hours in the offices of the  
3 department.

4           (4) The department may remove all advertising devices  
5 within bonus areas and may acquire with state funds all real and  
6 personal property rights pertaining to advertising devices by  
7 gift, purchase, agreement, exchange, or eminent domain. Just  
8 compensation shall be paid to the owner of the advertising device  
9 for the taking of all right, title, leasehold, and interest in  
10 the advertising device and to the owner of the real property on  
11 which the advertising device is located for the taking of the  
12 right to erect and maintain the device if the advertising device  
13 was lawfully erected.

14           (5) The following shall be exempt from the provisions of  
15 this section but shall in all respects comply with applicable  
16 rules and regulations issued by the department:

- 17           (a) On-premises advertising devices;
- 18           (b) Advertising devices located in a Kerr area;
- 19           (c) Advertising devices located in a Cotton area;
- 20           (d) Official advertising devices.

21           43-1-407. Licenses. (1) No person shall engage or continue  
22 in the business of outdoor advertising by the erection and  
23 maintenance of advertising devices for which permits are required  
24 under this part 4, without first obtaining a license therefor  
25 from the department. The license fee shall be payable annually  
26 in advance, in the amount of one hundred fifty dollars. Such

1 license shall expire on June 30 of each year, and the license fee  
2 shall not be prorated for a part of a year. Application for such  
3 license or a renewal thereof shall be made upon forms provided by  
4 the department and shall state the name and address of the  
5 applicant and of the officers and directors of a corporate  
6 applicant and such other information as will enable the  
7 department to administer this part 4. Such application shall be  
8 verified under oath of the applicant or its officer or agent.  
9 Applications for renewal of a license shall be filed with the  
10 department on or prior to June 1, preceding the expiration date.

11 (2) In the event an application for renewal of a license  
12 and accompanying fee are not filed with the department on or  
13 prior to June 1 preceding the expiration date, the licensee shall  
14 pay an additional fee of one hundred dollars for each month or  
15 portion thereof after June 1, but in no event shall an  
16 application for renewal be accepted after September 1 of the year  
17 of expiration.

18 (3) (a) No license to engage or to continue in the business  
19 of outdoor advertising shall be granted to any person until such  
20 person files with the department a bond payable to the state of  
21 Colorado and with a surety approved by the department, in  
22 accordance with the following schedule:

23	1 through 10 signs	\$ 500.00
24	11 through 50 signs	\$2,000.00
25	51 or more signs	\$2,500.00

26 (b) Such bonds shall be conditioned upon the licensee

1 observing and fulfilling all applicable provisions of this part  
2 4, and upon default thereof of any such provision the department  
3 may enforce the collection of such bond in any court of competent  
4 jurisdiction. The bond shall remain in full force and effect so  
5 long as any obligation of such licensee to the state remains  
6 unsatisfied.

7 (4) A person erecting signs advertising his own business,  
8 products, or profession on his own premises shall not be  
9 considered as engaged in the business of outdoor advertising and  
10 shall not be required to obtain a license or to post a bond.

11 (5) After thirty days' notice in writing by certified or  
12 registered mail to the person applying for a license or to a  
13 person having been issued a license, specifying in what respect  
14 he is in violation of this section, the department may proceed in  
15 court as provided in subsection (6) of this section for the  
16 removal of all of the licensee's or prospective licensee's  
17 advertising devices for which permits are required, when it finds  
18 that any information required to be given in the application for  
19 such license is incorrect, false, or misleading, unless such  
20 licensee or prospective licensee shall before the expiration of  
21 such thirty days correct such incorrect, false, or misleading  
22 information.

23 (6) If a license is not applied for or renewed according to  
24 this section, the department shall give written notice by  
25 certified or registered mail to the person engaged in the  
26 business of outdoor advertising, specifying such failure as a

1 violation of this part 4 and ordering him to apply for a license  
2 or renewal within thirty days. If said person fails to comply  
3 with the order within thirty days after receipt of the notice,  
4 the department may proceed in a district court for the county in  
5 which any of the advertising devices owned by said person are  
6 located or where such person is engaged in the business of  
7 outdoor advertising for the removal of all advertising devices  
8 owned by said person for which permits are required under this  
9 part 4.

10 43-1-408. Permits. (1) A permit from the department shall  
11 be required only for the erection or maintenance of the following  
12 advertising devices:

13 (a) Each nonconforming advertising device as defined in  
14 section 43-1-403;

15 (b) Each off-premises advertising device located within  
16 areas zoned for commercial or industrial use under authority of  
17 state law as defined in section 43-1-404 (1) (c). Renewals of  
18 such permits are subject to the provisions of section 43-1-410  
19 (2) (b).

20 43-1-409. Application for permit - contents.

21 (1) Application for a permit for each advertising device shall  
22 be made on a form provided by the department, shall be signed by  
23 the applicant or his duly authorized officer or agent, and shall  
24 show:

25 (a) The name and address of the owner of the advertising  
26 device;

1 (b) The type, location, and dimensions of the advertising  
2 device, and such other pertinent information as may be  
3 prescribed;

4 (c) The name and address of the lessor of property upon  
5 which the device has been or will be located and a copy of the  
6 lease agreement or letter of consent;

7 (d) The year in which the advertising device was erected;

8 (e) An agreement by the applicant to erect and maintain the  
9 advertising device in a safe, sound, and good condition;

10 (f) (I) Certification from the local zoning administrator  
11 or authority that the advertising device conforms to local zoning  
12 requirements or a copy of a local government permit for the  
13 device and for all devices erected after July 1, 1979.

14 (II) For devices erected prior to July 1, 1979, an  
15 affidavit from the sign owner that the advertising device was  
16 lawfully erected under local law.

17 43-1-410. Permit term - renewal - fees. (1) (a) Permits  
18 shall be issued for a period of one year commencing each January  
19 1, without proration for periods less than a year.

20 (b) Each application for a permit shall be accompanied by a  
21 permit fee of twenty cents per square foot of face area on the  
22 advertising device.

23 (2) (a) Application for renewal of permits shall be made  
24 before December 1 of each year. If no application for renewal is  
25 received by December 31, the department will give notice by  
26 certified mail to the permit holder to apply for a renewal and

1 pay an additional late fee of fifty dollars or remove the  
2 advertising device within thirty days. If the permit holder  
3 fails to apply for a renewal and remit the required fees or  
4 remove said device within the thirty days, the department may  
5 remove such device forthwith.

6 (b) No permit renewal from the department shall be required  
7 for any advertising device erected in an area zoned for  
8 commercial or industrial use where such area has been zoned by a  
9 city, county, city and county, or town which has certified to the  
10 department that its zoning regulations include the regulation of  
11 size, lighting, and spacing of advertising devices in all areas  
12 zoned for commercial or industrial uses and that such zoning  
13 regulations are at least as restrictive as the standards  
14 established by rules and regulations adopted by the department.  
15 The certification from the city, county, city and county, or town  
16 shall include an agreement that it will enforce its zoning  
17 regulations of such size, lighting, and spacing. If the  
18 department determines that the city, county, city and county, or  
19 town has failed to enforce size, lighting, and spacing standards  
20 in accordance with its certification, the department may rescind  
21 the certification and give notice by certified mail to each  
22 permit holder to apply for a renewal of its permit within thirty  
23 days and remit the annual renewal fee. If the permit holder  
24 fails to apply for a renewal and remit the required fee or remove  
25 the device within thirty days, the department may remove the  
26 advertising device forthwith. Before a permit holder may make

1 any material change in size, lighting, or spacing of a  
2 advertising device for which a permit has been issued pursuant to  
3 section 43-1-408 (1) (b), a permit renewal must be obtained with  
4 payment of the fee as established in this section.

