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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1986
COMMITTEE ON:**

**Highways and Hazardous Materials
Transportation**



COLORADO LEGISLATIVE COUNCIL

**RESEARCH PUBLICATION NO. 300
December, 1985**

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recommendations for 1986

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The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

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RECOMMENDATIONS FOR 1986

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Transportation.

COMMITTEE ON:

Highways and Hazardous Materials
Transportation

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Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 300
December, 1985

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To Members of the Fifty-fifth Colorado General Assembly:

Submitted herewith is the final report of the Committee on Highways and Hazardous Materials Transportation. The committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1025, 1985 session.

At its meeting of October 15, the Legislative Council reviewed the report and recommendations of the Committee on Highways and Hazardous Materials Transportation. Sixteen bills were recommended by the committee. The Legislative Council did not approve of three proposed bills -- a bill to provide for reapportionment of the State Highway Commission, a bill concerning the authority of a county to levy a sales tax within a local improvement district to finance construction and maintenance of highways, and a bill which concerned the use of revenues from fuel tax increases. These three bills are not included in this report but are on file in the Legislative Council office or Legislative Drafting office for review by any interested person. With the exception of these three bills, the Legislative Council approved a motion to forward the committees' recommendations to the Fifty-fifth General Assembly.

Respectfully submitted,

/s/ Representative Carl B "Bev" Bledsoe
Chairman
Colorado Legislative Council

CBB/pn

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LEGISLATIVE COUNCIL
COMMITTEE ON HIGHWAYS AND
HAZARDOUS MATERIALS TRANSPORTATION

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SUMMARY OF RECOMMENDATIONS

The interim Committee on Highways and Hazardous Materials Transportation was directed by the Legislative Council, pursuant to House Joint Resolution No. 1025, to conduct a study of highways and of the transportation of hazardous materials, including, but not limited to, the following:

- (a) the Public Utilities Commission's existing and proposed rules and regulations governing the transportation of hazardous materials and hazardous wastes to determine if the concerns of the citizens are adequately being addressed;
- (b) which classes of hazardous materials and hazardous wastes should be subject to transportation standards, including, but not limited to, standards for notification of movement, routing, hours of operation, and permits;
- (c) the extent of the powers and policy-making authority granted to the Public Utilities Commission, home rule municipalities, cities and counties, and municipalities to regulate transportation of hazardous materials and hazardous wastes within the state and whether state statutes need to be updated to reflect policies and priorities of the General Assembly;
- (d) the role of the General Assembly and the state highway commission in determining highway policies of the state, including the financing of highway construction and maintenance and a review of short- and long-range highway needs for the state necessary to promote a safe and efficient highway system, the allocation of highway users tax fund moneys and any other moneys, state or federal, used for state highway purposes, and a determination of overall funding mechanisms for highway needs;
- (e) the extent of current General Assembly oversight of and input with respect to the overall budgeting of the state department of highways and the state highway commission and a determination of the role of the General Assembly as it relates to budgeting policies of the department and the commission, including a review of the expenditures of the state highway commission over the past several years; and
- (f) the role of regional councils in meeting highway needs.

In carrying out the purposes of the study, the committee held thirteen meetings during the interim. The committee's time was divided between consideration of hazardous materials matters and highway-related issues. In addition to the above directives, a hazardous materials task force made up of individuals from private industry, the agricultural community, and state agencies was appointed to assist in making specific recommendations relating to the issues involving hazardous materials transportation.

As a result of the interim committee's activities, the following thirteen bills are recommended for consideration by the 1986 General Assembly:

Hazardous Materials

Bill 60 provides for a permitting system, emergency response capability at three levels, route restriction, agricultural exemptions, and the exclusion of consumer commodities from hazardous materials regulations.

Concerning Highway Finance

Bill 61 removes the \$50,000,000 limitation (Noble Bill Cap) on the amount of moneys which may be credited to the Highway Users Tax Fund from sales and use taxes.

Bill 62 increases the excise tax on gasoline and special fuels by six cents.

Bill 63 authorizes the State Highway Commission to issue highway revenue bonds on behalf of the state for the construction, improvement, and reconstruction of highways and bridges.

Bill 64 is the financing package of the Department of Highways for meeting the \$10.2 billion shortfall required to have an adequate highway and transit system over the next fifteen years.

Bill 65 extends the deadline for General Assembly review of the need for continuation of the special highway bridge account.

Bill 66 provides an exemption from the state fuel tax for privately owned bus companies providing transportation services to school districts.

State Patrol Funding

Bill 67 provides that the Colorado State Patrol be funded out of the General Fund, rather than the Highway Users Tax Fund. It also amends the 23 percent limitation on "off-the-top" appropriations.

Bill 68 exempts the Colorado State Patrol in fiscal year 1986-87 from the limitation that the appropriation from the Highway Users Tax Fund shall not exceed seven percent of its appropriation for the prior fiscal year.

Oversight of Department of Highways

Bill 69 expands the role of the Highway Legislation Review Committee to give guidance and direction to the Department of Highways.

Bill 70 requires the chief engineer of the Department of Highways to compile information concerning the condition of the state highway system, county roads, and city streets.

Bill 71 proposes that the State Highway Commission be authorized to appoint the executive director of the Department of Highways

Bill 72 exempts certain publicly owned property from the prohibition on making a contribution to campaigns involving the election of persons to any public office.

HAZARDOUS MATERIALS TRANSPORTATION

Existing Laws and Regulations

Federal Law and Regulations

The interstate transportation of hazardous materials is regulated pursuant to the Hazardous Materials Transportation Act of 1974 (HMTA) (49 USC section 1801 et. seq.). Under the HMTA, a "hazardous material" is a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce.

The HMTA contains a provision stating that any requirement of a state or political subdivision which is inconsistent with any requirement of the act or any regulation issued thereunder is preempted (49 USC section 1811). State and local laws or regulations will not be preempted if the secretary of transportation determines that the state or local requirement (1) affords an equal or greater level of protection to the public than is afforded by the federal act and regulations; and (2) does not unreasonably burden commerce.

The act requires interstate transporters of hazardous materials to register with the Department of Transportation; outlines the enforcement and inspection powers of the department; and imposes civil and criminal penalties on violators of the law or any regulation. Violators may be subject to a civil penalty of up to \$10,000 for each violation, and each day constitutes a separate violation. The maximum criminal penalty which can be imposed for each offense is a \$25,000 fine, five years imprisonment, or both.

The United States Department of Transportation (DOT) has the regulatory responsibility over the transportation of most specified hazardous materials. The DOT regulations are also applicable to shipments of hazardous wastes that are subject to the Environmental Protection Agency's cradle-to-grave manifest system under the Resource Conservation and Recovery Act. In addition, DOT has developed safety standards for packaging some low level radioactive materials. The DOT regulations are applicable to transportation by rail and aircraft as well as motor vehicles.

The DOT regulations classify hazardous materials into categories: explosives; compressed gases; flammable and combustible liquids; flammable solids, oxidizers and organic peroxides; poisons; radioactive materials; corrosives; and other regulated materials. The regulations are written to ensure that hazardous materials are safely contained in packages and the hazards of the shipment are effectively communicated to the carrier and any emergency responders. Thus, DOT regulations include requirements on packaging, handling, marking, labeling, and placarding.

Packages must be designed and constructed to maintain their integrity under normal transportation conditions. Materials that might react chemically cannot be mixed in the same package. Each package being transported is to be marked with the proper shipping name and identification number. Package markings must be legible, in English, and on a contrasting background. The size of markings for containers is specified.

All packages are to contain labels providing guidance as to what commodities cannot be stored adjacent to one another. The labels are to contain both wording and a pictorial symbol designating hazard class. Trucks, rail cars, and cargo and portable tanks transporting hazardous materials must be placarded on four sides with diamond-shaped, color-coded signs. Finally, a shipping paper accurately describing the hazardous material must accompany every shipment of such materials.

Colorado Law and Regulations

Colorado law regarding the intrastate transportation of hazardous materials is contained in sections 40-2.1-101 to 106 -- the "Transportation of Hazardous Materials Act." The law directs the Public Utilities Commission to develop rules and regulations for the safe transportation of hazardous materials by motor vehicle. The regulations cannot be more stringent than those of the United States Department of Transportation. With respect to local government regulations, section 40-2.1-103 (4) (a) states that:

Standards contained in the rules and regulations ... shall be the minimum statewide standards for the transportation of hazardous materials within this state. Any municipality shall have the power to make and publish ordinances containing standards no more stringent than and not in conflict with those adopted by the commission with respect to the transportation of hazardous materials from a point originating or terminating within the municipality.

Persons convicted of violating hazardous materials transportation regulations are guilty of a misdemeanor and can be punished by a fine of \$25 to \$1,000 or imprisonment for not more than one year, or both.

Colorado's hazardous materials transportation regulations either incorporate the federal regulations by reference or duplicate the intent of the federal wording. Thus, the state's regulations are virtually the same as the federal regulations.

The regulations state that hazardous materials cannot be transported through an area with a population in excess of 50,000 unless there is no practicable alternative. In that event, the PUC would have the authority to designate routes after consultation with the affected local jurisdictions.

The regulations are enforced primarily by the PUC, the state patrol, ports of entry (POE) personnel, and local officials. The PUC usually checks vehicles at the shipper's terminal; POE personnel perform spot checks at the POE stations.

Radioactive Materials Transportation Law and Regulations

The United States Nuclear Regulatory Commission (NRC) has the statutory responsibility to regulate the possession, use, and transfer of radioactive materials within the country. Because this responsibility overlaps with that of DOT, the two agencies have defined their respective areas of activity through a memorandum of understanding to avoid duplication of efforts.

Through this memorandum, the NRC and DOT agreed that DOT would regulate safety standards for packaging radioactive materials not exceeding Type A limits and for low specific activity radioactive materials. The NRC, however, reviews, approves or denies approval of package designs for missile or other radioactive materials in quantities exceeding Type A limits. Basically, Type A packages are designed to withstand only the normal events of transportation. Type B packages are designed to withstand whatever occurs in a major accident. The NRC is also in charge of deciding the time, extent, and degree of security appropriate for high-level radioactive material shipments.

In 1980, Congress enacted P.L. 96-295 directing the NRC to promulgate regulations providing for timely notification to a state's governor prior to the transport, by any mode, of nuclear waste, including spent nuclear fuel, across the boundaries of the state. This notification requirement does not apply to quantities and types of nuclear waste which the NRC specifically determines does not pose a potentially significant hazard to the health and safety of the public. The information to be furnished in the notification is listed in 10 CFR section 71.97 and includes the following:

- name, address, and telephone number of shipper, carrier, and receiver of waste shipment;
- a description of the waste as required by DOT regulations;
- the point of origin of the shipment and the seven-day period during which departure of the shipment is expected to occur;
- the seven-day period during which arrival of the shipment at a state boundary is estimated to occur;
- the destination of the shipment; and
- a point of contact with a telephone number for current shipment information.

Federal regulations (49 CFR section 177.825) contain routing and training requirements for the movement of radioactive materials by motor vehicle. Carriers shipping large quantities of radioactive materials are to use "preferred routes" selected to reduce time in transit. A preferred route consists of:

1. an interstate highway for which an alternative route has not been designated by a state; and
2. a state-designated route selected by a state in accordance with guidelines published by DOT.

An interstate system bypass or beltway around a city is to be used when available. Motor vehicles can deviate from the preferred route under emergency circumstances, to make rest, fuel and vehicle repair stops, and for deliveries and pick-up of packages. If a preferred route is not available, the carrier is required to operate on routes that minimize radiological risk. If there is only one practicable highway route available, these requirements do not apply. Written route plans must be prepared before shipping any radioactive materials.

Federal Preemption of State and Local Requirements

The Hazardous Materials Transportation Act of 1974 provides that any state or local requirement that is "inconsistent" with that act or its regulations is preempted and therefore invalid. To assist in the interpretation of this provision, regulations have been issued establishing procedures for issuing advisory "inconsistency rulings" in response to formal requests from affected shippers, carriers, or state and local governments. These rulings set forth DOT's views regarding the validity of various state and local requirements; the determination of preemption is ultimately a judicial function, however.

In issuing inconsistency rulings two tests are applied: first, whether the state or local requirement presents an obstacle to accomplishing the purposes of the HMTA (the "obstacles" test); and, second, whether it is possible to comply with both the federal regulations and the nonfederal requirement (the "dual compliance" test).

In applying the "obstacle" test, two fundamental purposes of the HMTA, as expressed in the statute and its legislative history, are reviewed. The stated purpose in adopting the act was to enhance overall public safety. Thus, if the effect of a state or local requirement is to reduce overall safety, it is inconsistent with the HMTA. Secondly, the legislative history of the preemption provision indicates that Congress' purpose in adopting it was "to preclude a multiplicity of state and local regulations in the area of hazardous

"materials transportation." ^{1/} Therefore, if the effect of a nonfederal requirement is to interfere substantially with the uniform regulatory system established by the federal regulations, it is inconsistent with HMTA.

As examples of the way these tests have been applied, a DOT agency has ruled that hazardous materials packaging requirements and hazard warning requirements that differ from the federal regulations are inconsistent, both because they may have a detrimental effect on safety and because they interfere with the uniform national regulatory scheme. On the other hand, it has been ruled that routing requirements for hazardous materials are consistent if they are adopted through a process that permits all affected jurisdictions to participate and if they have the effect of enhancing overall public safety.

Routing

Hazardous materials transportation. As mentioned previously, in order for a state or local routing requirement to be consistent with federal regulations, it must be adopted through a process that considers the requirement's effects on other jurisdictions and permits them to participate in the process. The requirement also must enhance overall public safety, not just the safety of citizens of the enacting jurisdiction.

A document entitled "Guidelines for Applying Criteria to Designate Routes for Transporting Hazardous Materials" was developed for the Federal Highway Administration. Generally, the guidelines provide a method for quantifying both the probabilities of and the potential consequences from hazardous materials accidents along selected routes. The product of those two factors constitutes the overall risk of those routes. Therefore, the relative safety of two routes can be determined and routing decisions can be based on an objective analysis.

The guidelines also suggest that subjective factors, such as the proximity of routes to schools or hospitals, can be considered when the objective analysis shows the equivalent risks. In addition, the guidelines stress the importance of involving all affected jurisdictions in the route selection process to assure the accuracy, credibility, and acceptability of the results.

Routing of radioactive materials. The DOT has established federal requirements for the highway routing of radioactive materials (49 CFR section 117.825). The interstate highway system is prescribed as the mandatory route for the highway shipment of large quantities of

^{1/} Senate Report No. 1192, 93rd Congress, 2nd Session, 1974.

radioactive materials unless a different route or "preferred route" has been designated by a state. The process for selecting a state route for the shipment of radioactive materials would be similar to the process described above. The DOT published "Guidelines for Selecting Preferred Routes for Large Quantity Shipments of Radioactive Materials" to assist states in selecting preferred routes.

In an appendix to the federal regulations, the DOT outlines the department's policy with regard to the relationship of state and local requirements with federal rules for routing motor carriers transporting radioactive materials. A state routing rule would be inconsistent with federal regulations if: (1) it prohibits transportation of radioactive materials by highway without providing an alternate route; or (2) it does not meet all the following criteria:

- a) the rule is established by a state routing agency;
- b) the rule is based on a comparative radiological risk assessment process at least as sensitive as those outlined in the DOT guidelines;
- c) the rule takes into account the views from each affected jurisdiction; and
- d) the rule ensures reasonable continuity of routes between jurisdictions.

A local government routing rule would be inconsistent if it prohibits transportation on routes authorized by federal regulations or a state routing agency.

Other state or local rules which would be considered inconsistent with federal requirements include rules which:

- conflict with physical security requirements established by the NRC;
- require additional personnel, equipment, or escort;
- require additional or different shipping paper entries, placards, or other hazard warning devices;
- require pre-notification;
- require accident or incident reporting other than as immediately necessary for emergency assistance; and
- unnecessarily delay transportation.

Problems With Existing Laws and Regulations

The committee received a substantial amount of testimony concerning the adequacy of existing federal and state laws and regulations governing the transportation of hazardous materials. Testimony was provided by representatives of the United States Department of Transportation and the United States Environmental Protection Agency; state agencies which have hazardous materials enforcement and emergency response duties; the Colorado Association of Commerce and Industry; the Colorado Municipal League; spokesmen for various companies which transport hazardous materials; local enforcement and emergency response agencies, including several fire-fighting departments; the Colorado Railroad Association; the Governor's Office; and the cities of Aurora, Wheatridge, and Denver.

Areas of concern expressed by the witnesses focused on the need for revision of hazardous materials statutes in the areas of enforcement and inspection, permitting, route designation, emergency response, and state agency responsibility for regulation of hazardous materials transportation.

Enforcement and Inspection

Although the United States Department of Transportation regulations provide a comprehensive framework for controlling the transportation of hazardous materials, federal policy places the primary responsibility for enforcement of these regulations with state and local governments. Pursuant to section 40-2.1-105, the Colorado State Patrol, the Ports of Entry Division, and the Public Utilities Commission have the power to immobilize, impound, or direct the disposition of motor vehicles transporting hazardous materials when the officer determines that the vehicle or operation of the vehicle is unsafe. For the period January 1 through December 31, 1984, a total of 27,875 inspections were conducted. For each truck inspected, an average of 1.6 violations were found. Thirteen percent of the trucks inspected were in such poor condition that they were taken out of service. Only nine percent of the trucks inspected had no violations. A detailed summary of the truck inspections is provided in Appendix A.

In light of the number of violations detected through the vehicle inspections, concern was expressed regarding the lack of manpower, particularly in the Public Utilities Commission Transportation Section and the Colorado State Patrol, to conduct inspections. A representative of the PUC noted that the commission has only one person conducting inspections of vehicles transporting hazardous materials in the Denver metropolitan area. The state patrol has a critical manpower shortage and its responsibilities have been increased. In comparison with ten other western states, Colorado has more licensed drivers, registered vehicles, vehicle miles traveled, and injury accidents per uniformed officer than any of those states.

Testimony indicated a dissatisfaction with the level of fines for hazardous materials violations. Presently, the penalty under Colorado law for most hazardous materials transportation violations is only \$5 or \$10. It was suggested that the existing penalties are not a sufficient incentive for compliance. A comparison of penalties in Colorado and neighboring states is provided in Appendix B. An additional reason cited for increasing penalties was to help in generating revenues needed to administer a hazardous materials transportation program.

Permits

Currently, no state permits are required for hazardous materials transporters. It was a consensus of the interested parties appearing before the committee that a permitting procedure should be included in any revision to Colorado's hazardous materials transportation statutes. A representative of the Colorado Motor Carriers Association emphasized that for purposes of industry compliance and uniformity of requirements, there should be a statewide, rather than a locally administered permitting system. Among the reasons cited for creation of a statewide system were:

- revenues generated by permits would be a major source for funding the hazardous materials transportation program;
- a permit system would help ensure that hazardous materials transporters have sufficient liability insurance to cover costs incurred by a hazardous materials incident;
- a permit system would provide a control mechanism in such areas as qualification of drivers and safety standards in the operation of vehicles;
- an efficient method would be established to inform transporters of the routes designated for hazardous materials shipments; and
- a compilation of data on all vehicles transporting hazardous materials would be established.

Route Designation

Routing is an important consideration in the shipment of any kind of goods. Testimony indicated the difficulty in achieving a balance between the need to exercise state and local police powers over hazardous materials routing with the need to avoid imposing unnecessary burdens on interstate commerce and to avoid shifting risks of hazardous materials transportation from one jurisdiction to another.

Although there was general agreement that communities should be given some degree of authority over route designation, there was no

consensus on how route designation should be implemented. Several interested parties argued that the responsibility for route designation should be given to a state agency. Opinions varied as to whether the appropriate routing agency should be the Colorado State Patrol, the Department of Highways, or the Public Utilities Commission. Other persons suggested that local communities, which have a better understanding of the relative safety of the highways within their local jurisdiction, should make all routing decisions.

Representatives of the trucking industry expressed concern that locally imposed route restrictions could impede access by carriers to their destination. Carriers usually transport their goods along the shortest, most expeditious routes. Route restrictions often require the use of more circuitous and slower routes. The required use of such routes inconveniences transporters of hazardous materials and results in increased costs to the carrier which, consequently, are passed on to the consumer. In addition, routes which are designated for hazardous materials shipments may actually increase the probability of an accident because the roads are in poorer condition and longer driving distances are required.

It should be emphasized that there were several areas of general agreement on route designation among committee members, industry representatives, and state and local enforcement agency officials. There was a consensus that hazardous materials transportation route restrictions should address the following concepts:

- local pickup and delivery trucks should be exempt from route restrictions;
- the designations should be consistent with federal laws and regulations;
- designations should not unreasonably burden interstate or intrastate commerce; and
- designations should not be arbitrary and intended to divert the transportation of materials to other communities.

Emergency Response Capability

Effective emergency response may make the difference between a minor hazardous materials incident and a disaster. Emergency response is designed to save lives and save or protect property and the environment. The hazardous substance incidents law -- title 29, article 22, C.R.S. -- directs the governing body of municipalities to designate an emergency response authority. The designated authority is to provide the initial emergency action necessary to minimize the effects of an incident occurring within its jurisdiction. Boards of county commissioners designate the response authority for incidents in the unincorporated portion of the county, and the Colorado State Patrol is responsible for incidents on federal, state, or county

highways in unincorporated areas. The Department of Health is authorized to organize, by mutual aid agreement, a state emergency response team. Public entities are given the right to claim reimbursement for emergency response costs from responsible parties.

Testimony to the committee by representatives of the Office of the Governor indicated that in 1984, local agencies responded to more than 800 hazardous materials incidents in Colorado. Local agencies in the Denver metro area responded to more than 160 hazardous materials transportation incidents. There are a number of areas in the state which are unprepared to protect lives and property from accidents involving hazardous materials. In spite of requirements imposed on emergency response authorities by title 29, article 22, C.R.S., 15 counties and 158 municipalities have no designated response agency. Of 170 local emergency response agencies responding to a November, 1984 survey (survey is found in Appendix C), only 25 have the minimum training and equipment necessary to respond to hazardous materials incidents.

A representative of the Colorado Municipal League stated that local emergency response teams are not formed because of lack of funds, fear of potential liability incurred as a result of local response to a hazardous materials incident, and an insufficient population base in some regions to handle such responsibilities. Testimony indicated that special protective suits used by a hazardous materials response team cost approximately \$17,000 each and have only a three- to five-year life span.

An additional expense for localities is proper training of emergency response personnel. The Colorado Training Institute (CTI) in Denver offers to firefighters, law enforcement personnel and other safety officials a comprehensive training program on the handling of hazardous materials during transport. Tuition fees for the seminars are generally \$250 per person, although the fees are subject to revision. Discounts are available for groups of individuals from the same agency registering for the CTI seminars.

The federal government does assist in the emergency response activities of state and local governments by lending its technical expertise toward planning and training and by helping state agencies to coordinate state and local planning activities. Representatives of the United States Environmental Protection Agency (EPA) reviewed for the committee the response role of that agency. The emergency response authority for the EPA is provided for in the Clean Water Act. When a hazardous materials incident occurs involving an oil product, the regional on-scene coordinator for the EPA is notified. The first response effort is by the local community in order to contain the spill, then the EPA responds with an on-scene coordinator to provide technical assistance. The major indicator of the level of EPA response to a hazardous materials incident is the likelihood of spills threatening or entering the surface waters of the state.

The EPA spokesmen provided the following statistics on hazardous materials spills in Colorado in 1984. It was emphasized that 69 percent of all spills were non-transportation related in 1984.

COLORADO

Table 1

Sources of Spills

	<u>Number</u>	<u>Percent</u>
Highway	60	20.0
Pipeline	4	1.3
Railroad	13	4.3
Aircraft	3	1.0
Other Transportation	13	4.3
TOTAL TRANSPORTATION	<u>93</u>	<u>30.9</u>
Industrial Plant	39	13.0
Marketing Distributors	26	8.7
Production	65	21.7
Consumer	38	12.7
Other Non-Transportation	39	13.0
TOTAL NON-TRANSPORTATION	<u>207</u>	<u>69.1</u>
<u>SOURCES TOTAL</u>	<u>300</u>	<u>100.0</u>

State Agency Regulation of Transportation of Hazardous Materials

Testimony presented to the committee indicated that there are a number of state and local authorities that have duplicative responsibilities regarding the transportation of hazardous materials and emergency response to hazardous materials incidents. Concern was expressed that if route designation decisions are not centralized, there would be unnecessary delays in the delivery of goods and services resulting in higher costs for the carrier and the consumer. The lack of a uniform state permitting system can also impose interstate and intrastate commerce burdens for truckers.

There is a lack of uniformity in hazardous materials data collection. The Public Utilities Commission, Department of Public Safety, Department of Health, and the Ports of Entry Division have diverse, and at times duplicative responsibilities for the collection of information on hazardous materials shipments. Provisions for

emergency response to hazardous materials incidents are covered under diverse statutory provisions with a number of state and local agencies having specific responsibilities depending on the level of response required for a given incident.

The committee concluded that there is a need to consolidate administrative responsibility and statutory provisions to provide for more efficient regulation of the transportation of hazardous materials and adequate response to hazardous materials incidents.

Committee Recommendations

In view of the testimony given to the committee on the need for revision of the "Transportation of Hazardous Materials Act", the committee recommends Bill 60. It should be pointed out that a number of the provisions of Bill 60 are a product of the deliberations and recommendations of a hazardous materials task force made up of individuals from private industry, the agricultural community, and state agencies. A listing of the task force members is provided in Appendix D.

Concerning the Transportation of Hazardous Materials and Hazardous Substance Incidents -- Bill 60

Bill 60, concerning the transportation of hazardous materials and emergency response to hazardous substance incidents, has the following major components:

Part 1 -- General Provisions

- The Colorado State Patrol is designated as the state agency having rule-making authority over the hazardous materials safety program.
- Enforcement of provisions of the bill can be by any law enforcement officer, port of entry weigh station personnel, or investigative personnel of the PUC.
- Local governments are preempted from regulating hazardous materials transportation unless such regulations are identical to state regulations.
- A Hazardous Materials Safety Fund is created for the support of the hazardous materials safety program. That fund is to be administered by the Department of Public Safety (DPS). The fund consists of the following:
 - A. Monies appropriated by the General Assembly;
 - B. Hazardous materials transportation permit fees;

C. Civil penalties collected as a result of violations of provisions of the act; and,

D. Federal funds provided to the state for the purpose of carrying out provisions of the act.

-- The bill defines four categories of hazardous materials.

Part 2 -- Permit System

-- No transportation of hazardous materials is allowed in the state until the DPS or port of entry weigh station personnel issue a permit authorizing the movement of motor vehicles which carry hazardous materials.

-- Farm machinery is exempted from the permit system.

-- The permit applicant must supply proof of having obtained liability insurance as required by the United States Department of Transportation.

-- A description must be submitted of the hazardous materials to be transported.

-- Any person transporting hazardous materials must carry a copy of the shipping papers and a copy of the hazardous materials transportation permit.

-- Advance notification to the Governor is required prior to transportation of nuclear materials.

-- Certification is required that each of the drivers meet qualifications established by the United States Department of Transportation.

-- Annual permit fee costs are established based on the number of vehicles the applicant operates within the state.

-- Civil penalties of \$250 are provided for operating without a permit. There is also a \$25 penalty for not having a copy of the permit in the vehicle, and a \$250 fine for violating permit conditions.

-- Local governments are preempted from establishing a permit system.

Part 3 -- Route Restriction

-- If requested by petition of local governments or by the Department of Highways, the Colorado State Patrol is given the authority to restrict routes which may be used by vehicles

transporting hazardous materials. Upon receiving petitions requesting route restrictions, the state patrol must hold an informal public conference to determine if there is opposition to the petition. Requirements are specified in the bill before the patrol can approve any route restrictions.

- Civil penalties of \$250 for each separate violation per day are to be assessed against any hazardous materials transporter who deviates from route restrictions imposed by the state patrol.

Part 4 -- Hazardous Substance Incidents

- The bill provides three levels of response to hazardous materials incidents. The Department of Public Safety is given the authority to establish regional response teams for response to extraordinary hazardous substance incidents. Statutes giving the Department of Health the authority to organize a state emergency response team have been repealed.
- The Department of Public Safety is authorized to make grants from the Hazardous Materials Safety Fund to assist with the training and equipping of regional response teams.
- Data collection responsibilities of the Department of Health relating to hazardous materials incidents and response thereto are transferred to the Department of Public Safety.
- The Department of Public Safety has the authority to request a listing of hazardous materials present on private property when these materials exceed quantities as specified in the bill. Private property does not include residential or agricultural property. A request for a listing of hazardous materials can also be submitted by designated emergency response authorities or local fire departments.
- Statutes are retained which provide a class 4 felony for any person who intentionally causes or contributes to a hazardous substance incident.
- The bill allows for civil penalties of not less than \$1,000 nor more than \$25,000 per incident for any person who recklessly or intentionally causes or contributes to a hazardous substance incident.

