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## 0420 Transportation Legislation Review Committee



# **Transportation Legislation Review Committee**

**Report to the  
COLORADO  
GENERAL ASSEMBLY**

**Colorado Legislative Council  
Research Publication No. 420  
October 1996**

**RECOMMENDATIONS FOR 1997**

**TRANSPORTATION LEGISLATION  
REVIEW COMMITTEE**

**Report to the  
Colorado General Assembly**

**Research Publication No. 420  
November 1996**

# COLORADO GENERAL ASSEMBLY

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Rep. Carol Snyder

October 30, 1996

To Members of the Sixty-first General Assembly:

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

At its meeting on October 10, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1997 session was approved.

Respectfully submitted,

/s/ Senator Tom Norton  
Chairman  
Legislative Council

TN/MW/eg

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# **TRANSPORTATION LEGISLATION REVIEW COMMITTEE**

## **Members of the Committee**

Senator Richard Mutzebaugh  
Chairman  
Representative Shirleen Tucker  
Vice Chairman  
Senator Ray Powers  
Senator Bill Thiebaut  
Representative Vi June

Representative Ron May  
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# EXECUTIVE SUMMARY

## **Committee Charge**

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Pursuant to Section 43-2-145, C.R.S., the Transportation Legislation Review Committee (TLRC) is authorized to give guidance and direction to the Colorado Department of Transportation in the development of the state system of highways and to provide legislative overview of such development. The committee is directed to review any phase of Department of Transportation operations, including planning and construction of highway projects. The committee is also authorized to review any phase of operations of any public highway authority (e.g., E-470 Authority).

House Bill 96-1278, "Railroad Abandonment and Disposal," directs the TLRC to consider railroad rights-of-way abandonment and disposal issues. The committee is authorized to determine what benefit a railroad abandonment and disposal policy would provide to the state. The issues considered included investigating alternative rail methods, establishing state rail banks, creating incentives for private acquisitions, exchanging state property for the rights-of-way, and reviewing the federal rules and regulations pertaining to railroads. The committee is required to submit a report on these issues to the General Assembly by January 1, 1997.

## **Committee Activities**

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The committee held five meetings and one tour and received testimony on a variety of transportation-related matters from representatives of the following organizations: Colorado Department of Transportation, Regional Transportation District, Denver Regional Council of Governments, E-470 Authority, and the Blue Ribbon Panel on Transportation. One interim meeting was devoted entirely to consideration of abandonment of railroad rights-of-way. This meeting was held in response to a committee directive set forth in House Bill 96-1278. A tour with members of the Transportation Commission afforded members of the TLRC the opportunity to confer with Front Range and Western Slope officials on such issues as transportation demand management, rail line abandonment, and regional airport needs.

## **Committee Recommendations**

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As a result of committee discussion and deliberation, the committee recommends seven bills and one memorial for consideration in the 1997 legislative session.

**Bill A — Former resident financial responsibility.** Bill A requires the Director of the Division of Motor Vehicles to suspend the requirement for the proof of financial

responsibility for the future for former Colorado residents who obtain a driver's license in another state or foreign jurisdiction.

**Bill B — Violations involving alcohol.** Bill B allows for the administrative revocation of drivers' licenses of persons under 21 years of age based on conduct, either on or off the road, that violates existing prohibitions on purchase, consumption, or possession of alcohol by persons under 21.

**Bill C — Conduct related to motor transportation.** Bill C provides a remedy to situations where a check is returned for non-sufficient funds after the time has expired to refer this penalty assessment to court.

**Bill D — Service of process for traffic offenses.** Bill D states that a penalty assessment notice or summons and complaint for a traffic offense that is not served personally on the defendant is not eligible for enforcement under the Nonresident Violators Compact.

**Bill E — Metropolitan Transportation Development Commission.** Bill E repeals the statutory provision establishing the Metropolitan Transportation Development Commission, which was terminated in 1992.

**Bill F — Sales and use taxes related to motor vehicles.** Bill F amends the statutes to provide that, effective July 1, 1997, 85 percent of all sales and use tax be credited to the Old Age Pension Fund, 10 percent of such revenues be allocated to the Highway Users Tax Fund, and the remaining 5 percent to the General Fund.

**Bill G — Disposition of abandoned railroad rights-of-way.** Bill G provides a personal property tax credit and an income tax credit to railroad companies that donate abandoned railroad rights-of-way to the state.

**Joint Memorial A — ISTEA reauthorization.** Joint Memorial A requests Congress to consider certain proposals in its reauthorization of the federal "Intermodal Surface Transportation Efficiency Act of 1991" (ISTEA).

# **STATUTORY AUTHORITY AND RESPONSIBILITIES**

The Highway Legislation Review Committee (HLRC) was originally established in 1953 as part of the legislative reorganization of the state highway system that restructured the relationship between state highway, county road, and municipal street systems (Section 43-2-101, C.R.S.). The committee's original charge was to review the implementation and impact of these new highway systems. Currently, the committee is composed of six members of the General Assembly (three from the House and three from the Senate) and five citizen members appointed by the Governor. The HLRC was statutorily reconstituted in 1986 to include the following:

- Give guidance and direction to the state Department of Transportation in the development of the state transportation system and to provide legislative overview of and input into such development.
- The committee must meet at least once a year to review all transportation legislation and may consult with experts in the field of highway construction and planning or with personnel of the Department of Transportation as may be necessary. All personnel of the Department of Transportation must cooperate with the committee and with any persons assisting the committee in carrying out its duties pursuant to this section.
- The committee may review any phase of Department of Transportation operations, including planning and construction of highway projects, prior to and during the completion of such projects.
- The committee may also conduct a postoperation review of such projects to determine whether the project was completed in the most cost-effective and efficient manner.
- The committee may require the Department of Transportation to prepare and adopt 5-, 10-, and 15-year plans for the development of the state transportation system, and the committee must monitor the progress of such plans.
- The committee may also require financial or performance audits to be conducted. Upon completion of its review of the transportation laws, the committee may make recommendations to the Governor and to the General Assembly for such additional legislation as it deems necessary.
- The committee may also develop and make recommendations concerning the financing of the state transportation system. Legislation recommended by the committee shall be treated as legislation

recommended by an interim legislative committee for purposes of any introduction deadlines or bill limitations imposed by the joint rules of the General Assembly.

In 1994, pursuant to the enactment of Senate Bill 94-14, the name was changed to the Transportation Legislation Review Committee (TLRC) to correspond to the committee's oversight responsibilities of the Department of Transportation. The TLRC's statutory duties remained the same as the former HLRC's duties.

In addition to the charges included in the committee's enabling legislation, the following specific statutory charges have been assigned to the TLRC:

- ***Oversight of public highway authorities (Section 43-4-514, C.R.S.)***, including reviewing the operations, planning, and construction of such public highway authorities and projects as E-470 and W-470. The committee may also require financial or performance audits to be conducted. Public highway authorities are required to report annually in August to the TLRC on their activities in the preceding year and their plans for the coming year.
- ***Oversight of the Regional Transportation District activities (Section 32-9-19.7 (4) (6) (7), C.R.S.)***, including a review of RTD's annual budget, farebox recovery ratio, and privatization of bus service.

In addition to the existing statutory charges, one additional directive was given to the TLRC in 1996. House Bill 96-1278 directed the committee to do the following:

- review the railroad rights-of-way abandonment and disposal issue, and report to the General Assembly by January 1, 1997;
- investigate and recommend alternative methods to preserve railroad rights-of-way for continued use as transportation corridors;
- create an incentive for private acquisition of the rights-of-way;
- intervene in the federal Surface Transportation Board's proceedings on the abandonment or disposal of railroad rights-of-way; and
- investigate federal statutes and rules to determine what effect they have, if any, on state acquisition or regulation of abandoned or disposed of railroad rights-of-way.

# COMMITTEE ACTIVITIES

## **Railroad Rights-of-Way Abandonment and Disposal**

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House Bill 96-1278 directed the TLRC to consider railroad rights-of-way abandonment and disposal issues. The act also directed the TLRC to determine what benefit a railroad abandonment and disposal policy would provide to the state. At its September 24 meeting, the TLRC focused on the scope of the current railroad situation, economic impacts of abandonment, and the alternative methods for use of the railroad corridors such as trails, rail banking, preservation as historic landmarks, and other public purposes.

**Scope of problem.** The committee learned that rail line abandonments will occur as a result of the merger between Union Pacific and Southern Pacific railroads. On December 1, 1995, the Union Pacific Corporation and the Southern Pacific Corporation filed a merger application with the Surface Transportation Board (STB) of the U.S. Department of Transportation. This merger was approved in September 1996.

One of the most far-reaching effects of the proposed merger was the intention of the new Union Pacific (UP) to abandon service on the 178 miles of Southern Pacific track linking four counties and 20 towns in the corridor from Canon City to Gypsum. This rail line, known as the Tennessee Pass line, was built more than 100 years ago by the Denver and Rio Grande Railroad (D&RG) and merged into the Southern Pacific system in 1988. The Tennessee Pass line was an important part of the expansion of the D&RG south and west from Denver toward Santa Fe and the mining country of the Rockies. Also proposed for abandonment as a result of the merger proceedings is the 122-mile rail corridor from NA Junction, in Pueblo County, to Towner near the Kansas border.

Following the railroads' merger application to the Surface Transportation Board, proponents and opponents were given the opportunity to present their cases before the STB. As part of that process, the State of Colorado filed to rail bank the Tennessee Pass line.

**Letter of intent.** Associated with the STB filings was Governor Romer's announcement on March 21, 1996, of support for the merger as part of an agreement with UP. Two key points, discussed below, were part of that agreement.

**Point 1 —** *Hold lines "harmless" for a period of time so that alternative rail service can be explored.* Point 1 provides that the UP will continue to service active shippers on both the Tennessee Pass and Towner-NA Junction lines for at least six months after the merger (March 1997). At a minimum, rail must be left in place

for at least one year after a merger while other rail options are explored.

**Point 2 — *Explore the potential of a 350-mile recreational trail from the Kansas border to Gypsum.*** Point 2 provides that the UP will participate in a recreational trails working group which will work toward the development of the Plains-to-Mountains recreational trail. The UP is directed that while it is participating in the working group, it will maintain the integrity of the corridor so that a trail option remains viable.