5 (c) Each application for renewal of a permit shall be  
6 accompanied by a renewal fee of twenty cents per square foot of  
7 face area on the advertising device.

8 (d) Renewal applications may be made by reference to the  
9 identifying number of the permit being renewed only, in the  
10 absence of material change in the information shown by the  
11 original application.

12 (3) The name of the owner of the advertising device for  
13 which a permit has been issued and the identifying permit number  
14 assigned by the division shall be placed in a conspicuous place  
15 on each advertising device structure within thirty days after the  
16 date of issuance of the permit.

17 (4) The permit holder shall, during the term thereof, have  
18 the right to change the advertising copy, ornamentation, or trim  
19 on the structure or sign for which it was issued without payment  
20 of any additional fee. The permit holder shall also have the  
21 right and obligation to repair, replace, and maintain in good  
22 condition any damaged advertising device structure, however  
23 caused, if the right to maintain any nonconforming advertising  
24 device has not been terminated pursuant to section 43-1-414.

25 (5) Educational, veterans, religious, charitable, or civic  
26 organizations, not operated for profit, shall obtain a permit in



1 accordance with the provisions of this part 4 for each  
2 advertising device maintained or erected, but no permit fee shall  
3 be charged therefor.

4 (6) Any permit holder or new owner shall, within sixty days  
5 of purchasing, selling, or otherwise transferring ownership in  
6 any advertising device for which a permit is required by this  
7 part 4, send a written notice of such fact to the department and  
8 shall include in such notice the name and address of the  
9 purchaser or transferee and its permit number.

10 43-1-411. Denial or revocation of permit or renewal. A  
11 permit under this part 4 may be denied or revoked, or a renewal  
12 denied, for false or misleading information given in the  
13 application for such permit or renewal or for the erection or  
14 maintenance of an advertising device in violation of the  
15 provisions of this part 4 or in violation of the rules and  
16 regulations of the department promulgated to enforce and  
17 administer this part 4.

18 43-1-412. Issuance of permits prohibited - when. (1) No  
19 permit shall be issued for the erection, use, or maintenance of  
20 any advertising device which is or would be:

21 (a) At a point where it would encroach upon the  
22 right-of-way of a public highway;

23 (b) Along the highway within five hundred feet of the  
24 center point of an intersection of such highway at grade with  
25 another highway or with a railroad in such manner as materially  
26 to obstruct or reduce the existing view of traffic on the other

1 highway or railroad trains approaching the intersection and  
2 within five hundred feet of such center point;

3 (c) Along a highway at any point where it would reduce the  
4 existing view of traffic in either direction or of traffic  
5 control or official highway signs to less than five hundred feet;

6 (d) Used or intended to be used for more than two  
7 advertisements facing in the same direction.

8 (2) After July 1, 1979, no permit shall be issued for any  
9 advertising device which required a permit under state law prior  
10 to July 1, 1979, and for which no permit was obtained.

11 (3) No permit shall be issued for any advertising device  
12 which simulates any official, directional, or warning sign  
13 erected or maintained by the United States, this state, or any  
14 county or municipality or which involves light simulating or  
15 resembling traffic signals or traffic control signs.

16 (4) No permit shall be issued for any advertising device  
17 mailed, tacked, posted, or attached in any manner on trees,  
18 perennial plants, rocks, or other natural objects or on fences or  
19 fence posts or poles maintained by public utilities.

20 (5) No permit shall be issued nor any renewal issued for  
21 any advertising device which becomes decayed, insecure, or in  
22 danger of falling or otherwise is unsafe or unsightly by reason  
23 of lack of maintenance or repair, or from any other cause.

24 (6) No permit shall be issued for any advertising device  
25 which does not conform to size, lighting, and spacing standards  
26 as prescribed by rules and regulations adopted by the department,

1 where such rules and regulations were adopted prior to the  
2 erection of said device.

3 43-1-413. Notice of noncompliance - removal authorized.

4 (1) Any outdoor advertising device which does not comply with  
5 this part 4 and the rules and regulations issued by the  
6 department shall be subject to removal, as provided in this  
7 section.

8 (2) (a) If the owner of the advertising device has not  
9 obtained a permit as required by this part 4, the department  
10 shall give written notice by certified or registered mail to the  
11 owner of the property on which the advertising device is located  
12 ordering him to have a permit obtained for the advertising device  
13 or remove the advertising device within thirty days.

14 (b) If a permit is not obtained or the advertising device  
15 is not removed or if either the owner of the advertising device  
16 or the owner of the property on which the advertising device is  
17 located has not sought judicial review pursuant to section  
18 43-1-418 within thirty days, the advertising device will be  
19 conclusively presumed to be abandoned.

20 (c) If the device is presumed abandoned under this section,  
21 the department may remove the advertising device forthwith.

22 (3) Upon removal of an advertising device pursuant to  
23 subsection (2) of this section, neither the owner of the property  
24 upon which the advertising device was erected nor the department  
25 shall be liable in damages to anyone who claims to be the owner  
26 of the advertising device who had not obtained a permit. The

1 department shall not be responsible for damages otherwise created  
2 by the removal of said advertising device or for its destruction,  
3 subsequent to removal.

4 (4) (a) If the department determines that an application  
5 for renewal should be denied or that an existing permit should be  
6 revoked, the department shall give written notice by certified or  
7 registered mail to the permittee, specifying in what respect he  
8 has failed to comply with the requirements of this part 4.

9 (b) If the permittee fails to correct such condition within  
10 sixty days after receipt of the notice and has failed to remove  
11 the advertising device, the department may file suit in the  
12 district court for the county in which the advertising device is  
13 located to require removal at the permittee's expense.

14 43-1-414. Nonconforming advertising devices. (1) Any  
15 nonconforming advertising device may be continued to be  
16 maintained at the same location which was occupied by the  
17 nonconforming advertising device on July 1, 1971.

18 (2) The right to maintain any nonconforming advertising  
19 device shall be terminated by:

20 (a) Abandonment of the nonconforming advertising device;

21 (b) Increase of any dimension of the nonconforming  
22 advertising device over its dimensions on July 1, 1971;

23 (c) Material change of any aspect of or in the character of  
24 the nonconforming device;

25 (d) Failure to comply with the provisions of section  
26 43-1-408, concerning permits for the maintenance of advertising

1 devices;

2 (e) Damage to or destruction of the nonconforming  
3 advertising device from any cause whatsoever, except by willful  
4 destruction, where the cost of repairing the damage or  
5 destruction exceeds fifty percent of the replacement cost of such  
6 device on the date of damage or destruction;

7 (f) Obsolescence of the nonconforming advertising device  
8 where the cost of repairing the device exceeds fifty percent of  
9 the replacement cost of such device on the date that the  
10 department determines said device is obsolete.

11 (3) In determining the replacement cost of any  
12 nonconforming advertising device for purposes of this section,  
13 there shall not be included the cost of land, or the cost of  
14 renting land, or any factor other than the device itself.

15 (4) If the right to maintain any nonconforming advertising  
16 device is terminated under this section, the advertising device  
17 shall become illegal and shall be removed pursuant to section  
18 43-1-413.