HIGHWAYS

Overview of Current Highway Conditions and Needs

Testimony on the current needs and the condition of the Colorado roadway system was provided by representatives of the Department of Highways, Colorado Municipal League, Colorado Counties Inc., five area metropolitan planning organizations (MPO's), the Regional Transportation District, the Colorado State Patrol, Jefferson County, and the cities of Aurora and Denver. Major concerns expressed by these entities are reviewed in this portion of the report.

Colorado's Roadway System

Statistical information provided by the Department of Highways indicates that Colorado has 85,724 miles of public roads and 7,228 bridges. The state system comprises 9,193 miles (10.7 percent of the total miles of road), and 3,419 bridges (47.3 percent of the total bridges). The following is a breakdown of Colorado's public road system by governmental jurisdiction.

	<u>1985</u>	
	<u>Roadway Miles</u>	<u>Number of Bridges*</u>
State	9,193	3,419
County	66,859 **	3,264
City	<u>9,672</u>	<u>545</u>
TOTAL	85,724	7,228

* Bridges under 20 feet are not included.

** Includes approximately 10,000 miles of road ineligible for distribution of HUTF.

The 9,193 mile state highway system consists of 22,413 lane-miles of highways. Lane-miles, which are the sum of the lengths of all single driving lanes of the highway system, provide a more complete indication of the total maintenance requirements of the state's highway system. The total for lane-miles in Colorado is now 22,413, an 11 percent increase over the 20,190 lane-miles in 1970.

Vehicle miles of travel (VMT) is a measure of the amount of use of the roadway system. In 1984, total VMT on all Colorado roads was 24.6 billion. The state highway system accounts for 64 percent of total VMT, or 15.8 billion.

Magnitude of Highway Problems -- Revenue Shortfall

Concern was expressed by some witnesses and committee members that, with miles traveled on Colorado's highway system increasing by more than one billion miles every year, investments to accommodate this growth will be mandatory to avoid intolerable congestion, significant increases in vehicle repair and maintenance costs, an increase in air quality problems, and a reduction in regional economic growth.

Revenues from the state motor-fuel tax comprise 33 percent of the total Department of Highway's budget. This is the largest state source of revenue for the department. Federal sources comprise 53 percent of the highway department's total revenue. Although the state tax for gasoline has been increased to 12 cents per gallon and the diesel fuel tax has been increased to 13 cents, revenue has not increased in proportion to increased travel because average fuel use per vehicle is declining. In 1981, the average Colorado driver traveled 10,616 miles during the year, and used 793 gallons of fuel. In 1983, the average driver traveled 10,815 miles but used only 762 gallons of fuel. At the same time that revenues from the motor fuel tax are proportionally declining, road repair costs continue to increase.

The Department of Highways has estimated that to keep the roads in the same condition as they were in 1983 would require the expenditure of \$110 million annually for routine maintenance, minor surface treatment, and major surface treatment. Spending at that level would prevent further deterioration of the state system but would not reduce the backlog of surface road needs. A review of the highway department budget indicates that \$78 million is budgeted in fiscal year 1985 for maintenance and major and minor surface treatments. That figure is \$32 million less than what is needed to preserve the highway system at 1983 deterioration levels.

It was pointed out to the committee by highway department spokesmen that highways have a finite life. The length of time that highways last and their rate of deterioration depends on such factors as how they are designed, the materials used, environment, and the weight and frequency of the traffic they carry. It was suggested that costs for adequate highway repairs accelerate rapidly following the optimum point for resurfacing. The additional damage to the highway can increase repair costs four to five times in a short time period if preventative actions are not taken. The department concluded that timely and adequate treatments are essential in eliminating deterioration of the state highway system.

Indirect costs of deteriorating roads and bridges. A report entitled State Highway Funding Methods, prepared in June, 1984 by The Road Information Program (TRIP), notes the indirect costs of failure to maintain an adequate highway and bridge system. The report points out that driving over rough, rutted and broken pavement results in increased fuel consumption, damage to brakes, steering and suspension

systems and excessive tire wear. It was estimated nationally that the annual added cost of driving on deficient roads is an estimated \$28.18 billion at 1983 prices, or \$191 per motorist annually. This includes an estimated 18.57 billion gallons of wasted gasoline worth \$21.67 billion and \$6.51 billion in added vehicle maintenance costs and tire wear costs. Road conditions even affect those persons who don't use the highways for personal travel. Bridge closings and deteriorated roads may force delivery trucks to detour many miles. The costs for wasted fuel and increased maintenance probably are passed on to the consumer.

Ratings of the Colorado roadway and bridge system. A report entitled An Assessment of Colorado's Highway Repair Progress, also prepared by TRIP, was reviewed by the committee. That report reviewed the major surface needs of the state highway system. TRIP data showed that the pavement condition of over 75 percent of the 9,210 miles of paved state-maintained roads in Colorado is deficient. These roads require repairs, resurfacing or reconstruction. The 6,950 miles of deficient roads include 2,950 miles of paved roads rated poor. The pavement on these roads is considered to be badly cracked, rutted or broken in numerous places. In addition, 4,000 miles of highway are rated in fair condition. The pavement in this category has a number of ruts, bumps and cracks and has been patched extensively. These miles require minor surface treatment or resurfacing. The Department of Highways ratings of the state highway system are included in the 2001 Plan which is reviewed on pages 30 to 35 of this report.

A representative of Colorado Counties, Inc., provided a statistical assessment of the county highway system. Two categories of the local government highway network were reviewed, the urban system and the rural system. Testimony before the committee reflected a need for immediate repair and reconstruction of both the urban and rural system. The condition of the county highway system follows:

Urban System

1. Freeway and Expressway -- 167 miles
1983 condition -- 6.6% deteriorated; 73.1% fair; 20.3% good.
2. Principal Arterial -- 896 miles
1983 condition -- 16.3% deteriorated; 70.2% fair; 13.5% good.
3. Minor Arterial -- 1,061 miles
1983 condition -- 4.7% deteriorated; 76.7% fair; 18.6% good.
4. Collector -- 1,105 miles
1983 condition -- 3.5% deteriorated; 68.9% fair; 27.6% good.

Rural System

1. Principal Arterial -- 2,054 miles
1983 condition -- 10.1% deteriorated; 63.0% fair; 26.9% good.
2. Minor Arterial -- 1,930 miles
1983 condition -- 12.3% deteriorated; 69.9% fair; 17.7% good.
3. Major Collector -- 6,317 miles
1983 condition -- 4.9% deteriorated; 72.8% fair; 22.3% good.
4. Minor Collector -- 2,441 miles
1983 condition -- 17.8% deteriorated; 75.3% fair; 6.8% good.

Another area of concern expressed by the Colorado Counties, Inc. spokesman is the condition of the county bridge network. Approximately 45 percent of the bridges are either structurally weak and cannot support legal loads or are narrow, have an obsolete design, and a poor or dangerous approach alignment. Many of the county bridges are more than 50 years old and incompatible with current usage patterns (i.e., larger vehicles, heavier loads, and increased traffic volume). It was estimated that the repair costs for the deficient bridges exceeds \$400 million.

Long-Term Transportation Needs

A substantial amount of testimony was presented concerning the long-term (i.e., needs to the year 2000) needs for an adequate state transportation system. Representatives of the Regional Transportation District, the Denver Regional Council of Governments (DRCOG), Mesa County, the Pikes Peak Area Council of Governments, the Alliance for Colorado's Future, and the Department of Highways provided specific projections on long-term transportation needs, revenue sources, and proposed expenditures. In addition, highway financing options were submitted by each of the above-mentioned organizations.

Regional Transportation District

Testimony provided by representatives of the Regional Transportation District (RTD) indicated that no new freeway construction has occurred since 1971 and that miles of travel on the Denver freeway system have increased from 4.3 million vehicle miles per day in 1971 to 7.9 million vehicle miles per day in 1981. Spokesmen for RTD emphasized the need for cooperation between RTD, DRCOG, and the Department of Highways in making improvements to the transportation system in the Denver metro area. One example cited of the cooperative effort of those entities is the North Corridor High Occupancy Vehicle-Busway Project, which is an improvement in North I-25 scheduled to commence in 1987. That project, upon completion, will double the people-carrying capacity of that portion of I-25.

RTD funding requirements. It was estimated that RTD will need the equivalent of a 0.4 percent sales tax increase to fund an expected \$1.4 billion shortfall. A review of projected mass transit needs is set forth in Table II.

Table II

Total Funding Needs for RTD Recommended Plan
1985-2000

Total Needs	\$5.759 Billion
Total Expected Funds	\$3.229 Billion
Difference	\$2.530 Billion

Potential Funding Sources

Urban Mass Transit Administration Funds	\$906 Million
Increased Farebox Revenue	<u>\$224</u> Million
TOTAL	\$1.130 Billion

RTD finance recommendations. To raise revenues to meet the \$1.4 billion shortfall, RTD is considering taking a proposed 0.4 percent sales tax increase to the people for a vote in the November, 1986 election. Other funding options suggested by RTD representatives included a metropolitan taxation district for each transit corridor; tax increment financing; special benefit assessments; employee taxes; or other types of development taxes.

Denver Regional Council of Governments

Representatives of the Denver Regional Council of Governments (DRCOG) spoke on future transportation needs for the Denver metropolitan region. Testimony by DRCOG spokesmen indicated that a 50 percent increase in population is expected to result in a doubling of vehicle miles traveled on the region's highways and regional thoroughfares by the year 2000. In response to these transportation needs, DRCOG has developed a Regional Transportation Plan which recommends construction of an additional 1,062 lane miles of roads and highways together with a 77 mile rapid transit system and improved bus service. Representatives of DRCOG stated that the combination of highway and transit improvements will provide the Denver region with an integrated, multi-modal transportation system to cope with present congestion problems and provide needed future mobility.

DRCOG funding requirements. The shortfall for the regional streets and highways and transit improvements identified in the Regional Transportation Plan is slightly over \$3 billion. For state highways, the need is about \$360 million. In addition, there is a \$700 million shortfall for non-state regional thoroughfares. A breakdown of current needs, revenues, and the resulting shortfall is provided below in Table III.

TABLE III

Current Need/Revenue Summary
1984-2000
(millions, 1983 dollars)

	<u>Cost</u>	<u>Revenues</u>	<u>Shortfall</u>
Regional Thoroughfares			
<u>On State Highway System</u>			
Interstate	\$392	\$331	\$ 61
Interstate Transfer	129	104	25
Primary	264	78	186
Secondary	12	2	10
CDOH Urban	<u>93</u>	<u>15</u>	<u>78</u>
TOTAL	\$890	\$530	\$360
<u>Not On State System</u>			
Interstate Transfer	--	\$ 10	--
Federal-Aid Urban Systems	--	40	--
Private/District Contrib.	--	260	--
Local Government	<u>--</u>	<u>55</u>	<u>--</u>
TOTAL	\$1,065	\$365	\$700
Regional Thoroughfares	\$1,955	\$895	\$1,060
Subregional Facilities	<u>2,195</u>	<u>1,645</u>	<u>550</u>
TOTAL	\$4,150	\$2,540	\$1,610

DRCOG transportation finance recommendations. The transportation finance proposals submitted by DRCOG are outlined below.

1. To address the shortfall of \$360 million for the state highway system, a 5.6 cents motor fuel tax increase is suggested. It is expected that this tax increase would raise \$22.5 million per year for the next 16 years for the Denver metro area and another \$13.9 million for cities and counties to finance the needed capital projects and maintenance of the state highway system.

2. To finance the regional facilities shortfall of \$700 million, DRCOG recommends removing the exemption of motor fuel from the current three percent state sales tax and that a supplementary annual vehicle registration fee of \$7 per vehicle be assessed. An alternative to this financing proposal is the assessment of a supplementary annual vehicle registration fee of \$22 per vehicle.
3. To finance the \$550 million shortfall on local roads, it is recommended that 40 percent of the revenues generated by the proposed 5.6 cents fuel tax increase be distributed to cities and counties.

City of Grand Junction and Mesa County

Representatives of Mesa County Engineering and the Grand Junction Public Works Department noted that planning for transportation needs in Mesa County must take into account the erratic growth patterns caused by energy development. Both the uranium and the oil shale booms were followed by sharp declines in population with people leaving the area. However, this decline in population does not mean the elimination of area road and street liabilities. As of 1983, the county had 1,403 miles of maintained road and Grand Junction had 141 miles of maintained road.

Several major capacity improvements need to be completed in order to accommodate the expected population growth projected for the next several years. Renewed energy development, coupled with on-going economic development may create another surge in growth. Spokesmen for Mesa County and Grand Junction stated that with the current shortage of resources, both the city and county are encountering difficulties in maintaining the existing network.

Funding requirements for Mesa County. Projects which have been identified as needing capacity improvements will cost approximately \$60 million. Maintenance costs of the total network must also be considered. Over the next five years, maintenance expenses are projected to exceed \$42 million. The difference between the dedicated revenues (\$84 million) and the potential costs of a full transportation system (\$146 million) is \$62 million.

Local options for highway finance. Several financing options that will be considered by Mesa County include increasing the dedicated property tax. Currently, the dedicated road and bridge mill levy of 3.3 raises approximately \$1.5 million per year. For the county to raise the \$15 million shortfall between needs and revenues, the mill levy must be increased to 11.9. This would yield the City of Grand Junction almost \$753,000 per year in extra dedicated revenues, while the county would receive \$3 million annually in additional funds. This proposal would require legislative approval.

A second option would be to increase the fuel tax. Support has been noted for a county-wide option gas tax to be charged at the pump.

Another method would be an increase in the state fuel tax, with revenues returned to local governments based on a formula. A third financing alternative would be to increase development fees. The county could impose a flat fee per dwelling unit or per foot of commercial space, vary the fee by area, or vary the fees based on the measured impact on roads leading from a developed site. Developments may be required to improve roads or contribute their share of the improvement costs.

The county could also establish a metropolitan service district which would provide for uniform taxation to improve roads and bridges within district boundaries. Establishment of local improvement districts that would remain under the control of the city and county and dissolve upon completion of the improvements is another option to be considered.

Pikes Peak Area Council of Governments

The Pikes Peak Area Council of Governments is responsible for regional planning for El Paso, Park, and Teller Counties. The current long-range transportation plan recommends projects that have been evaluated as being the minimum necessary to ensure an acceptable level of service throughout the region.

Representatives of the Pikes Peak Area Council of Governments noted their concern about the increasing need for transportation improvements while revenues are decreasing. It was noted that there have been recent reductions in federal revenue sources.

Pikes Peak COG funding requirements. The anticipated cost of the 57 projects recommended for improvements in the Pikes Peak area to the year 2000 is approximately \$370 million. A portion of the revenues needed for these improvements may be derived from private sector support. Approximately 51 percent of the cost will be applied to new construction and 36 percent will be attributed to widening primary arterials and freeways. The remaining 13.2 percent will be tied to reconstruction of roadways in the region.

Finance recommendations. The Pikes Peak Area Council of Governments recommended that the state renegotiate the allocation formulas for statewide transportation revenues. If, for instance, El Paso County's share of statewide federal transportation revenue was increased from four percent to ten percent, all of the \$370 million identified as future need would be met without necessitating any increase in taxes. Support was also noted for the continuation and uncapping of the Noble Bill. With the Noble Bill cap in place, revenues are diverted to the General Fund and cannot be applied to transportation improvements. A third recommendation was to implement or remove barriers which preclude local self-help initiatives. For example, legislation could be considered to provide the ability for a county to fund improvements by a local improvement district through the imposition of a district-wide sales tax.

Alliance for Colorado's Future

Testimony was provided by representatives of the Alliance for Colorado's Future regarding the state's long- and short-range transportation needs. The Alliance includes business and community leaders, members of public associations, and other groups and individuals who are seeking support for a public investment program for water development and transportation of hazardous waste which will facilitate quality growth and economic development in Colorado.

Alliance representatives noted that a 46 percent population increase in Colorado has been projected by the year 2000. Such an increase will result in increased demands on state highways and streets. Testimony by the Alliance indicated that over 400 lane miles of highways and a mass transit system must be built and completed by the year 2000 in the Denver metro area. By 1993, over 4,500 miles of Colorado's highway system will need to be resurfaced or reconstructed. The cost of such resurfacing and reconstruction is estimated to be \$1.1 billion.

Alliance transportation finance recommendations. The three major issues of concern to the Alliance are: maintaining the existing highway system, meeting growth needs, and investing in rapid transit.

Concerning maintenance of the existing system, the Alliance recommends:

- continuation of the Noble Bill with no cap;
- increasing the fuel tax in fiscal year 1986 by four cents;
- replacing the gross ton mileage tax with an additional three cent per gallon diesel fuel tax and a \$700 average registration fee for trucks; and
- increasing the funding of grade separation projects by raising to \$2 million the per year limit imposed on railroads in House Bill 1569 (1983 session).

In order to develop or upgrade highways, the Alliance proposes:

- a statewide fuel tax increase of three cents;
- an additional three cent tax on fuels enacted by 1991; and
- the granting of revenue raising authority to regional entities including vehicle registration fees, bonds, toll roads and joint public-private financing for projects with all funds administered through the Colorado Highway Commission.

With regards to transit investments, the Alliance recommends:

- development of a plan within the next two years for rapid transit financing of \$2 billion in the Denver metro area; and
- granting revenue raising authority for rapid transit to metropolitan planning organizations including authority to levy a sales tax up to 0.5 percent, a head tax up to \$3.00, and joint public-private financing for particular projects.

The Alliance also suggested that the General Assembly consider the establishment of a Department of Transportation (DOT). A Department of Transportation is deemed necessary to assist local governments in coordinating inter-regional transportation planning, facilities planning and the maximum use of federal monies; to assist the General Assembly in formulating statewide transportation policies; and to assist in the management of major transportation investments.

Forecast of the Year 2001 Highway System

The document entitled A Forecast of the Year 2001 Highway System, which was prepared by the Department of Highways, provides a general description of the highway system needs to the year 2001. The document, as presented to the committee, is preliminary. It is expected that it will be finalized and adopted by the highway commission in December, 1985.

The needs forecast is a comprehensive evaluation of state highway, city street, and county road needs. The document identifies the financial resources necessary to provide a state transportation system for the year 2001 at a level and quality consistent with standards established by the State Highway Commission. The document discusses the general demand upon the highway system in the following areas of activity: roadway surface condition; roadway capacity; roadway geometrics; requested additions to the state highway system; bridges and structures; completion of the interstate system; maintenance; and other activities (rest areas, noise walls, railroad grade separations). Findings in the report concerning the preceding areas of activity are enumerated below. Dollar amounts for each of these areas of activity which are required to provide an adequate level of service are provided in Table IV on page 33.

Roadway surface condition. The forecast notes the declining condition of the state highway system. The department has developed a Pavement Management System (PMS) which is a method for both measuring the condition of the state highway system and identifying the best strategy for allocating available funds for surface maintenance and resurfacing activities to engineering districts. The PMS categorizes all highways as good, fair, or poor. This categorization is made by evaluating the roughness (quality of "ride") of the roadway surface and the amount of cracking in the roadway. The department has recommended a level of performance such that 60 percent of the

roadways are in good condition, 35 percent are in fair condition, and 5 percent are in poor condition within five years. Present conditions fall far short of the department's standards; in 1984, 25 percent of the roadways were rated in good condition, 40 percent in fair condition, and 35 percent in poor condition.

Roadway capacity. Representatives of the Department of Highways testified that in urbanized areas existing traffic volumes are substantially exceeding design capacity (carrying capacity of a highway). The term "level of service" is used to describe the congestion levels of a roadway. Roadways are classified into one of six levels of service: A, B, C, D, E, or F. Level A represents a condition of free flow and level F is a condition where there is no freedom of movement for the driver and speeds are extremely low. The report requested a level of service C in the rural areas and level of service D in the urban areas.

To calculate the total financial requirements relating to roadway capacity, the department conducted an analysis to determine the number of additional lane-miles (number of additional lanes required multiplied by the section length) needed to meet the stated level of performance. Department findings were as follows:

	<u>Additional Required Lane-Miles</u>
Colorado Springs	137
Denver	627
Grand Junction	14
Larimer-Weld	38
Pueblo	25
Statewide	
(non-urbanized areas)	<u>2,098</u>
TOTAL	<u>2,939</u>

Roadway geometrics. The needs forecast stated that there are 2,755 miles on the state highway system which are deficient in design standards, including lane and shoulder width requirements. The criteria utilized in evaluating whether or not a roadway is deficient in terms of geometrics are: average daily traffic volume, existing width of the roadway surface, existing width of the shoulders, design speed of the roadway, percentage of trucks in the traffic mix, and terrain type. The report suggests that all roadways, where physically possible, be brought up to design standards by the year 2001.

Requested additions to state highway system. The highway commission receives and considers numerous requests for additions to the highway system. The requests come from the various counties at the annual county request hearings hosted by the commission. There are also requests from cities, planning and management regions, and district highway engineers. The report emphasized that prior to the

Colorado Highway Commission adding any roadways to the state highway system, each segment is reviewed relative to evaluation guidelines established by the commission for the purpose of determining the reasonableness of the request. Specific recommendations by the commission for additions to the state highway system, and the cost thereof, are provided in Table IV on page 33.

Bridges. The needs forecast identifies 258 bridges and structures on the state highway system as deficient. Sixty-six bridges and structures are considered functionally obsolete and 192 are rated as structurally deficient. Functionally obsolete bridges are bridges which function adequately for load capacity but impose restrictions to safe use of the bridge such as narrowness, vertical clearance, or horizontal sight distance restrictions. Structurally deficient bridges are those bridges with elements in an advanced stage of deterioration, or in a marginal condition.

Interstate completion. A substantial portion of the highway department budget is allocated to completion of the interstate highway system. The report notes that there are portions of the interstate system that have not been completed along I-70 in the DeBeque and Glenwood Canyon areas in western Colorado, as well as the completion of I-76 within the Denver metro area and to the northeast of Denver. It is a goal of the highway department to have the interstate system completed by 1993.

Interstate transfer completion. After I-470 was withdrawn from the interstate system, the highway department received interstate transfer funds for C-470 (known as the Centennial Parkway). The cost to complete C-470 involves the expenditure of \$47.7 million in state funds for fiscal years 1987 and 1988.

Maintenance. The needs forecast identifies departmental resources necessary for activities such as roadside mowing, roadway signing, landscape upkeep, and snow and ice removal. The category entitled "maintenance" also covers funds required for administration and capital outlay.

Other activities. This category of long-range funding needs relates to projects such as rest areas and noise walls. Included in the needs forecast is the construction or reconstruction of those rest areas identified on the state's Interstate Rest Area Plan; the construction of all noise barriers enumerated in the state's Noise Barriers List; the level of funding required for the construction of railroad grade separation structures; and the reconstruction of existing interchanges and the new construction of interchanges which are warranted by population and motor vehicle growth within the state.

Funding requirements for the Year 2001 Plan. Table IV provides a categorical breakdown of the funding needs for Colorado's highway system through the year 2001. The needs forecast indicates that existing highway revenues are not sufficient to provide a state highway system for the year 2001 at the level of performance

established by the Colorado Highway Commission. Projecting current revenue sources to the year 2001, there is a total of \$5.5 billion available to address transportation needs. As noted in Table IV, the required funding to achieve the various categorical levels of performance is \$10.4 billion. The total shortfall for the state highway system, in 1984 dollars, is \$4.9 billion (impacts of inflation are not considered in calculating the shortfall).

TABLE IV

Forecast of the Year 2001 Highway System

Funding Requirements
(\$ in Millions, Cost in 1984 \$)

<u>Roadway Surface Condition</u>	Total Cost For Forecast Period
Total Cost to Achieve 60/35/5 Over Five Years	\$ 706.5
Total Cost to Remain 60/35/5 for Next Ten Years	1,251.0
	\$1,957.5
 <u>Deficient Roadway Capacity</u>	
Colorado Springs	\$ 245.9
Denver	1,676.2
Grand Junction	26.4
Larimer-Weld	70.3
Pueblo	56.4
Statewide (non-urbanized areas)	1,249.1
	\$3,324.3
 <u>Deficient Roadway Geometrics</u>	
Primary	\$ 406.0
Secondary	371.8
	\$ 777.8
 <u>Requested Additions to State Highway System</u>	
Colorado Springs	\$ 13.1
Denver	636.0
Larimer-Weld	45.6
Pueblo	33.7
Statewide (non-urbanized areas)	1,386.0
	\$2,114.4
 <u>Bridges</u>	
Structurally Deficient	\$74.6
Functionally Obsolete	31.3
	\$105.9

<u>Interstate Completion (FY 1987-FY 1993)</u>	
I-70: Glenwood Canyon	\$ 242.7
I-70: DeBeque Canyon	15.0
I-76: From I-70 to I-25	148.1
I-76: Barr Lake to Lochbuie	31.0
At C-470: Interchanges on I-25 and I-70	2.7
I-70: East and West Stage Construction	11.6
	<u>\$451.1</u>
<u>Interstate Transfer Completion</u>	
<u>(FY 1987-FY 1988)</u>	
C-470 (Centennial Parkway)	\$ 47.7
	<u>\$ 47.7</u>
<u>Maintenance</u>	
Snow and Ice	\$ 291.0
Normal Highway Maintenance	681.0
Operations (includes administration and capital outlay)	225.0
	<u>\$1,197.0</u>
<u>Other Activities</u>	
Rest Areas	\$ 48.0
Noise Walls	21.9
Interchanges	157.0
Railroad Grade Separations	193.5
	<u>\$ 420.4</u>
Grand Total	\$10,396.1
Funding Available from Existing Sources	\$ 5,502.9
Total Shortfall	\$ 4,893.2

Total transportation requirements for the year 2001. The Department of Highways, in addition to projecting total needs for the state highway system to the year 2001, also analyzed total transportation needs for the year 2001. This projection covers state highways, non-state highways, and regional transit needs. In making this projection, the highway department considered the transportation needs of the Larimer-Weld Council of Governments; the Denver Regional Council of Governments; Mesa County; the Pikes Peak Area Council of Governments; the Colorado Municipal League; and Colorado Counties, Inc. The total transportation requirements for the highway department and the previously mentioned entities is in excess of \$25 billion. Projected revenues to the year 2001 are \$15.1 billion. The total projected shortfall for an adequate transportation system in the year 2001 is \$10.2 billion. A specific breakdown on revenue needs is provided in Table V.

TABLE V

Summary of 2001 Transportation Requirements
(1984 \$ x 1,000,000)

<u>Regional Area</u>	<u>State Highways</u>	<u>Non-State Highways</u>	<u>Regional Transit</u>	<u>Total</u>
Denver Regional Council of Governments	\$2,312.2	\$1,065.0	\$5,759.0	\$9,136.2
Pikes Peak Area Council of Governments	259.0	359.1	--	618.1
Pueblo Area Council of Governments	90.1	5.1	--	95.2
Larimer-Weld Council of Governments	115.9	--	--	115.9
Grand Junction Council of Governments	26.4	--	--	26.4
Colorado Municipal League	--	4,248.9	--	4,248.9
Colorado Counties, Inc.	--	3,526.5	--	3,526.5
State/Rural	<u>7,592.5</u>	<u>--</u>	<u>--</u>	<u>7,592.5</u>
TOTAL	\$10,396.1	\$9,204.6	\$5,759.0	\$25,359.7

Projected Shortfall
(1984 \$ x 1,000,000)

	<u>State Highways</u>	<u>Non-State Highways</u>	<u>Regional Transit</u>	<u>Total</u>
Required Funding	\$10,396.1	\$9,204.6	\$5,759.0	\$25,359.7
Projected Revenues	<u>\$ 5,502.9</u>	<u>\$5,251.5</u>	<u>\$4,359.0</u>	<u>\$15,113.4</u>
SHORTFALL	\$ 4,893.2	\$3,953.1	\$1,400.0	\$10,246.3

Revenue raising options for an adequate transportation system.
The Department of Highways developed a finance package to meet the transportation system shortfall of \$10.2 billion. The elements of the finance package are outlined below:

- Remove the cap of \$50 million on the Noble Bill which could result in additional revenue for highways of over \$1 billion through the year 2001.
- Increase the statewide motor fuel tax by 6 cents a gallon over the 15 year period, which would produce an estimated \$1.78 billion for roadway surface improvements and bring the state's 9,200 mile highway system to a condition of 60 percent "good" within five years.

- Authorize bond financing at the rate of \$200 million each year for five years.
- Enact a half percent statewide general sales and use tax for transportation improvements. These funds would be allocated by region proportional to the revenue raised by the tax in each of the thirteen regional planning and management regions.
- Implement a private funding option which is expected to produce \$1.8 billion in the 15-year period with such items as dedication of land for right-of-way, special assessments, or special improvement districts.
- Implement toll road financing.
- Increase the gross ton-mile tax on motor carriers operating in Colorado and rail crossing separation taxes.
- Increase the sales tax collected in the Regional Transportation District by 0.4 percent to finance RTD's plan for improved mass transit.

The fiscal impact of the Department of Highways proposal is provided in Appendix E.