To implement the goals specified in Point 2, a multi-jurisdictional partnership among state, federal and local agencies, private interests, and recreation user groups was coordinated through a Steering Committee. The Steering Committee was comprised of representatives appointed by county commissioners from Eagle, Lake, Chaffee, and Fremont counties, as well as state and federal agency staffs. Colorado State Parks took the lead in completing the study. On August 19, 1996, State Parks submitted a working draft entitled "Southern Pacific Rail Corridor — Trail Feasibility Study."

***Merger agreement.*** On July 3, 1996, the Surface Transportation Board voted to grant, with 30 minor conditions, the merger of Union Pacific and Southern Pacific. The written decision of the STB was released on August 12, with September 11 established as the effective date of its decision. The STB issued one condition on UP regarding its plan to discontinue rail service on the Tennessee Pass line. The full abandonment request for the Tennessee Pass line has not been granted by the STB because of a concern that UP's intent to transfer this line to the Moffat Tunnel line may be difficult to accomplish. The STB will continue to monitor the Moffat Tunnel traffic situation before allowing the Union Pacific again to file for abandonment of the Tennessee Pass line.

## **Alternative Uses**

Pursuant to House Bill 96-1278, the TLRC reviewed the following alternative public uses for abandoned rail lines: commuter rail, trails, and preservation as historic landmarks.

***Commuter rail.*** "Commuter Rail" is a generic term usually applied to passenger trains that operate from suburban areas to city centers. Most commuter rail lines are less than 60 miles in length and can move many people quickly with minimal expense in terms of fuel, labor, and land use.

***Trails.*** Rail corridors can be preserved through the "rail banking" mechanism for trail use. Rail banking is a legal technique that preserves railroad corridors even if

the trains are discontinued, and works by continuing the legal status of the railroad corridor even if the rails are removed. The concept of including trails in an active rail corridor is a means of expanding recreation opportunities while allowing continued rail service. The rails with trails option also is a method of preserving the corridor through rail banking. If all or part of the rail line is ever abandoned, the corridor would still be kept intact. Trail use could then be continued pending the possible return of rail service in the future.

***Preservation as historic landmarks.*** Preservation of the right-of-way would provide for a wide variety of uses, even as it is rail banked for possible future railroad reconstruction. Designating the corridor as historical property allows the corridor to be protected and preserved for future generations to learn about railroads and Colorado's history; and with this historical designation, the managing agency would be able to make a financial application to several new funding sources specifically designed for historical preservation.

### **Committee Recommendations**

Recognizing the need for a statewide policy regarding rail line abandonment and disposal, the committee drafted Bill G, which includes the following provisions:

- issues personal property tax and income tax credits to railroad companies that donate abandoned railroad rights-of-way to the state;
- requires the executive director of the Department of Transportation to agree to and accept the right-of-way before it can be conveyed to the department; and
- prohibits the donation of rights-of-way to be used as recreational trails without the consent of the agricultural property owners adjacent to the land.

A complete review of Bill G is provided on page 13.

### **Activities of the Colorado Department of Transportation**

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The chairman of the Transportation Commission and the executive director of the Colorado Department of Transportation (CDOT) provided a status report regarding statewide transportation projects. The chairman explained that the commission has worked with the Statewide Transportation Advisory Committee (STAC), whose duties include reviewing and commenting on regional transportation plans and advising CDOT on transportation system needs, to implement many of STAC's recommendations. The chairman also commented on the difficulty the commission

faces when developing the transportation project priority list because so many projects exist statewide that require attention.

The executive director indicated which specific projects will be funded under the \$115 million allocated pursuant to Senate Bill 96-197, "Capital Construction Fund Transfers," as well as what projects have been completed with the \$75 million funding allocated under House Bill 95-1174. All six transportation regions have at least one project that will be completed with this additional funding. Some projects addressed under House Bill 96-1174 which currently are under contract, include State Highway 93 to State Highway 72 in Jefferson County, Interstate 70 Cedar Point to Limon in Elbert County, and U.S. 40 west of Granby in Grand County. Projects under Senate Bill 96-197 that will soon be awarded for contract include U.S. 40, Walton Creek to Rabbit Ears Pass in Routt County, U.S. 285, Tiny Town to Foxton Road in Jefferson County, and State Highway 135, south of Crested Butte in Gunnison County.

### **Activities of the Regional Transportation District**

Representatives of the Regional Transportation District (RTD) provided a status report on the infrastructure improvements made over the past year. One of these improvements includes the Downtown Express project, which consists of the Southwest Corridor of the light rail project and the high occupancy vehicle (HOV) lanes on Interstate 25. These HOV lanes were opened to buses and car pools from downtown Denver to the T-Ramp at 70th Avenue and I-25. The extension to the 16th Street Mall also was included in the final construction of this project. The average daily ridership on the Bus/HOV lane routes increased by 13 percent from January 1995 to January 1996, and the lanes save commuters five to 10 minutes in travel time. The total buses and car pools using the Downtown Express have increased from 5,000 per weekday in October 1995 to 9,000 in June 1996.

The RTD completed the preliminary engineering and environmental impact statement (EIS) for the Southwest Corridor and has secured the funds for the final design of the corridor. The preliminary engineering and EIS were accomplished after numerous public meetings with neighborhood groups, business groups, state, city, county, and other governmental agencies, and Federal Transit Administration reviews.

The acquisition of the remaining property for the Central Corridor was finalized and RTD initiated discussions with property owners along the Southwest Corridor, including the Southern Pacific and the Atchison Topeka and Santa Fe railroads, for possible future land acquisitions. The purchase of land for the expanded Montbello Park-n-Ride also was completed.



## **Activities of the E-470 Public Highway Authority**

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The executive director of the E-470 Public Highway Authority and the chair of the Board of Directors presented an update on the status of E-470. The current number of staff members for the Authority is 28. The philosophy of the Authority envisions a limited staff, supplemented with appropriate consultants and private sector contracting. Under this philosophy, it is unlikely the staff level will exceed 35 positions. The staff will oversee an operation which is estimated to generate in excess of \$200 million per year in tolls and cost more than \$30 million per year to operate in 2016.

Operations and maintenance of Segment I, expressway between State Highway 83 and Interstate 25 at Parker Road, are carried out through a contract with the Morrison Knudsen Corporation (MKC), which extends through December 31, 1996. The Authority is in the process of issuing a Request for Proposals for a new operations contract effective January 1, 1997. The Colorado State Patrol is the entity responsible to ensure that E-470 is open and operating properly on a daily basis. The 1996 budgeted expenses for all operations and maintenance activities are approximately \$2.13 million. The usage on this segment of E-470 continues to increase and is utilized primarily by workday commuters. Segment I recently marked its fifth year of operation, and over 11,000,000 tolled transactions have occurred in that time. Average daily traffic has exceeded budget predictions every year since 1991, and the average for 1996 is expected to exceed 9,250 per day. This compares with the approximate 3,300 vehicle trips per day that occurred in 1991.

The construction of Segments II and III (from 56th Avenue to 120th Avenue in Adams County, and Parker Road to Smoky Hill Road in Arapahoe County) is underway. Segment II must be completed by July 1998, and Segment III must be finished by July 1999. When these segments are done, the total distance of E-470 will increase from 5.5 miles to 34.5 miles. Notice to Proceed for construction activity was given to Platte River Constructors, Inc., in August 1995. The contract covers design, engineering, and construction. The Authority budgeted the design cost, engineering, construction, right-of-way acquisition, air quality mitigation, and engineering oversight at approximately \$380 million. Of that amount, \$325.1 million was allocated for the Design/Build contract with Platte River Constructors, Inc. Since the Notice to Proceed, the contract amount has been increased by nearly \$500,000. However, the increases also have resulted in a corresponding decrease in the cost of obtaining rights-of-way, so the project is still within the anticipated budget.

Segment IV still needs to be financed and built between 120th Avenue west of Tower Road in Adams County and Interstate 25 at approximately 157th Avenue. This portion is estimated to be the most expensive segment of the project to build. The Board of Directors will identify how best to finance this segment, and it is hoped that construction will begin in 1999.

## **Intermodal Surface Transportation and Efficiency Act of 1991**

Representatives of CDOT and the Denver Regional Council of Governments discussed the federal Intermodal Surface Transportation and Efficiency Act of 1991 (ISTEA). In 1991, Congress enacted this legislation “to develop a national Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an efficient manner.” Additionally, ISTEA was created to allow for more input from state and local governments that allows more flexibility in decisions relating to transportation projects within each state. This federal legislation has provided approximately \$155 billion in appropriations for highways, highway safety, and mass transportation.

The Multi-State Highway Transportation Agreement, an interest group focusing on transportation issues, made the following specific recommendations regarding ISTEA’s reauthorization:

- monies from the Federal Highway Trust Fund should be used primarily for the needs associated with the construction, reconstruction, rehabilitation, and maintenance of the National Highway System (NHS);
- after NHS expenditures, a state block grant program should be established for the distribution of remaining funds;
- due to the dynamics of state size, population, and other factors such as federal land ownership, there is a need for donor and donee states in order to have a successful nationwide transportation system;
- all demonstration projects should be eliminated;
- the Mass Transit Account of the Highway Fund should be rolled into the state block grant program with the states making the final decisions that affect the funding of their local transit operations and is based on their statewide planning process;
- all funds remaining in the Federal Highway Trust Fund should be returned to the states either as funds for the use on the NHS, or as a block grant. Only a small portion of the collected funds from the federal gas tax and highway users fees should be retained by the U.S. Department of Transportation for safety and research purposes;
- expand federal and state activities to combat the evasion of fuel taxes and vehicle registration fees;

- eliminate all federally imposed sanctions not directly related to the fiscal and contractual integrity of the federal aid in highway program;
- encourage the states to develop and implement safety management systems, particularly to those roads eligible for federal highway funds; and
- federal laws that contain environmental provisions pertinent to transportation projects should be streamlined to eliminate the many areas of overlap and duplication.

# **SUMMARY OF RECOMMENDATIONS**

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

## **Bill A — Former Resident Financial Responsibility**

---

Bill A requires the director of the Division of Motor Vehicles to suspend the requirement for the proof of financial responsibility in the future for former Colorado residents who obtain a driver's license in another state or foreign jurisdiction. It also requires the director to reinstate the requirement for such persons if they apply for a new Colorado driver's license. According to the Department of Revenue (DOR), Bill A will help to avoid the problems that are created when drivers who are subject to a mandatory filing of future proof of financial responsibility move to another jurisdiction and must file proof of financial responsibility. In many cases, the drivers are maintaining insurance in two jurisdictions, instead of only one.