19 43-1-415. Removal of nonconforming devices. (1) The  
20 department may remove any nonconforming advertising device and  
21 may acquire all real and personal property rights pertaining to  
22 the nonconforming advertising device by gift, purchase,  
23 agreement, exchange, or eminent domain. All proceedings in  
24 eminent domain shall be conducted as may be provided by law. The  
25 department may adopt appraisal concepts and acquisition  
26 procedures which are appropriate to the evaluation and removal of

1 nonconforming advertising devices.

2 (2) Just compensation shall be paid for each lawfully  
3 permitted nonconforming advertising device. Just compensation  
4 shall be paid for the taking, from the owner of such advertising  
5 device, of all right, title, leasehold, and interest in such  
6 advertising device and for the taking from the owner of real  
7 property on which such advertising device is located and of the  
8 right to maintain such advertising device.

9 (3) No advertising device shall be required to be removed  
10 until the federal share of the compensation required to be paid  
11 upon acquisition of such device becomes available to the state.  
12 Nothing in this subsection (3) shall be construed to prevent the  
13 department from acquiring any advertising device when the federal  
14 share of the compensation required to be paid for such device  
15 becomes available to the state, and no state funds shall be used  
16 to pay just compensation for any advertising device located along  
17 a secondary highway in this state until the federal share of such  
18 compensation becomes available to the state.

19 (4) The state highway commission shall promulgate  
20 reasonable rules and regulations governing acquisition procedures  
21 for the advertising devices, appraisal of advertising devices,  
22 and the administration and enforcement of this section. Rules  
23 for the appraisal of advertising devices shall take into account  
24 normal depreciation.

25 (5) Tourist-related advertising devices which comply with  
26 the rules and regulations adopted by the department shall be

1 exempted from removal under the following conditions:

2 (a) Upon receipt of a declaration, resolution, certified  
3 copy of an ordinance, or other clear direction from a state  
4 agency, board of county commissioners, city and county,  
5 municipality, or other governmental agency, which includes or has  
6 attached, on forms provided by the department, an analysis of  
7 negative economic impacts provided by such entity and which  
8 follows the criteria and method of economic analysis established  
9 by the department that removal of tourist-related advertising  
10 devices would work a substantial economic hardship on a defined  
11 area, the department shall review the entity's economic analysis  
12 and such defined area. If the department finds that the entity  
13 has used the method of economic analysis as prescribed and the  
14 entity has determined that the defined area would suffer  
15 substantial economic hardship by such removal and that the  
16 declaration complies with all applicable rules and regulations,  
17 the department shall forward such declaration, resolution, or  
18 document and economic analysis with its recommendations to the  
19 United States secretary of transportation pursuant to 23 U.S.C.  
20 sec. 131(o). Any such declaration, resolution, or document  
21 submitted to the department shall further find that such  
22 tourist-related advertising devices provide directional  
23 information about goods and services in the interest of the  
24 traveling public and request the retention by the state in such  
25 defined areas of such tourist-related advertising devices.

26 (b) Each exempted tourist-related advertising device must

1 comply with requirements of the department concerning the  
2 directional contents of the device.

3 (c) The department will review and evaluate each defined  
4 area at least every three years to determine if each exemption  
5 continues to be warranted.

6 (6) The provisions of this section shall not be construed  
7 to affect the application of any of the provisions of this part 4  
8 to any advertising device until such date as the advertising  
9 device is required to be removed under this section. This  
10 section is enacted to comply with the requirements of the federal  
11 "Highway Beautification Act of 1965".

12 43-1-416. Administration and enforcement - authority for  
13 agreements. (1) The department shall administer and enforce the  
14 provisions of this part 4 and shall promulgate and enforce rules,  
15 regulations, and standards necessary to carry out the provisions  
16 of this part 4 including, but not limited to:

17 (a) Regulations necessary to qualify the state for payments  
18 made available by congress to those states that meet federal  
19 standards of roadside advertising control;

20 (b) Regulations relating to the maintenance of  
21 nonconforming advertising devices;

22 (c) Regulations to control the erection and maintenance on  
23 all state highways of official advertising devices, on-premise  
24 advertising devices, and advertising devices located in areas  
25 zoned for industrial or commercial uses;

26 (d) Regulations governing the removal and acquisition of



1 nonconforming advertising devices;

2 (e) Regulations necessary to permit the exemption of  
3 tourist-related advertising devices by the secretary of  
4 transportation under 23 U.S.C. sec. 131(o).

5 (2) The department may enter into agreements with the  
6 secretary of transportation of the United States to carry out the  
7 "national policy" concerning outdoor advertising adjacent to the  
8 interstate system and federal-aid primary highways and to accept  
9 any allotment of funds by the United States, or any department or  
10 agency thereof, appropriated in furtherance of federal-aid  
11 highway legislation.

12 (3) Nothing in this part 4 shall be construed to permit  
13 advertising devices to be erected or maintained which would  
14 disqualify the state for payments made available to those states  
15 which meet federal standards of roadside advertising control.

16 (4) The department or its employees or authorized agents,  
17 in the performance of their functions and duties under the  
18 provisions of this part 4, may enter into and upon any land upon  
19 which advertising devices are located for all purposes required  
20 by this part 4. Such employees or agents shall make all  
21 reasonable efforts to obtain permission from the landowner or  
22 tenant of the land prior to entry thereon.

23 43-1-417. Local control of outdoor advertising devices.  
24 Nothing in this part 4 shall be construed to prevent use of  
25 zoning powers and establishment of stricter limitations or  
26 controls on advertising devices by any municipality or county

1 within its boundaries so long as such limitations or controls do  
2 not jeopardize the receipt by the state of its full share of  
3 highway funds.

4 43-1-418. Judicial review. Upon receipt of notice of any  
5 violation or alleged violation of any of the provisions of this  
6 part 4, any person aggrieved may, within thirty days from the  
7 date of notice, apply to a district court of competent  
8 jurisdiction for appropriate relief, pursuant to the Colorado  
9 rules of civil procedure.

10 43-1-419. Violation and penalty. (1) The erection, use,  
11 or maintenance of any advertising device in violation of any  
12 provision of this part 4 is declared to be illegal and, in  
13 addition to other remedies provided by law, the department is  
14 authorized to institute appropriate action or proceeding to  
15 prevent or remove such violation in any district court of  
16 competent jurisdiction. The removal of any advertising device  
17 unlawfully erected shall be at the expense of the person who  
18 erects and maintains such device.

19 (2) Any person who violates any provisions of this part 4  
20 is guilty of a misdemeanor and, upon conviction thereof, shall be  
21 punished by a fine of not less than one hundred dollars nor more  
22 than one thousand dollars for each offense. Each day of  
23 violation of the provisions of this part 4 shall constitute a  
24 separate offense.

25 (3) (a) No person other than the department shall erect or  
26 maintain any advertising device located either wholly or partly

1 within the right-of-way of any state highway that is a part of  
2 the state highway system, including streets within cities, cities  
3 and counties, and incorporated towns. All advertising devices so  
4 located are hereby declared to be public nuisances and any law  
5 enforcement officer or peace officer in the state of Colorado or  
6 employee of the department is hereby authorized and directed to  
7 remove the same without notice.

8 (b) The department may grant written permission to  
9 political subdivisions to erect official advertising devices  
10 within the right-of-way of any state highway.

11 43-1-420. Roadside advertising fund. There is hereby  
12 created in the department the roadside advertising fund. All  
13 license and permit fees collected under this part 4 shall be  
14 deposited by the department in such fund to carry out its duties  
15 under this part 4.