Committee Recommendations

Highway Finance

To address the highway financing problems outlined above, the committee recommends Bills 61 through 66.

Concerning the Limitation on the Amount of Moneys Credited to the Highway Users Tax Fund From Sales and Use Taxes Imposed on Vehicles and Related Items -- Bill 61. Bill 61 removes the \$50 million limitation (Noble Bill Cap) on moneys credited to the Highway Users Tax Fund from sales and use taxes. The bill provides that the present Noble Bill revenue formula for highways from the statewide sales and use tax be continued at seven percent of the total and be credited to the Highway Users Tax Fund and that eight percent of the total sales and use tax revenue be allocated and credited to the General Fund. It is estimated that removing the \$50 million limitation will generate additional revenues of over \$1 billion for the statewide highway system through the year 2001, of which the state would receive 60 percent, the counties 22 percent, and the municipalities 18 percent.

Concerning an Increase in the Excise Tax Imposed on Gasoline and Special Fuel -- Bill 62. Bill 62 provides a six cent increase in the motor fuel tax which is now 12 cents on gasoline and 13 cents on diesel fuel. Through the year 2001, this six cent increase will generate an estimated \$1.78 billion of needed additional highway

revenue for the HUTF. Enactment of this bill in combination with other highway financing mechanisms would, within five years, bring the state's 9,200 mile highway system to a condition of 60 percent good, 35 percent fair, and five percent poor, which is the stated goal of the State Highway Commission for highway conditions. The existing distribution formula applicable to the most recent five cent increase in motor fuel tax would be continued.

Concerning the Issuance of Highway Revenue Bonds for Financing the Construction, Improvement, and Reconstruction of Highways and Bridges -- Bill 63. The Colorado Highway Commission, under provisions of Bill 63, is authorized to issue revenue bonds for the purpose of constructing roads and bridges. The existing highway bonding statutes were enacted more than twenty years ago and a number of provisions have either expired or become outdated. For example, the maximum interest rate allowed under current statutes is four percent, which is considered unrealistic in today's bond market. Revision of these bonding statutes will allow the state to construct or repair highways and bridges when the need exists and the funding is not yet available.

Bill 63 provides that highway revenue bonds could be issued at a maximum interest rate of 12 percent. The bonds cannot be outstanding in the aggregate in excess of \$110 million. The bonds would be backed by the State Highway Fund (the state apportionment from the Highway Users Tax Fund) and would exclude those funds from the "Noble Bill". State Highway Fund money will include revenues from the motor fuel tax, license fees, registration fees, and the gross ton-mile tax.

Bill 63 also allows the highway commission to issue grant anticipation bonds for federal aid projects. The payment for these bonds is to be derived from future federal apportionments. The amount of such bonds issued shall not exceed \$60 million. This provision will allow the Department of Highways to accelerate planned federal aid projects at present construction costs. In some cases, the federal government will reimburse the state for the cost of interest on the bonds.

Provisions in Bill 63 require that the General Assembly review any bonding proposals after they are recommended and approved by the Colorado State Highway Commission and the Governor. The following bonding factors are subject to adoption, disapproval, or modification by the General Assembly: the amount of bonds issued; the anticipated interest rate on the bonds; and the amount or percentage of anticipated revenues to be set aside for debt retirement.

Concerning Financing of the Maintenance and Improvement of the State's Transportation System -- Bill 64. The Department of Highways document entitled The Forecast of the Year 2001 Highway System stated that there is a \$10.2 billion shortfall in revenue required to have an adequate highway and transit system over the next 15 years. To provide the projected additional funding needs, the following financing mechanisms are suggested in Bill 64:

- an additional fuel tax of six cents a gallon effective July 1, 1986;
- a fuel tax increase of one cent each year, beginning July 1, 1987, and continuing for five years -- the proceeds from such revenues will be distributed 60 percent to the state, 22 percent to counties, and 18 percent to cities;
- bond financing at the rate of \$200 million each year for five years; and
- a half percent statewide general sales and use tax for transportation improvements -- distribution of the revenues from said tax will be 60 percent to the state, 22 percent to counties, and 18 percent to cities.

Concerning the Continuation of the Special Account in the Highway Users Tax Fund for Highway Bridges -- Bill 65. The formula applicable to the most recent five cent increase in the motor fuel tax provides that 16 percent of the fuel tax revenue is set aside on a statewide basis for bridge repair and replacement. Testimony to the committee by representatives of the Department of Highways indicated that there are 258 deficient bridges on the statewide highway system. In view of the need for repair of deficient bridges, Bill 65 will extend from June 30, 1987 to June 30, 1992, the deadline for General Assembly review of the need for continuation of the special highway bridge account.

Concerning Exemptions From Fuel Tax for Vehicles Used for School Transportation Purposes -- Bill 66. An exemption from the state fuel tax for privately owned bus companies providing transportation services to school districts is authorized by Bill 66. Currently, buses which are owned by school districts are exempt from state fuel taxes. The bill would allow private industry to deliver services on a competitive basis with publicly owned buses. The exemption authorized in this bill is applicable only when school-related services are provided by privately owned bus companies.

Funding for Colorado State Patrol

Testimony before the committee indicated that there is a critical manpower shortage in the Colorado State Patrol. The authorized uniformed FTE level stands at 521. Using the Manpower Allocation Model that the Joint Budget Committee directed the patrol to use in 1980-81, the state patrol should currently consist of 654 uniformed FTE's. The patrol's responsibilities have been increased to include enforcement of emissions laws, emergency response authority for hazardous materials spills, and motor vehicle safety inspections. In comparisons with ten other western states, Colorado has more licensed drivers, registered vehicles, vehicle miles traveled, and injury accidents per uniformed officer than any of those states.

It was also noted that the recent United States Supreme Court decision in Garcia v. San Antonio Metropolitan Transit Authority will have a potential fiscal impact of \$5.3 million in overtime wages. Representatives of the patrol requested that the necessary funding for overtime wages under the Fair Labor Standards Act be included in the budget.

In view of the testimony given to the committee on the funding needs of the Colorado State patrol, the committee recommends Bills 67 and 68. The committee also submitted a letter to the Joint Budget Committee requesting authorization for 35 additional officers and funding necessary to meet overtime wage requirements under the Fair Labor Standards Act.

Concerning the Funding of the Colorado State Patrol and Limitations on Distributions From the Highway Users Tax Fund -- Bill 67. To enable the state patrol to meet all of its operational objectives for the 1986-87 fiscal year and succeeding fiscal years, Bill 67 is recommended. It provides that the state patrol be funded out of the General Fund, rather than the HUTF. The state patrol is currently appropriated the largest percentage of "off-the-top" monies from the HUTF. The committee concludes that removal of the state patrol from HUTF funding will relieve financial pressure on the HUTF which has resulted from the statutory limitations on annual "off-the-top" appropriations.

Bill 67 also amends the 23 percent limitation on "off-the-top" appropriations. With the removal of the state patrol from the HUTF, the committee contends that the 23 percent limitation is no longer applicable. A new, lower percentage limitation should be determined in the 1986 session.

Concerning Limitations on Appropriations From the Highway Users Tax Fund -- Bill 68. A second option for funding the Colorado State Patrol is provided in Bill 68. The bill exempts the state patrol in fiscal year 1986-87 from the limitation that the appropriation from the HUTF shall not exceed seven percent of its appropriation for the prior fiscal year. The exemption would be applicable only to the state patrol. The committee concludes that the existing statutory limitations on HUTF appropriations for the state patrol will not allow the patrol to meet its basic responsibilities to the motoring public.

Committee Oversight of Activities of Department of Highways

Department of Highways overview. A portion of one of the committee's meetings was devoted to review of a document entitled Overview of the Colorado Department of Highways. It was the purpose of that document to inform the committee about the structure and responsibilities of the Department of Highways. Spokesmen for the department highlighted the findings in the report. Topics addressed in the report (copies are available at the Legislative Council office) include the following:

- the organizational structure and staffing patterns for the Department of Highways;
- the composition, terms of office, and statutory responsibilities of the Colorado Highway Commission;
- federal and state sources of revenues and restrictions on the use of revenues (for more detail see Appendix F);
- the budget for the Department of Highways including proposed expenditures for construction, maintenance and operations, and administration (for more detail see Appendix G); and
- a review of the department's priorities in the allocation of revenues.

1983 performance audit of Department of Highways. In 1983, the Office of State Auditor conducted a performance audit of the Department of Highways (copies of that report are available at the Legislative Council office). A spokesman for the auditor's office reviewed for the committee the major findings of the performance audit. A substantial portion of that report deals with highway department and highway commission activities related to maintenance of the existing highway system. Some of the strengths of the highway department cited in the performance audit included:

- a five-year construction plan;
- a maintenance activities information system;
- a resource allocation plan and pavement management system; and
- a staffing and organization study to determine how to stabilize or reduce the FTE levels.

A total of 24 recommendations were included in the performance audit. Testimony before the committee indicated that for the 21 recommendations applicable to the Department of Highways, 14 were fully or substantially implemented; four were only partially implemented; and three are no longer applicable. The one recommendation addressed to the Department of Revenue has been fully implemented.

The spokesman for the auditor's office pointed out to the committee that there were two recommendations directed to the General Assembly. One of the recommendations called for giving appointing authority to the Colorado Highway Commission to hire independent staff. That recommendation was partially implemented in 1984 with the enactment of House Bill 1299. That act provided that the commission rather than the highway department would have supervisory authority over the department's internal auditor. No independent staff for the internal auditor has been authorized.

A second recommendation of interest to the General Assembly is the request for clarification of the statute regarding what is the proper or improper use of state resources in political campaigns. Legislation on this subject was considered in 1984, but did not pass. Bill 72 is recommended by the committee in order that this issue can be considered in the 1986 session.

Department of Highways workforce. Representatives of the Department of Highways reviewed for the committee statistical data included in a report entitled An Analysis of the Colorado Department of Highways Workforce. Copies of that report are available at the Legislative Council office. Major points made in the report are summarized below.

- the highway department has 2,924 permanent employees, making it the second largest employer in the state personnel system.
- The Department of Highways has a substantial number of skilled-craft jobs and relatively few professional and technical jobs.
- Of the state agencies having over 1,000 employees (excluding the Department of Higher Education) the highway department ranks third in median monthly salary and has an average employee age of 41.
- There is a wide geographical distribution of the workforce with 49 percent of employees located outside the Denver metro area.
- A construction manpower analysis conducted by the department shows that while productivity has increased in recent years, the manpower level has remained constant.

In view of the testimony given to the committee on the activities, statutory responsibilities, and personnel of the Department of Highways, the committee recommends Bills 69 through 72.

Concerning the Highway Legislation Review Committee -- Bill 69. Bill 69 revises and expands the duties of the statutorily created Highway Legislation Review Committee to include giving guidance and direction to the State Department of Highways in developing highway improvement projects, reviewing long-range highway system plans, and providing oversight with regard to department operations. Effective March 1, 1987, the committee will meet annually, with members appointed for two-year terms. The committee will consist of seven nonlegislative members appointed by the Governor, four members of the Senate appointed by the President of the Senate, and four members of the House appointed by the Speaker of the House. The legislative and nonlegislative members will be paid per diem and necessary expenses.

Concerning the Centralized Collection of Highway Data-- Bill 70. Bill 70 requires the chief engineer of the Department of Highways to compile information concerning the condition of the state highway

system, county roads, and city streets. A uniform method of reporting the information collected will be established to determine the needs for construction and maintenance projects across the state. The intent of Bill 70 is to centralize state highway, road, and street data in one governmental entity for easier accessibility.

Appointment of the Executive Director by the Highway Commission -- Bill 71. Bill 71 proposes that the Colorado Highway Commission be authorized to appoint the head of the Department of Highways, with the consent of the Senate. The department head is now appointed by the Governor with the consent of the Senate. The members of the commission are also appointed by the Governor with the consent of the Senate.

In advancing this change, the committee asserts that the commission serves as the board of directors for one of the state's largest businesses, the highway department, and as such should be authorized to appoint the chief executive official of that business. There is precedent for this procedure -- the executive directors of the state departments of education and higher education are also appointed by policy setting boards, namely the Commission on Higher Education and the State Board of Education. The change would become effective January 1, 1987 and would be subject to legislative review prior to repeal on January 1, 1991.

Concerning Exceptions from Limitations Imposed on Campaign Contributions Made by Governmental Entities -- Bill 72. The committee recommends Bill 72 for the purpose of clarifying legislative intent on the proper use of state equipment and property for campaign purposes. This bill exempts certain publicly owned property from the prohibition on making a contribution to campaigns involving the election of persons to any public office. Currently, pursuant to section 1-45-116 (1), C.R.S., the law prohibits the use of publicly owned aircraft (i.e., aircraft owned by the Colorado State Patrol) by any person in public office for campaign purposes. However, Bill 72 provides that if publicly owned aircraft is used, in whole or in part, for campaign purposes, the expenses relating to the campaign must be reported and reimbursed to the appropriate state or political subdivision.

BILL 60

A BILL FOR AN ACT

1 CONCERNING HAZARDOUS MATERIALS, AND RELATING TO THE
2 TRANSPORTATION THEREOF AND TO HAZARDOUS SUBSTANCE
3 INCIDENTS, AND MAKING AN APPROPRIATION IN CONNECTION
4 THEREWITH.

Bill Summary

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

Defines four categories of hazardous materials. Authorizes the chief of the Colorado state patrol to promulgate rules and regulations for the administration of this act. Identifies the persons authorized to enforce the provisions of this act and allows those persons to issue warning citations for violations of the act. Provides that the fixed-site use of hazardous materials is not affected by this act. Creates a hazardous materials safety fund in the office of the state treasurer.

Establishes a permit system for the transportation of hazardous materials. Exempts farm machinery from the requirements of the permit system. Establishes a fee schedule for the permits based on the number of vehicles operated.

Authorizes the Colorado state patrol to designate routes for persons transporting hazardous materials and allows local governments to petition the state patrol for changes in such designations. Defines "hazardous substance incident" and establishes three levels of response to such incidents. Requires the department of public safety to compile and maintain information pertaining to hazardous substance

incidents. Establishes civil and criminal penalties for violations of this act.

Makes an appropriation to the department of public safety for the implementation of this act and for grants to the regional response teams established pursuant to this act.

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

2 SECTION 1. Title 43, Colorado Revised Statutes, 1984
3 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
4 ARTICLE to read:

5 ARTICLE 6

6 Hazardous Materials Safety

7 PART 1

8 GENERAL PROVISIONS

9 43-6-101. Short title. This article shall be known and
10 may be cited as the "Hazardous Materials Safety Act of 1986".

11 43-6-102. Legislative declaration. (1) The general
12 assembly finds that the transportation, storage, and use of
13 hazardous materials constitutes a potential menace to the
14 public health, safety, and welfare of the people of the state
15 of Colorado. To that end, it is the purpose of this article
16 to require the use of all available practical methods to
17 prevent accidents resulting from the transportation, storage,
18 and use of hazardous materials. It is further declared that
19 the prevention of accidents resulting from the transportation,
20 storage, and use of hazardous materials is a matter of
21 statewide concern and is affected with a public interest and
22 that the provisions of this article are enacted in the
23 exercise of the police powers of this state for the purpose of

1 protecting the health, peace, safety, and welfare of the
2 people of this state.

3 (2) The general assembly finds that provisions for
4 protecting the public from hazardous materials incidents are
5 scattered among various state and local authorities under
6 diverse statutory provisions. It is the purpose of this
7 article to consolidate administrative responsibility and
8 statutory provisions to the extent possible to insure
9 effective protection of the public from the dangers of the
10 transportation, storage, and use of hazardous materials and
11 for the prevention of, and for the most efficient response to,
12 emergencies involving hazardous materials.

13 43-6-103. Definitions. As used in this article, unless
14 the context otherwise requires:

15 (1) "Category 1 hazardous materials" means the types and
16 quantities of hazardous materials listed in table 1 of 49
17 C.F.R. 172.504, except for the radioactive materials listed,
18 including, but not limited to:

- 19 (a) Class A explosives;
- 20 (b) Class B explosives;
- 21 (c) Poison A;
- 22 (d) Flammable solids.

23 (2) "Category 2 hazardous materials" means the types and
24 quantities of radioactive materials listed in table 1 of 49
25 C.F.R. 172.504.

26 (3) "Category 3 hazardous materials" means the types of
27 hazardous materials listed in table 2 of 49 C.F.R. 172.504,

1 except for those defined as category 4 hazardous materials in
2 subsection (4) of this section, in quantities of five hundred
3 gallons or more, including, but not limited to:

- 4 (a) Nonflammable gas;
- 5 (b) Nonflammable gas (chlorine);
- 6 (c) Nonflammable gas (fluorine);
- 7 (d) Nonflammable gas (oxygen, cryogenic liquid);
- 8 (e) Flammable gas;
- 9 (f) Combustible liquid;
- 10 (g) Flammable liquid;
- 11 (h) Flammable solid;
- 12 (i) Oxidizer;
- 13 (j) Organic peroxide;
- 14 (k) Poison B;
- 15 (l) Corrosive material;
- 16 (m) Irritating material.

17 (4) "Category 4 hazardous materials" means the types and
18 quantities of hazardous materials listed in 49 C.F.R.
19 173.114a, 49 C.F.R. 173.100, and 49 C.F.R. 173.500(b)(1)
20 through (b)(4), including, but not limited to:

- 21 (a) Electric storage batteries;
- 22 (b) Paint and related liquid products;
- 23 (c) Cleaning compounds;
- 24 (d) Ammonium nitrate mixed fertilizer;
- 25 (e) Antifreeze compound liquid;
- 26 (f) Cigarette lighters;
- 27 (g) Fuses;

1 (h) Matches;

2 (i) Alcoholic beverages.

3 (5) "Chief" means the chief of the Colorado state
4 patrol.

5 (6) "Commission" means the public utilities commission
6 of the state of Colorado.

7 (7) "Department" means the department of public safety
8 of the state of Colorado.

9 (8) "Patrol" means the Colorado state patrol.

10 43-6-104. General powers and duties - Colorado state
11 patrol - department of public safety - cooperation from other
12 state agencies. (1) In addition to any other powers and
13 duties granted to it in this article, the chief shall
14 promulgate such rules and regulations and conduct such
15 hearings as may be necessary for the administration of this
16 article.

17 (2) (a) In addition to any other powers and duties
18 granted to it in this article, and except as otherwise
19 provided in this article, the chief shall have the general
20 authority and duty to carry out the provisions of this
21 article.

22 (b) The chief shall prepare and transmit annually, in
23 the form and manner prescribed by the heads of principal
24 departments pursuant to the provisions of section 24-1-136,
25 C.R.S., a report to the governor and the general assembly on
26 the administration and effectiveness of the program
27 established by this article.

1 (3) Upon request, other agencies of state government,
2 including but not limited to the department of health and the
3 state department of highways, shall provide advice and
4 assistance to the department relating to the program
5 established by this article.

6 43-6-105. Enforcement. (1) The provisions of this
7 article relating to the transportation of hazardous materials
8 may be enforced by any officer of the Colorado state patrol,
9 port of entry weigh station personnel, investigative personnel
10 of the transportation section of the commission, and certified
11 law enforcement officers specifically designated by their
12 local authority to enforce this article.

13 (2) All persons authorized to enforce the provisions of
14 this article may issue warning citations to persons who
15 violate the provisions of this article. Such warning
16 citations shall be issued at the discretion of the authorized
17 enforcement personnel.

18 (3) Enforcement of any law relating to the fixed-site
19 storage or use of hazardous materials shall not be affected by
20 the provisions of this article.

21 43-6-106. Regulatory authority of local governments -
22 preemption - disposition of local fines and penalties.

23 (1) Except as specifically authorized in this article, no
24 county, town, city, or city and county shall have any
25 authority to regulate the transportation of hazardous
26 materials. However, a county, town, city, or city and county
27 may adopt and enforce regulations or ordinances which are

1 identical to the provisions of this article or regulations
2 adopted thereunder if violations of such local regulations or
3 ordinances carry the same penalties as violations of this
4 article and regulations adopted thereunder. Any local
5 government which adopts a regulation or ordinance pursuant to
6 this section shall file a certified copy of such regulation or
7 ordinance, and any amendment thereto, with the department.

8 (2) No person shall be prosecuted for a violation of
9 both the provisions of this article and the provisions of an
10 identical local ordinance or regulation when such prosecution
11 arises out of the same incident.

12 43-6-107. Hazardous materials safety fund. (1) There
13 is hereby created in the state treasury the hazardous
14 materials safety fund, which shall consist of the following:

15 (a) Such moneys as may be appropriated thereto by the
16 general assembly from time to time;

17 (b) Permit fees collected pursuant to section 43-6-204;

18 (c) Civil penalties collected by a state agency or by a
19 court upon an action brought by a state agency, as provided in
20 sections 43-6-306 (4) and 43-6-408 (3);

21 (d) Civil penalties collected pursuant to sections
22 43-6-207 (4), 43-6-211 (3), and 43-6-406;

23 (e) Gifts or donations made to the state of Colorado or
24 any agency thereof for the purpose of carrying out the
25 provisions of this article;

26 (f) Federal funds made available to the state of
27 Colorado or any agency thereof for the purpose of carrying out

1 the provisions of this article.

2 (2) The moneys in the hazardous materials safety fund
3 shall be subject to appropriation by the general assembly for
4 the purposes of this article.

5 43-6-108. Rules and regulations for transportation of
6 hazardous materials. (1) The chief shall promulgate rules
7 and regulations for the safe transportation of hazardous
8 materials by motor vehicle within this state. Such rules and
9 regulations shall be applicable to any person who transports
10 or ships a hazardous material by motor vehicle in the ordinary
11 course of business in quantities covered by said rules and
12 regulations and shall apply to both interstate and intrastate
13 transportation. Such rules and regulations shall define
14 hazardous materials and may govern any safety aspect of the
15 transportation of hazardous materials which the department
16 deems necessary or appropriate, including but not limited to
17 the packing, repacking, handling, labeling, marking, and
18 placarding of hazardous materials and motor vehicles carrying
19 hazardous materials, the qualifications of drivers of motor
20 vehicles transporting hazardous materials, the financial
21 responsibility requirements for the transportation of
22 hazardous materials, and the use of any package or container
23 in the transportation of hazardous materials which is not
24 manufactured, fabricated, marked, labeled, maintained,
25 reconditioned, repaired, or tested in accordance with such
26 rules and regulations. Such rules and regulations shall be no
27 more stringent than such requirements contained in federal

1 statutes and rules and regulations promulgated thereunder.

2 (2) In adopting such rules and regulations, the chief
3 shall use as general guidelines the standards contained in the
4 rules and regulations of the United States department of
5 transportation relating to explosives and other dangerous
6 articles, which rules and regulations are located in 49 C.F.R.
7 100 through 199, and the federal statutes authorizing the
8 same, and the standards contained in the motor carrier safety
9 regulations of the United States department of transportation,
10 which regulations are located in 49 C.F.R. 390 through 397,
11 and the federal statutes authorizing the same. The rules and
12 regulations adopted by the chief shall not unduly burden
13 interstate commerce, and they shall not be inconsistent with
14 those of the United States department of transportation.

15 (3) The rules and regulations adopted by the chief
16 pursuant to this section shall not apply to farm machinery
17 which is exempted from registration requirements pursuant to
18 section 42-3-102, C.R.S., or agricultural distribution
19 equipment attached to or conveyed by such farm machinery,
20 except for those rules and regulations relating to the
21 placarding of loads of hazardous materials, spills of
22 hazardous materials, abandonment of vehicles, or unsafe
23 vehicles, and except when such vehicles are used in
24 furtherance of any commercial business other than agriculture.

25 (4) The patrol shall annually conduct a review of the
26 standards contained in the federal statutes and rules and
27 regulations which constitute the general guidelines to

1 determine if the rules and regulations promulgated by the
2 chief pursuant to subsection (1) of this section should be
3 amended.

4 (5) (a) The department shall promulgate rules and
5 regulations for the safe transportation of hazardous materials
6 by railroad within this state. The department shall adopt
7 rules and regulations which are identical to the rules and
8 regulations of the United States department of transportation
9 relating to explosives and other dangerous articles, which
10 rules and regulations are located in 49 C.F.R. 100 through
11 199, and the standards contained in the railroad safety
12 regulations of the United States department of transportation,
13 which regulations are located in 49 C.F.R. 209. The rules and
14 regulations adopted by the department under this subsection
15 (5) shall not unduly burden interstate commerce, and they
16 shall not be inconsistent with those of the United States
17 department of transportation.

18 (b) The department shall conduct a semiannual review of
19 the standards contained in 49 C.F.R. 100 through 199 and 49
20 C.F.R. 209 and may amend the rules and regulations promulgated
21 by the department pursuant to paragraph (a) of this subsection
22 (5).

23 43-6-109. Penalty for violations. (1) Any person who
24 violates a rule or regulation promulgated by the department or
25 the chief pursuant to section 43-6-108 is guilty of a
26 misdemeanor and, upon conviction thereof, shall be punished by
27 a fine of not less than twenty-five dollars nor more than one

1 thousand dollars, or by imprisonment in the county jail for
2 not more than one year, or by both such fine and imprisonment.
3 No conviction pursuant to this section shall bar enforcement
4 by the commission of any provision of title 40, C.R.S., with
5 respect to violations by persons subject to said title.

6 (2) Every court having jurisdiction over offenses
7 committed under subsection (1) of this section shall forward
8 to the patrol a record of the conviction of any person in said
9 court for a violation of any said laws within forty-eight
10 hours after such conviction. The term "conviction" means a
11 final conviction.

12 43-6-110. Immobilization of unsafe vehicles. Any law
13 enforcement officer, port of entry weigh station personnel, or
14 investigative personnel of the commission shall have the power
15 to immobilize, impound, or otherwise direct the disposition of
16 motor vehicles transporting hazardous materials when the
17 officer or investigator deems that the motor vehicle or the
18 operation thereof is unsafe and when such immobilization,
19 impoundment, or disposition is appropriate under or required
20 by rules and regulations promulgated by the chief pursuant to
21 section 43-6-108.

22 43-6-111. Hazardous materials spill - abandonment of
23 vehicle containing hazardous material - penalty. (1) No
24 person shall abandon any vehicle containing any hazardous
25 material or intentionally spill hazardous materials upon a
26 street, highway, right-of-way, or any other public property or
27 upon any private property without the express consent of the

1 owner or person in lawful charge of that private property.

2 (2) As used in this section:

3 (a) (I) "Abandon" means to leave a thing with the
4 intention not to retain possession of or assert ownership or
5 control over it. The intent need not coincide with the act of
6 leaving.

7 (II) It is prima facie evidence of the necessary intent
8 that:

9 (A) The vehicle has been left for more than three days
10 unattended and unmoved; or

11 (B) The license plates or other identifying marks have
12 been removed from the vehicle; or

13 (C) The vehicle has been damaged or is deteriorated so
14 extensively that it has value only for junk or salvage; or

15 (D) The owner has been notified by a law enforcement
16 agency to remove the vehicle and it has not been removed
17 within twenty-four hours after notification.

18 (b) "Hazardous material" means any material defined as a
19 hazardous material in the rules and regulations of the chief
20 promulgated pursuant to section 43-6-108.

21 (c) "Vehicle" means any device which is capable of
22 moving from place to place upon wheels or endless tracks. The
23 term includes, but is not limited to, any motor vehicle,
24 trailer, or semitrailer.

25 (3) Any person who violates any provision of this
26 section commits a class 4 felony and shall be punished as
27 provided in section 18-1-105, C.R.S.

1 the provisions of this part 2, authorizing the applicant to
2 operate or move upon the public roads of this state a motor
3 vehicle or combination of vehicles which carry hazardous
4 materials. This part 2 shall not apply to vehicles owned by
5 the federal government, nor shall it apply to farm machinery
6 which is exempted from registration requirements pursuant to
7 section 42-3-102, C.R.S., unless such vehicles are used in
8 furtherance of any commercial business other than agriculture.
9 This part 2 shall apply to vehicles owned by the state or
10 political subdivision thereof; except that such vehicles shall
11 be exempt from the fees provided in section 43-6-204. The
12 requirements of this part 2 shall be in addition to, and not
13 in substitution for, any other provisions of law.

14 43-6-203. Transportation permits - application.

15 (1) Each person desiring to transport hazardous materials in,
16 to, from, or through this state shall submit a permit
17 application to the patrol prior to beginning such
18 transportation. Permit applications shall be in a form
19 designated by the patrol, and the patrol shall maintain
20 records of such applications. Permit applications shall be
21 available at all port of entry weigh stations.

22 (2) No permit application shall be approved unless the
23 applicant:

24 (a) Supplies proof of having obtained liability
25 insurance as required by the United States department of
26 transportation pursuant to 49 C.F.R. 387. A copy of the
27 liability insurance policy shall be filed with the patrol.

1 The insurance carrier shall give thirty days' written notice
2 to the patrol before cancellation of such policy. At any time
3 the insurance policy lapses, the permit shall be automatically
4 revoked.