## **Bill B — Violations Involving Alcohol**

---

Bill B alters the process of revoking a driver's license of a person under 21 years of age who has been convicted of certain offenses relating to the purchase, consumption, or possession of alcohol. According to representatives of the DOR, the process of revocation does not always occur within 10 days as the law suggests. Instead, the forwarding of the license and conviction sometimes takes place months after the actual conviction. The bill addresses this concern by specifying that the period of revocation based on such conviction begins when the person whose license is being revoked is given a notice by the DOR.

## **Bill C — Conduct Related to Motor Transportation**

---

Bill C directs the DOR to deny renewal of a driver's license if the applicant's check or money order to pay a penalty assessment, a driver's license fee, or a motor vehicle record fee was returned for insufficient funds or because the account is closed and the bill or order remains unpaid. Bill C provides a remedy to situations where a check is returned for insufficient funds after the time has expired to refer this penalty assessment to court.

This bill doubles the penalty and surcharge for a speeding violation occurring in a portion of a state highway that the CDOT has designated as a maintenance, repair, or construction zone.

Bill C also changes the requirement from permissive to mandatory that all school buses be equipped with yellow visual signal lights in addition to the red visual signal lights. The bill also clarifies that a school bus must stop as far to the right of a roadway as possible when discharging and loading passengers. This change will more accurately reflect the original intent of this law.

Finally, Bill C extends the ignition interlock device program by two years, until the year 2000, since representatives from CDOT testified that the current deadline cannot be met.

#### **Bill D — Service of Process for Traffic Offenses**

---

Bill D provides that a penalty assessment notice or summons and complaint for a traffic offense that is not served personally on the defendant is not eligible for enforcement under the Nonresident Violators Compact. The bill prohibits the DOR from maintaining records for such traffic offenses. It also requires that such a notice or summons and complaint contain a statement indicating that the notice or summons and complaint was not served personally on the defendant. According to representatives from the department, the bill will help correct the current method of service that creates problems in posting the infractions to the driving record.

#### **Bill E — Metropolitan Transportation Development Commission**

---

This bill repeals the statutory provision establishing the Metropolitan Transportation Development Commission, which was terminated in 1992.

#### **Bill F — Sales and Use Taxes Related to Motor Vehicles**

---

Section 39-26-123, C.R.S., will be amended under Bill F to provide that, effective July 1, 1997, 85 percent of all sales and use tax be credited to the Old Age Pension Fund, 10 percent of such revenues be allocated to the Highway Users Tax Fund (HUTF), and the remaining 5 percent to the General Fund. The bill does not amend the existing statutory formula for the distribution of the HUTF proceeds to the state, counties, and municipalities.

The bill states that the General Assembly does not intend to provide additional HUTF revenues to a city or county that would be in excess of the spending limitations set forth in Section 20 of Article X of the Colorado Constitution.

## **Bill G — Disposition of Abandoned Railroad Rights-of-Way**

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Pursuant to House Bill 96-1278, the TLRC was directed to consider railroad rights-of-way abandonment and disposal issues and recommend a statewide policy concerning this issue. As a result, the committee recommends Bill G, which provides a personal property tax credit and an income tax credit to railroad companies that donate abandoned railroad rights-of-way. These credits are in the amount of 50 percent of the net liquidation value of the donated right-of-way. The bill requires the executive director of CDOT to notify the property tax administrator within 60 days when an abandoned railroad right-of-way is donated to the state. Bill G mandates that the executive director agree to accept the right-of-way before it can be conveyed to the department. It also prohibits the donated right-of-way to be used as a recreational trail without the consent of the agricultural property owners adjacent to the land.

Bill G requires the TLRC to consider the recommendations of CDOT and information from any other source and make findings and recommendations to the General Assembly regarding the state acquisition of and uses for abandoned railroad rights-of-way. The TLRC also must consider the recommendations of the executive director and information from other sources. The legislative members of the committee will use this information to make findings and recommendations to the General Assembly regarding the acquisition, use, and disposition of the abandoned railroad rights-of-way. Finally, the Abandoned Railroad Rights-of-Way Fund is created.

## **Joint Memorial A — ISTEA Reauthorization**

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The joint memorial requests Congress to consider certain proposals in its reauthorization of the federal "Intermodal Surface Transportation Efficiency Act of 1991" (ISTEA). Congress is urged to eliminate federal mandates and restrictions that limit the powers of the states and local governments to accomplish their individual transportation needs. Believing that the funding of demonstration projects serves to undermine the statewide planning process and local prioritization of projects, the memorial encourages the elimination of federal funding of demonstration projects and the set-asides for specific transportation modes. Finally, the memorial advocates full funding of the federal transportation program by transferring the 4.3 cents per gallon fuel tax from the General Fund to the Highway Trust Fund for distribution to the states.

# MATERIALS AVAILABLE

The materials listed below are available upon request from the Legislative Council staff.

<b>Meeting Summaries</b>	<b>Topics Discussed</b>
July 11, 1996	Blue Ribbon Panel on Transportation; Colorado Department of Transportation (CDOT) on transportation funding, development priorities; and Metropolitan Planning Organizations on transportation funding
August 8, 1996	RTD 1996 budget, farebox recovery rates, and privatization of bus service; Denver Regional Council of Governments on transportation funding; E-470 Public Highway Authority annual budget; and the City of Aurora regarding a legal case
August 28, 1996	ISTEA reauthorization; and legislative bill request proposals
September 24, 1996	Railroad abandonment and disposal issue
October 8, 1996	Front Range Toll Road; Personal Rapid Transit System; implementation of the Motor Carriers Service legislation; motor vehicle dealers licenses; and final action on legislative bill requests

## **Memoranda and Reports**

### **Legislative Council staff memoranda titles:**

*The Transportation Legislation Review Committee, June 1996*

*Abandonment of Railroad Rights-of-Way, September 1996*

### **Reports provided to the committee:**

*Report to the Governor, the Legislature, and the Citizens of Colorado, Blue Ribbon Panel on Transportation, May 4, 1996*

*E-470 Public Highway Authority Annual Report to the Transportation Legislation Review Committee, August 1996*

*1996 Adopted Budget of the Regional Transportation District, November 1995*

*1995-2000 Transportation Improvement Program, Denver Regional Council of Governments, November 22, 1996*

*Overview of Regional Planning Process, Denver Regional Council of Governments, August 1996*

*Recreation and Rail Corridor Preservation, Colorado State Parks, September 1996*



# **BILL A**

## **A BILL FOR AN ACT**

**CONCERNING PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE  
REQUIREMENTS FOR FORMER COLORADO RESIDENTS.**

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### **Bill Summary**

#### **"Former Resident Financial Responsibility"**

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

Transportation Legislation Review Committee. Requires the director of the division of motor vehicles to suspend the requirement for proof of financial responsibility for the future for former Colorado residents who obtain a driver's license in another state or foreign jurisdiction. Requires the director to reinstate the requirement for such persons if they apply for a new Colorado driver's license.

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

**SECTION 1.** 42-7-408, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**42-7-408. Proof of financial responsibility - methods of giving proof**  
**- duration - exception.** (6) (a) UPON RECEIPT OF EVIDENCE FROM AN AGENCY OF ANOTHER STATE OR FOREIGN JURISDICTION THAT A FORMER COLORADO RESIDENT HAS OBTAINED A LICENSE IN SUCH STATE OR FOREIGN

JURISDICTION, THE DIRECTOR SHALL SUSPEND THE REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE UNTIL SUCH TIME AS THE FORMER RESIDENT HAS MADE APPLICATION FOR A NEW COLORADO LICENSE.

(b) IF SUCH FORMER RESIDENT MAKES APPLICATION FOR A COLORADO DRIVER'S LICENSE, THE DIRECTOR SHALL REINSTATE THE REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE UNTIL SUCH TIME AS THE ORIGINAL REQUIREMENT TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE HAS EXPIRED.

**SECTION 2. Effective date - applicability.** This act shall take effect upon passage, and shall apply to evidence received by the division of motor vehicles on or after said date.

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

## BILL B

### A BILL FOR AN ACT

CONCERNING ADMINISTRATIVE ACTION AFFECTING THE DRIVING PRIVILEGES OF  
A PERSON UNDER TWENTY-ONE YEARS OF AGE IN CONNECTION WITH  
CONDUCT INVOLVING ALCOHOL.

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#### Bill Summary

##### "Violations Involving Alcohol"

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

Transportation Legislation Review Committee. Eliminates the current requirement that a person convicted of certain offenses relating to the purchase, consumption, or possession of alcohol by a person under 21 years of age be ordered by a judge to immediately surrender the person's license to the court to begin the process of revocation. Specifies that the period of revocation based on such conviction begins when the person whose license is being revoked is given a notice by the department of revenue.

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

**SECTION 1.** 42-2-131, Colorado Revised Statutes, 1993 Repl. Vol.,  
as amended, is amended to read:

**42-2-131. Revocation of license or permit for nondriving alcohol convictions.** (1) ~~Immediately~~ Upon a plea of guilty or nolo contendere or

a verdict of guilty by the court or a jury to an offense for which revocation of a license or permit is mandatory pursuant to section 42-2-125 (1) (m), the court shall ~~require the offender to immediately surrender the offender's driver's, minor driver's, provisional driver's, or temporary driver's license or instruction permit to the court. The court shall forward to the department a notice of plea or verdict on the form prescribed by the department. together with the offender's license or permit, not later than ten days after the surrender of the license or permit. Any person who does not immediately surrender such person's license or permit to the court commits a class 2 misdemeanor traffic offense, unless such person swears or affirms under oath administered by the court and subject to the penalties of perjury, that the license or permit has been lost, destroyed, or is not in said person's immediate possession. Any person who swears or affirms that the license or permit is not in the immediate possession of said person shall surrender said license or permit to the court within five days of the sworn or affirmed statement, and, if not surrendered within such time, said person commits a class 2 misdemeanor traffic offense.~~

ANY REVOCATION PURSUANT TO SECTION 42-2-125 (1) (m) SHALL BEGIN WHEN THE DEPARTMENT GIVES NOTICE OF SUCH REVOCATION TO THE PERSON IN ACCORDANCE WITH SECTION 42-2-119 (2).

**SECTION 2. Effective date - applicability.** This act shall take effect upon passage, and shall apply to acts occurring or committed on or after said date.