16 43-1-421. Independence Pass - scenic area highway - sign  
17 removal. Independence Pass on state highway 82 and sixteen miles  
18 of said highway extending on either side of Independence Pass in  
19 Pitkin and Lake counties, Colorado, is designated as a scenic  
20 area highway, and no advertising devices shall be erected on or  
21 near said highway so as to be visible to motor vehicle operators  
22 on said highway.

23 SECTION 2. 43-2-141, Colorado Revised Statutes 1973, is  
24 amended to read:

25 43-2-141. Violation of sections - penalties. Any person or  
26 corporation who places or maintains any road signs, guide boards,

1 billboards, or bulletin boards on any road constituting the-state  
2 highway--system--or the county system in violation of sections  
3 SECTION 43-2-139 and-43-2-140, upon conviction thereof, shall be  
4 punished by a fine of not less than fifteen dollars nor more than  
5 fifty dollars. Any person or corporation which injures, defaces,  
6 or destroys any road sign placed on any state-highway--or county  
7 road, as provided by law shall be punished by a fine of not less  
8 than fifteen dollars nor more than fifty dollars.

9 SECTION 3. Repeal. 43-2-140 and 43-2-143, Colorado Revised  
10 Statutes 1973, are repealed.

11 SECTION 4. Effective date. This act shall take effect July  
12 1, 1979.

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

COMMITTEE ON TRANSPORTATION

BILL 43

A BILL FOR AN ACT

1 CONCERNING THE TRANSFER OF THE PROCEEDS OF SALES AND USE TAXES  
2 ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS.

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Bill Summary

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

Provides for a transfer, phased in over time, of the proceeds of sales and use taxes attributable to sales or use of vehicles and related items from the general fund to the highway users tax fund.

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

4 SECTION 1. 39-26-123, Colorado Revised Statutes 1973, is  
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 39-26-123. Receipts - disposition. (1) Eighty-five percent  
7 of all receipts collected under the provisions of this article  
8 shall be credited to the old age pension fund.

9 (2) (a) As used in this subsection (2), "sales and use  
10 taxes attributable to sales or use of vehicles and related items"  
11 means the revenue raised from the state sales and use taxes  
12 imposed pursuant to this article on the sales or use of any new  
13 or used motor vehicles, including motor homes, motor vehicle

1 batteries, tires, parts, or accessories, utility trailers, camper  
2 coaches, or camper trailers. With respect to sales tax, "related  
3 items" includes only items sold by persons whose primary business  
4 activity is the sale or service of motor vehicles or related  
5 items.

6 (b) For the fiscal year commencing July 1, 1979, and for  
7 each fiscal year thereafter, the state treasurer shall credit an  
8 amount equal to sales and use taxes attributable to sales or use  
9 of vehicles and related items to the highway users tax fund as  
10 provided in paragraph (c) of this subsection (2). Such credit  
11 shall be out of the fifteen percent of net revenue from sales and  
12 use taxes not required by section 2 of article XXIV of the state  
13 constitution to be credited to the old age pension fund.

14 (c) (I) In each of the following fiscal years, the  
15 remaining fifteen percent of net revenue from sales and use taxes  
16 shall be allocated between and credited to the general fund and  
17 the highway users tax fund (as a portion of the sales and use  
18 taxes attributable to sales or use of vehicles and related items)  
19 as follows:

20 (A) For the fiscal year beginning July 1, 1979, six percent  
21 of net revenue from sales and use taxes to the highway users tax  
22 fund and nine percent thereof to the general fund;

23 (B) For the fiscal year beginning July 1, 1980, seven  
24 percent of net revenue from sales and use taxes to the highway  
25 users tax fund and eight percent thereof to the general fund;

26 (C) For the fiscal year beginning July 1, 1981, eight

1 percent of net revenue from sales and use taxes to the highway  
2 users tax fund and seven percent thereof to the general fund;

3 (D) For the fiscal year beginning July 1, 1982, nine  
4 percent of net revenue from sales and use taxes to the highway  
5 users tax fund and six percent thereof to the general fund;

6 (E) For the fiscal year beginning July 1, 1983, ten percent  
7 of net revenue from sales and use taxes to the highway users tax  
8 fund and five percent thereof to the general fund;

9 (F) For the fiscal year beginning July 1, 1984, eleven  
10 percent of net revenue from sales and use taxes to the highway  
11 users tax fund and four percent thereof to the general fund;

12 (G) For the fiscal year beginning July 1, 1985, twelve  
13 percent of net revenue from sales and use taxes to the highway  
14 users tax fund and three percent thereof to the general fund.

15 (II) For the fiscal year beginning July 1, 1986, and each  
16 fiscal year thereafter, all sales and use taxes attributable to  
17 sales or use of vehicles and related items shall be allocated and  
18 credited to the highway users tax fund.

19 (III) In no event shall a credit to the highway users tax  
20 fund pursuant to this paragraph (c) ever exceed the actual net  
21 revenues from sales and use taxes attributable to sales or use of  
22 vehicles and related items.

23 (IV) Sub-subparagraphs (D) to (G) of subparagraph (I) of  
24 this paragraph (c) and subparagraph (II) of this paragraph (c)  
25 are repealed, effective July 1, 1982.

26 SECTION 2. Effective date. This act shall take effect July

1 1, 1979.

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



COMMITTEE ON TRANSPORTATION

BILL 44

A BILL FOR AN ACT

1 CONCERNING THE TAX IMPOSED ON MOTOR FUEL AND SPECIAL FUEL.

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Bill Summary

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

Increases the tax on motor fuel and on special fuel. Provides for the distribution of money from such increase to counties, municipalities, and the state highway fund.

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

3 SECTION 1. 39-27-102 (1) (a), (2) (a), (2) (c), (3) (a),  
4 (4) (c), and (7), Colorado Revised Statutes 1973, as amended, are  
5 amended to read:

6 39-27-102. Tax imposed - special licenses - deposits -  
7 penalties. (1) (a) (I) Other than as provided in subparagraph  
8 (II) of this paragraph (a), an excise tax of ~~seven~~ NINE cents  
9 per gallon or fraction thereof is imposed and shall be collected  
10 on all motor fuel, except aviation fuel used for aviation  
11 purposes, sold, offered for sale, or used in this state for any  
12 purpose whatsoever, but only one tax of ~~seven~~ NINE cents per  
13 gallon or fraction thereof shall be paid upon the same motor fuel

1 in this state. The distributor first receiving the motor fuel in  
2 this state after it has left the refinery of its origin or a tank  
3 farm at or appurtenant to such refinery, either within or without  
4 this state, shall be primarily liable for payment of the tax  
5 imposed, unless the distributor shall also be the refiner, in  
6 which case the refiner shall be primarily liable. The tax imposed  
7 shall be computed upon the total amount of motor fuel, measured  
8 in gallons, received by each distributor in this state and shall  
9 be paid in the manner provided in this section.

10 (2) (a) Every person who uses any motor fuel for propelling  
11 a motor vehicle on the public highways of this state, or who  
12 imports any motor fuel into this state for use or sale therein,  
13 upon which motor fuel a licensed distributor has not paid or is  
14 not liable to pay the tax imposed in this section, is deemed to  
15 be a distributor and is liable for and shall pay an excise tax of  
16 seven NINE cents per gallon or fraction thereof on all such motor  
17 fuel so used, or imported for use or sale, in this state. Such  
18 person shall pay such tax to the department of revenue on or  
19 before the twenty-fifth day of the calendar month following the  
20 month in which such motor fuel was used or imported and shall, at  
21 the time of payment, render to the department, on forms provided  
22 by it, an itemized statement, signed under the penalties of  
23 perjury in the second degree, of all such motor fuel so used or  
24 imported during such preceding calendar month. When such motor  
25 fuel is delivered from a refinery or tank farm in a carload lot,  
26 the quantity thereof and the amount of tax thereon shall be

1 computed in the same manner as in the case of a distributor.