5 (b) Submits a description of the hazardous materials to
6 be transported by placard class as established by the United
7 States department of transportation pursuant to 49 C.F.R. 172,
8 Subpart F. The patrol shall make such placard class
9 information available to local governments.

10 (c) Agrees to comply with the rules and regulations
11 promulgated pursuant to section 43-6-108.

12 (3) Port of entry weigh station personnel shall be
13 authorized by the department to issue single trip permits
14 pursuant to this part 2 on behalf of the department.

15 43-6-204. Permits - fees. (1) Hazardous materials
16 transportation permits may be purchased on either an annual or
17 single trip basis.

18 (2) Each single trip permit shall be valid for a single
19 continuous business venture, but in no event shall the permit
20 be valid for more than seventy-two hours. The single trip
21 permit shall be issued upon approval of the permit application
22 and upon payment of a twenty-five-dollar permit fee.

23 (3) Each annual permit shall be valid until the July 1
24 following its issuance and shall be issued after approval of
25 the permit application and upon payment of a permit fee, which
26 fee shall be based on the number of vehicles the applicant
27 operates within the state, as follows:

1	<u>Number of vehicles</u>	<u>Permit fee</u>
2	1-2	\$ 25
3	3-10	\$ 40
4	11-50	\$ 50
5	over 51	\$ 100

6 (4) Fees collected pursuant to this section shall be
7 transmitted to the state treasurer, who shall credit the same
8 to the hazardous materials safety fund created in section
9 43-6-107.

10 43-6-205. Carrying of permit and shipping papers.

11 (1) Any person transporting hazardous materials in this state
12 shall carry a copy of the shipping papers required in 49
13 C.F.R. 172.200 and a copy of the hazardous materials
14 transportation permit issued by the patrol in the transporting
15 vehicle while in the state. Such permit shall be open to
16 inspection by any law enforcement officer, port of entry weigh
17 station personnel, or investigative personnel of the
18 commission.

19 (2) In the event of an accident involving hazardous
20 materials, the operator of the vehicle shall provide the
21 shipping papers to the emergency response authorities
22 designated pursuant to section 43-6-403, and immediately bring
23 to their attention the fact that the vehicle is carrying
24 hazardous materials.

25 43-6-206. Prenotification of nuclear materials

26 shipments. (1) Every person transporting nuclear materials
27 shall be required to give advance notification of the shipment

1 to the governor or his designee. Such notification, if
2 delivered by mail, shall be postmarked at least seven days
3 before transport of a shipment within or through this state.
4 If the notification is delivered by messenger, it must reach
5 the office of the governor or his designee at least four days
6 before said transport. Notification shall include:

7 (a) The name, address, and telephone number of the
8 shipper, the person transporting the nuclear materials, and
9 the receiver;

10 (b) A description of the nuclear materials to be
11 transported;

12 (c) A listing of routes to be used within this state;
13 and

14 (d) The estimated date and time of the shipment's
15 original departure and entry into this state.

16 (2) Schedule information provided to the state shall be
17 protected against unauthorized disclosure until at least ten
18 days after a shipment has entered or originated within this
19 state.

20 (3) The information in the advance notification shall be
21 made available to the emergency response authorities located
22 along the routes to be used within this state, designated
23 pursuant to section 43-6-403.

24 43-6-207. Permit violations - penalties. (1) (a) Any
25 person who transports hazardous materials in, to, from, or
26 through this state without first obtaining an annual or single
27 trip hazardous materials transportation permit shall be

1 assessed a civil penalty of two hundred fifty dollars.

2 (b) Any person who knowingly transports hazardous
3 materials in, to, from, or through this state without first
4 obtaining an annual or single trip hazardous materials
5 transportation permit commits a class 1 misdemeanor and shall
6 be punished as provided in section 18-1-106, C.R.S.

7 (2) Any person who has obtained an annual or single trip
8 hazardous materials transportation permit but fails to have a
9 copy of said permit in the cab of the motor vehicle while
10 transporting hazardous materials in, to, from, or through this
11 state shall be assessed a civil penalty of twenty-five
12 dollars.

13 (3) Any person who violates the terms and conditions of
14 an annual or single trip hazardous materials transportation
15 permit while transporting hazardous materials in, to, from, or
16 through this state shall be assessed a civil penalty of two
17 hundred fifty dollars.

18 (4) All civil penalties collected pursuant to this
19 section by a state agency or by a court upon an action brought
20 by a state agency shall be transmitted to the state treasurer,
21 who shall credit the same to the hazardous materials safety
22 fund created in section 43-6-107.

23 43-6-208. Permit suspension or revocation. In addition
24 to any other civil or criminal penalties, the patrol may
25 suspend the hazardous materials transportation permit for a
26 period not to exceed six months or revoke such permit for
27 failure to comply with the terms and conditions of such

1 permit, for failure to pay a civil penalty assessed pursuant
2 to section 43-6-207, for continuing violations of the
3 regulations promulgated pursuant to this article, for
4 violation of a compliance order issued pursuant to section
5 43-6-211, or for failure to provide reimbursement as provided
6 in section 43-6-405. The permit may be suspended or revoked
7 only for good cause shown after due notice and opportunity for
8 a hearing pursuant to the provisions of article 4 of title 24,
9 C.R.S., if requested by the permit holder.

10 43-6-209. Local government preemption. No county, city
11 and county, city, or town shall establish any permit or fee
12 system for the transportation of hazardous materials by motor
13 vehicle in, to, from, or through this state.

14 43-6-210. Rules and regulations. The chief is
15 authorized to promulgate reasonable rules and regulations
16 which are necessary or desirable in governing the issuance of
17 permits, if such rules and regulations are not in conflict
18 with other provisions of state law.

19 43-6-211. Compliance orders - penalty. (1) Whenever
20 the patrol finds that any person is in violation of any rule,
21 regulation, or requirement of this article, the patrol may
22 issue an order requiring such person to comply with any such
23 rule, regulation, or requirement and may request the attorney
24 general to bring suit for injunctive relief. A compliance
25 order issued under this subsection (1) shall be signed by the
26 chief or his designee.

27 (2) Any person who violates any compliance order of the

1 patrol which is not subject to a stay pending judicial review
2 and which has been issued pursuant to this article shall be
3 subject to a civil penalty, after written notice and
4 opportunity for a hearing pursuant to the provisions of
5 article 4 of title 24, C.R.S., of not more than five thousand
6 dollars per day for each day during which such violation
7 occurs.

8 (3) All civil penalties collected pursuant to this
9 section shall be transmitted to the state treasurer, who shall
10 credit the same to the hazardous materials safety fund created
11 in section 43-6-107.

12 43-6-212. Compilation of hazardous materials shipment
13 data. The port of entry division of the department of revenue
14 shall compile data on shipments of hazardous materials
15 according to placard class and identification number as
16 provided in 49 C.F.R. 172 and make that data available to
17 local governments.

18 PART 3

19 ROUTE DESIGNATION

20 43-6-301. Definition. As used in this part 3, unless
21 the context otherwise requires:

22 (1) "Public road" means every way publicly maintained
23 and open to the use of the public for purposes of vehicular
24 travel, including, but not limited to, streets, bridges, toll
25 roads, state highways, and tunnels.

26 43-6-302. Route designation. (1) The patrol shall have
27 the sole authority to designate which public roads shall be

1 used and which shall not be used by motor vehicles
2 transporting hazardous materials. Exercise of such authority
3 shall be made pursuant to section 43-6-303. Such designation
4 may include route restriction, hours of operation, closing of
5 streets and highways, curfews, and whatever other conditions
6 or restrictions the department deems advisable. Any such
7 designation in this part 3 shall be referred to as a route
8 designation.

9 (2) The patrol may approve route designations applicable
10 to category 1 or category 2 hazardous materials anywhere in
11 the state.

12 (3) The patrol shall not approve route designations
13 applicable to category 3 or category 4 hazardous materials.

14 43-6-303. Application for route designation - procedure
15 - approval. (1) A petition for a route designation may be
16 submitted to the patrol by any of the following:

17 (a) By a county, with respect to any public road
18 maintained by the county, upon approval of the petition by the
19 board of county commissioners of such county;

20 (b) By a town, city, or city and county, with respect
21 any public road maintained by such town, city, or city and
22 county, upon approval of the petition by the governing body of
23 such town, city, or city and county;

24 (c) By the state department of highways, with respect to
25 any highway maintained by the state, upon approval of the
26 petition by the state highway department.

27 (2) The petition shall describe specifically the

1 designation sought, shall identify any local business or
2 industry which is known to be significantly reliant on
3 hazardous materials transportation and which would be affected
4 by the designation, and shall include any other information
5 which is necessary for the patrol to act upon the petition and
6 which is required by rule and regulation of the patrol.

7 (3) Upon the filing of a complete petition with the
8 patrol, the patrol shall give adequate public notice of such
9 petition, including at least the following:

10 (a) Notification by certified mail to the governing body
11 of any county, town, city, or city and county which would be
12 affected by the route designation;

13 (b) Publication in a newspaper or newspapers having
14 general circulation in each affected community once each week
15 for three consecutive weeks; and

16 (c) Written notification to any local business or
17 industry which is known to be significantly reliant on
18 hazardous materials transportation and which would be affected
19 by the designation.

20 (4) If the petitioner is not the state department of
21 highways, the patrol shall provide a copy of the petition to
22 the state department of highways for its review and comment.

23 (5) No sooner than thirty days after the requirements of
24 subsections (3) and (4) of this section have been met, and
25 after reasonable notice to the petitioner, to the state
26 department of highways, and to any persons requesting such
27 notice, the patrol shall hold an informal public conference on

1 the petition. At such conference representatives of the
2 petitioner and the state department of highways and any
3 interested persons shall be afforded an opportunity to comment
4 on the petition, and the petitioner shall have an opportunity
5 to amend the petition. The patrol shall approve the
6 designation if there is no opposition to the petition and if
7 the requirements of subsection (7) of this section have been
8 met.

9 (6) If there is opposition to the petition at the
10 informal public conference, and no agreement can be reached,
11 the patrol shall hold a formal public hearing and act on the
12 petition in accordance with the provisions of article 4 of
13 title 24, C.R.S.

14 (7) No route designation shall be approved by the patrol
15 unless it finds that:

16 (a) The routes available for the transportation of
17 hazardous materials by motor vehicle:

18 (I) Are feasible, practicable, and not unreasonably
19 expensive for such transportation;

20 (II) Are continuous;

21 (III) Provide greater safety to the public than other
22 feasible routes; and

23 (IV) Do not unreasonably burden interstate or intrastate
24 commerce;

25 (b) The designation is not arbitrary or intended by the
26 petitioner merely to divert the transportation of hazardous
27 materials to other communities;

1 (c) Reasonable provision is made for signs along the
2 affected public roads giving adequate notice of the
3 designation to the public, to affected industry, and to
4 transporters of hazardous materials. Such signs shall not be
5 required in jurisdictions where the governmental authority has
6 provided the patrol with professional quality maps which
7 indicate the route designations in that jurisdiction.

8 (d) The designation will not interfere with the pickup
9 or delivery of hazardous materials; and

10 (e) The designation is consistent with all applicable
11 federal laws and regulations.

12 (8) Any town, city, city and county, or county may
13 request the state department of highways to submit a petition
14 to the patrol for a route designation on any highway
15 maintained by the state.

16 (9) The patrol shall make a final decision to approve or
17 deny any petition for a route designation within six months of
18 the filing of the petition.

19 43-6-304. Road signs required - uniform standards.
20 Signs giving adequate notice of route designations shall be
21 placed and maintained along public roads affected by such
22 designations. In accordance with part 5 of article 4 of title
23 42, C.R.S., the state department of highways shall adopt
24 uniform standards for highway signs giving notice of route
25 designations. The requirements of this section shall not
26 apply to jurisdictions in which the governmental authority has
27 provided the patrol with professional quality maps which

1 indicate the route designations in that jurisdiction.

2 43-6-305. Emergency closure of public roads. Nothing
3 contained in this article shall limit the authority of state
4 and local authorities to close public roads temporarily if
5 necessary because of road construction or maintenance,
6 accident, natural disaster, weather conditions, or other
7 emergency circumstances resulting in road conditions unsafe
8 for travel by motor vehicles transporting hazardous materials.

9 43-6-306. Deviation from authorized route - penalty.

10 (1) No person shall transport hazardous materials by motor
11 vehicle contrary to any route designation approved by the
12 patrol pursuant to this part 3 unless necessary to make local
13 pickup or delivery of hazardous materials or unless so
14 required by emergency conditions which would make continued
15 use of authorized routes unsafe or unless so required by the
16 closure of an authorized route pursuant to section 43-6-305,
17 and, in such circumstances, the motor vehicle shall remain on
18 authorized routes whenever possible and shall minimize the
19 distance travelled on restricted routes. A person
20 transporting hazardous materials by motor vehicle may make
21 successive local pickups and deliveries without returning to
22 the authorized route between each pickup or delivery when such
23 return would be unreasonable.

24 (2) Any person who transports hazardous materials by
25 motor vehicle in a manner inconsistent with the provisions of
26 subsection (1) of this section shall be assessed a civil
27 penalty of two hundred fifty dollars for each separate

1 violation per day.

2 (3) The penalty shall be assessed and collected by a
3 court of competent jurisdiction upon action instituted by the
4 department or any law enforcement officer, port of entry weigh
5 station personnel, or investigative personnel of the
6 commission.

7 (4) All penalties collected pursuant to this section by
8 a state agency or by a court upon an action brought by a state
9 agency shall be transmitted to the state treasurer, who shall
10 credit the same to the hazardous materials safety fund created
11 in section 43-6-107.

12 PART 4

13 HAZARDOUS SUBSTANCE INCIDENTS

14 43-6-401. Legislative declaration. (1) The general
15 assembly finds, determines, and declares:

16 (a) That all emergency response personnel in this state
17 shall have the hazardous substance training and equipment
18 necessary to protect their own lives and the lives of others
19 and to minimize property damage and protect the environment in
20 the event of a hazardous substance incident;

21 (b) That it is the joint responsibility of the state and
22 units of local government to ensure that adequate emergency
23 response to hazardous substance incidents is available in all
24 areas of the state; and

25 (c) That mutual aid agreements and other forms of
26 regional cooperation among local emergency response agencies
27 are encouraged in order for local governments to fulfill their

1 responsibilities under this part 4.

2 43-6-402. Definitions. As used in this part 4, unless
3 the context otherwise requires:

4 (1) "Hazardous substance" means any substance, material,
5 waste, or mixture designated as a hazardous material, waste,
6 or substance according to 49 C.F.R. 172, as amended, or by
7 section 18-13-112 (2) (b), C.R.S., or as designated pursuant
8 to the federal "Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980" (PL 96-510) as in
10 effect July 1, 1983.

11 (2) (a) "Hazardous substance incident" means any
12 emergency circumstance involving the sudden discharge of a
13 hazardous substance which, in the judgment of an emergency
14 response authority, threatens immediate and irreparable harm
15 to the environment or the health and safety of any individual
16 other than individuals exposed to the risks associated with
17 hazardous substances in the normal course of their employment.
18 "Hazardous substance incident" includes an incident of
19 spilling, dumping, or abandonment of a hazardous substance,
20 whether or not such spilling, dumping, or abandonment is found
21 to threaten immediate and irreparable harm, but such term does
22 not include any discharge of a hazardous substance authorized
23 pursuant to any federal, state, or local law or regulation.

24 (b) As used in this section, "abandonment" means the act
25 of leaving a thing with the intent not to retain possession of
26 or assert ownership or control over it. The intent need not
27 coincide with the act of leaving.

1 (3) "Person" means any individual, public or private
2 corporation, partnership, association, firm, trust, or estate,
3 the state or any department, institution, or agency thereof,
4 any municipal corporation, county, city and county, or other
5 political subdivision of the state, or any other legal entity
6 whatsoever which is recognized by law as the subject of rights
7 and duties.

8 (4) "Private property" means any property under the
9 control, management, or operation of any person other than a
10 governmental agency.

11 43-6-403. Hazardous substance incidents - response
12 authorities - designation. (1) It is the purpose of this
13 section to provide for the designation of emergency response
14 authorities for hazardous substance incidents. Except as
15 provided in subsection (2) of this section, every emergency
16 response authority designated in this section shall be
17 responsible for the emergency response to a hazardous
18 substance incident occurring within its jurisdiction and for
19 the emergency response to a hazardous substance incident which
20 initially occurs within its jurisdiction but which spreads to
21 another jurisdiction. If a hazardous substance incident
22 occurs on a boundary between two jurisdictions or in an area
23 where the jurisdiction is not readily ascertainable, the first
24 emergency response authority to arrive at the scene of the
25 incident shall be responsible for the emergency response;
26 except that, subsequent to the emergency response, continuing
27 responsibility shall be exercised by the emergency response

1 authority in which the incident actually occurred. As used in
2 this section, "emergency response to a hazardous substance
3 incident" means taking the initial emergency action necessary
4 to minimize the effects of a hazardous substance incident.

5 (2) If a hazardous substance incident occurs on private
6 property, the owner or operator thereof may undertake the
7 emergency response to such hazardous substance incident and
8 shall notify and coordinate such response with the appropriate
9 emergency response authority designated in this section. If
10 the owner or operator does not undertake such emergency
11 response or if, in the judgment of the designated emergency
12 response authority, there exists an imminent danger to the
13 public health and safety beyond such property, the designated
14 emergency response authority shall be responsible for the
15 emergency response to such hazardous substance incident, as
16 provided in this section.

17 (3) (a) Every county, town, city, and city and county
18 shall be responsible for the emergency response to a hazardous
19 substance incident occurring within its boundaries. However,
20 in the case of an extraordinary hazardous substance incident
21 requiring equipment or expertise which cannot feasibly be
22 maintained locally, a county, town, city, or city and county
23 may notify the regional response team established pursuant to
24 subsection (4) of this section to become the emergency
25 response authority for such incident.

26 (b) The governing body of every town, city, and city and
27 county shall designate by ordinance or resolution an emergency

1 response authority for hazardous substance incidents occurring
2 within the corporate limits of such town, city, and city and
3 county. Such designation shall be made by January 1, 1987.

4 (c) The board of county commissioners of every county in
5 the state shall designate by resolution the emergency response
6 authority for hazardous substance incidents occurring within
7 the unincorporated area of the county. Such designation shall
8 be made by January 1, 1987.

9 (4) (a) The department shall establish a regional
10 response team in each region of the state. There shall be no
11 more than ten such regions, as designated by the department.
12 Each regional response team shall be drawn from federal,
13 state, and local entities which have the appropriately trained
14 personnel and the necessary equipment to respond on a regional
15 basis to a hazardous substance incident.

16 (b) Regional response teams shall be made up of existing
17 governmental agencies and may include appropriately trained
18 personnel from private industry. Such agencies may enter into
19 mutual aid pacts for the purpose of responding to a hazardous
20 substance incident.

21 (c) Each regional response team shall appoint a lead
22 agency to coordinate the response activities. If the regional
23 response team does not appoint a lead agency within a
24 reasonable time, the department may appoint a lead agency.

25 (d) A regional response team shall be the emergency
26 response authority for any extraordinary hazardous substance
27 incident occurring within the region when notified thereof as

1 provided in subsection (3) of this section.

2 (e) The executive director of the department shall have
3 authority to convene meetings of local emergency response
4 groups for the purpose of organizing regional response teams.
5 If the local response groups are unable to develop a plan for
6 emergency situations, the executive director may submit and
7 enforce any plan that he deems appropriate.

8 (f) Subject to appropriations therefor, the department
9 shall make grants from the hazardous materials safety fund to
10 assist with the training and equipping of regional response
11 teams. Such grants shall be awarded on the basis of need or
12 exposure to hazardous substance incidents. The department
13 shall also require the local governments in each region to
14 contribute a reasonable share in the costs of the regional
15 response teams, and such contributions may consist of money,
16 equipment, or personnel.

17 (g) The executive director of the department shall
18 promulgate rules and regulations for the administration of
19 regional response teams.

20 (5) (a) The department shall establish a statewide
21 response team to be available for emergency response in any
22 region of the state. The statewide response team shall be
23 authorized to utilize the personnel and equipment of the
24 regional response teams established pursuant to subsection (4)
25 of this section, and it may also contract with governmental
26 agencies or private industry in order to respond on a
27 statewide basis to a hazardous substance incident.

1 (b) The statewide response team shall be the emergency
2 response authority for any extraordinary hazardous substance
3 incident.

4 (c) The executive director of the department shall have
5 the authority to develop a plan for the statewide response
6 team.

7 (d) The executive director of the department shall
8 promulgate rules and regulations for the administration of
9 statewide response teams.

10 (6) Each governing body identified in paragraphs (b) and
11 (c) of subsection (3) of this section and the department
12 shall, as necessary, exercise continuing supervisory authority
13 for the cleanup and removal of the hazardous substance
14 involved in an incident.

15 (7) The executive director of the department shall
16 encourage mutual aid agreements among emergency response
17 groups for the purpose of utilizing equipment and expertise in
18 order to safely handle hazardous substance incidents.

19 (8) The executive director of the department may
20 designate an employee of the department to exercise the powers
21 and duties of the executive director under this part 4.

22 43-6-404. Department of public safety to provide
23 information. (1) The department shall compile and maintain:

24 (a) Current information necessary to enable it to answer
25 any inquiry concerning the proper action to take to
26 counteract, eliminate, or minimize the public health hazards
27 of a hazardous substance incident involving any specific kind

1 of hazardous substance;

2 (b) Information on the emergency response capabilities
3 of public and private agencies throughout the state to enable
4 the department to answer any inquiry concerning the nearest
5 agencies available to contribute equipment and personnel to
6 counteract any particular hazardous substance incident;

7 (c) Information on the proper local, state, and federal
8 entities which should receive information or notification of
9 any hazardous substance incident;

10 (d) Information concerning route designations. Such
11 information shall be made available to the Colorado state
12 patrol and the state department of highways.

13 (2) The department shall establish and publicize a
14 telephone service to make such information available to the
15 public twenty-four hours each day and shall specifically
16 notify each emergency response authority designated in or
17 pursuant to section 43-6-403, as responsible for the emergency
18 response to a hazardous substance incident of such service.

19 43-6-405. Right to claim reimbursement. (1) A public
20 entity, political subdivision of the state, or unit of local
21 government is hereby given the right to claim reimbursement
22 from the parties or persons responsible for a hazardous
23 substance incident for the reasonable and documented costs
24 resulting from action taken to remove, contain, or otherwise
25 mitigate the effects of such incident. When the action to
26 remove, contain, or otherwise mitigate the effects of such an
27 incident also involves extinguishing a fire, the costs may

1 only include the extraordinary expenses related to the
2 hazardous substance and not any expense related to
3 extinguishing the fire.

4 (2) Nothing contained in this section shall be construed
5 to change or impair any right of recovery or subrogation
6 arising under any other provision of law.

7 (3) (a) The governing body of the emergency response
8 authority designated in section 43-6-403 or, when the
9 emergency response authority is the department, the attorney
10 general shall be responsible for collecting any claims for
11 reimbursement made pursuant to this section when more than one
12 public entity, political subdivision of the state, or unit of
13 local government has assisted in said removal, containment, or
14 mitigation. Such responsibility shall include, when
15 necessary, the filing of a civil action against the person
16 responsible for the abandonment or spill. Any such agency
17 which rendered assistance may also join any civil action as a
18 party plaintiff or may assign any rights to the appropriate
19 emergency response authority.

20 (b) Any collections or recovery made by the emergency
21 response authority shall be distributed on a pro rata basis
22 among the agencies which rendered assistance.

23 (c) The emergency response authority is entitled to
24 recover its reasonable costs in collecting any reimbursement,
25 including any attorney fees. If such costs are not included
26 in a judgment rendered in a civil action, they shall be
27 deducted from any recovery prior to the distribution provided

1 for in paragraph (b) of this subsection (3).

2 (4) The provisions of this section shall apply to any
3 claim for reimbursement for costs related to a hazardous
4 substance which is authorized by other provisions of law.

5 43-6-406. Legislative finding - hazardous substance
6 listing required. (1) The general assembly finds,
7 determines, and declares:

8 (a) That the protection of the public from the dangers
9 of hazardous substance incidents occurring on private
10 property, other than residential or agricultural property, is
11 a matter of statewide concern;

12 (b) That, without the provisions of this section, such
13 protection is inadequate; and

14 (c) That the provisions of this section are enacted in
15 the exercise of the police powers of this state for the
16 purpose of protecting the peace, health, safety, and welfare
17 of the people of this state.

18 (2) (a) Upon the request of the designated emergency
19 response authority, the department, or the local fire
20 department, any person who, in accordance with the following
21 table, possesses the specified quantity, or a quantity in
22 excess of that specified, of any hazard type of hazardous
23 substance on private property shall provide the designated
24 emergency response authority and, when requested, the local
25 fire department with a listing of the maximum quantity of each
26 such hazard type reasonably anticipated to be present on the
27 property at any time:

1	<u>Hazard type</u>	<u>Quantity</u>
2	Class A or B explosive	Any quantity
3	Class C explosive	50 pounds
4	Etiological agent	Any quantity
5	Water reactive flammable	
6	solid	5 pounds
7	Pyrophoric material	5 pounds
8	Organic/inorganic peroxide	50 pounds
9	Poison A or poison B	100 pounds or 15 gallons
10	Flammable liquid other than a	
11	pyrophoric liquid	700 pounds or 120 gallons
12	Compressed flammable gas	
13	other than liquefied	
14	petroleum gases	3,000 cubic feet or more at
15		one atmosphere at seventy
16		degrees Fahrenheit
17	Liquefied petroleum gases	Any installation exceeding
18		18,000 gallon water
19		capacity
20	Oxidizer	200 pounds or 120 gallons
21	Combustible liquid	
22	Class I	120 gallons
23	Class II	240 gallons
24	Class III	500 gallons
25	Corrosive material	200 pounds or 120 gallons
26		(unless a lesser amount is
27		specified in 49 C.F.R.

1 apply to:

2 (I) Motor fuel products in quantities less than
3 forty-two thousand gallons in underground storage or less than
4 six hundred twenty gallons in one tank or less than one
5 thousand three hundred forty gallons in combination in above
6 ground storage;

7 (II) Hazardous substances located on residential,
8 personal, or agricultural property;

9 (III) Any person who has specific arrangements with a
10 designated emergency response authority for responding to
11 hazardous substance incidents;

12 (IV) Hazardous materials in transportation which are
13 subject to the provisions of part 1 of this article;

14 (V) The armed forces of the United States or the state
15 militia;

16 (VI) Explosives in forms prescribed by the official
17 United States pharmacopeia;

18 (VII) The possession, transportation, and use of small
19 arms ammunition;

20 (VIII) The possession, storage, and transportation of
21 not more than fifty pounds of black powder and two thousand
22 small arms primers for hand-loading of small arms ammunition
23 for personal use unless otherwise regulated by the local
24 jurisdiction;

25 (IX) The transportation and use of explosives or
26 blasting agents by the United States bureau of mines, the
27 federal bureau of investigation, the United States secret

1 service, the United States department of the treasury, or a
2 police or fire department acting in its official capacity;

3 (X) Special industrial explosive devices which in the
4 aggregate contain less than fifty pounds of explosives.

5 (3) On or after October 1, 1983, any person failing to
6 comply with the provisions of subsection (2) of this section
7 shall be subject to a civil penalty of not more than one
8 hundred dollars per day for each day during which said
9 violation occurs. Such penalty shall be determined and
10 collected by a court of competent jurisdiction upon an action
11 instituted by the district attorney. Civil penalties collected
12 shall be transmitted to the state treasurer, who shall credit
13 the same to the hazardous materials safety fund created in
14 section 43-6-107.

15 43-6-407. Criminal penalties - hazardous waste
16 incidents. (1) Any person who intentionally causes or
17 substantially contributes to the occurrence of a hazardous
18 substance incident in violation of the provision of this
19 article commits a class 4 felony and shall be punished as
20 provided in section 18-1-105, C.R.S.

21 (2) Any person who willfully, recklessly, or with
22 criminal negligence as defined in section 18-1-501, C.R.S.,
23 causes or substantially contributes to the occurrence of a
24 hazardous substance incident in violation of the provisions of
25 this article commits a class 5 felony and shall be punished as
26 provided in section 18-1-105, C.R.S.

27 43-6-408. Civil penalties. (1) Any person who

1 recklessly, intentionally, or negligently causes or
2 substantially contributes to the occurrence of a hazardous
3 substance incident shall be subject to a civil penalty of not
4 less than one thousand dollars nor more than twenty-five
5 thousand dollars per incident.

6 (2) Penalties shall be determined and collected by a
7 court of competent jurisdiction upon action taken by the
8 attorney general at the direction and request of the
9 department.

10 (3) Penalties collected pursuant to this section shall
11 be transmitted to the state treasurer, who shall credit the
12 same to the hazardous materials safety fund created in section
13 43-6-107.