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

## BILL C

### A BILL FOR AN ACT

CONCERNING CONDUCT RELATED TO THE OPERATION OF MOTOR VEHICLES.

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#### Bill Summary

"Conduct Related To Motor Transp."

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

Transportation Legislation Review Committee. Directs the department of revenue to deny renewal of a driver's license if the applicant issued a check or order to pay a penalty assessment, a driver's license fee, a license reinstatement fee, or a motor vehicle record fee and such check or order was returned for insufficient funds or because the account is closed and the bill or order remains unpaid.

Extends the ignition interlock device program for two years, until July 1, 2000.

Doubles the penalty and surcharge for a speeding violation occurring in a portion of a state highway that the department of transportation has designated as a maintenance, repair, or construction zone. Requires the department to post signs indicating the beginning and end of such zones.

Changes from permissive to mandatory the requirement that all school buses be equipped with yellow visual signal lights in addition to the red visual signal lights.

Clarifies that a school bus must stop as far to the right of a roadway as possible when discharging and loading passengers.

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

SECTION 1. 42-2-118 (3) (a), (3) (b), and (3) (c), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

**42-2-118. Renewal of license - donations to organ and tissue donation awareness fund.** (3) (a) Prior to the renewal of a permanent driver's license or the issuance or renewal of a probationary license, the department shall determine if the applicant has any outstanding judgments or warrants entered or issued against the applicant OR IF THE APPLICANT HAS ISSUED A CHECK OR ORDER TO THE DEPARTMENT FOR THE PAYMENT OF A PENALTY ASSESSMENT AND SUCH CHECK OR ORDER WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND REMAINS UNPAID as set forth in section 42-4-1709 (7).

(b) (I) If there are no outstanding judgments or warrants entered or issued against the applicant AND THE APPLICANT HAS NOT ISSUED A CHECK OR ORDER TO THE DEPARTMENT THAT WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND THAT REMAINS UNPAID as set forth in section 42-4-1709 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this title are met, the department shall renew the applicant's permanent driver's license.

(II) If there are no outstanding judgments or warrants entered or issued against the applicant AND THE DEFENDANT HAS NOT ISSUED A CHECK OR ORDER TO THE DEPARTMENT THAT WAS RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT AND THAT REMAINS UNPAID as set forth in section

42-4-1709 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this title are met, the department may issue or renew the applicant's probationary license.

(c) If the department determines that the applicant is subject to the requirements of section 42-4-1709 (7), the permanent driver's license shall not be renewed or the probationary license may not be issued or renewed until such applicant has complied with said section. Any person who pays any outstanding judgments, or who has any warrants entered, OR WHO MAKES PAYMENT FOR A CHECK OR ORDER TO THE DEPARTMENT THAT HAD BEEN RETURNED FOR INSUFFICIENT FUNDS OR A CLOSED ACCOUNT pursuant to section 42-4-1709 (7) shall pay to the court a thirty-dollar administrative processing cost for each such judgment, or warrant, CHECK, OR ORDER in addition to all other penalties, costs, or forfeitures. The court shall remit fifty percent of the administrative processing fee to the department of revenue, and the other fifty percent of that fee is to be retained by the issuing court.

**SECTION 2.** 42-2-126.1 (2.5), (7), and (8), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

**42-2-126.1. Probationary licenses for persons convicted of alcohol-related driving offenses - ignition interlock devices - fees - interlock fund - violations of probationary license - repeal.** (2.5) The leasing agency for any approved ignition interlock device shall remit a filing

fee in the amount of thirty-three dollars for each person leasing a device to cover program start-up and operational costs incurred by the department of revenue and the department of public health and environment. The leasing agency shall remit the fees to the state treasurer, who shall credit the fees to the interlock fund, which fund is hereby created. Any federal grant moneys received for purposes of supporting this pilot program also shall be remitted to the interlock fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this section. Any interest received from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund on ~~July 1, 1998~~ JULY 1, 2000, shall be transferred to the highway users tax fund created pursuant to section 43-4-201, C.R.S.

(7) The office of transportation safety in the department of transportation shall conduct an assessment of the ignition interlock device program established pursuant to this section. The department shall prepare a written report regarding the results of the assessment and shall provide the report to the general assembly on or before ~~January 1, 1998~~ JANUARY 1, 2000.

(8) This section is repealed, effective ~~July 1, 1998~~ JULY 1, 2000.

**SECTION 3.** Part 6 of article 4 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-613. Designation of highway maintenance, repair, or construction zones - signs - increase in penalties for speeding violations.**

(1) IF MAINTENANCE, REPAIR, OR CONSTRUCTION ACTIVITIES ARE OR WILL BE OCCURRING ON A PORTION OF A STATE HIGHWAY, THE DEPARTMENT OF TRANSPORTATION MAY DESIGNATE SUCH PORTION OF THE HIGHWAY AS A HIGHWAY MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE. ANY PERSON WHO COMMITS A SPEEDING VIOLATION IN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS DESIGNATED PURSUANT TO THE PROVISIONS OF THIS SECTION IS SUBJECT TO THE INCREASED PENALTIES AND SURCHARGES IMPOSED BY SECTION 42-4-1701 (4) (c).

(2) THE DEPARTMENT OF TRANSPORTATION SHALL DESIGNATE A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE BY ERECTING OR PLACING AN APPROPRIATE SIGN IN A CONSPICUOUS PLACE BEFORE THE AREA WHERE THE MAINTENANCE, REPAIR, OR CONSTRUCTION ACTIVITY IS OR WILL BE TAKING PLACE. SUCH SIGN SHALL NOTIFY THE PUBLIC THAT INCREASED PENALTIES FOR SPEEDING VIOLATIONS ARE IN EFFECT IN SUCH ZONE. THE DEPARTMENT OF TRANSPORTATION SHALL ERECT OR PLACE A SECOND SIGN AFTER SUCH ZONE INDICATING THAT THE INCREASED PENALTIES FOR SPEEDING VIOLATIONS

ARE NO LONGER IN EFFECT. A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE BEGINS AT THE LOCATION OF THE SIGN INDICATING THAT INCREASED PENALTIES ARE IN EFFECT AND ENDS AT THE LOCATION OF THE SIGN INDICATING THAT THE INCREASED PENALTIES ARE NO LONGER IN EFFECT.

(3) SIGNS USED FOR DESIGNATING THE BEGINNING AND END OF A MAINTENANCE, CONSTRUCTION, OR REPAIR ZONE SHALL CONFORM TO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. THE DEPARTMENT OF TRANSPORTATION MAY DISPLAY SUCH SIGNS ON ANY FIXED, VARIABLE, OR MOVABLE STAND. THE DEPARTMENT OF TRANSPORTATION MAY PLACE SUCH A SIGN ON A MOVING VEHICLE IF REQUIRED FOR CERTAIN DEPARTMENT ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, HIGHWAY PAINTING WORK.

**SECTION 4.** 42-4-1701 (4), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule.** (4) (c) THE PENALTIES AND SURCHARGES IMPOSED FOR SPEEDING VIOLATIONS UNDER (4) (a) (I) (L) OF THIS SECTION ARE DOUBLED IF A SPEEDING VIOLATION OCCURS WITHIN A MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE THAT IS DESIGNATED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO THE REQUIREMENTS OF SECTION 42-4-613.

the vertical center line of the bus and which shall be alternately flashing with two visible to the front and two visible to the rear. These visual signal lights shall be mounted as high as practicable, shall be as widely spaced laterally as practicable, and shall be located on the same level. These lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(b) (1) ~~When a school bus is equipped only with~~ THE red visual signal lights ~~they~~ shall be actuated by the driver of ~~said~~ THE school bus whenever ~~such vehicle~~ THE SCHOOL BUS is stopped for the purpose of receiving or discharging schoolchildren and at no other time; but such lights need not be actuated when ~~any said~~ A school bus is stopped at locations where the local traffic regulatory authority has by prior written designation declared such actuation unnecessary.

(c) ~~When a school bus is equipped with~~ THE alternating flashing yellow lights ~~in addition to the red lights and when the use of a signal light system is required, the yellow lights~~ shall be actuated at least two hundred feet prior to the point ~~at which such~~ WHERE THE bus is to be stopped for the purpose of receiving or discharging schoolchildren, and the red lights shall be actuated only at the time the bus is actually stopped. ~~On and after January 1, 1976, all school buses required to be equipped shall be equipped with such visual signal light systems as provided in this section.~~

(3) Every school bus used for the transportation of schoolchildren ~~except those small passenger type vehicles described in subsection (1) of this section, may be equipped, and, on and after January 1, 1976,~~ shall be equipped with a stop signal arm mounted outside the bus on the left alongside the driver and below the window. ~~Such~~ THE stop signal arm shall be a flat octagon with the word "STOP" printed on both sides in such a manner as to be easily visible to persons approaching from either direction. The stop signal arm shall contain two alternately flashing red lamps which are connected to the alternating flashing signal light system described in subsection (2) of this section, and the stop signal arm shall be extended only when the red visual signal lights are in operation.

(5) Every school bus shall stop as far to the right ~~off~~ OF the roadway as possible before discharging or loading passengers and, when possible, shall not stop where the visibility is obscured for a distance of two hundred feet either way from the bus. The driver of a school bus which has stopped shall allow time for any vehicles which have stopped behind the school bus to pass the school bus, if such passing is legally permissible where the school bus is stopped, after the ~~school bus's~~ visual signal lights if ~~any~~, are no longer being displayed or actuated and after all children who have embarked or disembarked from the bus are safe from traffic.

**SECTION 7. Effective date - applicability.** This act shall take effect July 1, 1997. Sections 3 and 4 of this act shall apply to offenses committed on or after said date. Sections 1 and 5 of this act shall apply to checks and orders received by the department on or after said date.

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



## BILL D

### A BILL FOR AN ACT

CONCERNING SERVICE OF PROCESS FOR TRAFFIC OFFENSES.

#### Bill Summary

##### "Service Of Process - Traffic Offenses"

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

Provides that a penalty assessment notice or summons and complaint for a traffic offense that is not served personally on the defendant is not eligible for enforcement under the nonresident violator compact. Prohibits the department of revenue from maintaining records of such traffic offenses. Requires that such a notice or summons and complaint contain a statement indicating that the notice or summons and complaint was not served personally on the defendant.