2 (c) In lieu of reporting all imports of more than twenty  
3 gallons of motor fuel in the ordinary fuel tank of motor  
4 vehicles, the owner or operator of any interstate bus, truck, or  
5 other motor vehicle may, with the prior approval of the executive  
6 director, file a report with the department of revenue on or  
7 before the twenty-fifth day of the calendar month following the  
8 month in which such motor fuel was so imported, on a form  
9 furnished by the department, reciting the number of gallons of  
10 motor fuel used by such owner or operator in such vehicles  
11 operated within this state during such preceding month and the  
12 number of gallons of motor fuel purchased, tax paid, in this  
13 state and delivered into the fuel tanks of such vehicles during  
14 such preceding month. If the number of gallons of motor fuel  
15 used by such vehicles exceeds the number of gallons of motor fuel  
16 purchased, tax paid, in this state, a tax of seven NINE cents per  
17 gallon shall be paid on such excess gallons at the time such  
18 report is filed.

19 (3) (a) An excise tax of seven NINE cents per gallon or  
20 fraction thereof is imposed and shall be paid on all special fuel  
21 used in this state, except upon special fuel used for the  
22 operation of diesel-powered private passenger vehicles or for the  
23 operation of farm vehicles when the same are being used on farms  
24 or ranches, or in vehicles when operated off the public highways,  
25 or in vehicles or construction equipment operated within the  
26 confines of highway construction projects when the same are being

1 actually used in the construction of such highways. Every owner  
2 or operator of a vehicle powered by special fuel, other than  
3 those vehicles specified in this paragraph (a), shall be  
4 primarily liable for payment of the tax imposed on special fuel  
5 used in the operation of such vehicle in this state. All such  
6 owners and operators shall be licensed under a "special fuel user  
7 license", in the same manner as distributors of motor fuel are  
8 licensed, and shall deposit with the department of revenue a  
9 surety bond or a negotiable certificate of deposit issued by a  
10 commercial bank doing business in this state acceptable to the  
11 executive director of said department in an amount not less than  
12 one hundred dollars for each vehicle using special fuel and not  
13 greater, in the aggregate, than three thousand dollars, unless  
14 payment of the tax imposed is made under the alternative method  
15 prescribed in subsection (7) of this section. All such owners  
16 and operators shall be subject to the provisions and penalties  
17 applicable to distributors of motor fuel, including, but not  
18 limited to, the provisions of paragraphs (b) to (d) of subsection  
19 (2) of this section.

20 (4) (c) The owner or operator of a AN out-of-state  
21 diesel-powered truck or truck-tractor which does not carry a  
22 valid special fuel user's authority card may obtain a temporary  
23 special permit prepared on forms of the department of revenue.  
24 These temporary special permits shall be available for purchase  
25 from an authorized and licensed special fuel dealer who sells  
26 diesel fuel in this state, an office of the department of

1 revenue, a Colorado state patrolman, or a Colorado port of entry.  
2 A temporary special fuel permit shall entitle the owner or  
3 operator of such vehicles to purchase diesel fuel from a licensed  
4 special fuel dealer. No more than two temporary special permits  
5 may be issued for any one truck or truck-tractor during a  
6 calendar month, and such permits shall only be valid on the date  
7 of issuance for the initial purchase of diesel fuel. At the time  
8 of purchase of the temporary special permit, the owner or  
9 operator of an out-of-state diesel-powered truck or truck-tractor  
10 shall pay the permit fee of one dollar plus the special fuel tax  
11 of seven NINE cents a gallon on the diesel fuel estimated to be  
12 consumed in such vehicle in Colorado to be determined by dividing  
13 the declared number of miles to be traveled in this state by  
14 four.

15 (7) The excise tax of seven NINE cents per gallon imposed  
16 on liquefied petroleum gases by subsection (3) of this section  
17 may be paid by the following alternative method: Upon delivery of  
18 propane, butane, or other liquefied petroleum gas into the fuel  
19 supply tank of any motor vehicle which does not exhibit the  
20 permit provided for in subsection (4) of this section, the dealer  
21 shall collect an excise tax of seven NINE cents per gallon as  
22 provided in subsection (3) of this section, except as to such  
23 fuel which the purchaser indicates in writing to the seller shall  
24 be used in vehicles operated primarily off the streets or  
25 highways or in construction equipment or vehicles used within the  
26 confines of highway construction projects when such equipment or

1 vehicles are being used in the construction of such projects.  
2 Each dealer subject to the provisions of this article shall, on  
3 or before the twenty-fifth day of each calendar month, file with  
4 the executive director of the department of revenue a report, on  
5 forms furnished by the said executive director, of the total  
6 number of gallons of liquefied petroleum gases sold. Each dealer  
7 at the time of filing the monthly report shall compute and pay  
8 the full amount of tax due for the past calendar month at the  
9 rate prescribed in this article. Any tax collected under the  
10 provisions of this article not paid on or before the twenty-fifth  
11 day of the month succeeding the calendar month in which the fuel  
12 was sold shall be deemed delinquent and shall bear interest at  
13 the rate prescribed in section 39-21-109 from such due date until  
14 paid. If a licensed dealer has sold no fuel during the month, he  
15 shall nevertheless file a report and indicate that no fuel was  
16 sold. A penalty of ten dollars or ten percent of the tax due,  
17 whichever is greater, shall be imposed for failure to file the  
18 report when due or pay the taxes provided in this article, in  
19 addition to any other penalties provided by this article.

20 SECTION 2. 43-4-205, Colorado Revised Statutes 1973, as  
21 amended, is amended BY THE ADDITION OF THE FOLLOWING NEW  
22 SUBSECTIONS to read:

23 43-4-205. Allocation of fund. (3) Out of the highway users  
24 tax fund, there shall next be paid to the state highway fund an  
25 amount equal to the gross revenue proceeds, less refunds, of  
26 sixty percent of one cent per gallon tax on motor fuel and

1 special fuel.

2 (4) Out of the highway users tax fund, there shall next be  
3 paid to counties and municipalities an amount equal to the gross  
4 revenue proceeds, less refunds, of forty percent of one cent per  
5 gallon tax on motor fuel and special fuel. One-half of such  
6 proceeds shall be paid to municipalities and shall be allocated  
7 and expended pursuant to the applicable provisions of this part  
8 2. One-half of such proceeds shall be paid to the county  
9 treasurers of the respective counties and shall be allocated and  
10 expended pursuant to the applicable provisions of this part 2.