14 43-6-409. Persons rendering assistance relating to
15 hazardous substance incidents - legislative declaration -
16 exemption from civil liability. (1) The general assembly
17 hereby finds and declares that knowledgeable individuals and
18 organizations should be encouraged to lend expert assistance
19 in the event of a hazardous substance incident. The purpose
20 of this section is to so encourage such individuals and
21 organizations to lend assistance by providing them with
22 limited immunity from civil liability.

23 (2) As used in this section, "person" means individual,
24 government or governmental subdivision or agency, corporation,
25 partnership, or association or any other legal entity.

26 (3) (a) Notwithstanding any provision of law to the
27 contrary, any person who provides assistance or advice in

1 mitigating or attempting to mitigate the effects of an actual
2 or threatened hazardous substance incident, or in preventing,
3 cleaning up, or disposing of or in attempting to prevent,
4 clean up, or dispose of any such incident, shall not be
5 subject to civil liability for such assistance or advice,
6 except as provided in subsection (5) of this section.

7 (b) Notwithstanding any provision of law to the
8 contrary, any person who provides assistance upon request of
9 any emergency response authority, police agency, fire
10 department, rescue or emergency squad, or any governmental
11 agency in the event of an accident or other emergency
12 involving the use, handling, transportation, transmission, or
13 storage of hazardous substance, when the reasonably apparent
14 circumstances require prompt decisions and actions, shall not
15 be liable for any civil damages resulting from any act of
16 department or omission on his part in the course of his
17 rendering such assistance, except as provided in subsection
18 (5) of this section.

19 (4) The exemption from civil liability provided for in
20 this section shall apply to the intentional destruction of
21 property necessary for the mitigation of a hazardous substance
22 incident.

23 (5) The exemption from civil liability provided for in
24 this section shall not apply to:

25 (a) Any person whose act or omission caused in whole or
26 in part such discharge and who would otherwise be liable
27 therefor;

1 (b) Any person, other than the employee of a
2 governmental subdivision or agency, who receives compensation
3 other than reimbursement for out-of-pocket expenses for his
4 assistance or advice;

5 (c) Any person's gross negligence or reckless, wanton,
6 or intentional misconduct.

7 (6) Nothing in this section shall be construed to
8 abrogate or limit the sovereign immunity granted to public
9 entities pursuant to article 10 of title 24, C.R.S., the
10 "Colorado Governmental Immunity Act".

11 SECTION 2. 25-15-307 (2), Colorado Revised Statutes,
12 1982 Repl. Vol., is amended to read:

13 25-15-307. Coordination with other programs. (2) For
14 the purposes of the administration and enforcement of this
15 part 3, the department shall coordinate its activities with
16 those of the ~~public-utilities-commission~~ COLORADO STATE PATROL
17 relating to the transportation of hazardous materials. Rules
18 and regulations of the board relating to the transportation of
19 hazardous waste shall be consistent with the rules and
20 regulations of the ~~public-utilities-commission~~ COLORADO STATE
21 PATROL on the transportation of hazardous materials
22 promulgated pursuant to article ~~2:1 6~~ of title ~~40;-6-R-5;-1973~~
23 43 C.R.S.

24 SECTION 3. 25-15-310 (2), Colorado Revised Statutes,
25 1982 Repl. Vol., as amended, is amended to read:

26 25-15-310. Criminal offenses - penalties. (2) Except
27 as provided in ~~section--29-22-108;---6-R-5;---~~ or section

1 18-13-112, C.R.S., any person who violates any of the
2 provisions of paragraph (a) or (b) of subsection (1) of this
3 section is guilty of a misdemeanor and, upon conviction
4 thereof, shall be punished by a fine of not more than fifty
5 thousand dollars for each day of violation, or by imprisonment
6 in the county jail for not more than one year, or by both such
7 fine and imprisonment.

8 SECTION 4. 25-15-313 (4), Colorado Revised Statutes,
9 1982 Repl. Vol., as amended, is amended to read:

10 25-15-313. Right to claim reimbursement. (4) Claims
11 for reimbursement made pursuant to this section shall be in
12 accordance with article 22 6 of title 29 43, C.R.S.

13 SECTION 5. 30-15-401 (3), Colorado Revised Statutes,
14 1977 Repl. Vol., as amended, is amended to read:

15 30-15-401. General regulations. (3) Paragraph (a) of
16 subsection (1) of this section shall not apply to the
17 transportation of sludge and fly ash or to the transportation
18 of hazardous materials, as defined in the rules and
19 regulations adopted by the ~~public-utilities-commission~~ CHIEF
20 OF THE COLORADO STATE PATROL pursuant to section ~~40-2-1-103~~
21 (~~1~~) 43-6-104 (1), C.R.S.

22 SECTION 6. 42-4-608 (5.5), Colorado Revised Statutes,
23 1984 Repl. Vol., is amended to read:

24 42-4-608. Certain vehicles must stop at railroad grade
25 crossings. (5.5) For purposes of this section the state
26 department of highways shall adopt and publicize such
27 instructions and regulations as may be necessary describing

1 what constitutes "hazardous materials". After January 1, 1980
2 1987, the definition of "hazardous materials" shall be the
3 definition contained in the rules and regulations adopted by
4 the ~~public-utilities-commission~~ CHIEF OF THE COLORADO STATE
5 PATROL pursuant to section ~~40-2-1-103-(1)~~ 43-6-108, C.R.S.

6 SECTION 7. 42-8-104 (2), Colorado Revised Statutes, 1984
7 Repl. Vol., as amended, is amended to read:

8 42-8-104. Powers and duties. (2) The personnel of a
9 port of entry weigh station, during the time they are actually
10 engaged in performing their duties as such and while acting
11 under proper orders or regulations issued by the executive
12 director of the department of revenue, shall have and exercise
13 all the powers invested in peace officers in connection with
14 the enforcement of the provisions of this article and section
15 42-4-234 and article ~~2-1~~ 6 of title ~~40~~ 43, C.R.S.; except that
16 they shall not have the power to serve civil writs and
17 process, and, in the exercise of their duties, such personnel
18 shall have authority to restrain and detain persons or
19 vehicles and may impound any vehicle until any tax or license
20 fee imposed by law is paid or until compliance is had with any
21 tax or regulatory law or regulation issued thereunder.

22 SECTION 8. Repeal. 25-1-107 (1) (y) and (1) (bb),
23 Colorado Revised Statutes, 1982 Repl. Vol., as amended,
24 article 22 of title 29, Colorado Revised Statutes, 1977 Repl.
25 Vol., as amended, article 2.1 of title 40, Colorado Revised
26 Statutes, 1984 Repl. Vol., as amended, and 42-4-228, Colorado
27 Revised Statutes, 1984 Repl. Vol., are repealed.

1 SECTION 9. Transfer. There is hereby transferred, out
2 of any moneys in the general fund not otherwise appropriated,
3 to the hazardous materials safety fund created in section
4 43-6-107, Colorado Revised Statutes, the sum of _____
5 dollars (\$).

6 SECTION 10. Appropriation. (1) In addition to any
7 other appropriation, there is hereby appropriated, out of the
8 hazardous materials safety fund, the following sums of money,
9 to the following agencies, for the purposes specified:

10 (a) To the department of public safety, _____ dollars
11 (\$), or so much thereof as may be necessary, for the
12 implementation of this act;

13 (b) To the department of public safety, _____ dollars
14 (\$), or so much as may be necessary, for grants to the
15 regional response teams pursuant to section 43-6-403, Colorado
16 Revised Statutes.

17 SECTION 11. Effective date - applicability. This act
18 shall take effect July 1, 1986, and its penalty provisions
19 shall apply to acts committed on or after said date.

20 SECTION 12. Safety clause. The general assembly hereby
21 finds, determines, and declares that this act is necessary
22 for the immediate preservation of the public peace, health,
23 and safety.

BILL 61

A BILL FOR AN ACT

1 CONCERNING THE AMOUNT OF MONEYS CREDITED TO THE HIGHWAY USERS
2 TAX FUND FROM SALES AND USE TAXES IMPOSED ON VEHICLES AND
3 RELATED ITEMS.

Bill Summary

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

Removes the \$50,000,000 limitation (scheduled to take effect July 1, 1986) on the amount of moneys which may be credited to the highway users tax fund from sales and use taxes attributable to sales or use of vehicles and related items.

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

5 SECTION 1. 39-26-123 (2) (c) (I) (G), Colorado Revised
6 Statutes, 1982 Repl. Vol., as amended, is amended to read:

7 39-26-123. Receipts - disposition. (2) (c) (I) (G) For
8 the fiscal year beginning July 1, 1985, and each fiscal year
9 thereafter, seven percent of net revenue from sales and use
10 taxes shall be allocated and credited to the highway users tax
11 fund and eight percent of such net revenue shall be allocated

1 and credited to the general fund. ~~except-that-such-moneys~~
2 ~~credited-to-the-highway-users-tax-fund-during-the-fiscal-year~~
3 ~~1986-87--or--any-fiscal-year-thereafter-shall-not-exceed-fifty~~
4 ~~million-dollars;-and-any--excess--shall--be--credited--to--the~~
5 ~~general-fund:~~

6 SECTION 2. Effective date. This act shall take effect
7 July 1, 1986.

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

BILL 62

A BILL FOR AN ACT

1 CONCERNING AN INCREASE IN THE EXCISE TAX IMPOSED ON GASOLINE
2 AND SPECIAL FUEL.

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 excise tax on gasoline and special fuel.

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

4 SECTION 1. 39-27-102 (1) (a) (II), Colorado Revised
5 Statutes, 1982 Repl. Vol., as amended, is amended to read:

6 39-27-102. Tax imposed - special licenses - deposits -
7 penalties. (1) (a) (II) The excise tax imposed by
8 subparagraph (I) of this paragraph (a) shall be ~~twelve~~
9 EIGHTEEN cents per gallon or fraction thereof.

10 SECTION 2. 39-27-202 (1) (c), Colorado Revised Statutes,
11 1982 Repl. Vol., as amended, is amended to read:

12 39-27-202. Tax imposed - exemptions - ex-tax purchases.
13 (1) (c) The excise tax imposed by paragraph (a) of this

1 subsection (1) shall be thirteen NINETEEN cents per gallon or
2 fraction thereof.

3 SECTION 3. Effective date. This act shall take effect
4 July 1, 1986.

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

BILL 63

A BILL FOR AN ACT

1 CONCERNING THE ISSUANCE OF HIGHWAY REVENUE BONDS FOR FINANCING
2 THE CONSTRUCTION, IMPROVEMENT, AND RECONSTRUCTION OF
3 HIGHWAYS AND BRIDGES.

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 to issue highway revenue bonds, formerly revenue anticipation warrants, on behalf of the state for the construction, improvement, and reconstruction of highways and bridges. Increases the outstanding amount of such bonds which may be issued. Allows for the public or private sale and for the refunding of such bonds. Expands the types of entities which may purchase such bonds.

Provides that such bonds shall constitute a first lien on the proceeds from license and registration fees and from the excise tax on motor fuel. Makes conforming amendments and repeals inconsistent provisions.

Allows the commission to issue highway aid bonds in anticipation of receiving federal moneys for the construction of state highways built with federal aid.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. 43-4-303, Colorado Revised Statutes, 1984
6 Repl. Vol., is amended to read:

1 43-4-303. Bonds - issuance - sale - fund. (1) For the
2 purpose of defraying the cost of such construction,
3 improvement, and reconstruction, INCLUDING RESURFACING, and
4 all other expenses incident thereto, the ~~state---highway~~
5 commission may, ON BEHALF OF THE STATE AND from time to time,
6 upon an affirmative majority vote of the members thereof and
7 with the approval of the governor, apply for and receive funds
8 from the federal government, the state of Colorado and any of
9 its institutions and agencies, counties, municipalities,
10 districts, and any other political subdivisions of the state,
11 and any department, agency, or instrumentality thereof, or any
12 political or public corporation of the state or from private
13 investors and issue therefor ~~revenue-anticipation-warrants~~
14 HIGHWAY REVENUE BONDS payable solely from THE FEES, FARES,
15 TOLLS, AND CHARGES, IF ANY, DERIVED FROM ANY TURNPIKE OR
16 SPEEDWAY CONSTRUCTED PURSUANT TO THE POWERS GRANTED TO THE
17 STATE DEPARTMENT OF HIGHWAYS BY SECTION 43-3-202 OR SECTION
18 43-4-102, AND CONSTRUCTED WITH THE PROCEEDS OF BONDS ISSUED
19 PURSUANT TO THIS SECTION, OR FROM a SPECIAL fund SET ASIDE
20 FROM THE STATE HIGHWAY FUND, which SPECIAL FUND is hereby
21 created and is designated as the highway anticipation fund TO
22 WHICH THE COMMISSION SHALL TRANSFER FROM THE STATE HIGHWAY
23 FUND SUFFICIENT AMOUNTS TO PAY ALL BONDS ISSUED PURSUANT TO
24 THIS SECTION, THE INTEREST THEREON, REDEMPTION PREMIUM, IF
25 ANY, AND NECESSARY FISCAL AGENCY CHARGES OR FROM A COMBINATION
26 OF SUCH FEES, FARES, TOLLS, AND CHARGES AND SUCH SPECIAL FUND;
27 except that such ~~warrants~~ BONDS shall not be issued

1 OUTSTANDING in an aggregate amount in excess of thirty-five
2 ONE HUNDRED TEN million dollars, ~~that--no-more-than-eight~~
3 ~~million-dollars-shall-be-issued-in-any-one--fiscal--year;--and~~
4 ~~that--the--authority-for-the-issuance-of-anticipation-warrants~~
5 ~~provided-in-sections-43-4-301-to-43-4-314-shall--terminate--at~~
6 ~~the--expiration--of-five-years-after-April-15,-1955~~ EXCEPT FOR
7 BONDS WHICH HAVE BEEN REFUNDED.

8 (2) (a) THE STATE DEPARTMENT OF HIGHWAYS SHALL MAKE
9 INITIAL FINDINGS TO DETERMINE HIGHWAY PROJECTS TO BE FUNDED BY
10 THE ISSUANCE OF HIGHWAY REVENUE BONDS AND SHALL MAKE
11 RECOMMENDATIONS TO THE COMMISSION FOR SUCH PROJECTS. THE
12 COMMISSION SHALL REVIEW THE RECOMMENDATIONS TO DETERMINE IF
13 SUCH PROJECTS AND THE FINANCING THEREOF BY THE USE OF SUCH
14 BONDS IS IN THE BEST INTEREST OF THE STATE HIGHWAY SYSTEM AND
15 OF THE PEOPLE OF THE STATE.

16 (b) THE COMMISSION MAY ADOPT SUCH RECOMMENDATIONS AND,
17 UPON SUCH ADOPTION, SHALL FORWARD THEM TO THE GOVERNOR FOR HIS
18 REVIEW AND APPROVAL. THE GOVERNOR SHALL REVIEW THE
19 RECOMMENDATIONS AND, UPON HIS APPROVAL, FORWARD THEM TO THE
20 GENERAL ASSEMBLY.

21 (3) UPON RECEIPT OF SUCH RECOMMENDATIONS, THE GENERAL
22 ASSEMBLY MAY AUTHORIZE THE COMMISSION, BY MEANS OF A JOINT
23 RESOLUTION SIGNED BY THE GOVERNOR, TO ISSUE HIGHWAY REVENUE
24 BONDS PURSUANT TO THIS SECTION FOR THE FUNDING OF RECOMMENDED
25 PROJECTS. THE JOINT RESOLUTION SHALL CONTAIN THE
26 RECOMMENDATIONS OF THE GENERAL ASSEMBLY WITH RESPECT TO THE
27 MAXIMUM PRINCIPAL AMOUNT TO BE FINANCED BY THE ISSUANCE OF

1 SUCH BONDS, THE MAXIMUM NET EFFECTIVE INTEREST RATE OF THE
2 ISSUE OF BONDS, THE ANTICIPATED INTEREST COST THAT WOULD BE
3 INCURRED BY THE FINANCING OF THE PRINCIPAL AMOUNT, AND THE
4 AMOUNT OR PERCENTAGE OF THE ANTICIPATED REVENUE FROM SUCH
5 BONDS THAT SHALL BE SET ASIDE FOR DEBT RETIREMENT PLUS THE
6 INTEREST THAT WOULD BE GENERATED BY THE BONDING AUTHORITY.
7 HOWEVER, SAID AUTHORIZATION SHALL IN NO WAY REQUIRE OR COMPEL
8 THE COMMISSION TO ISSUE BONDS OR TO FUND OR IN ANY WAY FINANCE
9 AND PROCEED WITH ANY PROPOSED PROJECT. SUCH DECISION TO
10 PROCEED SHALL BE ENTIRELY WITHIN THE DISCRETION OF THE
11 GOVERNOR, WITH THE ADVICE AND RECOMMENDATIONS OF THE
12 COMMISSION.

13 SECTION 2. 43-4-304, Colorado Revised Statutes, 1984
14 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
15 read:

16 43-4-304. Bonds - interest - sale - refunding.

17 (1) (a) Bonds issued under section 43-4-303 shall bear
18 interest at a rate such that the net effective interest rate
19 of the issue of bonds does not exceed twelve percent per
20 annum.

21 (b) In the resolution under which the bonds are
22 authorized to be issued, the commission may provide for the
23 execution and delivery of such bonds under the following terms
24 and conditions:

25 (I) The time of execution and delivery;

26 (II) The form and denomination, including terms and
27 maturities;

1 (III) Whether the bonds are in fully registered form or
2 in bearer form registerable either as to principal or interest
3 or both;

4 (IV) Conversion privileges;

5 (V) Whether the bonds are payable in installments and at
6 time or times beginning not later than five years and
7 extending not more than twenty years from the date thereof;

8 (VI) Place of payment of the bonds, whether within or
9 without the state of Colorado;

10 (VII) Manner of evidence of the bonds;

11 (VIII) Manner of execution of the bonds by officers of
12 the commission, including the use of one or more facsimile
13 signatures so long as at least one manual signature appears on
14 the bonds, which may be either an officer of the commission or
15 an officer of the paying agent, transfer agent, or registrar
16 authenticating the same;

17 (IX) Form of coupon bonds which have attached interest
18 coupons bearing the facsimile signature of an authorized
19 officer of the commission;

20 (X) Such other provisions as are not inconsistent with
21 this part 3.

22 (c) All bonds issued pursuant to section 43-4-303 and
23 the interest coupons applicable to such bonds are declared and
24 shall be construed to be negotiable instruments.

25 (2) The bonds may be sold at public or private sale for
26 such price or prices, in such manner, and at such times as
27 determined by the commission, and the commission may pay all

1 expenses, premiums, and commissions which it may deem
2 necessary or advantageous in connection with the issuance of
3 bonds. Pending preparation of the definitive bonds, the
4 commission may issue interim receipts or certificates which
5 shall be exchanged for such definitive bonds.

6 (3) (a) Any outstanding bonds issued pursuant to this
7 part 3 may be refunded or advance refunded at any time and
8 from time to time by the commission by the issuance of its
9 bonds for such purpose in a principal amount, not exceeding
10 the amount permitted by section 43-4-303, determined by the
11 commission, which may include interest accrued or to accrue
12 with or without giving effect to investment income and other
13 expenses necessary to be paid in connection with such
14 issuance.

15 (b) (I) Any such refunding may be effected whether the
16 bonds to be refunded have then matured or will mature
17 thereafter, either by sale of the refunding bonds and the
18 application of the proceeds of such sale for the payment of
19 the bonds to be refunded or by the exchange of the refunding
20 bonds for the bonds to be refunded with the consent of the
21 holders of the bonds to be so refunded, regardless of whether
22 or not the bonds proposed to be refunded are payable on the
23 same date or different dates or are due serially or otherwise.

24 (II) The proceeds of any such bonds issued for the
25 purpose of refunding outstanding bonds may be applied, in the
26 discretion of the commission, to the purchase, retirement at
27 maturity, or redemption of such outstanding bonds either on

1 their earliest or any subsequent redemption date or upon the
2 purchase or at the maturity thereof and, pending the
3 application to such use, may be placed in an escrow account in
4 any financial institution within or without the state having
5 full trust powers and which is a member of the federal deposit
6 insurance corporation to be applied to such purchase,
7 retirement at maturity, or redemption on such date as may be
8 determined by the commission. Any such escrowed proceeds,
9 pending such use, may be invested and reinvested in
10 obligations of or guaranteed by the United States of America
11 or in certificates of deposit or time deposits secured by
12 obligations of or guaranteed by the United States of America,
13 maturing at such time or times as are appropriate to assure
14 the prompt payment as to principal, interest, and redemption
15 premium, if any, of the outstanding bonds to be so refunded.
16 The interest, income, and profit, if any, earned or realized
17 on any such investment may also be applied, in the discretion
18 of the commission, to the payment of the outstanding bonds to
19 be so refunded, to the payment of principal and interest on
20 the refunding, or for any other purpose under this part 3.
21 After the terms of the escrow have been fully satisfied and
22 carried out, any balance of such proceeds and interest,
23 income, and profits, if any, earned or realized on the
24 investments may be returned to the commission for use by it in
25 any lawful manner.

26 (c) All such refunding bonds shall be subject to the
27 provisions of this part 3 in the same manner and to the same

1 extent as other bonds issued pursuant to section 43-4-303.

2 (4) The proceeds of any bonds issued pursuant to section
3 43-4-303 may be used and applied to the payment of financing
4 costs, including legal, underwriting and investment banking,
5 accounting, and other similar costs; the funding of any
6 reserve funds deemed necessary or advisable by the commission;
7 interest on such bonds for a period not to exceed three years;
8 and all other necessary and incidental costs and expenses.

9 SECTION 3. 43-4-305, Colorado Revised Statutes, 1984
10 Repl. Vol., is amended to read:

11 43-4-305. Bonds legal investments. It is lawful for the
12 ~~anticipation---warrants~~ BONDS issued ~~in--pursuance--of--the~~
13 ~~provisions--of--sections--43-4-301--to--43-4-314~~ PURSUANT TO
14 SECTION 43-4-303 to be purchased by the state of Colorado and
15 any of its institutions and agencies, counties,
16 municipalities, districts, and any other political
17 subdivisions of the state, and any department, agency, or
18 instrumentality thereof, or any political or public
19 corporation of the state, AND ANY BANK, TRUST COMPANY, SAVINGS
20 AND LOAN ASSOCIATION, INVESTMENT COMPANY AND ASSOCIATION,
21 EXECUTOR, ADMINISTRATOR, GUARDIAN, TRUSTEE, AND OTHER
22 FIDUCIARY.

23 SECTION 4. 43-4-306, Colorado Revised Statutes, 1984
24 Repl. Vol., is amended to read:

25 43-4-306. Signatures validated. No ~~revenue-anticipation~~
26 ~~warrant~~ BOND ISSUED PURSUANT TO SECTION 43-4-303 or coupon
27 attached thereto shall be rendered invalid by reason of the

1 cessation in office of any person whose proper signature
2 appears on such ~~warrant~~ BOND or coupon.

3 SECTION 5. 43-4-307, Colorado Revised Statutes, 1984
4 Repl. Vol., is amended to read:

5 43-4-307. Sinking fund. (1) At or before the issuance
6 of any ~~such-revenue-anticipation-warrants~~ BONDS PURSUANT TO
7 SECTION 43-4-303, the ~~state--highway~~ commission shall, by
8 resolution, create a sinking fund for the payment of such
9 ~~warrants~~ BONDS, the interest thereon, REDEMPTION PREMIUM, IF
10 ANY, and necessary fiscal agency charges and shall pledge or
11 set aside THE FEES, FARES, TOLLS, AND CHARGES, IF ANY, DERIVED
12 FROM ANY TURNPIKE OR SPEEDWAY CONSTRUCTED PURSUANT TO THE
13 POWERS GRANTED TO THE STATE DEPARTMENT OF HIGHWAYS BY SECTION
14 43-3-202 OR SECTION 43-4-102, AND CONSTRUCTED WITH THE
15 PROCEEDS OF BONDS ISSUED PURSUANT TO SECTION 43-4-303, OR a
16 sufficient amount of the ~~state~~ highway ANTICIPATION fund into
17 said sinking fund at intervals to be determined by the
18 commission prior to the issuance of such ~~warrants~~ BONDS for
19 payment of interest to become due, necessary fiscal agency
20 charges, REDEMPTION PREMIUM, IF ANY, and the ~~warrants~~ BONDS as
21 they become due.

22 (2) ALL BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL
23 CONSTITUTE A FIRST LIEN ON THE PROCEEDS OF THE BONDS AND ON
24 ALL OR ANY PART, AS SET FORTH IN THE COMMISSION'S RESOLUTION
25 AUTHORIZING THE BONDS, OF THE MONEYS PLEDGED OR SET ASIDE
26 UNDER SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE
27 COMMISSION MAY PROVIDE PREFERENTIAL SECURITY FOR ANY BONDS TO

1 BE ISSUED UNDER SECTION 43-4-303 OVER ANY BONDS THAT MAY BE
2 ISSUED UNDER SECTION 43-4-303 THEREAFTER. NO MONEYS WHICH
3 MAY, FROM TIME TO TIME, BE CREDITED TO THE STATE HIGHWAY FUND
4 WHICH ARE DERIVED FROM SOURCES OTHER THAN THOSE DESCRIBED IN
5 THIS SECTION AND SECTION 18 OF ARTICLE X OF THE COLORADO
6 CONSTITUTION SHALL BE APPLIED TO THE PAYMENT OF THE BONDS
7 ISSUED PURSUANT TO SECTION 43-4-303.

8 (3) ANY PLEDGE MADE BY THE COMMISSION TO SECURE THE
9 PAYMENT OF BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL BE
10 VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE
11 REVENUES, MONEYS, AND FUNDS SO PLEDGED SHALL IMMEDIATELY BE
12 SUBJECT TO LIEN OF SUCH PLEDGE WITHOUT ANY PHYSICAL DELIVERY
13 OR FURTHER ACT, AND THE LIEN OF SUCH PLEDGE SHALL BE VALID AND
14 BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,
15 CONTRACT, OR OTHERWISE AGAINST THE COMMISSION OR THE STATE,
16 IRRESPECTIVE OF WHETHER SUCH PARTIES HAVE NOTICE OF SUCH LIEN.
17 NEITHER THE RESOLUTION NOR ANY OTHER INSTRUMENT BY WHICH A
18 PLEDGE IS CREATED NEED BE RECORDED. EACH PLEDGE, AGREEMENT,
19 AND RESOLUTION MADE FOR THE BENEFIT OR SECURITY OF ANY OF THE
20 BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL CONTINUE TO BE
21 EFFECTIVE UNTIL THE PRINCIPAL OF AND INTEREST ON THE BONDS FOR
22 THE BENEFIT OF WHICH THE SAME ARE MADE HAS BEEN FULLY PAID OR
23 PROVISION FOR SUCH PAYMENT HAS BEEN DULY MADE.

24 (4) ANY RESOLUTION OF THE COMMISSION FOR THE ISSUANCE OF
25 BONDS PURSUANT TO SECTION 43-4-303 MAY CONTAIN SUCH PROVISIONS
26 FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF THE
27 HOLDERS OF ANY OF THE BONDS AS MAY BE REASONABLE AND PROPER

1 AND NOT IN VIOLATION OF LAW, INCLUDING COVENANTS SETTING FORTH
2 THE DUTIES OF THE COMMISSION IN RELATION TO THE PURPOSES TO
3 WHICH PROCEEDS OF THE BONDS MAY BE APPLIED, THE TERMS AND
4 CONDITIONS FOR THE ISSUANCE OF ADDITIONAL BONDS, AND THE
5 CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEYS. ANY
6 SUCH RESOLUTION MAY SET FORTH THE RIGHTS AND REMEDIES OF THE
7 HOLDERS OF ANY BONDS AND MAY RESTRICT THE INDIVIDUAL RIGHT OF
8 ACTION BY ANY SUCH HOLDERS. IN ADDITION, ANY SUCH RESOLUTION
9 MAY CONTAIN SUCH OTHER PROVISIONS AS THE COMMISSION MAY DEEM
10 REASONABLE AND PROPER FOR THE SECURITY OF THE HOLDERS OF ANY
11 BONDS. ALL EXPENSES INCURRED IN CARRYING OUT THE PROVISIONS
12 OF SUCH RESOLUTION MAY BE PAID FROM THE REVENUES OR ASSETS
13 PLEDGED OR ASSIGNED TO THE PAYMENT OF THE BONDS OR FROM ANY
14 OTHER MONEYS AVAILABLE TO THE COMMISSION. IN THE EVENT OF
15 DEFAULT IN ANY SUCH PAYMENT OR IN ANY AGREEMENTS OF THE
16 COMMISSION MADE AS PART OF THE CONTRACT UNDER WHICH THE BONDS
17 WERE ISSUED OR CONTAINED IN THE RESOLUTION AUTHORIZING THE
18 BONDS, SAID PAYMENT OR AGREEMENT MAY BE ENFORCED BY SUIT,
19 MANDAMUS, OR EITHER OF SUCH REMEDIES. IN THE DISCRETION OF
20 THE COMMISSION, THE BONDS MAY BE SECURED BY A TRUST INDENTURE
21 BY AND BETWEEN THE COMMISSION AND A CORPORATE TRUSTEE WHICH
22 MAY BE ANY TRUST COMPANY OR BANK WITHIN OR WITHOUT THE STATE
23 HAVING TRUST POWERS. SUCH TRUST INDENTURE MAY CONTAIN ANY OF
24 THE PROVISIONS WHICH ARE AUTHORIZED TO BE CONTAINED IN THE
25 RESOLUTION AUTHORIZING THE BONDS.