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

**SECTION 1.** Part 21 of article 60 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**24-60-2105. Citations enforced - definition.** AS USED IN THE COMPACT, THE TERM "CITATION", WITH REFERENCE TO THIS STATE, DOES NOT INCLUDE A SUMMONS AND COMPLAINT OR PENALTY ASSESSMENT NOTICE ISSUED IN COLORADO THAT IS NOT PERSONALLY SERVED UPON THE DEFENDANT. A SUMMONS AND COMPLAINT OR PENALTY ASSESSMENT NOTICE ISSUED IN THIS

STATE THAT IS NOT PERSONALLY SERVED ON THE DEFENDANT IS NOT ELIGIBLE FOR ENFORCEMENT UNDER THE COMPACT.

**SECTION 2.** 42-2-121 (2) (d), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-2-121. Records to be kept by the department - admission of records in court.** (2) (d) Notwithstanding the provisions of paragraph (a) of this subsection (2), the department shall not maintain records of:

(I) Convictions of traffic offenses defined in this title for which no points are assessed pursuant to section 42-2-127 (5) other than convictions pursuant to sections 42-2-134, 42-2-138, 42-2-206, and 42-7-422;

(II) A CONVICTION FOR A TRAFFIC OFFENSE IF THE SUMMONS AND COMPLAINT OR PENALTY ASSESSMENT NOTICE FOR THE TRAFFIC OFFENSE WAS NOT PERSONALLY SERVED ON THE DEFENDANT.

**SECTION 3.** 42-4-1707 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-4-1707. Summons and complaint or penalty assessment notice for misdemeanors, petty offenses, and misdemeanor traffic offenses - release - registration.** (1) (a) Whenever a person commits a violation of this title punishable as a misdemeanor, petty offense, or misdemeanor traffic offense, other than a violation for which a penalty assessment notice may be issued in accordance with the provisions of section 42-4-1701 (5) (a), and such person

is not required by the provisions of section 42-4-1705 to be arrested and taken without unnecessary delay before a county judge, the peace officer may issue and serve upon the defendant a summons and complaint which shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the statute alleged to have been violated, a brief description of the offense, the date and approximate location thereof, and the date the summons and complaint is served on the defendant; shall direct the defendant to appear in a specified county court at a specified time and place; shall be signed by the peace officer; and shall contain a place for the defendant to execute a written promise to appear at the time and place specified in the summons portion of the summons and complaint.

(b) IN ADDITION TO THE INFORMATION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1), A SUMMONS AND COMPLAINT THAT IS NOT SERVED PERSONALLY UPON THE DEFENDANT SHALL INCLUDE A STATEMENT INDICATING THAT SERVICE HAS NOT BEEN MADE PERSONALLY.

**SECTION 4.** 42-4-1709 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-4-1709. Penalty assessment notice for traffic infractions - violations of provisions by officer - driver's license.** (1) (a) Whenever a penalty assessment notice for a traffic infraction is issued pursuant to section

42-4-1701 (5) (a), the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the statute alleged to have been violated, a brief description of the traffic infraction, the date and approximate location thereof, the amount of the penalty prescribed for such traffic infraction, the amount of the surcharge thereon pursuant to section 24-4.2-104 (1), C.R.S., the number of points, if any, prescribed for such traffic infraction pursuant to section 42-2-127, and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified county court at a specified time and place in the event such penalty and surcharge thereon is not paid; shall be signed by the peace officer; and shall contain a place for the defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed and surcharge thereon within twenty days, as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty and surcharge thereon not be paid within the time allowed in section 42-4-1701.

(b) IN ADDITION TO THE INFORMATION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1), A PENALTY ASSESSMENT NOTICE THAT IS NOT SERVED

PERSONALLY UPON THE DEFENDANT SHALL INCLUDE A STATEMENT  
INDICATING THAT SERVICE HAS NOT BEEN MADE PERSONALLY.

**SECTION 5. Effective date - applicability.** This act shall take effect  
July 1, 1997, and shall apply to offenses committed on or after said date.

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

# **BILL E**

## **A BILL FOR AN ACT**

CONCERNING THE ELIMINATION OF THE STATUTORY PROVISION CREATING THE  
METROPOLITAN TRANSPORTATION DEVELOPMENT COMMISSION WHICH HAS  
PREVIOUSLY EXPIRED.

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### **Bill Summary**

"Transportation Development Commission"

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

Transportation Legislation Review Committee. Repeals the statutory provision establishing the metropolitan transportation development commission, which was terminated in 1992.

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

**SECTION 1. Repeal.** 43-2-148, Colorado Revised Statutes, 1993 Repl.

Vol., is repealed.

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

## BILL F

### A BILL FOR AN ACT

CONCERNING THE ALLOCATION OF SALES AND USE TAX REVENUES  
ATTRIBUTABLE TO SALES OR USE TAX OF VEHICLES AND RELATED ITEMS  
TO THE HIGHWAY USERS TAX FUND.

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#### Bill Summary

##### "Vehicle Sales & Use Tax Proceeds"

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

Transportation Legislation Review Committee. Beginning with the 1997-98 fiscal year, allocates a percentage of the proceeds of sales and use taxes attributable to sales or use of vehicles and related items to the highway users tax fund. Provides for the method of distribution of such proceeds to the state, counties, and cities.

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

**SECTION 1.** 39-26-123, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

**39-26-123. Receipts - disposition.** (1) Eighty-five percent of all receipts collected under the provisions of this article shall be credited to the old age pension fund. FOR THE FISCAL YEAR COMMENCING JULY 1, 1997, AND

FOR EACH SUCCEEDING FISCAL YEAR, the remaining fifteen percent shall be ALLOCATED BETWEEN AND credited to the general fund ~~and the general assembly shall make appropriations therefrom for the expenses of the administration of this article~~ AND THE HIGHWAY USERS TAX FUND, AS A PORTION OF THE SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS, AS FOLLOWS: TEN PERCENT OF NET REVENUE FROM SALES AND USE TAX TO THE HIGHWAY USERS TAX FUND AND FIVE PERCENT THEREOF TO THE GENERAL FUND.

(2) AS USED IN SUBSECTION (1) OF THIS SECTION:

(a) "SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS" MEANS THE REVENUE RAISED FROM THE STATE SALES AND USE TAXES IMPOSED PURSUANT TO THIS ARTICLE ON THE SALES OR USE OF NEW OR USED MOTOR VEHICLES, INCLUDING MOTOR HOMES, MOTOR VEHICLE BATTERIES, TIRES, PARTS, OR ACCESSORIES, UTILITY TRAILERS, CAMPER COACHES, OR CAMPER TRAILERS.

(b) WITH RESPECT TO SALES TAX, "RELATED ITEMS" INCLUDES ONLY ITEMS SOLD BY PERSONS WHOSE PRIMARY BUSINESS ACTIVITY IS THE SALE OR SERVICE OF MOTOR VEHICLES OR RELATED ITEMS.

(3) FOR THE FISCAL YEAR COMMENCING JULY 1, 1997, AND FOR EACH SUCCEEDING FISCAL YEAR, THE STATE TREASURER SHALL CREDIT AN AMOUNT OF SALES AND USE TAXES ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS TO THE HIGHWAY USERS TAX FUND AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

**SECTION 2.** 43-4-205, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**43-4-205. Allocation of fund.** (6.5) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (6.5), REVENUES CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 39-26-123 (1), C.R.S., SHALL BE ALLOCATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION.

(b) IT IS NOT THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE ADDITIONAL REVENUE UNDER THE PROVISIONS OF THIS SUBSECTION (6.5) TO A CITY OR COUNTY THAT WOULD BE IN EXCESS OF THE CITY'S OR COUNTY'S ALLOWABLE FISCAL YEAR SPENDING UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND THAT MIGHT RESULT IN A REFUND OF EXCESS

REVENUE UNDER SAID SECTION 20. THEREFORE, THE ADDITIONAL REVENUE AVAILABLE TO A CITY OR COUNTY PURSUANT TO THIS SUBSECTION (6.5) SHALL ONLY BE PAID UNDER ONE OF THE FOLLOWING CIRCUMSTANCES:

(I) THE CITY OR COUNTY CERTIFIES TO THE STATE TREASURER THAT THE RECEIPT OF ITS ESTIMATED SHARE OF ADDITIONAL REVENUE PURSUANT TO THIS SUBSECTION (6.5) IS NOT ANTICIPATED TO RESULT IN THE CITY OR COUNTY EXCEEDING ITS ALLOWABLE FISCAL YEAR SPENDING; OR

(II) THE CITY OR COUNTY CERTIFIES TO THE STATE TREASURER THAT THE CITY OR COUNTY RECEIVED VOTER APPROVAL AT A GENERAL ELECTION TO AUTHORIZE THE SPENDING OF REVENUE IN EXCESS OF THE CITY'S OR COUNTY'S ALLOWABLE FISCAL YEAR SPENDING IN AN AMOUNT EQUAL TO OR GREATER THAN ITS ESTIMATED SHARE OF THE ADDITIONAL REVENUE PURSUANT TO THIS SUBSECTION (6.5).

(c) IF ADDITIONAL REVENUE CANNOT BE RECEIVED BY A CITY OR COUNTY IN ANY FISCAL YEAR DUE TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (6.5), SUCH REVENUE SHALL BE TRANSFERRED BY THE STATE TREASURER TO THE STATE HIGHWAY FUND AND SHALL BE EXPENDED BY THE DEPARTMENT AS PROVIDED IN SECTION 43-4-206.

**SECTION 3. Effective date.** This act shall take effect July 1, 1997.

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

## BILL G

### A BILL FOR AN ACT

CONCERNING THE DISPOSITION OF ABANDONED RAILROAD RIGHTS-OF-WAY IN COLORADO, AND, IN CONNECTION THEREWITH, ESTABLISHING TAX CREDITS FOR RAILROAD COMPANIES THAT DONATE ABANDONED RAILROAD RIGHTS-OF-WAY TO THE STATE, AUTHORIZING THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION TO ACCEPT, USE, AND CONVEY DONATED RAILROAD RIGHTS-OF-WAY, REQUIRING THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION TO MAKE RECOMMENDATIONS TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE REGARDING STATE ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY, AND REQUIRING THE LEGISLATIVE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE TO MAKE A REPORT TO THE GENERAL ASSEMBLY RECOMMENDING ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY.