11 SECTION 3. The introductory portion to 43-4-206 (1),  
12 Colorado Revised Statutes 1973, is amended to read:

13 43-4-206. State allocation. (1) After the payments to the  
14 highway crossing protection fund required by law have been made,  
15 AFTER THE PAYMENTS TO THE STATE HIGHWAY FUND AND TO COUNTIES AND  
16 MUNICIPALITIES PURSUANT TO SECTION 43-4-205 (3) AND (4) HAVE BEEN  
17 MADE, and after paying the costs of the Colorado state patrol as  
18 appropriated by the general assembly, sixty-five percent of the  
19 balance of the highway users tax fund shall be paid to the state  
20 highway fund and shall be expended for the following purposes:

21 SECTION 4. 43-4-207 (1), Colorado Revised Statutes 1973, is  
22 amended to read:

23 43-4-207. County allocation. (1) ~~After January 1, 1965;~~  
24 After the payments required by law have been made to the highway  
25 crossing protection fund, AFTER THE PAYMENTS TO THE STATE HIGHWAY  
26 FUND AND TO COUNTIES AND MUNICIPALITIES PURSUANT TO SECTION

1 43-4-205 (3) AND (4) HAVE BEEN MADE, and after paying the costs  
2 of the Colorado state patrol as appropriated by the general  
3 assembly, twenty-six percent of the balance of the highway users  
4 tax fund shall be paid to the county treasurers of the respective  
5 counties and shall be allocated and expended as provided in this  
6 section. The moneys thus received shall be allocated to the  
7 counties as provided by law and shall be expended by said  
8 counties only on the construction, engineering, reconstruction,  
9 maintenance, repair, equipment, improvement, and administration  
10 of the county highway systems together with acquisition of  
11 rights-of-way and access rights for the same and for no other  
12 purpose. The amount to be expended for administrative purposes  
13 shall not exceed five percent of each county's share of the funds  
14 available.

15 SECTION 5. 43-4-208 (1) and (2) (a), Colorado Revised  
16 Statutes 1973, as amended, are amended, and the said 43-4-208 (2)  
17 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18 43-4-208. Municipal allocation. (1) After the payments  
19 required by law have been made to the highway crossing protection  
20 fund, AFTER THE PAYMENTS TO THE STATE HIGHWAY FUND AND TO  
21 COUNTIES AND MUNICIPALITIES PURSUANT TO SECTION 43-4-205 (3) AND  
22 (4) HAVE BEEN MADE, and after paying the costs of the Colorado  
23 state patrol as appropriated by the general assembly and making  
24 allocation as provided by sections 43-4-206 and 43-4-207, the  
25 remaining nine percent of the highway users tax fund shall be  
26 paid to the cities and incorporated towns within the limits of



1 the respective counties and shall be allocated and expended as  
2 provided in this section. Each city treasurer shall account for  
3 the moneys thus received as provided in this part 2. Such moneys  
4 so allocated shall be expended by said cities and incorporated  
5 towns for the construction, engineering, reconstruction,  
6 maintenance, repair, equipment, improvement, and administration  
7 of the system of streets of such city or incorporated town,  
8 together with the acquisition of rights-of-way and access rights  
9 for THE same, and for no other purpose. The amount to be  
10 expended for administrative purposes shall not exceed five  
11 percent of each city's share of the funds available.

12 (2) (a) Eighty percent shall be allocated to the cities and  
13 incorporated towns in proportion to the adjusted urban motor  
14 vehicle registration in each city and incorporated town. The  
15 term "urban motor vehicle registration" includes all passenger,  
16 truck, truck-tractor, and motorcycle registrations. The number  
17 of registrations used in computing the percentage shall be those  
18 THAT certified to the state treasurer by the department of  
19 revenue, motor vehicle division, as constituting the urban motor  
20 vehicle registration for the last preceding year. The adjusted  
21 registration shall be computed by applying a factor to the actual  
22 number of such registrations to reflect the increased standards  
23 and costs of construction resulting from the concentration of  
24 vehicles in cities and incorporated places. For this purpose the  
25 following table of actual registration numbers and factors shall  
26 be employed:

1	<u>Actual registrations</u>	<u>Factor</u>
2	1 -- 500	1.0
3	501 -- 1,250	1.1
4	1,251 -- 2,500	1.2
5	2,501 -- 5,000	1.3
6	5,001 -- 12,500	1.4
7	12,501 -- 25,000	1.5
8	25,001 -- 50,000	1.6
9	50,001 -- 85,000	1.7
10	<del>85,001</del> ---- <del>130,000</del>	<del>1.8</del>
11	<del>130,001</del> ---- <del>185,000</del>	<del>1.9</del>
12	<del>185,001</del> -and-over	<del>2.0</del>
13	85,001 -- 125,000	1.8
14	125,001 -- 165,000	1.9
15	165,001 -- 205,000	2.0
16	205,001 -- 245,000	2.1
17	245,001 -- 285,000	2.2
18	285,001 -- 325,000	2.3
19	325,001 -- 365,000	2.4
20	365,001 -- 405,000	2.5
21	405,001 -- 445,000	2.6
22	445,001 -- 485,000	2.7
23	485,001 -- 525,000	2.8
24	525,001 -- 565,000	2.9
25	565,001 -- 605,000	3.0

26 (c) The share allocated to the city and county of Denver

1 shall be the amount determined by applying the applicable factors  
2 set forth in paragraphs (a) and (b) of this subsection (2) or an  
3 amount equal to 28.25 percent of the total municipal share,  
4 whichever amount is greater.

5 SECTION 6. Effective date. This act shall take effect July  
6 1, 1979.

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

COMMITTEE ON TRANSPORTATION

BILL 45

A BILL FOR AN ACT

1 CHANGING THE BASIS FOR COMPUTING THE TAX IMPOSED ON MOTOR FUEL  
2 AND SPECIAL FUEL FROM GALLONAGE ONLY TO A PERCENTAGE OF THE  
3 WEIGHTED AVERAGE RETAIL PRICE CONVERTED TO CENTS PER GALLON.

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Bill Summary

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

Changes the basis for computing the tax imposed on motor fuel and on special fuel from gallonage only to a percentage of the weighted average retail price converted to cents per gallon.

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

5 SECTION 1. 39-27-101, Colorado Revised Statutes 1973, is  
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 39-27-101. Definitions - construction. (9) "Weighted  
8 average retail sales price of motor fuel" means the average  
9 retail sales price, excluding any federal excise tax, of the  
10 several grades of motor fuel sold by service stations throughout  
11 the state (less any state excise taxes on the sale, distribution,  
12 or use thereof) weighted to reflect the quantities sold at each  
13 different price.

1 SECTION 2. 39-27-102 (1) (a) (I), (2) (a), (2) (c), (3)  
2 (a), (4) (c), and (7), Colorado Revised Statutes 1973, as  
3 amended, are amended to read:

4 39-27-102. Tax imposed - special licenses - deposits -  
5 penalties. (1) (a) (I) Other than as provided in subparagraph  
6 (II) of this paragraph (a), an excise tax ~~of--seven--cents~~ AT A  
7 RATE COMPUTED IN THE MANNER PROVIDED IN SUBSECTION (9) OF THIS  
8 SECTION per gallon or fraction thereof is imposed and shall be  
9 collected on all motor fuel, except aviation fuel used for  
10 aviation purposes, sold, offered for sale, or used in this state  
11 for any purpose whatsoever, but only one SUCH tax ~~of-seven-cents~~  
12 ~~per-gallon-or-fraction-thereof~~ shall be paid upon the same motor  
13 fuel in this state. The distributor first receiving the motor  
14 fuel in this state after it has left the refinery of its origin  
15 or a tank farm at or appurtenant to such refinery, either within  
16 or without this state, shall be primarily liable for payment of  
17 the tax imposed, unless the distributor shall also be the  
18 refiner, in which case the refiner shall be primarily liable. The  
19 tax imposed shall be computed upon the total amount of motor  
20 fuel, measured in gallons, received by each distributor in this  
21 state and shall be paid in the manner provided in this section.