26 SECTION 6. 43-4-308, Colorado Revised Statutes, 1984
27 Repl. Vol., is amended to read:

1 43-4-308. Redemption. In addition to retirement by
2 serially paid annual installments, ~~anticipation---warrants~~
3 ~~issued--after-March-28;-1957;-under-the-provisions-of-sections~~
4 ~~43-4-301-to-43-4-314~~ BONDS ISSUED PURSUANT TO SECTION 43-4-303
5 may be redeemed prior to maturity if so provided by the **state**
6 **highway** commission in the resolution authorizing their
7 issuance, such redemption to be made in inverse numerical
8 order on any interest payment date, upon such terms and upon
9 the payment of such premium, if any, not exceeding three and
10 three-quarters percent of the principal amount of the bonds to
11 be redeemed as may be determined by the ~~state--highway~~
12 commission.

13 SECTION 7. 43-4-309, Colorado Revised Statutes, 1984
14 Repl. Vol., is amended to read:

15 43-4-309. Bond obligations. On and after the date the
16 ~~state-highway~~ commission creates obligations by contract or
17 otherwise, as provided in ~~sections-43-4-301-to-43-4-314~~ THIS
18 PART 3, WHICH ARE PAYABLE IN WHOLE OR IN PART FROM THE HIGHWAY
19 ANTICIPATION FUND, the laws of Colorado relating to taxes
20 levied and fees charged for the purpose of construction,
21 improvement, reconstruction, and maintenance of the state's
22 system of highways, AS SUCH TAXES AND FEES ARE DESCRIBED IN
23 SECTION 18 OF ARTICLE X OF THE COLORADO CONSTITUTION, shall
24 not be repealed or amended so that the aggregate of revenues
25 for such purposes will be insufficient to pay the annual
26 installments of principal and interest and retire ~~revenue~~
27 ~~anticipation-warrants~~ BONDS issued under the provisions of

1 sections--43-4-301--to--43-4-314 SECTION 43-4-303 as the same
2 become due and payable. and;--with--the--exception--of--the
3 obligations--incurred-prior-to-April-15,-1955;-pursuant-to-the
4 provisions--of--part--2--of--article--3--of--this--title;--the
5 obligations-incurred-under-the-provisions-of-sections-43-4-301
6 to-43-4-314-constitutes-a-first-lien-upon-all-revenues-derived
7 for--such--purposes;--under-the-provisions-of-such-tax-and-fee
8 laws-or-otherwise;-until-the-obligations-so-created-are--fully
9 paid--and--discharged THE STATE HEREBY PLEDGES TO AND AGREES
10 WITH THE HOLDERS OF ANY BONDS OR OTHER OBLIGATIONS ISSUED
11 UNDER SECTION 43-4-303 AND WITH THOSE PARTIES WHO MAY ENTER
12 INTO CONTRACTS WITH THE COMMISSION PURSUANT TO THE PROVISIONS
13 OF SECTION 43-4-303 THAT THE STATE WILL NOT LIMIT, ALTER,
14 RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE COMMISSION TO
15 FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF
16 BONDS OR OTHER OBLIGATIONS AUTHORIZED AND ISSUED PURSUANT TO
17 SECTION 43-4-303 AND WITH THE PARTIES WHO MAY ENTER INTO
18 CONTRACTS WITH THE COMMISSION PURSUANT TO SECTION 43-4-303.
19 THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR
20 THE RIGHTS OR REMEDIES OF THE HOLDERS OF SUCH BONDS OR OTHER
21 OBLIGATIONS OF SUCH PARTIES UNTIL SUCH BONDS AND OTHER
22 OBLIGATIONS, TOGETHER WITH INTEREST THEREON, WITH INTEREST ON
23 ANY UNPAID INSTALLMENT OF INTEREST AND ALL COSTS AND EXPENSES
24 IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF
25 SUCH HOLDERS, ARE FULLY MET AND DISCHARGED AND SUCH CONTRACTS
26 ARE FULLY PERFORMED ON THE PART OF THE COMMISSION. NOTHING IN
27 THIS PART 3 PRECLUDES SUCH LIMITATION OR ALTERATION IF AND

1 WHEN ADEQUATE PROVISION IS MADE BY LAW FOR THE PROTECTION OF
2 THE HOLDERS OF SUCH BONDS OR OTHER OBLIGATIONS OF THE
3 COMMISSION OR THOSE ENTERING INTO SUCH CONTRACTS WITH THE
4 COMMISSION. THE COMMISSION MAY INCLUDE THIS PLEDGE AND
5 UNDERTAKING FOR THE STATE IN SUCH BONDS OR OTHER OBLIGATIONS
6 AND IN SUCH CONTRACTS.

7 SECTION 8. 43-4-310, Colorado Revised Statutes, 1984
8 Repl. Vol., is amended to read:

9 43-4-310. Obligation only from highway fund. Nothing in
10 ~~sections--43-4-301--to--43-4-314~~ THIS PART 3 shall be so
11 construed as to authorize or permit the ~~state--highway~~
12 commission to incur any obligation of any kind or nature
13 except such as shall be payable solely from revenues DESCRIBED
14 IN SECTION 18 OF ARTICLE X OF THE COLORADO CONSTITUTION
15 accruing to the STATE highway fund, and it shall be plainly
16 stated on the face of each ~~warrant~~ BOND that it has been
17 issued under the provisions of ~~sections-43-4-301--to--43-4-314~~
18 THIS PART 3 and that it does not constitute an indebtedness of
19 the state within the meaning of any constitutional provisions
20 or limitation.

21 SECTION 9. 43-4-312, Colorado Revised Statutes, 1984
22 Repl. Vol., is amended to read:

23 43-4-312. Full authority. ~~Sections-43-4-301-to-43-4-314~~
24 THIS PART 3 shall, without reference to any other statute, be
25 deemed full authority for the construction, improvement, and
26 reconstruction of public highways and bridges under contract
27 with, pursuant to design ordered or prepared by, and under the

1 sole direction of the ~~state-highway~~ commission and for the
2 issuance and sale of ~~revenue-anticipation-warrants-by-sections~~
3 ~~43-4-301-to-43-4-314-authorized-with-approval-by-the-governor;~~
4 BONDS and shall be construed as an additional and alternative
5 method therefor and for the financing thereof. None of the
6 present restrictions, requirements, conditions, or limitations
7 of law applicable to the issuance of bonds by governmental
8 agencies of this state shall apply to the issuance and sale of
9 ~~warrants~~ BONDS under ~~sections--43-4-301--to--43-4-314~~ SECTION
10 43-4-303, and no proceedings shall be required for the
11 issuance of such warrants other than those provided and
12 required in ~~sections-43-4-301-to-43-4-314~~ THIS PART 3; and all
13 the powers necessary to be exercised by the ~~state-highway~~
14 commission in order to carry out the provisions of ~~sections~~
15 ~~43-4-301-to-43-4-314~~ THIS PART 3 are hereby conferred.

16 SECTION 10. 43-4-313, Colorado Revised Statutes, 1984
17 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
18 read:

19 43-4-313. Report to general assembly. The annual budget
20 required by section 43-1-111 shall describe the maximum
21 principal amount of bonds and the estimated interest rate on
22 such bonds which the commission intends to issue pursuant to
23 section 43-4-303 during the ensuing fiscal year, the portion
24 of the state highway fund which the commission expects to
25 pledge to the payment of such bonds, and the projects proposed
26 to be constructed, in whole or in part, with the proceeds of
27 such bonds.

1 SECTION 11. 43-4-314, Colorado Revised Statutes, 1984
2 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
3 read:

4 43-4-314. Personal liability. Neither the members of
5 the commission nor any person executing the bonds shall be
6 liable personally on bonds or be subject to any personal
7 liability or accountability by reason of the issuance thereof.

8 SECTION 12. 43-4-315, Colorado Revised Statutes, 1984
9 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
10 read:

11 43-4-315. Limitation of actions. No action shall be
12 brought questioning the legality of any contract, resolution,
13 trust indenture, proceeding, or securities, executed pursuant
14 to this part 3, on or after thirty days from the publication
15 of a notice of the commission's authorization of such
16 execution, once in a newspaper of general circulation within
17 the city and county of Denver.

18 SECTION 13. 43-4-316, Colorado Revised Statutes, 1984
19 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
20 read:

21 43-4-316. Interest earnings. All interest derived from
22 the investment of the proceeds of the bonds issued pursuant to
23 section 43-4-303 shall, at the discretion of the commission,
24 be applied to the purposes for which the bonds are issued or
25 shall be credited to the funds created by this part 3. The
26 interest derived from the investment of the funds created by
27 this part 3 or the highway anticipation fund shall remain in

1 such funds.

2 SECTION 14. 43-4-317, Colorado Revised Statutes, 1984
3 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
4 read:

5 43-4-317. Highway aid bonds. (1) In addition to any
6 other powers granted by this part 3, the commission may issue
7 highway aid bonds in order to provide, as soon as practicable,
8 the federal share of the cost of constructing within the state
9 federal aid systems, as described in 23 U.S.C.A. 103(a), or
10 any similar legislation enacted on or after the effective date
11 of this section, as amended, in anticipation of the receipt by
12 the state of the federal share as it becomes available during,
13 before, or after completion of construction and for reserves
14 and the cost of issuing such bonds. The proceeds of such
15 bonds remaining after establishing reserves, funding interest
16 on such bonds for a period not to exceed three years, and
17 paying the costs of issuance shall be applied solely to paying
18 the federal share of the costs of federal aid systems within
19 the state. Such proceeds shall not be expended for any
20 highway construction project until such time as the United
21 States secretary of transportation or his designated
22 representative has approved the design and location of the
23 project and has formally stated in writing that the project
24 will be eligible for federal aid matching funds when such
25 funds become available.

26 (2) The terms, conditions, and details of said bonds,
27 the procedures related thereto, and the refunding thereof

1 shall be set forth in the resolution authorizing said bonds
2 and, as nearly as may be practicable, shall be substantially
3 the same as those provided in this part 3 relating to highway
4 revenue bonds; except that:

5 (a) The bonds shall not be outstanding in an aggregate
6 amount in excess of sixty million dollars, except for bonds
7 which have been refunded;

8 (b) The bonds shall be payable solely from the sinking
9 fund created in this section; and

10 (c) The principal amount of refunding bonds which may be
11 issued may not exceed sixty million dollars.

12 (3) For the purpose of providing funds to enable the
13 commission to pay their respective maturities and due dates
14 the principal of and interest on the bonds that it may issue
15 pursuant to this section, there is irrevocably pledged and
16 appropriated each year all federal aid system funds to be
17 received by the state from the United States government to the
18 extent that such funds may be required in the fiscal year
19 received to pay the principal of and interest on those bonds.
20 The commission shall set aside monthly the first moneys so
21 received in each month of such fiscal year and deposit the
22 same in the sinking fund provided for in this section until
23 there has been accumulated therein an amount at least
24 sufficient to meet the monthly sinking fund requirements for
25 payment of the principal of and interest on the bonds issued
26 by the commission which mature, which are subject to mandatory
27 redemption, or which otherwise become due during that fiscal

1 year. All federal aid system funds so set aside by the state
2 from the United States government during each such fiscal year
3 shall be held in trust and applied in that fiscal year to the
4 extent required in this section for the payment of the
5 principal of and interest on the bonds authorized to be issued
6 under this section. All moneys set aside under this section
7 shall be paid into the highway aid bond sinking fund, which
8 fund is hereby created.

9 SECTION 15. 24-75-601 (1) (d), Colorado Revised
10 Statutes, 1982 Repl. Vol., is amended to read:

11 24-75-601. Legal investments for governmental units.
12 (1) (d) State of Colorado, state highway fund revenue
13 anticipation warrants OR HIGHWAY REVENUE BONDS;

14 SECTION 16. 28-5-301 (1) (g), Colorado Revised Statutes,
15 1982 Repl. Vol., is amended to read:

16 28-5-301. Legal investments. (1) (g) State highway
17 fund revenue anticipation warrants OR HIGHWAY REVENUE BONDS,
18 of the state of Colorado;

19 SECTION 17. 43-1-219, Colorado Revised Statutes, 1984
20 Repl. Vol., is amended to read:

21 43-1-219. Funds created. There are hereby created two
22 separate funds, one to be known as the state highway fund and
23 the other to be known as the state highway supplementary fund.
24 All moneys paid into either of said funds shall be available
25 immediately, without further appropriation, for the purposes
26 of such fund as provided by law. Any sums paid into the state
27 treasury, which by law belong to the state highway fund or to

1 the state highway supplementary fund, shall be immediately
2 placed by the state treasurer to the credit of the appropriate
3 fund. Upon request of the commission or of the chief
4 engineer, it is the duty of the state treasurer to report to
5 the commission or to the chief engineer the amount of money on
6 hand in each of said two funds and the amounts derived from
7 each source from which each such fund is accumulated. All
8 accounts and expenditures from each of said two funds shall be
9 certified by the chief engineer and paid by the state
10 treasurer upon warrants drawn by the controller. The
11 controller is authorized as directed to draw warrants payable
12 out of the specified fund upon such vouchers properly
13 certified and audited. Nothing in this part 2 shall operate
14 to alter the manner of the execution and issuance of highway
15 ~~anticipation--warrants~~ REVENUE BONDS provided in part 3 of
16 article 4 of this title.

17 SECTION 18. Repeal. 43-4-318, Colorado Revised
18 Statutes, 1984 Repl. Vol., is repealed.

19 SECTION 19. Safety clause. The general assembly hereby
20 finds, determines, and declares that this act is necessary
21 for the immediate preservation of the public peace, health,
22 and safety.

BILL 64

A BILL FOR AN ACT

1 CONCERNING FINANCING OF THE MAINTENANCE AND IMPROVEMENT OF THE
2 STATE'S TRANSPORTATION SYSTEM.

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 excise tax on gasoline and special fuels. Authorizes the state department of highways to issue highway improvement bonds over a five-year period, and allocates a portion of the fuel tax increase for servicing such bonds. Increases the sales and use tax, and provides that the revenues raised by the increase shall be credited to the highway users tax fund and allocated among the state highway fund, counties, and municipalities in the same manner as revenues from the sales and use taxes attributable to sales or use of vehicles and related items.

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

4 SECTION 1. 24-75-601 (1) (d), Colorado Revised Statutes,
5 1982 Repl. Vol., is amended to read:

6 24-75-601. Legal investments for governmental units.
7 (1) (d) State of Colorado, state highway fund revenue
8 anticipation warrants OR HIGHWAY IMPROVEMENT BONDS;

9 SECTION 2. 28-5-301 (1) (g), Colorado Revised Statutes,

1 1982 Repl. Vol., is amended to read:

2 28-5-301. Legal investments. (1) (g) State highway
3 fund revenue anticipation warrants OR HIGHWAY IMPROVEMENT
4 BONDS, of the state of Colorado;

5 SECTION 3. 29-2-108 (1) and (3), Colorado Revised
6 Statutes, 1977 Repl. Vol., as amended, are amended to read:

7 29-2-108. Limitation on amount. (1) In no case shall
8 the total sales tax or total use tax imposed by the state of
9 Colorado, any county, and any city or town in any locality in
10 the state of Colorado exceed seven AND FIVE-TENTHS percent;
11 except that this limitation shall not preclude a county sales
12 tax or use tax at a rate not to exceed one percent.

13 (3) The additional one-tenth of one percent tax imposed
14 by article 26.1 of title 39, C.R.S., shall be exempt from the
15 seven AND FIVE-TENTHS percent limitation imposed by subsection
16 (1) of this section and from the seven and one-half percent
17 limitation imposed by subsection (2) of this section.

18 SECTION 4. 39-26-106 (1) (a), Colorado Revised Statutes,
19 1982 Repl. Vol., as amended, is amended to read:

20 39-26-106. Schedule of sales tax. (1) (a) There is
21 imposed upon all sales of commodities and services specified
22 in section 39-26-104 a tax at the rate of three AND
23 FIVE-TENTHS percent of the amount of the sale, to be computed
24 in accordance with schedules or systems approved by the
25 executive director of the department of revenue. Said
26 schedules or systems shall be designed so that no such tax is
27 charged on any sale of seventeen cents or less.

1 SECTION 5. Part 1 of article 26 of title 39, Colorado
2 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY
3 THE ADDITION OF A NEW SECTION to read:

4 39-26-123.2. Credit of sales and use tax receipts. An
5 amount equal to five-tenths of one percent of the net revenue
6 from sales and use taxes credited to the general fund shall be
7 credited to the highway users tax fund and allocated as
8 provided in section 43-4-205 (3) and (4), C.R.S.

9 SECTION 6. 39-26-202 (1), Colorado Revised Statutes,
10 1982 Repl. Vol., as amended, is amended to read:

11 39-26-202. Authorization of tax. (1) There is imposed
12 and shall be collected from every person in this state a tax
13 or excise at the rate of three AND FIVE-TENTHS percent of
14 storage or acquisition charges or costs for the privilege of
15 storing, using, or consuming in this state any articles of
16 tangible personal property purchased at retail. Such tax
17 shall be payable to and shall be collected by the executive
18 director of the department of revenue and shall be computed in
19 accordance with schedules or systems approved by said
20 executive director.

21 SECTION 7. 39-27-102 (1) (a) (II), Colorado Revised
22 Statutes, 1982 Repl. Vol., is amended to read:

23 39-27-102. Tax imposed - special licenses - deposits -
24 penalties. (1) (a) (II) The excise tax imposed by
25 subparagraph (I) of this paragraph (a) shall be ~~twelve~~
26 EIGHTEEN cents per gallon or fraction thereof FOR THE FISCAL
27 YEAR BEGINNING JULY 1, 1986, NINETEEN CENTS PER GALLON OR

1 FRACTION THEREOF FOR THE FISCAL YEAR BEGINNING JULY 1, 1987,
2 TWENTY CENTS PER GALLON OR FRACTION THEREOF FOR THE FISCAL
3 YEAR BEGINNING JULY 1, 1988, TWENTY-ONE CENTS PER GALLON OR
4 FRACTION THEREOF FOR THE FISCAL YEAR BEGINNING JULY 1, 1989,
5 TWENTY-TWO CENTS PER GALLON OR FRACTION THEREOF FOR THE FISCAL
6 YEAR BEGINNING JULY 1, 1990, AND TWENTY-THREE CENTS PER GALLON
7 OR FRACTION THEREOF FOR FISCAL YEARS BEGINNING ON AND AFTER
8 JULY 1, 1991.

9 SECTION 8. 39-27-202 (1) (c), Colorado Revised Statutes,
10 1982 Repl. Vol., as amended, is amended to read:

11 39-27-202. Tax imposed - exemptions - ex-tax purchases.
12 (1) (c) The excise tax imposed by paragraph (a) of this
13 subsection (1) shall be ~~thirteen~~ NINETEEN cents per gallon or
14 fraction thereof FOR THE FISCAL YEAR BEGINNING JULY 1, 1986,
15 TWENTY CENTS PER GALLON OR FRACTION THEREOF FOR THE FISCAL
16 YEAR BEGINNING JULY 1, 1987, TWENTY-ONE CENTS PER GALLON OR
17 FRACTION THEREOF FOR THE FISCAL YEAR BEGINNING JULY 1, 1988,
18 TWENTY-TWO CENTS PER GALLON OR FRACTION THEREOF FOR THE FISCAL
19 YEAR BEGINNING JULY 1, 1989, TWENTY-THREE CENTS PER GALLON OR
20 FRACTION THEREOF FOR THE FISCAL YEAR BEGINNING JULY 1, 1990,
21 AND TWENTY-FOUR CENTS PER GALLON OR FRACTION THEREOF FOR
22 FISCAL YEARS BEGINNING ON AND AFTER JULY 1, 1991.

23 SECTION 9. 43-1-219, Colorado Revised Statutes, 1984
24 Repl. Vol., is amended to read:

25 43-1-219. Funds created. There are hereby created two
26 separate funds, one to be known as the state highway fund and
27 the other to be known as the state highway supplementary fund.

1 All moneys paid into either of said funds shall be available
2 immediately, without further appropriation, for the purposes
3 of such fund as provided by law. Any sums paid into the state
4 treasury, which by law belong to the state highway fund or to
5 the state highway supplementary fund, shall be immediately
6 placed by the state treasurer to the credit of the appropriate
7 fund. Upon request of the commission or of the chief
8 engineer, it is the duty of the state treasurer to report to
9 the commission or to the chief engineer the amount of money on
10 hand in each of said two funds and the amounts derived from
11 each source from which each such fund is accumulated. All
12 accounts and expenditures from each of said two funds shall be
13 certified by the chief engineer and paid by the state
14 treasurer upon warrants drawn by the controller. The
15 controller is authorized as directed to draw warrants payable
16 out of the specified fund upon such vouchers properly
17 certified and audited. Nothing in this part 2 shall operate
18 to alter the manner of the execution and issuance of highway
19 ~~anticipation--warrants~~ IMPROVEMENT BONDS provided in part 3 of
20 article 4 of this title.

21 SECTION 10. 43-3-410, Colorado Revised Statutes, 1984
22 Repl. Vol., is amended to read:

23 43-3-410. Highway revenue law not amended or repealed -
24 when - rank of lien. On and after the date the ~~state--highway~~
25 commission has created obligations by contract or otherwise,
26 as provided in this part 4, the laws of Colorado relating to
27 taxes levied and fees charged for the purposes of

1 construction, improvement, reconstruction, and maintenance of
2 the state system of highways shall not be repealed or amended
3 so that the aggregate of revenue for such purposes is
4 insufficient to pay the annual installments of principal and
5 interest and retire revenue anticipation warrants issued under
6 the provisions of this part 4 as the same become due and
7 payable. With the exception of the obligations incurred prior
8 to March 13, 1957, in connection with the Boulder turnpike,
9 under the provisions of part 2 of article 3 of this title, and
10 obligations incurred prior to March 13, 1957, and authorized
11 to be incurred under the provisions of ~~sections 43-4-301 to~~
12 ~~43-4-314~~ PART 3 OF ARTICLE 4 OF THIS TITLE, relating to
13 highway ~~anticipation---warrants~~ IMPROVEMENT BONDS, the
14 obligations incurred under the provisions of this part 4 shall
15 constitute a first lien upon all revenues derived for such
16 purposes, under the provisions of such tax and fee laws until
17 the obligations so created are fully paid and discharged;
18 except that nothing in this part 4 shall be construed as
19 impairing any obligations of the department of highways
20 incurred prior to March 13, 1957, under the provisions of
21 sections 43-1-211 to 43-1-215.

22 SECTION 11. 43-4-202 (1), Colorado Revised Statutes,
23 1984 Repl. Vol., is amended to read:

24 43-4-202. Definitions. (1) "Net revenue" means the
25 amount derived from a tax or fee after paying refunds. For
26 the purposes of section 43-4-201 (3), "net revenue" does not
27 include revenue available under the provisions of section

1 39-26-123 OR SECTION 39-26-123.2, C.R.S.

2 SECTION 12. 43-4-205 (3) and (4) and the introductory
3 portion to 43-4-205 (6), Colorado Revised Statutes, 1984 Repl.
4 Vol., are amended, and the said 43-4-205 is further amended BY
5 THE ADDITION OF A NEW SUBSECTION, to read:

6 43-4-205. Allocation of fund. (3) Out of the highway
7 users tax fund, there shall be paid to the state highway fund
8 an amount equal to sixty percent of revenue from sales and use
9 taxes attributable to sales or use of vehicles and related
10 items made available under provisions of section 39-26-123,
11 C.R.S., AND AN AMOUNT EQUAL TO SIXTY PERCENT OF REVENUE FROM
12 FIVE-TENTHS OF ONE PERCENT OF SALES AND USE TAXES MADE
13 AVAILABLE UNDER PROVISIONS OF SECTION 39-26-123.2, C.R.S.

14 (4) Out of the highway users tax fund, there shall be
15 paid to counties an amount equal to twenty-two percent of
16 revenue from sales and use taxes attributable to sales or use
17 of vehicles and related items made available under provisions
18 of section 39-26-123, C.R.S., AND AN AMOUNT EQUAL TO
19 TWENTY-TWO PERCENT OF REVENUE FROM FIVE-TENTHS OF ONE PERCENT
20 OF SALES AND USE TAXES MADE AVAILABLE UNDER PROVISIONS OF
21 SECTION 39-26-123.2, C.R.S. Out of the highway users tax fund,
22 there shall be paid to municipalities an amount equal to
23 eighteen percent of revenue from sales and use taxes
24 attributable to sales or use of vehicles and related items
25 made available under provisions of section 39-26-123, C.R.S.,
26 AND AN AMOUNT EQUAL TO EIGHTEEN PERCENT OF REVENUE FROM
27 FIVE-TENTHS OF ONE PERCENT OF SALES AND USE TAXES MADE

1 AVAILABLE UNDER PROVISIONS OF SECTION 39-26-123.2, C.R.S. Such
2 revenues shall be allocated to and expended by counties and
3 municipalities pursuant to the applicable provisions of this
4 part 2.

5 (6) Revenues raised by the excise tax imposed on
6 gasoline and special fuel pursuant to sections 39-27-102 and
7 39-27-202, C.R.S., ~~in-excess-of-seven~~ EQUAL TO THE NEXT ELEVEN
8 cents per gallon of tax IMPOSED ON GASOLINE AND EQUAL TO THE
9 NEXT TWELVE CENTS PER GALLON OF TAX IMPOSED ON SPECIAL FUEL,
10 shall be placed in the highway users tax fund to be allocated
11 as follows:

12 (6.5) Revenues raised by the excise tax imposed on
13 gasoline and special fuel pursuant to sections 39-27-102 and
14 39-27-202, C.R.S., in excess of the revenues specified in
15 subsections (5) and (6) of this section shall be allocated as
16 follows:

17 (a) Sixty percent of such revenue shall be paid into the
18 highway bond fund created in section 43-4-303.

19 (b) Twenty-two percent of such revenue shall be paid to
20 the county treasurers of the respective counties and shall be
21 allocated and expended as provided in section 43-4-207.

22 (c) Eighteen percent of such revenue shall be paid to
23 the cities and incorporated towns and shall be allocated and
24 expended as provided in section 43-4-208 (2) (b) and (6) (a).

25 SECTION 13. 43-4-208 (6) (a), Colorado Revised Statutes,
26 1984 Repl. Vol., is amended to read:

27 43-4-208. Municipal allocation. (6) (a) In addition to

1 the provisions of ~~subsection-(2)~~ PARAGRAPH (a) OF SUBSECTION
 2 (2) of this section, on or after July 1, 1979, eighty percent
 3 of all additional funds becoming available to cities and
 4 incorporated towns from the highway users tax fund pursuant to
 5 ~~section~~ SECTIONS 39-26-123 (2) AND 39-26-123.2, C.R.S., shall
 6 be allocated to the cities and incorporated towns in
 7 proportion to the adjusted urban motor vehicle registration in
 8 each city and incorporated town. The term "urban motor
 9 vehicle registration", as used in this section, includes all
 10 passenger, truck, truck tractor, and motorcycle registrations.
 11 The number of registrations used in computing the percentage
 12 shall be those certified to the state treasurer by the
 13 department of revenue, motor vehicle division, as constituting
 14 the urban motor vehicle registration for the last preceding
 15 year. The adjusted registration shall be computed by applying
 16 a factor to the actual number of such registrations to reflect
 17 the increased standards and costs of construction resulting
 18 from the concentration of vehicles in cities and incorporated
 19 places. For this purpose the following table of actual
 20 registration numbers and factors shall be employed:

<u>Actual registrations</u>	<u>Factor</u>
21 1 -- 500	1.0
22 501 -- 1,250	1.1
23 1,251 -- 2,500	1.2
24 2,501 -- 5,000	1.3
25 5,001 -- 12,500	1.4
26 12,501 -- 25,000	1.5

1	25,001 -- 50,000	1.6
2	50,001 -- 85,000	1.7
3	85,001 -- 125,000	1.8
4	125,001 -- 165,000	1.9
5	165,001 -- 205,000	2.0
6	205,001 -- 245,000	2.1
7	245,001 -- 285,000	2.2
8	285,001 -- 325,000	2.3
9	325,001 -- 365,000	2.4
10	365,001 -- 405,000	2.5
11	405,001 -- 445,000	2.6
12	445,001 -- 485,000	2.7
13	485,001 -- 525,000	2.8
14	525,001 -- 565,000	2.9
15	565,001 -- 605,000	3.0

16 SECTION 14. 43-4-303, Colorado Revised Statutes, 1984
17 Repl. Vol., is amended to read:

18 43-4-303. Bonds - issuance - sale - fund. For the
19 purpose of defraying the cost of such construction,
20 improvement, and reconstruction, INCLUDING RESURFACING, and
21 all other expenses incident thereto, the ~~state~~---highway
22 commission may, ON BEHALF OF THE STATE AND from time to time,
23 upon an affirmative majority vote of the members thereof and
24 with the approval of the governor, apply for and receive funds
25 from the federal government, the state of Colorado and any of
26 its institutions and agencies, counties, municipalities,
27 districts, and any other political subdivisions of the state,

1 and any department, agency, or instrumentality thereof, or any
2 political or public corporation of the state or from private
3 investors and issue therefor ~~revenue-anticipation-warrants~~
4 HIGHWAY IMPROVEMENT BONDS payable solely from a SPECIAL fund
5 SET ASIDE FROM THE STATE HIGHWAY FUND, which SPECIAL FUND is
6 hereby created and is designated as the highway anticipation
7 BOND fund AND WHICH SPECIAL FUND SHALL CONSIST OF MONEYS
8 ALLOCATED THERETO PURSUANT TO SECTION 43-4-205 (6.5) (a);
9 except that such ~~warrants~~ BONDS shall not be issued
10 OUTSTANDING in an aggregate amount in excess of ~~thirty-five~~
11 ~~million~~ ONE BILLION dollars, that no more than ~~eight~~ TWO
12 HUNDRED million dollars shall be issued in any one fiscal
13 year, and that the authority for the issuance of ~~anticipation~~
14 ~~warrants~~ BONDS provided in ~~sections-43-4-301-to-43-4-314~~ THIS
15 PART 3 shall terminate ~~at-the-expiration-of-five-years-after~~
16 ~~April-15,-1955~~ ON JUNE 30, 1991.