#### Bill Summary

##### "Disposition of Railroad Rights-of-Way"

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

Transportation Legislation Review Committee. Provides a personal property tax credit to railroad companies that donate abandoned railroad rights-of-way to the state in the amount of 50% of the net liquidation value

of the donated right-of-way. Allows the railroad company to calculate the amount of net liquidation value of the donated right-of-way based on the value of the real property and the fixtures, including railroad track, less the cost to remove the fixtures and dispose of the real property. Requires that the amount of net liquidation value be verified by an independent certified public accountant, registered accountant, or partnership of certified public accountants or registered accountants licensed to practice in the state of Colorado, who have not maintained any of the railroad company's records, books, or accounts used to verify the net liquidation value of the donated abandoned right-of-way.

Mandates the railroad company to submit a statement of net liquidation value and its verification to the property tax administrator within 60 days after the donation of the abandoned right-of-way is made.

Compels the property tax administrator to calculate a prorated business personal property tax credit for each county where the abandoned rights-of-way are located and to send a certificate for each county specifying the amount of the credit for that county to the donating railroad company within 60 days. Allows a railroad company to use the personal property tax credit in the county where the abandoned right-of-way is located for the tax year in which the right-of-way was donated to the state.

Creates an income tax credit of 50% of the net liquidation value of the donated right-of-way for railroads that donate abandoned railroad rights-of-way to the state.

Requires the executive director of the department of transportation to notify the property tax administrator within 60 days when an abandoned railroad right-of-way is donated to the state. Mandates that the executive director agree to accept the right-of-way before it can be conveyed to the department. Authorizes the executive director to accept donations to the state of abandoned rights-of-way.

Requires the executive director to sell, trade, or otherwise convey the donated right-of-way to a railroad company capable of operating a freight or passenger rail service.

Requires the executive director to reimburse a county for the property tax reduction caused by the donation of the abandoned right-of-way and subsequent business personal property tax credit to the extent allowed by the amount of the sale.



Permits the executive director to allow the use of the donated right-of-way for any public purpose that is not inconsistent with freight or passenger rail service. Prohibits use as a recreational trail without the consent of agricultural property owners adjacent to the donated right-of-way.

Requires the executive director to make recommendations to the transportation legislation review committee concerning state acquisition of and uses for abandoned railroad rights-of-way.

Authorizes the executive director, upon approval by the general assembly, to acquire, hold title to, and dispose of abandoned railroad rights-of-way. Allows the executive director to accept gifts, grants, and donations for the disposition of abandoned railroad rights-of-way.

Requires the transportation legislation review committee to consider the recommendations of the executive director and information from any other source and requires the legislative members of the committee to make findings and recommendations to the general assembly regarding the acquisition, use, and disposition of abandoned railroad rights-of-way.

Creates the abandoned railroad rights-of-way fund.

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

**SECTION 1.** Article 10 of title 39, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-10-117. Legislative declaration - business personal property tax credit for railroads that donate rights-of-way to the state - executive director of the department of transportation - procedure - definition.**

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE ABANDONMENT OF RAILROAD RIGHTS-OF-WAY AND THE RESULTING LOSS OF

RAILROAD SERVICE AND ESTABLISHED RAILROAD CORRIDORS WILL HAVE AN ADVERSE IMPACT ON THE CITIZENS OF THE STATE OF COLORADO. THE GENERAL ASSEMBLY DECLARES FURTHER THAT THE PRESERVATION OF THESE ABANDONED RAILROAD CORRIDORS, BEFORE THE LINES ARE DISMANTLED AND SALVAGED, IS NECESSARY TO ENSURE THE CONTINUED AVAILABILITY OF THESE CORRIDORS FOR FREIGHT OR PASSENGER RAIL SERVICE OR OTHER PUBLIC USES SHOULD NO RAIL SERVICE OPERATOR BE IMMEDIATELY AVAILABLE.

(2) ANY RAILROAD COMPANY THAT DONATES AN ABANDONED RAILROAD RIGHT-OF-WAY, AS DEFINED IN SECTION 43-1-803 (5), C.R.S., TO THE STATE OF COLORADO SHALL BE ALLOWED A BUSINESS PERSONAL PROPERTY TAX CREDIT, IN AN AMOUNT DETERMINED UNDER SUBSECTION (3) OF THIS SECTION, AGAINST ITS PERSONAL PROPERTY TAX LIABILITY IN THE COUNTY OR COUNTIES WHERE THE DONATED ABANDONED RAILROAD RIGHT-OF-WAY IS LOCATED FOR THE PROPERTY TAX YEAR IN WHICH THE DONATION WAS MADE. FOR PURPOSES OF THIS SECTION, "RAILROAD COMPANY" SHALL INCLUDE ANY FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, OR ANY OTHER LEGAL ENTITY THAT OWNS A RAILROAD AND RAILROAD RIGHT-OF-WAY.

(3) THE BUSINESS PERSONAL PROPERTY TAX CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT OF THE NET LIQUIDATION VALUE OF THE ABANDONED RIGHT-OF-WAY DONATED TO THE STATE. FOR PURPOSES OF THIS

SECTION, "NET LIQUIDATION VALUE" MEANS THE VALUE OF THE REAL PROPERTY, INCLUDING THE RAILROAD TRACK AND ANY OTHER FIXTURES, LESS THE COST TO REMOVE THE RAILROAD TRACK AND FIXTURES AND DISPOSE OF THE REAL PROPERTY AS DETERMINED BY THE DONATING RAILROAD COMPANY. THE NET LIQUIDATION VALUE OF THE DONATED ABANDONED RIGHT-OF-WAY SHALL BE VERIFIED BY AFFIDAVIT FROM AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, REGISTERED ACCOUNTANT, OR PARTNERSHIP OF CERTIFIED PUBLIC ACCOUNTANTS OR REGISTERED ACCOUNTANTS LICENSED TO PRACTICE IN THE STATE OF COLORADO WHO HAVE NOT MAINTAINED ANY OF THE RAILROAD COMPANY'S RECORDS, BOOKS, OR ACCOUNTS USED TO VERIFY THE NET LIQUIDATION VALUE OF THE DONATED ABANDONED RIGHT-OF-WAY.

(4) IN ORDER FOR A RAILROAD COMPANY TO QUALIFY FOR A BUSINESS PERSONAL PROPERTY TAX CREDIT PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE FOLLOWING REQUIREMENTS MUST BE MET:

(a) A RAILROAD COMPANY SHALL DONATE AN ABANDONED RAILROAD RIGHT-OF-WAY TO THE STATE BY CONVEYING TITLE OF THE RIGHT-OF-WAY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, CREATED PURSUANT TO SECTION 43-1-103, C.R.S., BY SPECIAL WARRANTY DEED OR SUCH OTHER METHOD AS MAY BE DETERMINED BY THE EXECUTIVE DIRECTOR.

(b) THE EXECUTIVE DIRECTOR , UPON FINDING THAT THE DONATED ABANDONED RIGHT-OF-WAY IS ACCEPTABLE FOR OWNERSHIP BY THE STATE OF COLORADO, SHALL ACCEPT TITLE TO THE RIGHT-OF-WAY.

(5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION SHALL NOTIFY THE PROPERTY TAX ADMINISTRATOR WITHIN SIXTY DAYS AFTER THE DONATION OF AN ABANDONED RIGHT-OF-WAY BY A RAILROAD COMPANY AND SHALL PROVIDE THE ADMINISTRATOR WITH A COPY OF THE DEED.

(6) THE RAILROAD COMPANY SHALL SUBMIT TO THE PROPERTY TAX ADMINISTRATOR WITHIN SIXTY DAYS AFTER THE DONATION OF AN ABANDONED RIGHT-OF-WAY, A STATEMENT OF THE AMOUNT OF THE NET LIQUIDATION VALUE OF THE DONATED ABANDONED RIGHT-OF-WAY AND AN AFFIDAVIT FROM AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, REGISTERED ACCOUNTANT, OR PARTNERSHIP OF CERTIFIED PUBLIC ACCOUNTANTS OR REGISTERED ACCOUNTANTS VERIFYING THAT AMOUNT PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE STATEMENT OF THE AMOUNT OF NET LIQUIDATION VALUE SHALL SPECIFY THE COUNTY OR COUNTIES WITHIN WHICH THE DONATED ABANDONED RIGHT-OF-WAY IS LOCATED AND THE AMOUNT OF DONATED RIGHT-OF WAY IN EACH COUNTY.

(7) UPON RECEIPT OF A NOTIFICATION AND DEED FROM THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SUBSECTION (5) OF THIS SECTION AND THE STATEMENT OF THE AMOUNT OF

NET LIQUIDATION VALUE AND VERIFICATION PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE PROPERTY TAX ADMINISTRATOR SHALL CALCULATE THE AMOUNT OF THE PROPERTY TAX CREDIT IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION. IF THE DONATED ABANDONED RIGHT-OF-WAY IS LOCATED IN MORE THAN ONE COUNTY, THE PROPERTY TAX ADMINISTRATOR SHALL PRORATE THE BUSINESS PERSONAL PROPERTY TAX CREDIT FOR EACH COUNTY WHERE THE DONATED ABANDONED RIGHT-OF-WAY IS LOCATED. THE ADMINISTRATOR SHALL THEN TRANSMIT TO THE RAILROAD COMPANY, WITHIN SIXTY DAYS AFTER THE CALCULATION, A BUSINESS PERSONAL PROPERTY TAX CERTIFICATE FOR EACH COUNTY WHERE THE DONATED ABANDONED RIGHT-OF-WAY IS LOCATED SPECIFYING THE AMOUNT OF THE BUSINESS PERSONAL PROPERTY TAX CREDIT FOR THAT COUNTY AND THE TAX YEAR THAT SUCH CREDIT MAY BE USED AGAINST THE RAILROAD COMPANY'S BUSINESS PERSONAL PROPERTY TAX LIABILITY.

(8) IN ORDER TO CLAIM ANY BUSINESS PERSONAL PROPERTY TAX CREDIT, THE RAILROAD COMPANY SHALL SUBMIT A PERSONAL PROPERTY TAX CREDIT CERTIFICATE TO THE COUNTY TREASURER IN EACH COUNTY WHERE THE DONATED ABANDONED RIGHT-OF-WAY IS LOCATED. SUCH CERTIFICATE SHALL BE SUBMITTED WHEN THE RAILROAD COMPANY SUBMITS ITS PROPERTY TAX PAYMENT FOR THE YEAR IN WHICH THE DONATION WAS MADE. THE TREASURER SHALL CREDIT THE AMOUNT SPECIFIED IN THE BUSINESS PERSONAL

PROPERTY TAX CERTIFICATE AGAINST THE RAILROAD COMPANY'S PERSONAL PROPERTY TAX LIABILITY.