22 (2) (a) Every person who uses any motor fuel for propelling  
23 a motor vehicle on the public highways of this state, or who  
24 imports any motor fuel into this state for use or sale therein,  
25 upon which motor fuel a licensed distributor has not paid or is  
26 not liable to pay the tax imposed in this section, is deemed to

1 be a distributor and is liable for and shall pay an excise tax of  
2 ~~seven--cents~~ AT A RATE COMPUTED IN THE MANNER PROVIDED IN  
3 SUBSECTION (9) OF THIS SECTION per gallon or fraction thereof on  
4 all such motor fuel so used, or imported for use or sale, in this  
5 state. Such person shall pay such tax to the department of  
6 revenue on or before the twenty-fifth day of the calendar month  
7 following the month in which such motor fuel was used or imported  
8 and shall, at the time of payment, render to the department, on  
9 forms provided by it, an itemized statement, signed under the  
10 penalties of perjury in the second degree, of all such motor fuel  
11 so used or imported during such preceding calendar month. When  
12 such motor fuel is delivered from a refinery or tank farm in a  
13 carload lot, the quantity thereof and the amount of tax thereon  
14 shall be computed in the same manner as in the case of a  
15 distributor.

16 (c) In lieu of reporting all imports of more than twenty  
17 gallons of motor fuel in the ordinary fuel tank of motor  
18 vehicles, the owner or operator of any interstate bus, truck, or  
19 other motor vehicle may, with the prior approval of the executive  
20 director, file a report with the department of revenue on or  
21 before the twenty-fifth day of the calendar month following the  
22 month in which such motor fuel was so imported, on a form  
23 furnished by the department, reciting the number of gallons of  
24 motor fuel used by such owner or operator in such vehicles  
25 operated within this state during such preceding month, and the  
26 number of gallons of motor fuel purchased, tax paid, in this

1 state and delivered into the fuel tanks of such vehicles during  
2 such preceding month. If the number of gallons of motor fuel  
3 used by such vehicles exceeds the number of gallons of motor fuel  
4 purchased, tax paid, in this state, a tax of-seven-cents AT A  
5 RATE COMPUTED IN THE MANNER PROVIDED IN SUBSECTION (9) OF THIS  
6 SECTION per gallon shall be paid on such excess gallons at the  
7 time such report is filed.

8 (3) (a) An excise tax of-seven-cents AT A RATE COMPUTED IN  
9 THE MANNER PROVIDED IN SUBSECTION (9) OF THIS SECTION per gallon  
10 or fraction thereof is imposed and shall be paid on all special  
11 fuel used in this state, except upon special fuel used for the  
12 operation of diesel-powered private passenger vehicles or for the  
13 operation of farm vehicles when the same are being used on farms  
14 or ranches, or in vehicles when operated off the public highways,  
15 or in vehicles or construction equipment operated within the  
16 confines of highway construction projects when the same are being  
17 actually used in the construction of such highways. Every owner  
18 or operator of a vehicle powered by special fuel, other than  
19 those vehicles specified in this paragraph (a), shall be  
20 primarily liable for payment of the tax imposed on special fuel  
21 used in the operation of such vehicle in this state. All such  
22 owners and operators shall be licensed under a "special fuel user  
23 license", in the same manner as distributors of motor fuel are  
24 licensed, and shall deposit with the department of revenue a  
25 surety bond or a negotiable certificate of deposit issued by a  
26 commercial bank doing business in this state acceptable to the

1 executive director of said department in an amount not less than  
2 one hundred dollars for each vehicle using special fuel and not  
3 greater, in the aggregate, than three thousand dollars, unless  
4 payment of the tax imposed is made under the alternative method  
5 prescribed in subsection (7) of this section. All such owners  
6 and operators shall be subject to the provisions and penalties  
7 applicable to distributors of motor fuel, including, but not  
8 limited to, the provisions of paragraphs (b) to (d) of subsection  
9 (2) of this section.

10 (4) (c) The owner or operator of a AN out-of-state  
11 diesel-powered truck or truck-tractor which does not carry a  
12 valid special fuel user's authority card may obtain a temporary  
13 special permit prepared on forms of the department of revenue.  
14 These temporary special permits shall be available for purchase  
15 from an authorized and licensed special fuel dealer who sells  
16 diesel fuel in this state, an office of the department of  
17 revenue, a Colorado state patrolman, or a Colorado port of entry.  
18 A temporary special fuel permit shall entitle the owner or  
19 operator of such vehicles to purchase diesel fuel from a licensed  
20 special fuel dealer. No more than two temporary special permits  
21 may be issued for any one truck or truck-tractor during a  
22 calendar month, and such permits shall only be valid ONLY on the  
23 date of issuance for the initial purchase of diesel fuel. At the  
24 time of purchase of the temporary special permit, the owner or  
25 operator of an out-of-state diesel-powered truck or truck-tractor  
26 shall pay the permit fee of one dollar plus the special fuel tax



1 ~~of--seven--cents--a~~ AT A RATE COMPUTED IN THE MANNER PROVIDED IN  
2 SUBSECTION (9) OF THIS SECTION PER gallon on the diesel fuel  
3 estimated to be consumed in such vehicle in Colorado to be  
4 determined by dividing the declared number of miles to be  
5 traveled in this state by four.

6 (7) The excise tax ~~of-seven-cents~~ AT A RATE COMPUTED IN THE  
7 MANNER PROVIDED IN SUBSECTION (9) OF THIS SECTION per gallon  
8 imposed on liquefied petroleum gases by subsection (3) of this  
9 section may be paid by the following alternative method: Upon  
10 delivery of propane, butane, or other liquefied petroleum gas  
11 into the fuel supply tank of any motor vehicle which does not  
12 exhibit the permit provided for in subsection (4) of this  
13 section, the dealer shall collect an excise tax ~~of-seven-cents~~ AT  
14 A RATE COMPUTED IN THE MANNER PROVIDED IN SUBSECTION (9) OF THIS  
15 SECTION per gallon as provided in subsection (3) of this section,  
16 except as to such fuel which the purchaser indicates in writing  
17 to the seller shall be used in vehicles operated primarily off  
18 the streets or highways or in construction equipment or vehicles  
19 used within the confines of highway construction projects when  
20 such equipment or vehicles are being used in the construction of  
21 such projects. Each dealer subject to the provisions of this  
22 article shall, on or before the twenty-fifth day of each calendar  
23 month, file with the executive director of the department of  
24 revenue a report, on forms furnished by the said executive  
25 director, of the total number of gallons of liquefied petroleum  
26 gases sold. Each dealer at the time of filing the monthly report

1 shall compute and pay the full amount of tax due for the past  
2 calendar month at the rate prescribed in this article. Any tax  
3 collected under the provisions of this article not paid on or  
4 before the twenty-fifth day of the month succeeding the calendar  
5 month in which the fuel was sold shall be deemed delinquent, and  
6 shall bear interest at the rate prescribed in section 39-21-109  
7 from such due date until paid. If a licensed dealer has sold no  
8 fuel during the month, he shall nevertheless file a report and  
9 indicate that no fuel was sold. A penalty of ten dollars or ten  
10 percent of the tax due, whichever is greater, shall be imposed  
11 for failure to file the report when due or pay the taxes provided  
12 in this article, in addition to any other penalties provided by  
13 this article.