17 SECTION 15. 43-4-304, Colorado Revised Statutes, 1984
18 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
19 read:

20 43-4-304. Bonds - interest - sale - refunding.

21 (1) (a) Bonds issued under section 43-4-303 shall bear
22 interest at a rate such that the net effective interest rate
23 of the issue of bonds does not exceed twelve percent per
24 annum.

25 (b) In the resolution under which the bonds are
26 authorized to be issued, the commission may provide for the
27 execution and delivery of such bonds under the following terms

1 and conditions:

2 (I) The time of execution and delivery;

3 (II) The form and denomination, including terms and
4 maturities;

5 (III) Whether the bonds are in fully registered form or
6 in bearer form registerable either as to principal or interest
7 or both;

8 (IV) Conversion privileges;

9 (V) Whether the bonds are payable in installments and at
10 time or times beginning not later than five years and
11 extending not more than twenty years from the date thereof;

12 (VI) Place of payment of the bonds, whether within or
13 without the state of Colorado;

14 (VII) Manner of evidence of the bonds;

15 (VIII) Manner of execution of the bonds by officers of
16 the commission, including the use of one or more facsimile
17 signatures so long as at least one manual signature appears on
18 the bonds, which may be either an officer of the commission or
19 an officer of the paying agent, transfer agent, or registrar
20 authenticating the same;

21 (IX) Form of coupon bonds which have attached interest
22 coupons bearing the facsimile signature of an authorized
23 officer of the commission;

24 (X) Such other provisions as are not inconsistent with
25 this part 3.

26 (c) All bonds issued pursuant to section 43-4-303 and
27 the interest coupons applicable to such bonds are declared and

1 shall be construed to be negotiable instruments.

2 (2) The bonds may be sold at public or private sale for
3 such price or prices, in such manner, and at such times as
4 determined by the commission, and the commission may pay all
5 expenses, premiums, and commissions which it may deem
6 necessary or advantageous in connection with the issuance of
7 bonds. Pending preparation of the definitive bonds, the
8 commission may issue interim receipts or certificates which
9 shall be exchanged for such definitive bonds.

10 (3) (a) Any outstanding bonds issued pursuant to this
11 part 3 may be refunded or advance refunded at any time and
12 from time to time by the commission by the issuance of its
13 bonds for such purpose in a principal amount, not exceeding
14 the amount permitted by section 43-4-303, determined by the
15 commission, which may include interest accrued or to accrue
16 with or without giving effect to investment income and other
17 expenses necessary to be paid in connection with such
18 issuance.

19 (b) (I) Any such refunding may be effected whether the
20 bonds to be refunded have then matured or will mature
21 thereafter, either by sale of the refunding bonds and the
22 application of the proceeds of such sale for the payment of
23 the bonds to be refunded or by the exchange of the refunding
24 bonds for the bonds to be refunded with the consent of the
25 holders of the bonds to be so refunded, regardless of whether
26 or not the bonds proposed to be refunded are payable on the
27 same date or different dates or are due serially or otherwise.

1 (II) The proceeds of any such bonds issued for the
2 purpose of refunding outstanding bonds may be applied, in the
3 discretion of the commission, to the purchase, retirement at
4 maturity, or redemption of such outstanding bonds either on
5 their earliest or any subsequent redemption date or upon the
6 purchase or at the maturity thereof and, pending the
7 application to such use, may be placed in an escrow account in
8 any financial institution within or without the state having
9 full trust powers and which is a member of the federal deposit
10 insurance corporation to be applied to such purchase,
11 retirement at maturity, or redemption on such date as may be
12 determined by the commission. Any such escrowed proceeds,
13 pending such use, may be invested and reinvested in
14 obligations of or guaranteed by the United States of America
15 or in certificates of deposit or time deposits secured by
16 obligations of or guaranteed by the United States of America,
17 maturing at such time or times as are appropriate to assure
18 the prompt payment as to principal, interest, and redemption
19 premium, if any, of the outstanding bonds to be so refunded.
20 The interest, income, and profit, if any, earned or realized
21 on any such investment may also be applied, in the discretion
22 of the commission, to the payment of the outstanding bonds to
23 be so refunded, to the payment of principal and interest on
24 the refunding, or for any other purpose under this part 3.
25 After the terms of the escrow have been fully satisfied and
26 carried out, any balance of such proceeds and interest,
27 income, and profits, if any, earned or realized on the

1 investments may be returned to the commission for use by it in
2 any lawful manner.

3 (c) All such refunding bonds shall be subject to the
4 provisions of this part 3 in the same manner and to the same
5 extent as other bonds issued pursuant to section 43-4-303.

6 (4) The proceeds of any bonds issued pursuant to section
7 43-4-303 may be used and applied to the payment of financing
8 costs, including legal, underwriting and investment banking,
9 accounting, and other similar costs; the funding of any
10 reserve funds deemed necessary or advisable by the commission;
11 interest on such bonds for a period not to exceed three years;
12 and all other necessary and incidental costs and expenses.

13 SECTION 16. 43-4-305, Colorado Revised Statutes, 1984
14 Repl. Vol., is amended to read:

15 43-4-305. Bonds legal investments. It is lawful for the
16 ~~anticipation---warrants~~ BONDS issued ~~in--pursuance--of--the~~
17 ~~provisions--of--sections--43-4-301--to--43-4-314~~ PURSUANT TO
18 SECTION 43-4-303 to be purchased by the state of Colorado and
19 any of its institutions and agencies, counties,
20 municipalities, districts, and any other political
21 subdivisions of the state, and any department, agency, or
22 instrumentality thereof, ~~or~~ any political or public
23 corporation of the state, AND ANY BANK, TRUST COMPANY, SAVINGS
24 AND LOAN ASSOCIATION, INVESTMENT COMPANY AND ASSOCIATION,
25 EXECUTOR, ADMINISTRATOR, GUARDIAN, TRUSTEE, AND OTHER
26 FIDUCIARY.

27 SECTION 17. 43-4-306, Colorado Revised Statutes, 1984

1 Repl. Vol., is amended to read:

2 43-4-306. Signatures validated. No ~~revenue-anticipation~~
3 ~~warrant~~ BOND ISSUED PURSUANT TO SECTION 43-4-303 or coupon
4 attached thereto shall be rendered invalid by reason of the
5 cessation in office of any person whose proper signature
6 appears on such ~~warrant~~ BOND or coupon.

7 SECTION 18. 43-4-307, Colorado Revised Statutes, 1984
8 Repl. Vol., is amended to read:

9 43-4-307. Sinking fund. (1) At or before the issuance
10 of any ~~such-revenue-anticipation-warrants~~ BONDS PURSUANT TO
11 SECTION 43-4-303, the ~~state--highway~~ commission shall, by
12 resolution, create a sinking fund for the payment of such
13 ~~warrants~~ BONDS, the interest thereon, REDEMPTION PREMIUM, IF
14 ANY, and necessary fiscal agency charges and shall pledge or
15 set aside a sufficient amount of the ~~state~~ highway BOND fund
16 into said sinking fund at intervals to be determined by the
17 commission prior to the issuance of such ~~warrants~~ BONDS for
18 payment of interest to become due, necessary fiscal agency
19 charges, REDEMPTION PREMIUM, IF ANY, and the ~~warrants~~ BONDS as
20 they become due.

21 (2) ALL BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL
22 CONSTITUTE A FIRST LIEN ON THE PROCEEDS OF THE BONDS AND ON
23 ALL OR ANY PART, AS SET FORTH IN THE COMMISSION'S RESOLUTION
24 AUTHORIZING THE BONDS, OF THE MONEYS PLEDGED OR SET ASIDE
25 UNDER SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE
26 COMMISSION MAY PROVIDE PREFERENTIAL SECURITY FOR ANY BONDS TO
27 BE ISSUED UNDER SECTION 43-4-303 OVER ANY BONDS THAT MAY BE

1 ISSUED UNDER SECTION 43-4-303 THEREAFTER. NO MONEYS WHICH
2 MAY, FROM TIME TO TIME, BE CREDITED TO THE STATE HIGHWAY FUND
3 WHICH ARE DERIVED FROM SOURCES OTHER THAN THOSE DESCRIBED IN
4 THIS SECTION AND SECTION 18 OF ARTICLE X OF THE COLORADO
5 CONSTITUTION SHALL BE APPLIED TO THE PAYMENT OF THE BONDS
6 ISSUED PURSUANT TO SECTION 43-4-303.

7 (3) ANY PLEDGE MADE BY THE COMMISSION TO SECURE THE
8 PAYMENT OF BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL BE
9 VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE
10 MONEYS AND FUNDS SO PLEDGED SHALL IMMEDIATELY BE SUBJECT TO
11 LIEN OF SUCH PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER
12 ACT, AND THE LIEN OF SUCH PLEDGE SHALL BE VALID AND BINDING
13 AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,
14 CONTRACT, OR OTHERWISE AGAINST THE COMMISSION OR THE STATE,
15 IRRESPECTIVE OF WHETHER SUCH PARTIES HAVE NOTICE OF SUCH LIEN.
16 NEITHER THE RESOLUTION NOR ANY OTHER INSTRUMENT BY WHICH A
17 PLEDGE IS CREATED NEED BE RECORDED. EACH PLEDGE, AGREEMENT,
18 AND RESOLUTION MADE FOR THE BENEFIT OR SECURITY OF ANY OF THE
19 BONDS ISSUED PURSUANT TO SECTION 43-4-303 SHALL CONTINUE TO BE
20 EFFECTIVE UNTIL THE PRINCIPAL OF AND INTEREST ON THE BONDS FOR
21 THE BENEFIT OF WHICH THE SAME ARE MADE HAVE BEEN FULLY PAID OR
22 PROVISION FOR SUCH PAYMENT HAS BEEN DULY MADE.

23 (4) ANY RESOLUTION OF THE COMMISSION FOR THE ISSUANCE OF
24 BONDS PURSUANT TO SECTION 43-4-303 MAY CONTAIN SUCH PROVISIONS
25 FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF THE
26 HOLDERS OF ANY OF THE BONDS AS MAY BE REASONABLE AND PROPER
27 AND NOT IN VIOLATION OF LAW, INCLUDING COVENANTS SETTING FORTH

1 THE DUTIES OF THE COMMISSION IN RELATION TO THE PURPOSES TO
2 WHICH PROCEEDS OF THE BONDS MAY BE APPLIED, THE TERMS AND
3 CONDITIONS FOR THE ISSUANCE OF ADDITIONAL BONDS, AND THE
4 CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEYS. ANY
5 SUCH RESOLUTION MAY SET FORTH THE RIGHTS AND REMEDIES OF THE
6 HOLDERS OF ANY BONDS AND MAY RESTRICT THE INDIVIDUAL RIGHT OF
7 ACTION BY ANY SUCH HOLDERS. IN ADDITION, ANY SUCH RESOLUTION
8 MAY CONTAIN SUCH OTHER PROVISIONS AS THE COMMISSION MAY DEEM
9 REASONABLE AND PROPER FOR THE SECURITY OF THE HOLDERS OF ANY
10 BONDS. ALL EXPENSES INCURRED IN CARRYING OUT THE PROVISIONS
11 OF SUCH RESOLUTION MAY BE PAID FROM THE REVENUES OR ASSETS
12 PLEDGED OR ASSIGNED TO THE PAYMENT OF THE BONDS OR FROM ANY
13 OTHER MONEYS AVAILABLE TO THE COMMISSION. IN THE EVENT OF
14 DEFAULT IN ANY SUCH PAYMENT OR IN ANY AGREEMENTS OF THE
15 COMMISSION MADE AS PART OF THE CONTRACT UNDER WHICH THE BONDS
16 WERE ISSUED OR CONTAINED IN THE RESOLUTION AUTHORIZING THE
17 BONDS, SAID PAYMENT OR AGREEMENT MAY BE ENFORCED BY SUIT,
18 MANDAMUS, OR EITHER OF SUCH REMEDIES. IN THE DISCRETION OF
19 THE COMMISSION, THE BONDS MAY BE SECURED BY A TRUST INDENTURE
20 BY AND BETWEEN THE COMMISSION AND A CORPORATE TRUSTEE WHICH
21 MAY BE ANY TRUST COMPANY OR BANK WITHIN OR WITHOUT THE STATE
22 HAVING TRUST POWERS. SUCH TRUST INDENTURE MAY CONTAIN ANY OF
23 THE PROVISIONS WHICH ARE AUTHORIZED TO BE CONTAINED IN THE
24 RESOLUTION AUTHORIZING THE BONDS.

25 SECTION 19. 43-4-308, Colorado Revised Statutes, 1984
26 Repl. Vol., is amended to read:

27 43-4-308. Redemption. In addition to retirement by

1 serially paid annual installments, ~~anticipation--warrants~~
2 ~~issued-after-March-28;-1957;-under-the-provisions-of--sections~~
3 ~~43-4-301-to-43-4-314~~ BONDS ISSUED PURSUANT TO SECTION 43-4-303
4 may be redeemed prior to maturity if so provided by the ~~state~~
5 ~~highway~~ commission in the resolution authorizing their
6 issuance, such redemption to be made in inverse numerical
7 order on any interest payment date, upon such terms and upon
8 the payment of such premium, if any, not exceeding three and
9 three-quarters percent of the principal amount of the bonds to
10 be redeemed as may be determined by the ~~state--highway~~
11 commission.

12 SECTION 20. 43-4-309, Colorado Revised Statutes, 1984
13 Repl. Vol., is amended to read:

14 43-4-309. Bond obligations. On and after the date the
15 ~~state--highway~~ commission creates obligations by contract or
16 otherwise, as provided in ~~sections-43-4-301-to--43-4-314~~ THIS
17 PART 3, WHICH ARE PAYABLE IN WHOLE OR IN PART FROM THE HIGHWAY
18 BOND FUND, the laws of Colorado relating to taxes levied and
19 fees charged for the purpose of construction, improvement,
20 reconstruction, and maintenance of the state's system of
21 highways, AS SUCH TAXES AND FEES ARE DESCRIBED IN SECTION 18
22 OF ARTICLE X OF THE COLORADO CONSTITUTION, shall not be
23 repealed or amended so that the aggregate of revenues for such
24 purposes will be insufficient to pay the annual installments
25 of principal and interest and retire ~~revenue-anticipation~~
26 ~~warrants~~ BONDS issued under the provisions of ~~sections~~
27 ~~43-4-301--to--43-4-314~~ SECTION 43-4-303 as the same become due

1 and payable. and;--with--the--exception--of--the--obligations
2 incurred--prior--to--April--15;--1955;--pursuant--to--the--provisions
3 of--part--2--of--article--3--of--this--title;--the--obligations--incurred
4 under--the--provisions--of--sections--43-4-301---to---43-4-314
5 constitutes--a--first--lien--upon--all--revenues--derived--for--such
6 purposes;--under--the--provisions--of--such--tax--and--fee--laws--or
7 otherwise;--until--the--obligations--so--created--are--fully--paid--and
8 discharged: THE STATE HEREBY PLEDGES TO AND AGREES WITH THE
9 HOLDERS OF ANY BONDS OR OTHER OBLIGATIONS ISSUED UNDER SECTION
10 43-4-303 AND WITH THOSE PARTIES WHO MAY ENTER INTO CONTRACTS
11 WITH THE COMMISSION PURSUANT TO THE PROVISIONS OF SECTION
12 43-4-303 THAT THE STATE WILL NOT LIMIT, ALTER, RESTRICT, OR
13 IMPAIR THE RIGHTS VESTED IN THE COMMISSION TO FULFILL THE
14 TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF BONDS OR
15 OTHER OBLIGATIONS AUTHORIZED AND ISSUED PURSUANT TO SECTION
16 43-4-303 AND WITH THE PARTIES WHO MAY ENTER INTO CONTRACTS
17 WITH THE COMMISSION PURSUANT TO SECTION 43-4-303. THE STATE
18 FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR THE RIGHTS
19 OR REMEDIES OF THE HOLDERS OF SUCH BONDS OR OTHER OBLIGATIONS
20 OF SUCH PARTIES UNTIL SUCH BONDS AND OTHER OBLIGATIONS,
21 TOGETHER WITH INTEREST THEREON, WITH INTEREST ON ANY UNPAID
22 INSTALLMENT OF INTEREST AND ALL COSTS AND EXPENSES IN
23 CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF
24 SUCH HOLDERS, ARE FULLY MET AND DISCHARGED AND SUCH CONTRACTS
25 ARE FULLY PERFORMED ON THE PART OF THE COMMISSION. NOTHING IN
26 THIS PART 3 PRECLUDES SUCH LIMITATION OR ALTERATION IF AND
27 WHEN ADEQUATE PROVISION IS MADE BY LAW FOR THE PROTECTION OF

1 THE HOLDERS OF SUCH BONDS OR OTHER OBLIGATIONS OF THE
2 COMMISSION OR THOSE ENTERING INTO SUCH CONTRACTS WITH THE
3 COMMISSION. THE COMMISSION MAY INCLUDE THIS PLEDGE AND
4 UNDERTAKING FOR THE STATE IN SUCH BONDS OR OTHER OBLIGATIONS
5 AND IN SUCH CONTRACTS.

6 SECTION 21. 43-4-310, Colorado Revised Statutes, 1984
7 Repl. Vol., is amended to read:

8 43-4-310. Obligation only from certain revenues.
9 Nothing in ~~sections-43-4-301-to-43-4-314~~ THIS PART 3 shall be
10 so construed as to authorize or permit the ~~state--highway~~
11 commission to incur any obligation of any kind or nature
12 except such as shall be payable solely from revenues ~~accruing~~
13 ~~to--the--highway--fund~~ DESCRIBED IN SECTION 18 OF ARTICLE X OF
14 THE COLORADO CONSTITUTION, and it shall be plainly stated on
15 the face of each ~~warrant~~ BOND that it has been issued under
16 the provisions of ~~sections-43-4-301-to-43-4-314~~ THIS PART 3
17 and that it does not constitute an indebtedness of the state
18 within the meaning of any constitutional provisions or
19 limitation.

20 SECTION 22. 43-4-312, Colorado Revised Statutes, 1984
21 Repl. Vol., is amended to read:

22 43-4-312. Full authority. ~~Sections-43-4-301-to-43-4-314~~
23 THIS PART 3 shall, without reference to any other statute, be
24 deemed full authority for the construction, improvement, and
25 reconstruction of public highways and bridges under contract
26 with, pursuant to design ordered or prepared by, and under the
27 sole direction of the ~~state-highway~~ commission and for the

1 issuance and sale of ~~revenue-anticipation-warrants-by-sections~~
2 ~~43-4-301-to-43-4-314-authorized-with-approval-by-the-governor;~~
3 BONDS and shall be construed as an additional and alternative
4 method therefor and for the financing thereof. None of the
5 present restrictions, requirements, conditions, or limitations
6 of law applicable to the issuance of bonds by governmental
7 agencies of this state shall apply to the issuance and sale of
8 ~~warrants BONDS under sections--43-4-301-to-43-4-314~~ SECTION
9 43-4-303, and no proceedings shall be required for the
10 issuance of such ~~warrants BONDS~~ other than those provided and
11 required in ~~sections-43-4-301-to-43-4-314~~ THIS PART 3; and all
12 the powers necessary to be exercised by the ~~state--highway~~
13 commission in order to carry out the provisions of ~~sections~~
14 ~~43-4-301-to-43-4-314~~ THIS PART 3 are hereby conferred.

15 SECTION 23. 43-4-313, Colorado Revised Statutes, 1984
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
17 read:

18 43-4-313. Budget to include details on bonds. The
19 annual budget required by section 43-1-111 shall describe the
20 maximum principal amount of bonds and the estimated interest
21 rate on such bonds which the commission intends to issue
22 pursuant to section 43-4-303 during the ensuing fiscal year
23 and the projects proposed to be constructed, in whole or in
24 part, with the proceeds of such bonds.

25 SECTION 24. 43-4-314, Colorado Revised Statutes, 1984
26 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
27 read:

1 43-4-314. Personal liability. Neither the members of
2 the commission nor any person executing the bonds shall be
3 liable personally on bonds or be subject to any personal
4 liability or accountability by reason of the issuance thereof.

5 SECTION 25. 43-4-315, Colorado Revised Statutes, 1984
6 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
7 read:

8 43-4-315. Limitation of actions. No action shall be
9 brought questioning the legality of any contract, resolution,
10 trust indenture, proceeding, or securities, executed pursuant
11 to this part 3, on or after thirty days from the publication
12 of a notice of the commission's authorization of such
13 execution, once in a newspaper of general circulation within
14 the city and county of Denver.

15 SECTION 26. 43-4-316, Colorado Revised Statutes, 1984
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
17 read:

18 43-4-316. Interest earnings. All interest derived from
19 the investment of the proceeds of the bonds issued pursuant to
20 section 43-4-303 shall, at the discretion of the commission,
21 be applied to the purposes for which the bonds are issued or
22 shall be credited to the funds created by this part 3. The
23 interest derived from the investment of the funds created by
24 this part 3 or the highway bond fund shall remain in such
25 funds.

26 SECTION 27. Repeal. 43-4-317 and 43-4-318, Colorado
27 Revised Statutes, 1984 Repl. Vol., are repealed.

1 SECTION 28. Effective date. This act shall take effect
2 July 1, 1986.

3 SECTION 29. Safety clause. The general assembly hereby
4 finds, determines, and declares that this act is necessary
5 for the immediate preservation of the public peace, health,
6 and safety.

BILL 65

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE SPECIAL ACCOUNT IN THE
2 HIGHWAY USERS TAX FUND FOR HIGHWAY BRIDGES.

Bill Summary

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

Continues the special account in the highway users tax fund for highway bridge repair, replacement, or posting beyond the scheduled June 30, 1987, expiration date.

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

4 SECTION 1. 43-4-205 (6) (a) and (7) (b), Colorado
5 Revised Statutes, 1984 Repl. Vol., are amended to read:

6 43-4-205. Allocation of fund. (6) (a) Sixteen percent
7 of such revenue shall be deposited in a special account within
8 the highway users tax fund until June 30, 1987 1992, and shall
9 be expended only for highway bridge repair, replacement, or
10 posting, pursuant to provisions of paragraph (a) of subsection
11 (7) of this section.

12 (7) (b) Not later than June 30, 1987 1992, the general

1 assembly shall review the needs of this state for highway
2 bridge repair, replacement, or posting, and shall determine if
3 the fund, as provided in paragraph (a) of subsection (6) of
4 this section, should be continued. If said fund is not
5 continued, the balance of revenues in said fund shall be
6 allocated in accordance with the provisions of paragraph (b)
7 of subsection (6) of this section.

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

BILL 66

A BILL FOR AN ACT

1 CONCERNING EXEMPTIONS FROM FUEL TAXES FOR VEHICLES USED FOR
2 SCHOOL TRANSPORTATION PURPOSES.

Bill Summary

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

Exempts buses and other vehicles from payment of the excise taxes on gasoline and special fuel to the extent such vehicles are used in the transportation of students and school personnel to and from school or in connection with authorized school activities, when such transportation is provided pursuant to a contract with a school district.

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

4 SECTION 1. 39-27-102 (1) (b), Colorado Revised Statutes,
5 1982 Repl. Vol., is amended to read:

6 39-27-102. Tax imposed - special licenses - deposits -
7 penalties. (1) (b) In the case of gasoline shipped to a
8 distributor from a refinery, the amount of gasoline received
9 shall be deemed to be the amount shipped from the refinery, as
10 shown by the refinery invoice; except that an allowance of two
11 percent of the total amount of gasoline received during any

1 calendar month, as shown by such refinery invoices, shall be
2 made to and deducted by the distributor to cover losses in
3 transit and in unloading such gasoline and costs of collection
4 and payment to the state of the tax imposed by this section,
5 out of which allowance the distributor shall make to each
6 retailer, "retailer" being defined as every person selling
7 gasoline in this state at the retail level of trade, an
8 allowance of one percent of the amount of gasoline delivered
9 during each calendar month by the distributor to such
10 retailer, as shown by delivery invoices signed by such
11 retailer. When gasoline is transported by a distributor to
12 any point outside this state and there disposed of, then, upon
13 the distributor's filing with the executive director of the
14 department of revenue a duplicate bill of lading or an
15 affidavit showing the transaction, the tax imposed by this
16 section shall not apply to such gasoline and, if already paid,
17 shall be refunded to the distributor. The tax imposed by this
18 section shall be exempted on each recorded and reported sale
19 by a distributor to the United States, or any of its agencies,
20 and to any town, city, county, city and county, special
21 district, or school district, when such sale involves a single
22 delivery exceeding one hundred gallons. THE TAX IMPOSED BY
23 THIS SECTION SHALL BE EXEMPTED ON EACH RECORDED AND REPORTED
24 SALE INVOLVING A SINGLE DELIVERY EXCEEDING ONE HUNDRED GALLONS
25 FOR USE IN MOTOR VEHICLES USED EXCLUSIVELY IN THE
26 TRANSPORTATION OF STUDENTS AND SCHOOL PERSONNEL TO AND FROM
27 SCHOOL OR IN CONNECTION WITH AUTHORIZED SCHOOL ACTIVITIES,

1 WHEN SUCH TRANSPORTATION IS PROVIDED PURSUANT TO A CONTRACT
2 WITH A SCHOOL DISTRICT.

3 SECTION 2. 39-27-103, Colorado Revised Statutes, 1982
4 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
5 SUBSECTION to read:

6 39-27-103. Refunds - penalties - checkoff.
7 (2.5) Refund shall be made or credit allowed for the tax paid
8 on all gasoline which is purchased and used exclusively in the
9 transportation of students and school personnel to and from
10 school or in connection with authorized school activities,
11 when such transportation is provided pursuant to a contract
12 with a school district. Any other use or any resale for any
13 other use shall be a violation of paragraph (c) of subsection
14 (3) of this section.

15 SECTION 3. 39-27-202 (2), Colorado Revised Statutes,
16 1982 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
17 to read:

18 39-27-202. Tax imposed - exemptions - ex-tax purchases.
19 (2) (c) Motor vehicles, to the extent used for the
20 transportation of students and school personnel to and from
21 school or in connection with authorized school activities,
22 when such transportation is provided pursuant to a contract
23 with a school district, shall be exempt from the provisions of
24 this part 2.

25 SECTION 4. Effective date. This act shall take effect
26 July 1, 1986.

27 SECTION 5. Safety clause. The general assembly hereby

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

BILL 67

A BILL FOR AN ACT

1 CONCERNING THE HIGHWAY USERS TAX FUND, AND, IN RELATION
2 THERETO, REVISING LIMITATIONS ON LEGISLATIVE
3 APPROPRIATIONS OR DISTRIBUTIONS THEREFROM AND REMOVING
4 THE COLORADO STATE PATROL FROM FUNDING THEREFROM.

Bill Summary

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

Removes funding for the Colorado state patrol from the highway users tax fund. Changes the percentage of highway users tax fund revenues which may be appropriated by the general assembly.