(9) IF THE BUSINESS PERSONAL PROPERTY TAX CREDIT, ALLOWED UNDER SUBSECTION (2) OF THIS SECTION, EXCEEDS THE BUSINESS PERSONAL PROPERTY TAX LIABILITY FOR THE YEAR IN WHICH THE DONATION OF THE ABANDONED RAILROAD RIGHT-OF-WAY WAS MADE, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST THE BUSINESS PERSONAL PROPERTY TAX LIABILITY MAY BE CARRIED FORWARD AS A BUSINESS PERSONAL PROPERTY TAX CREDIT FOR A PERIOD NOT EXCEEDING FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE. THE UNUSED BUSINESS PERSONAL PROPERTY TAX CREDIT MAY NOT BE CARRIED FORWARD IN ANY COUNTY OTHER THAN THE ONE IN WHICH THE BUSINESS PERSONAL PROPERTY TAX CERTIFICATE WAS ORIGINALLY FILED.

**SECTION 2.** Part 5 of article 22 of title 39, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-22-520. Tax credit for railroad companies that donate rights-of-way to the state.** (1) FOR INCOME TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 1998, THERE SHALL BE A CREDIT AGAINST THE TAX IMPOSED PURSUANT TO PART 3 OF THIS ARTICLE FOR EACH RAILROAD COMPANY THAT DONATES AN ABANDONED RAILROAD RIGHT-OF-WAY, AS

DEFINED IN SECTION 43-1-803 (5), C.R.S., TO THE STATE PURSUANT TO SUBSECTION (2) OF THIS SECTION IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE NET LIQUIDATION VALUE AS DEFINED IN SECTION 39-10-117 (3), OF THE DONATED ABANDONED RAILROAD RIGHT-OF-WAY.

(2) IN ORDER TO QUALIFY FOR A TAX CREDIT PURSUANT TO SUBSECTION (1) OF THIS SECTION THE FOLLOWING REQUIREMENTS MUST BE MET:

(a) A RAILROAD COMPANY SHALL DONATE AN ABANDONED RAILROAD RIGHT-OF-WAY TO THE STATE BY CONVEYING TITLE OF THE RIGHT-OF-WAY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, CREATED PURSUANT TO SECTION 43-1-103, C.R.S., BY SPECIAL WARRANTY DEED OR SUCH OTHER METHOD AS MAY BE DETERMINED BY THE EXECUTIVE DIRECTOR.

(b) THE EXECUTIVE DIRECTOR , UPON FINDING THAT THE DONATED ABANDONED RIGHT-OF-WAY IS ACCEPTABLE FOR OWNERSHIP BY THE STATE OF COLORADO, SHALL ACCEPT TITLE TO THE RIGHT-OF-WAY.

(3) A RAILROAD COMPANY CLAIMING A CREDIT PURSUANT TO THIS SECTION SHALL SUBMIT WITH ITS INCOME TAX RETURN FOR THE INCOME YEAR IN WHICH THE DONATION WAS MADE A COPY OF THE DEED CONVEYING THE ABANDONED RAILROAD RIGHT-OF-WAY TO THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SUBSECTION (2) OF THIS SECTION, AN AFFIDAVIT FROM THE EXECUTIVE DIRECTOR OF THE DEPARTMENT VERIFYING

HIS OR HER ACCEPTANCE OF THE DONATED ABANDONED RAILROAD RIGHT-OF-WAY AND A STATEMENT OF THE AMOUNT OF THE NET LIQUIDATION VALUE AND VERIFICATION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(4) IF THE CREDIT ALLOWED UNDER SUBSECTION (1) OF THIS SECTION EXCEEDS THE INCOME TAXES DUE ON THE RAILROAD COMPANY'S INCOME, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST THE RAILROAD COMPANY'S SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.

**SECTION 3.** Part 8 of article 1 of title 43, Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**43-1-803. Authority of executive director of the department of transportation - acceptance and conveyance of donated railroad right-of-way - definition.** (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, OR HIS OR HER DESIGNEE, IS AUTHORIZED TO:

(a) ACCEPT THE DONATION OF AN ABANDONED RAILROAD RIGHT-OF-WAY FROM A RAILROAD COMPANY TO THE STATE;

(b) DETERMINE IF THE ABANDONED RAILROAD RIGHTS-OF-WAY TO BE DONATED BY RAILROAD COMPANIES SHOULD BE ACCEPTED AND THE METHOD OF THE CONVEYANCE;

(c) ALLOW THE USE OF THE RAILROAD RIGHT-OF-WAY FOR ANY PUBLIC PURPOSE; EXCEPT THAT, IF SUCH USE IS INCOMPATIBLE WITH THE OPERATION OF A FREIGHT OR PASSENGER RAIL SERVICE AS DETERMINED BY THE DIRECTOR, THE USE INCOMPATIBLE WITH RAIL SERVICE SHALL CEASE WHEN RAIL SERVICE COMMENCES. IF A DONATED ABANDONED RAILROAD RIGHT-OF-WAY TRAVERSES PRIVATE PROPERTY THAT IS ZONED FOR ANY AGRICULTURAL PURPOSE, THE EXECUTIVE DIRECTOR SHALL NOT ALLOW THE USE OF THE RIGHT-OF-WAY FOR RECREATIONAL TRAIL PURPOSES WITHOUT THE CONSENT OF THE PROPERTY OWNERS ADJACENT TO THE RIGHT-OF-WAY .

(2) THE EXECUTIVE DIRECTOR SHALL, AS SOON AS IS PRACTICABLE, SELL, TRADE, OR OTHERWISE CONVEY RAILROAD RIGHTS-OF-WAYS OBTAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO AN INDIVIDUAL, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY THAT HAS BEEN FOUND BY THE EXECUTIVE DIRECTOR TO BE CAPABLE OF OPERATING A FREIGHT OR PASSENGER RAIL SERVICE.

(3) UPON THE SALE OF THE RAILROAD RIGHT-OF-WAY TO AN INDIVIDUAL, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY THAT HAS BEEN FOUND BY THE EXECUTIVE DIRECTOR TO BE CAPABLE OF

OPERATING A FREIGHT OR PASSENGER RAIL SERVICE, THE EXECUTIVE DIRECTOR SHALL DISTRIBUTE THE PROCEEDS OF THE SALE AS FOLLOWS:

(a) EACH COUNTY THAT EXPERIENCED A TAX REDUCTION DUE TO THE DONATION OF AN ABANDONED RAILROAD RIGHT-OF-WAY TO THE STATE AND A SUBSEQUENT BUSINESS PERSONAL PROPERTY TAX CREDIT TO A RAILROAD COMPANY SHALL BE ENTITLED TO RECEIVE AN AMOUNT EQUAL TO THE TAX REDUCTION CAUSED BY THE DONATION AND BUSINESS PERSONAL PROPERTY TAX CREDIT TO THE EXTENT ALLOWED BY THE PROCEEDS OF THE SALE OF THE ABANDONED RAILROAD RIGHT-OF-WAY LOCATED IN THAT COUNTY. THE COUNTY SHALL REIMBURSE ALL LOCAL TAXING ENTITIES, EXCEPT SCHOOL DISTRICTS, IN AN AMOUNT PROPORTIONATE TO SUCH TAXING ENTITY'S TAX REDUCTION DUE TO THE DONATION OF THE ABANDONED RIGHT-OF-WAY TO THE STATE AND THE RAILROAD COMPANY'S SUBSEQUENT BUSINESS PERSONAL PROPERTY TAX CREDIT.

(b) A COUNTY OR OTHER LOCAL TAXING ENTITY MAY NOT RECEIVE THE PROCEEDS OF THE SALE OF THE DONATED RAILROAD RIGHT-OF-WAY IF THE COUNTY OR OTHER LOCAL TAXING ENTITY IS IN ANY WAY LIMITED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(c) IN NO EVENT SHALL A COUNTY OR ANY OTHER LOCAL TAXING ENTITY BE ENTITLED TO RECEIVE ANY MORE MONEY THAN ITS PROPORTIONAL SHARE OF THE AMOUNT OF THE PROCEEDS OF THE SALE FOR THE RIGHT-OF-WAY

LOCATED WITHIN ITS JURISDICTION, REGARDLESS OF THE AMOUNT OF TAX REDUCTION DUE TO THE DONATION OF THE ABANDONED RIGHT-OF-WAY TO THE STATE AND THE RAILROAD COMPANY'S SUBSEQUENT BUSINESS PERSONAL PROPERTY TAX CREDIT.

(d) THE EXECUTIVE DIRECTOR SHALL FORWARD TO THE STATE TREASURER ANY MONEY THAT REMAINS FROM THE PROCEEDS OF A SALE OF A DONATED ABANDONED RIGHT-OF-WAY BY THE STATE AFTER PAYMENTS ARE MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) OR MONEY THAT REMAINS BECAUSE IT CANNOT BE DISTRIBUTED TO A COUNTY OR LOCAL TAXING ENTITY PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AND THE TREASURER SHALL CREDIT SUCH MONEYS TO THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND, CREATED PURSUANT TO SECTION 43-1-1304.

(4) UPON ACCEPTANCE OF THE DONATED ABANDONED RAILROAD RIGHT-OF-WAY, THE EXECUTIVE DIRECTOR SHALL EXECUTE AND TRANSMIT TO THE DONATING RAILROAD COMPANY AN AFFIDAVIT VERIFYING THE ACCEPTANCE.

(5) FOR PURPOSES OF THIS SECTION, "ABANDONED RAILROAD RIGHT-OF-WAY" MEANS ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY THAT IS OR HAS BEEN OWNED AND OPERATED BY A RAILROAD COMPANY FOR RAIL SERVICE UPON WHICH THE SURFACE TRANSPORTATION BOARD OR OTHER RESPONSIBLE FEDERAL AGENCY HAS PERMITTED DISCONTINUANCE OF SERVICE

AND DISPOSAL OF THE REAL PROPERTY OR INTEREST IN THE REAL PROPERTY. "ABANDONED RAILROAD RIGHT-OF-WAY" INCLUDES ANY FIXTURES TO THE REAL PROPERTY, INCLUDING RAILROAD TRACKS, THAT ARE USED OR USEABLE IN RAIL SERVICE.