14 SECTION 3. 39-27-102, Colorado Revised Statutes 1973, as  
15 amended, is amended BY THE ADDITION OF THE FOLLOWING NEW  
16 SUBSECTIONS to read:

17 39-27-102. Tax imposed - special licenses - deposits -  
18 penalties. (9) (a) During the ninth month of each fiscal year  
19 ending June 30 of each year, the department of revenue shall  
20 compute a motor fuel tax rate to the nearest one-half cent per  
21 gallon of motor fuel by multiplying fifteen percent times the  
22 weighted average retail sales price of motor fuel, per gallon,  
23 sold within the state in the seventh month of such fiscal year.  
24 The department of revenue shall determine the weighted average  
25 retail sales price of motor fuel by statewide sampling and survey  
26 techniques designed to reflect such prices for the seventh month

1 of such fiscal year. The department of revenue shall establish  
2 reasonable guidelines for its sampling and survey methods.

3 (b) Subject to the provisions of subsections (10) and (11)  
4 of this section, the excise tax rate computed in this subsection  
5 (9) shall apply to the sale, distribution, or use of motor fuel  
6 and special fuel beginning the fiscal year following computation  
7 of the rate and shall remain in effect until a subsequent  
8 computation requires a change in the rate. For the fiscal year  
9 beginning July 1, 1979, the motor fuel and special fuel tax shall  
10 be nine cents per gallon.

11 (10) The motor fuel and special fuel tax rate for any  
12 fiscal year shall not exceed twelve cents per gallon nor exceed  
13 the rate as computed in subsection (9) of this section.

14 (11) (a) Notwithstanding any other provision of this  
15 section, the motor fuel and special fuel tax rate for any fiscal  
16 year shall not be less than nine cents per gallon nor less than  
17 the rate as computed in subsection (9) of this section.

18 (b) Each fiscal year at the time the department of revenue  
19 computes the excise tax rate for the ensuing fiscal year, the  
20 department shall estimate the total aggregate motor fuel and  
21 special fuel tax revenues which will accrue to the highway users  
22 tax fund during such fiscal year. If such estimated aggregate  
23 motor fuel and special fuel tax revenues for the ensuing fiscal  
24 year are less than an amount equal to the aggregate motor fuel  
25 and special fuel tax revenues collected during the fiscal year  
26 ending June 30, 1977, increased by six percent per year

1 compounded annually for each year which has elapsed from June 30,  
2 1977, to June 30 of the fiscal year for which estimated aggregate  
3 motor fuel and special fuel tax revenues were computed, the  
4 department shall increase the rate of taxation by one-half cent  
5 increments, but not to exceed a total excise tax of twelve cents  
6 per gallon, commencing at the beginning of the ensuing fiscal  
7 year as necessary to produce estimated aggregate motor fuel and  
8 special fuel tax revenues for such fiscal year as great as such  
9 revenues collected during the 1977 fiscal year increased by six  
10 percent per year compounded annually from June 30, 1977, to June  
11 30 of the fiscal year for which such minimum tax rate is being  
12 computed.

13 SECTION 4. Effective date. This act shall take effect July  
14 1, 1979.

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

COMMITTEE ON TRANSPORTATION

BILL 46

A JOINT MEMORIAL

1 MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT  
2 AMENDATORY LEGISLATION TO RETURN TO THE STATES THE RIGHT  
3 TO REGULATE OR PARTICIPATE IN REGULATING MINES WITH  
4 RESPECT TO MINE SAFETY AND HEALTH STANDARDS.

5 WHEREAS, The General Assembly of the State of Colorado  
6 recognizes the ongoing importance of the mining industry to  
7 the State of Colorado, as well as to the entire nation; and

8 WHEREAS, The existence of the small mine operator, who  
9 plays an important part in the mining industry, is endangered  
10 by the impact of the "Federal Mine Safety and Health Act of  
11 1977" (P.L. 95-164); and

12 WHEREAS, Said act defines a mine as any area of land from  
13 which any minerals are extracted, both on the surface and  
14 underground, including the lands, excavations, and other  
15 facilities used in the work of extracting such minerals, which  
16 definition covers not only the commonly thought of mining  
17 activities such as coal, silver, and molybdenum operations,  
18 but also includes activities such as sand and gravel  
19 excavation; and

20 WHEREAS, Said act has caused a further erosion of basic  
21 states' rights by excluding any participation by a state in  
22 the regulation and inspection of mines with respect to mine  
23 safety and health standards; and

24 WHEREAS, There are distinct differences in mining  
25 operations across the nation which are best understood and  
26 regulated on a state level rather than on the national level  
27 through national legislation which is often inflexible or  
28 incompatible with state needs and conditions; and

29 WHEREAS, The right of a state to develop its own  
30 regulatory program and to perform its own inspections of mines  
31 relating to safety and health standards should be preserved;  
32 and

1           WHEREAS, Mining industry accident statistics have shown  
2 significant improvement under cooperative programs with state  
3 agencies, private industry, and labor; now, therefore,

4           Be It Resolved by the Senate of the Fifty-second General  
5 Assembly of the State of Colorado, the House of  
6 Representatives concurring herein:

7           That we, the members of the Fifty-second General Assembly  
8 of the State of Colorado, urge the Congress of the United  
9 States to enact amendatory legislation which would return to  
10 the states the right to regulate or participate in the  
11 regulation of mines with respect to mine safety and health  
12 standards.

13           Be It Further Resolved, That copies of this Memorial be  
14 sent to the President of the United States, to the President  
15 of the Senate and the Speaker of the House of Representatives  
16 of the Congress of the United States, and to each member of  
17 the Congress of the United States from the State of Colorado.

## APPENDIX

### WESTERN STATES ENERGY CONSERVATION SYMPOSIUM

#### Speakers

Patrick Binns  
Regional Network Liaison for the U.S. Solar Energy  
Research Institute, Golden, Colorado  
SUBJECT: solar energy

F. Woody Leigh, Vice President  
Manager of Appraisal/Construction Division  
Midland Federal Savings  
SUBJECT: mortgage investments in terms of energy con-  
servation and appropriate energy technology

Ronald W. Cattany, Energy Economics Specialist  
Colorado Office of Energy Conservation  
SUBJECT: economics of energy conservation and the  
status of energy needs in Colorado

John Rogers, President  
Rogers-Nagel-Langhart Architects  
SUBJECT: evaluation of American Institute of Architects  
study on energy efficient buildings

Howard Gelt, Attorney  
Atler, Zall and Haligman, P.C.  
SUBJECT: utilities regulation, energy conservation,  
and renewable energy technology

#### Panel Members

##### Co-chairmen

Senator Tilman Bishop (Colorado), Chairman  
Interim Committee on Transportation and Energy

Representative James Reeves (Colorado), Vice-chairman  
Interim Committee on Transportation and Energy

##### Members

- 1) Senator Ted Bottiger, (Washington) Chairman  
Senate Energy and Utility Committee
- 2) Representative Vard Chatburn, (Idaho) Chairman  
House Resources and Conservation Committee
- 3) Representative Peter Meloy, (Montana) Majority  
Floor Leader  
House of Representatives

- 4) Senator Jack Morgan, (New Mexico)  
New Mexico Representative to Southwest Regional Energy Council
- 5) Senator Roy Peck, (Wyoming) Chairman  
Senate Journal Committee  
Past Director, Wyoming Department of Economic Planning and Development
- 6) Senator Richard Soash, (Colorado) Member  
Interim Committee on Transportation and Energy
- 7) Buie Seawell, Director  
Colorado Office of Energy Conservation