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

6 SECTION 1. 24-33.5-224 (3), Colorado Revised Statutes,
7 1982 Repl. Vol., as amended, is amended to read:

8 24-33.5-224. Duties during state fair at Pueblo.
9 (3) The ~~highway-users-tax~~ GENERAL fund shall be reimbursed by
10 the board of commissioners of the Colorado state fair
11 authority, within the amount appropriated by the general
12 assembly for this purpose, and such reimbursement is

1 authorized, as an administrative expense of said board, for
2 any expenditures incurred from such fund resulting from the
3 activities of the Colorado state patrol under subsection (1)
4 of this section, such reimbursement to be made immediately
5 following the termination of the service performed by the
6 Colorado state patrol.

7 SECTION 2. 24-33.5-226 (3) (b), Colorado Revised
8 Statutes, 1982 Repl. Vol., as amended, is amended to read:

9 24-33.5-226. Athletic events - closure of highways by
10 patrol - payment of costs. (3) (b) Moneys paid to the
11 Colorado state patrol pursuant to this section which are for
12 reimbursement for salaries shall be transmitted to the state
13 treasurer who shall credit the same to the Colorado state
14 patrol closure fund created in paragraph (c) of this
15 subsection (3). The balance of all moneys paid to the patrol
16 pursuant to this section shall be transmitted to the state
17 treasurer, who shall credit the same to the ~~highway-users-tax~~
18 GENERAL fund as reimbursement for any amounts appropriated by
19 the general assembly and used for the purposes of this
20 section.

21 SECTION 3. 43-4-201 (3) (a) (I), Colorado Revised
22 Statutes, 1984 Repl. Vol., is amended to read:

23 43-4-201. Funds created. (3) (a) (I) More than
24 ~~twenty-three~~ _____ percent of the net revenue of said fund
25 for the prior fiscal year; or

26 SECTION 4. The introductory portion to 43-4-206 (1),
27 Colorado Revised Statutes, 1984 Repl. Vol., is amended to

1 read:

2 43-4-206. State allocation. (1) After the payments to
3 the highway crossing protection fund required by law have been
4 made, after the payments to the state highway fund and to
5 counties and municipalities pursuant to section 43-4-205 (3)
6 and (4) have been made, and after paying ~~the--costs--of--the~~
7 ~~Colorado--state-patrol~~ and such other costs of the department,
8 exclusive of highway construction, highway improvements, or
9 highway maintenance, as are appropriated by the general
10 assembly, sixty-five percent of the balance of the highway
11 users tax fund shall be paid to the state highway fund and
12 shall be expended for the following purposes:

13 SECTION 5. 43-4-207 (1), Colorado Revised Statutes, 1984
14 Repl. Vol., is amended to read:

15 43-4-207. County allocation. (1) After the payments
16 required by law have been made to the highway crossing
17 protection fund, after the payments to the state highway fund
18 and to counties and municipalities pursuant to section
19 43-4-205 (3) and (4) have been made, and after paying ~~the~~
20 ~~costs-of-the-Colorado-state-patrol~~ and such other costs of the
21 department, exclusive of highway construction, highway
22 improvements, or highway maintenance, as are appropriated by
23 the general assembly, twenty-six percent of the balance of the
24 highway users tax fund shall be paid to the county treasurers
25 of the respective counties and shall be allocated and expended
26 as provided in this section. The moneys thus received shall
27 be allocated to the counties as provided by law and shall be

1 expended by said counties only on the construction,
2 engineering, reconstruction, maintenance, repair, equipment,
3 improvement, and administration of the county highway systems
4 together with acquisition of rights-of-way and access rights
5 for the same and for no other purpose. The amount to be
6 expended for administrative purposes shall not exceed five
7 percent of each county's share of the funds available.

8 SECTION 6. 43-4-208 (1), Colorado Revised Statutes, 1984
9 Repl. Vol., is amended to read:

10 43-4-208. Municipal allocation. (1) After the payments
11 required by law have been made to the highway crossing
12 protection fund, after the payments to the state highway fund
13 and to counties and municipalities pursuant to section
14 43-4-205 (3) and (4) have been made, and after paying the
15 ~~costs-of-the-colorado-state-patrol--and~~ such other costs of
16 the department, exclusive of highway construction, highway
17 improvements, or highway maintenance, as are appropriated by
18 the general assembly, and making allocation as provided by
19 sections 43-4-206 and 43-4-207, the remaining nine percent of
20 the highway users tax fund shall be paid to the cities and
21 incorporated towns within the limits of the respective
22 counties and shall be allocated and expended as provided in
23 this section. Each city treasurer shall account for the
24 moneys thus received as provided in this part 2. Such moneys
25 so allocated shall be expended by said cities and incorporated
26 towns for the construction, engineering, reconstruction,
27 maintenance, repair, equipment, improvement, and

1 administration of the system of streets of such city or
2 incorporated town, together with the acquisition of
3 rights-of-way and access rights for the same, and for no other
4 purpose. The amount to be expended for administrative
5 purposes shall not exceed five percent of each city's share of
6 the funds available.

7 SECTION 7. Repeal. 24-33.5-212 (4) and 24-33.5-220,
8 Colorado Revised Statutes, 1982 Repl. Vol., as amended, are
9 repealed.

10 SECTION 8. Effective date. This act shall take effect
11 July 1, 1986.

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

BILL 68

A BILL FOR AN ACT

1 CONCERNING THE EXCLUSION OF THE COLORADO STATE PATROL FROM THE
2 SEVEN PERCENT LIMITATION ON APPROPRIATIONS FROM THE
3 HIGHWAY USERS TAX FUND.

Bill Summary

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

Excludes appropriations to the Colorado state patrol from the limitation that appropriations from the highway users tax fund shall not be more than a seven percent increase over such appropriations for the prior fiscal year.

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

5 SECTION 1. 43-4-201 (3) (a) (II), Colorado Revised
6 Statutes, 1984 Repl. Vol., is amended to read:

7 43-4-201. Funds created. (3) (a) (II) ~~Commencing--in~~
8 ~~the-fiscal-year-1981-82~~ More than a seven percent increase
9 over such appropriation for the prior fiscal year, BUT FOR THE
10 PURPOSES OF SUCH SEVEN PERCENT LIMITATION, APPROPRIATIONS FOR
11 THE COLORADO STATE PATROL SHALL NOT BE INCLUDED.

12 SECTION 2. Safety clause. The general assembly hereby

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

BILL 69

A BILL FOR AN ACT

1 CONCERNING THE HIGHWAY LEGISLATION REVIEW COMMITTEE.

Bill Summary

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

Requires the highway legislation review committee to meet annually. Authorizes the committee to require the state department of highways to submit long-range plans and to be subject to performance audits.

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

3 SECTION 1. 43-2-145, Colorado Revised Statutes, 1984
4 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
5 read:

6 43-2-145. Highway legislation review - committee.

7 (1) In order to give guidance and direction to the state
8 department of highways in the development of the state system
9 of highways and to provide legislative overview of and input
10 into such development, there is hereby created the highway
11 legislation review committee. The committee shall meet
12 annually to review all highway legislation and may consult

1 with experts in the field of highway construction and
2 planning, or with personnel of the state department of
3 highways, as may be necessary. The committee may review any
4 phase of state department of highways operations, including
5 planning and construction of highway projects, prior to and
6 during the completion of such projects. The committee may
7 also conduct a postoperation review of such projects to
8 determine whether the project was completed in the most
9 cost-effective and efficient manner. The committee may
10 require the state department of highways to prepare and adopt
11 five, ten, and fifteen-year plans for the development of the
12 state highway system, and the committee shall monitor the
13 progress of such plans. The committee may also require
14 financial or performance audits to be conducted. Upon
15 completion of its review of the highway laws, the committee
16 shall make recommendations to the governor and to the general
17 assembly for such additional legislation as it deems necessary
18 and the staff of the legislative council shall assist in the
19 preparation of such recommendations.

20 (2) The committee shall be comprised of fifteen members
21 to be selected as follows:

22 (a) Seven members appointed by the governor;

23 (b) Four members appointed by the speaker of the house
24 of representatives, no more than three of whom shall be from
25 the same political party;

26 (c) Four members appointed by the president of the
27 senate, not more than three of whom shall be from the same

1 political party.

2 (3) The terms of office of each member of the committee
3 shall be for two years and shall commence on March 1, 1987,
4 and on March 1 every two years thereafter.

5 (4) Members of the committee shall serve without
6 compensation but shall be reimbursed for all necessary
7 expenses incurred in the performance of their duties and in
8 addition shall receive fifty dollars per diem for each day
9 spent in attendance at meetings of the committee.

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

BILL 70

A BILL FOR AN ACT

1 CONCERNING THE CENTRALIZED COLLECTION OF HIGHWAY DATA.

Bill Summary

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

Requires the chief engineer of the state department of highways to compile information concerning the streets, roads, and highways of this state.

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

3 SECTION 1. Part 1 of article 1 of title 43, Colorado
4 Revised Statutes, 1984 Repl. Vol., is amended BY THE ADDITION
5 OF A NEW SECTION to read:

6 43-1-106.5. Highway data collection. The chief engineer
7 of the division shall compile and maintain information
8 concerning the condition of the streets, roads, and highways
9 of this state. Such information shall be obtained from the
10 appropriate personnel of the division, the governmental
11 officials of any county or municipality in the state, or any
12 other person deemed appropriate by the chief engineer of the

1 division. The chief engineer shall establish a uniform method
2 of reporting such information which shall be used to determine
3 the needs for construction and maintenance projects on the
4 streets, roads, and highways of this state.

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

BILL 71

A BILL FOR AN ACT

1 CONCERNING THE APPOINTMENT OF THE EXECUTIVE DIRECTOR OF THE
2 STATE DEPARTMENT OF HIGHWAYS BY THE STATE HIGHWAY
3 COMMISSION.

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 executive director of the state department of highways shall be appointed by the state highway commission.

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

5 SECTION 1. 24-1-126 (1), Colorado Revised Statutes, 1982

6 Repl. Vol., is amended to read:

7 24-1-126. State department of highways - creation.

8 (1) (a) There is hereby created a state department of
9 highways, the head of which shall be the executive director of
10 the state department of highways, which office is hereby
11 created.

12 (b) (I) The executive director shall be appointed by the

1 governor STATE HIGHWAY COMMISSION, with the consent of the
2 senate, and shall serve at the pleasure of the governor STATE
3 HIGHWAY COMMISSION. THIS SUBPARAGRAPH (I) IS REPEALED,
4 EFFECTIVE JANUARY 1, 1991.

5 (II) EFFECTIVE JANUARY 1, 1991, THE EXECUTIVE DIRECTOR
6 SHALL BE APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE
7 SENATE, AND SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

8 SECTION 2. Effective date. This act shall take effect
9 January 1, 1987.

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

BILL 72

A BILL FOR AN ACT

1 CONCERNING EXCEPTIONS FROM LIMITATIONS IMPOSED ON CAMPAIGN
2 CONTRIBUTIONS MADE BY GOVERNMENTAL ENTITIES.

Bill Summary

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

Exempts certain publicly owned property from the prohibition on making a contribution to campaigns involving the election of persons to any public office. Imposes a reporting and reimbursement requirement when public moneys are expended in a campaign.

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

4 SECTION 1. 1-45-116, Colorado Revised Statutes, 1980
5 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW
6 SUBSECTIONS to read:

7 1-45-116. State and political subdivisions - limitations
8 on contributions. (2) The provisions of subsection (1) of
9 this section shall not apply to:

10 (a) An official residence furnished or paid for by the

1 state or a political subdivision;

2 (b) Security officers who are required to accompany a
3 candidate or the candidate's family;

4 (c) Publicly owned motor vehicles provided for the use
5 of the chief executive of the state or a political
6 subdivision;

7 (d) Publicly owned aircraft provided for the use of the
8 chief executive of the state or of a political subdivision or
9 his family for security purposes; except that, if such use is,
10 in whole or in part, for campaign purposes, the expenses
11 relating to the campaign shall be reported and reimbursed
12 pursuant to subsection (3) of this section.

13 (3) If any candidate who is also an incumbent
14 inadvertently or unavoidably makes any expenditure which
15 involves campaign expenses and official expenses, such
16 expenditure shall be deemed a campaign expense only, unless
17 the candidate, not more than seven days after such
18 expenditure, files with the appropriate officer such
19 information as the appropriate officer may by rule require in
20 order to differentiate between campaign expenses and official
21 expenses. Such information shall be set forth on a form
22 provided by the appropriate officer. In the event that public
23 moneys have been expended for campaign expenses and for
24 official expenses, the candidate shall reimburse the state or
25 political subdivision for the amount of money spent on
26 campaign expenses.

27 SECTION 2. Safety clause. The general assembly hereby

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

APPENDIX A

SUMMARY OF COLORADO TRUCK INSPECTIONS

	<u>TRUCKS INSPECTED</u>	<u>VIOLATIONS**</u>	<u>OUT OF SERVICE VIOLATIONS</u>
Colorado State Patrol (January 1, 1984 thru December 31, 1984)			
Detailed (CVSA)	2,598	3,358	385
Cursory	13,365	9,155***	
<u>Subtotal</u>	<u>15,963</u>	<u>12,513</u>	385

Number of vehicles with no violations 434.

Colorado Port of Entry (July 1 thru December 31, 1984)*

Hazardous materials	3,095	4,362	1,005
Non-hazardous			
Cursory	3,556	9,070	
Detailed	3,747	14,799	6,504
<u>Subtotal</u>	<u>10,389</u>	<u>28,231</u>	<u>7,509</u>

Number of vehicles with no violations 1,900.

Colorado Public Utilities Commission (January 1, 1984 thru December 31, 1984)

Hazardous materials			
Visual	250	37	
Detailed safety	256	1,162	80
Non-hazardous			
Visual	399	214	
Detailed safety	618	3,534	343
<u>Subtotal</u>	<u>1,523</u>	<u>4,947</u>	<u>423</u>
TOTAL	27,875	45,691	8,317

VIOLATION/INSPECTION RATIO 1.6.

PERCENTAGE OF TRUCKS PUT OUT OF SERVICE 13.4%

PERCENTAGE OF TRUCKS WITH NO VIOLATIONS 8.9%

* These inspections may not represent a random sample of trucks on the road.

** These data indicate the total number of violations, unless otherwise noted. There may be more than one violation per vehicle.

*** Number of vehicles in violation.

Prepared by the Governor's Interagency Hazardous Materials Transportation Working Group.

APPENDIX B

COMPARISON OF HAZARDOUS MATERIALS VIOLATION PENALTIES
IN COLORADO AND OTHER STATES

<u>Violation</u>	<u>Wyoming</u>	<u>Kansas</u>	<u>Nebraska</u>	<u>Arizona</u>	<u>Utah</u>	<u>Oklahoma</u>	<u>New Mexico</u>	<u>Colorado Existing</u>	<u>Colorado H.B.1337</u>
Operating a motor vehicle when driver fails to meet driver qualifications 49 C.F.R. 391	--	\$500 or 1 year imprisonment maximum	\$10-\$50	\$137	+	--	+	\$25-\$1000 and/or 1 year imprisonment maximum@	1st-\$500 2nd-\$1000 3rd-\$1500
Operating a motor vehicle when driver has been placed out of service 49 C.F.R. 395.13	\$750 and/or 6 months imprisonment maximum	\$500 or 1 year imprisonment maximum	\$500 and/or 3 months imprisonment	+	\$250	--	+	\$25-\$1000 and/or 1 year imprisonment maximum@	1st-\$500 2nd-\$1000 3rd-\$1500
Transporting hazardous materials without proper placards 49 C.F.R. 172.504	\$110 bond	\$500 or 1 year imprisonment maximum	+	\$685	\$10	--	+	\$5*	1st-\$500 2nd-\$1000 3rd-\$1500
Failure to have proper hazardous materials shipping papers 49 C.F.R. 177.817	\$110 bond	\$500 or 1 year imprisonment maximum	+	\$1027.50	\$250	1st-\$100 2nd-\$250 3rd-\$500	+	\$5*	1st-\$500 2nd-\$1000 3rd-\$1500
Failure to stay in attendance of vehicle containing Class A or Class B explosives 49 C.F.R. 397.5	\$50 maximum	\$500 or 1 year imprisonment maximum	--	\$1027.50	--	--	+	\$25-\$1000 and/or 1 year imprisonment maximum@	1st-\$500 2nd-\$1000 3rd-\$1500

-- Not a violation under existing state law

+ Violation of state law, but no specific penalty set

* 42-4-1501(3)(a)(I)(A), C.R.S.

@ The fines assessed by the courts generally range from \$25-\$50.

SOURCE: Governor's Interagency Hazardous Materials Transportation Working Group.

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APPENDIX C

SURVEY OF LOCAL EMERGENCY RESPONSE AGENCIES IN COLORADO

Summary of Responses to
 Survey Conducted in November 1984
 by the
 Governor's Interagency Hazardous Materials Transportation Working Group

Local governments responding as having designated an emergency response agency for hazardous materials incidents:

	<u>RESPONDING</u>	<u>TOTAL</u>	<u>PERCENT</u>
Counties	48	63	76%
Municipalities	110	268	41%
TOTAL	158	331	48%

Counties which did not indicate that they have designated a response agency:

Alamosa	Custer*	Hinsdale*
Bent*	Dolores*	Huerfano*
Boulder*	Elbert	Pitkin
Clear Creek	Gilpin*	Saguache
Conejos*	Grand	San Juan*

Municipalities with a population of 1,000 or more which did not indicate that they have designated a response agency:

Arvada*	Firestone	Palisade
Ault	Fort Collins*	Palmer Lake
Berthoud	Grand Junction*	Paonia
Brighton*	Greeley*	Pueblo*
Buena Vista	Holyoke	Thornton*
Carbondale	Julesburg	Trinidad*
Center	Lamar	Walsenburg
Cherry Hills Village*	Loveland*	Wellington*
Commerce City	Minturn	Wheat Ridge*
Dacono	Montrose	Woodland Park
Durango	Northglenn*	Yuma

Designated emergency response agencies responding to survey:

	<u>RESPONDING</u>	<u>TOTAL</u>	<u>PERCENT</u>
Counties	30	63	48%
Municipalities	40	268	15%
TOTAL	70	331	21%

* An emergency response agency within these local governments' jurisdiction responded to the survey even though the local governments did not indicate that a response agency has been designated.

SOURCE: Governor's Interagency Hazardous Materials Transportation Working Group.

Other local emergency response agencies responding to survey:

Counties	13
Municipalities	68
Other	32
TOTAL	113

Of the 170 local agencies responding to the survey only 25 have the minimal training and equipment* necessary to respond to hazardous materials incidents:

Adams County Hazardous Materials Unit
Westminister Fire Protection District
South West Adams Fire Protection District
North Washington Fire Protection District
Federal Heights Fire District
Rocky Mountain Arsenal Fire District
Brighton Fire Protection District
West Adams Fire Protection District
South Adams Fire Protection District
Sable Altura Fire Protection District
Thornton Fire Department
Arvada Fire Department
Aurora Fire Department
Denver Fire Department
Fairmount Fire Protection District
Grand Junction Fire Department
Hermosa Cliff (Durango) Fire Department
Larimer County
 Poudre
 Loveland
Pueblo Civil Defense Agency
Security Village Fire Department
South Metro Hazardous Materials Unit
 Littleton
 Englewood
 Castlewood
 Bancroft
Rangely Fire Protection District

In addition, 7 local governments responding to the survey indicated that in the near future they will have the minimal training and equipment* necessary to respond to a hazardous materials incident:

Boulder County	Jefferson County
Weld County	Salida Fire Department
Greeley	Steamboat Springs Police Department
Western Hills	Summit County

* Two trained personnel, two self-contained protective suits, basic confinement equipment.

APPENDIX D

Hazardous Materials Transportation Task Force

Members of the task force;

Lieutenant Ron Vogt
Colorado State Patrol

Gerald Dahl
Colorado Municipal League

Don Coleman
Colorado Motor Carriers
Association

Bill Hughes
Colorado Railroad Association

Tony Massaro
City and County of Denver

Larry Karsten
Division of Highway Safety

Dee Hartman and Richard Hicks
Ports of Entry Division

John Tomsic
Colorado Counties, Inc.

Roy Turner
Colorado Petroleum Marketers
Association

Olie Webb
Colorado Association of Commerce
and Industry

Mike Nolan
United Agri Products

Bob Quinn
Colorado State Fire Fighters
Association

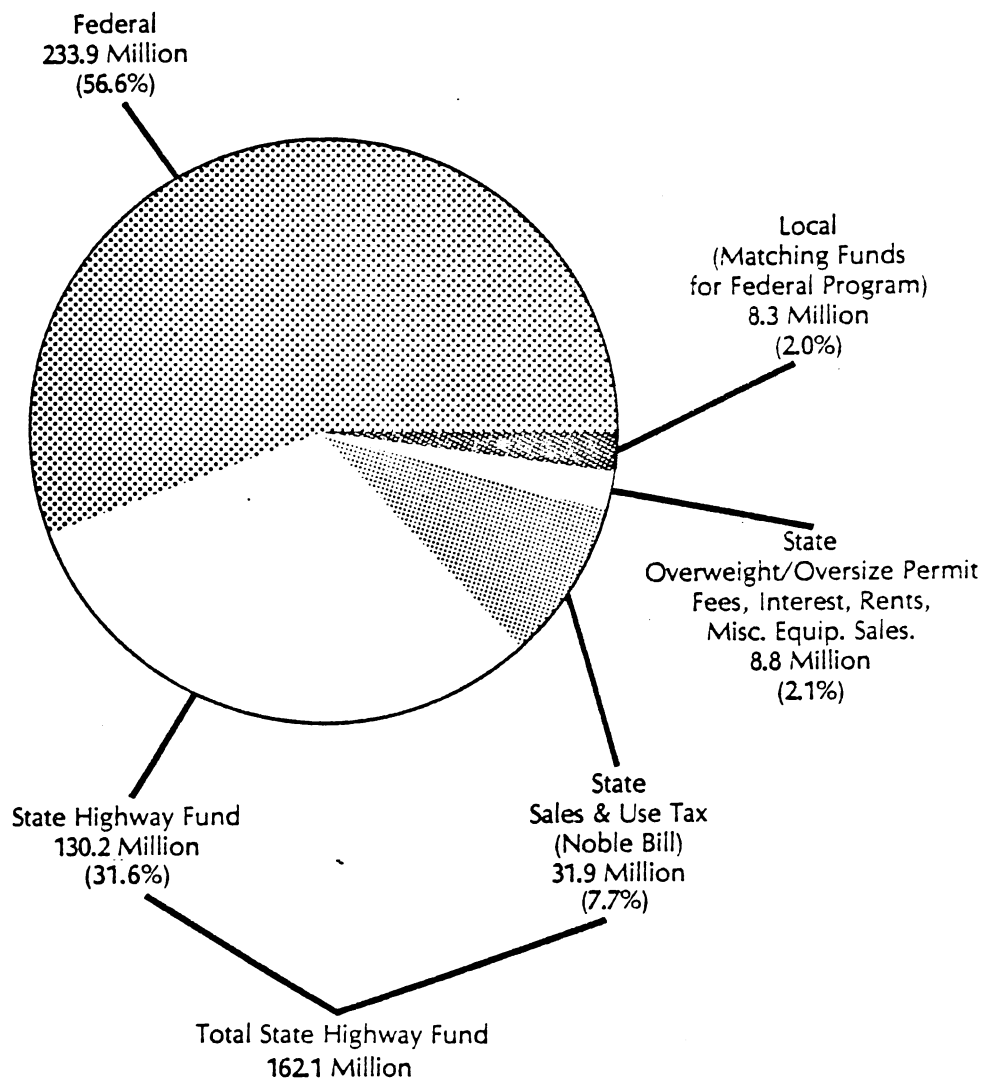
Appendix E

Possible Colorado Highway Revenue Options
To Provide an Adequate Transportation System to Year 2001
(Dollar amounts in Millions)

	<u>Total</u>	<u>State</u>	<u>County</u>	<u>City</u>	<u>Trans.</u>
1. Additional Noble Bill revenue uncapped to full 7% for capacity and geometric projects	\$1,050.2	\$ 630.2	\$ 231.0	\$ 189.0	\$
2. 6 cent fuel tax increase for surface improvements	1,780.0	959.0	470.0	351.0	
3. <u>Bonding for Capacity Projects</u> 1 cent fuel tax increase each year for 5 years -- all to CDOH for servicing bonds	1,000.0	1,000.0			
4. 0.5 cent general sales and use tax statewide for transportation improvements in planning and management regions (there are currently 13 planning and management regions)	2,200.0	1,185.0	(1,015.0)		
5. Private funding -- dedication, special assessments, road & bridge levies, etc.	1,816.1	119.0	(1,697.1)		
6. Toll financing for beltways and expressways serving urban areas	1,000.0	1,000.0			
7. Review Gross Ton Mile Tax	*				
8. 0.4 cent sales and use tax in RTD district for transit	<u>1,400.0</u>	_____	_____	_____	<u>1,400.0</u>
TOTAL	\$10,246.3	\$4,893.2	\$1,353.0	\$2,600.1	\$1,400.0

* No determined revenue effect.

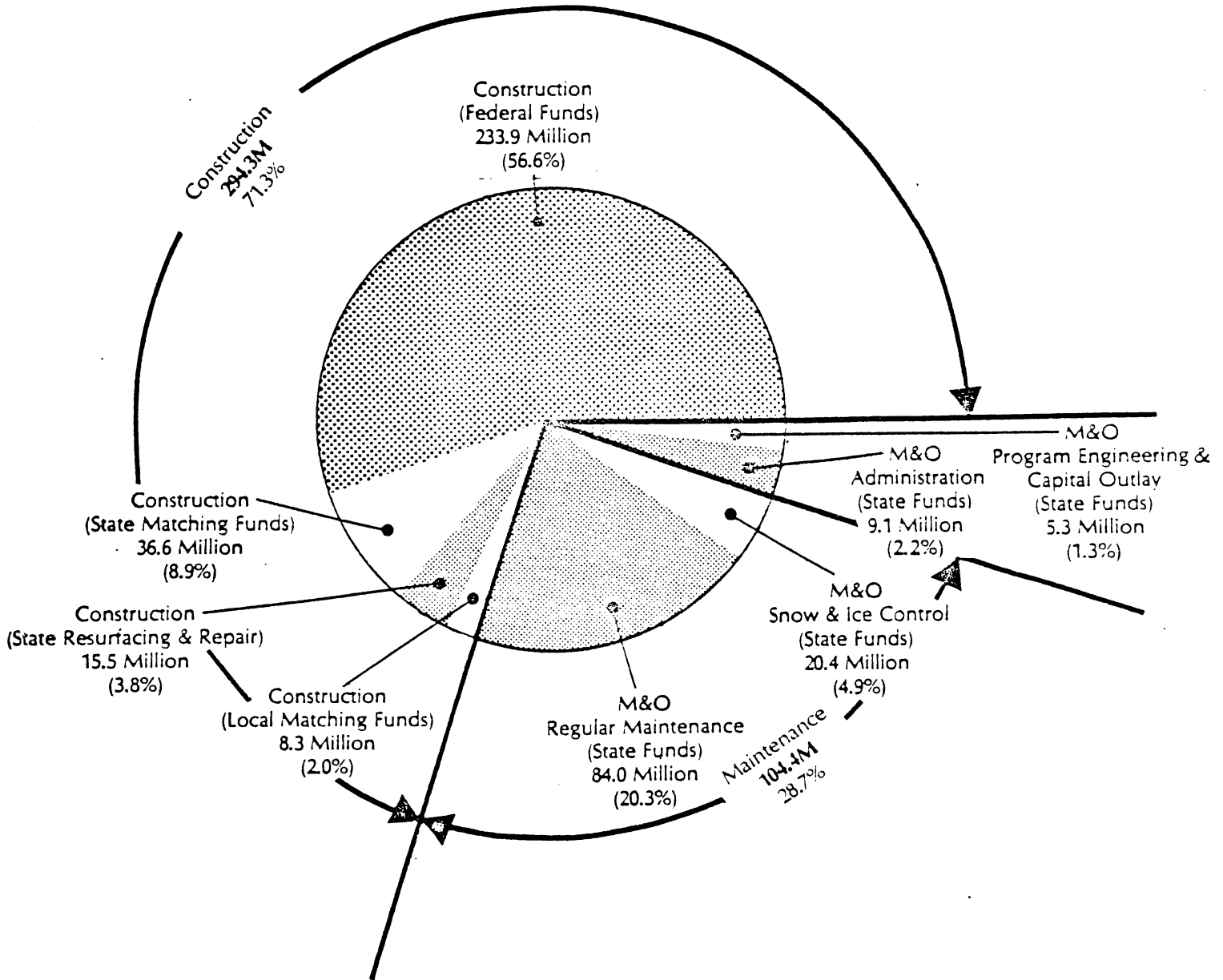
Colorado Department of Highways Estimated Revenues FY 1984-85 \$413.1 Million



SOURCE: Overview of the Colorado Department of Highways, June 30, 1985.

Colorado Department of Highways Estimated Expenditures FY 1984-85

\$413.1 Million Total
 \$118.8 Million Maintenance & Operations (M&O)
 \$294.3 Million Construction



SOURCE: Overview of the Colorado Department of Highways,
 June 30, 1985.

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