**SECTION 4.** Article 1 of title 43, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART to read:

#### PART 13

#### ACQUISITION OF ABANDONED

#### RAILROAD RIGHTS-OF-WAY

**43-1-1301. Duties of executive director - prioritize railroad rights-of-way necessary for state acquisition.** (1) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION SHALL IDENTIFY ABANDONED RAILROAD RIGHTS-OF-WAY IN THE STATE AND DETERMINE WHICH SUCH RAILROAD RIGHTS-OF-WAY THE STATE SHOULD ACQUIRE IN ORDER TO PRESERVE THE INTEREST, SAFETY, OR CONVENIENCE OF THE CITIZENS OF COLORADO.

(b) FOR THE PURPOSES OF THIS PART 13, "RAILROAD RIGHTS-OF-WAY" MEANS ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY THAT IS OR HAS BEEN OWNED BY A RAILROAD COMPANY AS THE SITE, OR IS ADJACENT TO THE SITE, OF AN EXISTING OR FORMER RAIL LINE, INCLUDING FIXTURES SUCH AS

RAILROAD TRACKS. THAT MAY BE USED OR ARE USEABLE TO CONTINUE RAIL SERVICE. "ABANDONED RAILROAD RIGHTS-OF-WAY" INCLUDES RAILROAD RIGHTS-OF-WAY THAT A RAILROAD COMPANY INTENDS TO ABANDON.

(2) THE EXECUTIVE DIRECTOR SHALL DETERMINE WHAT PUBLIC USES EXIST FOR THE ABANDONED RAILROAD RIGHT-OF-WAY RECOMMENDED FOR ACQUISITION. SUCH USES MAY INCLUDE, BUT ARE NOT LIMITED TO, PRIVATE FREIGHT OR PASSENGER RAIL SERVICE, PUBLIC UTILITY EASEMENTS, RECREATION, PRESERVATION OF SCENIC BEAUTY, AND TRAILS; EXCEPT THAT IF THE ABANDONED RAILROAD RIGHT-OF-WAY TRAVERSES PRIVATE PROPERTY THAT IS ZONED FOR ANY AGRICULTURAL PURPOSE, IT SHALL NOT BE USED FOR RECREATIONAL TRAIL PURPOSES WITHOUT THE CONSENT OF THE PROPERTY OWNERS ADJACENT TO THE ABANDONED RAILROAD RIGHT-OF-WAY.

(3) THE EXECUTIVE DIRECTOR SHALL SUBMIT A PRIORITIZED LIST WITH RECOMMENDATIONS TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE, CREATED IN SECTION 43-2-145, CONCERNING THE ABANDONED RAILROAD RIGHTS-OF-WAY PROPOSED TO BE ACQUIRED BY THE STATE AND THEIR PROPOSED USE OR USES.

(4) (a) THE EXECUTIVE DIRECTOR MAY, UPON APPROVAL BY THE GENERAL ASSEMBLY PURSUANT TO THIS PART 13, ACQUIRE AND HOLD TITLE TO ABANDONED RAILROAD RIGHTS-OF-WAY. TITLE TO SUCH PROPERTY SHALL BE

TRANSFERRED BY SUCH METHOD AND INSTRUMENT OF CONVEYANCE AS MAY BE DETERMINED BY THE DEPARTMENT.

(b) THE EXECUTIVE DIRECTOR MAY SELL, LEASE, EXCHANGE, OR OTHERWISE CONVEY RAILROAD RIGHTS-OF-WAY ACQUIRED PURSUANT TO THIS PART 13 ONLY FOR THE USE OR USES APPROVED BY THE GENERAL ASSEMBLY. TITLE TO SUCH PROPERTY SHALL BE TRANSFERRED BY SUCH METHOD AND INSTRUMENT OF CONVEYANCE AS MAY BE DETERMINED BY THE DEPARTMENT, WITHOUT WARRANTIES, AND ANY MONEYS RECEIVED SHALL BE DEPOSITED WITH THE STATE TREASURER TO THE CREDIT OF THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND, CREATED IN SECTION 43-1-1304.

(c) THE EXECUTIVE DIRECTOR MAY ACCEPT GIFTS, GRANTS, AND DONATIONS FOR PURPOSES OF THIS PART 13, AND ANY MONEYS SO RECEIVED SHALL BE DEPOSITED WITH THE STATE TREASURER IN THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND, CREATED IN SECTION 43-1-1304.

**43-1-1302. Powers and duties of the transportation legislation review committee concerning state acquisition of abandoned railroad rights-of-way.** (1) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL STUDY THE RECOMMENDATIONS OF THE EXECUTIVE DIRECTOR MADE PURSUANT TO SECTION 43-1-1301 FOR ACQUISITION OF, AND USE OR USES FOR, ABANDONED RAILROAD RIGHTS-OF-WAY. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL SUBMIT A PRIORITIZED LIST THAT

SHALL INCLUDE RECOMMENDATIONS FOR THE ACQUISITION AND PROPOSED USE OF ABANDONED RAILROAD RIGHTS-OF-WAY. THE LEGISLATIVE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL DETERMINE WHICH ABANDONED RAILROAD RIGHTS-OF-WAY MAY BE ACQUIRED BY THE DEPARTMENT AND FUNDED OUT OF THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND, CREATED IN SECTION 43-1-1304, BASED UPON THE GREATEST NEED AND ITS PROPOSED USE OR USES.

(2) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE MAY HOLD SUCH HEARINGS AS IT DETERMINES NECESSARY TO CONSIDER REPORTS, STUDIES, AND OTHER PERTINENT INFORMATION FROM ANY SOURCE, INCLUDING AFFECTED INDIVIDUALS, POLITICAL SUBDIVISIONS, RAILROAD COMPANIES, OR OTHER ENTITIES, WITH RESPECT TO THE ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY.

(3) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE MAY DETERMINE THE PRIORITY OF ACQUISITION OF, AND USE OR USES FOR, ABANDONED RAILROAD RIGHTS-OF-WAY BY THE DEPARTMENT.

**43-1-1303. Recommendations and findings of the transportation legislation review committee.** THE LEGISLATIVE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL MAKE A WRITTEN REPORT SETTING FORTH ITS RECOMMENDATIONS, FINDINGS, AND COMMENTS AS TO EACH RECOMMENDATION FOR THE ACQUISITION OF ABANDONED

RAILROAD RIGHTS-OF-WAY AND THEIR USES AND SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

**43-1-1304. Abandoned railroad rights-of-way fund - creation.** THERE IS HEREBY CREATED THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND TO WHICH SHALL BE ALLOCATED SUCH REVENUES AS THE GENERAL ASSEMBLY MAY FROM TIME TO TIME DETERMINE. MONEYS IN THE ABANDONED RAILROAD RIGHTS-OF-WAY FUND MAY BE USED FOR THE ACQUISITION, MAINTENANCE, IMPROVEMENT, OR DISPOSAL OF ABANDONED RAILROAD RIGHTS-OF-WAY OR ANY OTHER PURPOSE NECESSARY TO CARRY OUT THE IMPLEMENTATION OF THIS PART 13. ALL UNAPPROPRIATED BALANCES IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN THEREIN AND SHALL NOT REVERT TO THE GENERAL FUND.

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



## JOINT MEMORIAL A

### SENATE JOINT MEMORIAL

MEMORIALIZING CONGRESS TO CONSIDER CERTAIN PROPOSALS IN ITS  
REAUTHORIZATION OF THE FEDERAL "INTERMODAL SURFACE  
TRANSPORTATION EFFICIENCY ACT OF 1991" (ISTEA).

WHEREAS, The federal "Intermodal Surface Transportation Efficiency  
Act of 1991" (ISTEA) was designed to be the comprehensive solution to  
federal surface transportation funding since it replaced the "Surface  
Transportation and Uniform Relocation Assistance Act of 1987", which  
marked the end of the interstate era; and

WHEREAS, The purpose of ISTEA is "to develop a National Intermodal  
Transportation System that is economically efficient and environmentally  
sound, provides the foundation for the Nation to compete in the global  
economy, and will move people and goods in an energy efficient manner";  
and

WHEREAS, When it was proposed, ISTEA was designed to give states  
and local governments flexibility as to how federal moneys were to be spent  
in their regions but, in fact and practice, the new federal program specifies  
how these moneys are distributed as well as how they can be spent by states  
and local governments; and

WHEREAS, Examples of the types of categories for which specified  
percentages of ISTEA moneys may be spent include, but are not limited to,  
safety, enhancements, population centers over 200,000 people, areas with  
populations under 5,000 people, transportation projects in areas that do not  
meet the Clean Air Act standards, and minimum allocation, reimbursement,  
and hold harmless programs; and

WHEREAS, For the six-year duration of ISTEA, Colorado will receive  
an estimated \$1.31 billion in federal moneys, compared to \$1.43 billion  
Colorado received in the previous six years; and

WHEREAS, Before the enactment of ISTEA, Colorado was permitted  
to use a portion of Interstate Maintenance Funds to increase vehicle carrying  
capacity, but under ISTEA, capacity improvements are limited to High  
Occupancy Vehicle (HOV) lanes or auxiliary lanes in nonattainment areas;  
and

WHEREAS, Since the six-year duration of ISTEA will end after the  
1996 fiscal year, Congress will have to reauthorize ISTEA in order to  
continue the federal surface transportation funding to states and local  
governments; now, therefore,

*Be It Resolved by the Senate of the Sixty-first General Assembly of the  
State of Colorado, the House of Representatives concurring herein:*

That the Colorado General Assembly respectfully urges the 105th Congress of the United States to consider the following proposals as ISTEA comes under scrutiny for reauthorization:

(1) Eliminate federal mandates, sanctions, and restrictions that limit the powers of the states and local governments to accomplish their individual transportation needs and reduce federal oversight and reporting requirements;

(2) Eliminate the federal funding of demonstration projects and the set asides for specific transportation modes in order to allow a greater funding distribution to states and local governments;

(3) Transfer from the General Fund to the Highway Trust Fund, for distribution to the states, the 4.3 cents per gallon fuel tax added by the United States Congress in 1993; and

(4) Allow the 2.5 cents per gallon fuel tax added by the United States Congress in 1990 to be deposited into the Highway Trust Fund and distributed to the states, given the demonstrated need for moneys for transportation systems.

*Be It Further Resolved,* That copies of this Memorial be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the

House and the President of the Senate of each state's legislature of the United States of America, and Colorado's Congressional delegation.