Colorado Revised Statutes 2017

TITLE 43

TRANSPORTATION

GENERAL AND ADMINISTRATIVE

ARTICLE 1

General and Administrative

Cross references: For creation of the department of transportation and divisions thereof, see § 24-1-128.7; for duty of department of transportation to maintain right-of-way fences, see § 35-46-111.

PART 1

DEPARTMENT OF TRANSPORTATION

Editor's note: This part 1 was numbered as article 2 of chapter 120, C.R.S. 1963. The substantive provisions of this part were repealed and reenacted in 1991, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973, beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

43-1-101. Legislative declaration. (1) The general assembly hereby finds and declares that the creation of a department of transportation in Colorado is necessary to:

(a) Provide strategic planning for statewide transportation systems to meet the transportation challenges to be faced by Colorado in the future;

(b) Promote coordination between different modes of transportation;

(c) Integrate governmental functions in order to reduce the costs incurred by the state in transportation matters;

(d) Obtain the greatest benefit from state expenditures by producing a statewide transportation policy to address the statewide transportation problems faced by Colorado; and

(e) Enhance the state's prospects to obtain federal funds by responding to federal mandates for multi-modal transportation planning.

(2) The general assembly further finds and declares that nothing in this article and nothing incident to the creation of a department of transportation shall be construed to permit the

use of any moneys in the highway users tax fund or any moneys in the aviation fund for any purposes prohibited by the provisions of section 18 of article X of the state constitution.

Source: L. 91: Entire part R&RE, p. 1019, § 1, effective July 1.

43-1-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the transportation commission created by section 43-1-106.

(2) "Department" means the department of transportation created by this part 1.

(3) "Executive director" means the executive director of the department.

(4) "Mass transit" means a coordinated system of transit modes providing transportation for use by the general public.

(5) "Public mass transit operator" means a state or local governmental entity which provides mass transit services within the state of Colorado.

(6) "Transportation" means transport of persons or property by motor vehicle, bus, truck, railroad, light rail, mass transit, airplane, bicycle, or any other form of transport. "Transportation" includes pedestrian transportation.

Source: L. 91: Entire part R&RE, p. 1020, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-110 as it existed prior to 1991.

43-1-103. Department created - executive director. (1) There is hereby created the department of transportation, the head of which shall be the executive director of the department of transportation, which office is hereby created. The executive director shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor.

(2) The office of the executive director shall include the office of transportation safety created in section 24-42-101, C.R.S.

(3) The executive director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report accounting to the governor and the general assembly for the efficient discharge of all responsibilities assigned by law or directive to the department and the divisions thereof.

(4) Publications by the executive director circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

Source: L. 91: Entire part R&RE, p. 1020, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-102 as it existed prior to 1991.

43-1-104. Department divisions, sections, and units. (1) The department consists of the following divisions:

(a) The highway maintenance division, created in section 43-1-114;

(b) The engineering, design, and construction division, created in section 43-1-116;

(c) The transportation development division, created in section 43-1-117;

(d) The aeronautics division, created in article 10 of this title; and

(e) The transit and rail division created in section 43-1-117.5.

(2) (a) In addition to the divisions created by subsection (1) of this section, the commission shall create such divisions, sections, and units as are necessary to implement the provisions of this part 1.

(b) (I) The commission shall create divisions, sections, or units as are necessary to address the following modes of transportation:

(A) Mass transit operations of public mass transit operators;

(B) Special transportation districts including, but not limited to, public highway authorities created pursuant to the provisions of part 5 of article 4 of this title, and tunnel districts created pursuant to the provisions of article 1 of title 32, C.R.S.;

(C) Railroads;

(D) Bicycles and pedestrians.

(II) The duties of the department with regard to the modes of transportation under this paragraph (b) shall be to:

(A) Gather information concerning the operations, planning, and funding requirements of the present and future transportation systems to assist the department in planning; and

(B) Provide data and technical assistance to transportation operators to assist their operations and to help improve transportation in Colorado.

(III) The department shall not assume operating responsibilities of existing transportation entities unless authorized by intergovernmental agreement.

(c) The commission shall create such divisions, sections, and units of the department as are necessary to provide the following services for the department:

(I) Administrative and human services; and

(II) Financial and budget management.

(d) Repealed.

Source: L. 91: Entire part R&RE, p. 1021, § 1, effective July 1. **L. 2009:** (1)(e) added, (SB 09-094), ch. 280, p. 1249, § 2, effective May 20. **L. 2015:** IP(1) and (1)(a) amended, (HB 15-1209), ch. 64, p. 174, § 3, effective March 30.

Editor's note: Subsection (2)(d)(II) provided for the repeal of subsection (2)(d), effective July 1, 1996. (See L. 91, p. 1021.)

43-1-105. Powers and duties of the executive director. (1) The executive director shall:

(a) Plan, develop, construct, coordinate, and promote an integrated transportation system in cooperation with federal, regional, local, and other state agencies and with private individuals and organizations concerned with transportation planning and operations in the state;

(b) Initiate such comprehensive planning measures and authorize such studies and other research as he or she deems necessary for the development of an integrated transportation system;

(c) Exercise general supervisory control over and coordinate the activities, functions, and employees of the department and its divisions;

(d) Appoint a deputy director of the department pursuant to the provisions of section 13 of article XII of the state constitution;

(e) Maintain and administer the transportation infrastructure revolving fund pursuant to the provisions of section 43-1-113.5.

(2) Subject to the powers of the commission, the executive director is hereby authorized to create or alter such sections and units within the divisions of the department as the executive director determines are necessary to effectively and efficiently operate the department.

(3) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(4) The executive director shall have the power to solicit bids using electronic online access, including the internet, for purposes of acquiring construction contracts for public projects as provided in section 24-92-103, C.R.S.

(5) The executive director shall have the power to issue transportation revenue anticipation notes in accordance with the provisions of part 7 of article 4 of this title.

(6) Whenever the department or any division of the department other than the aeronautics division is authorized or required by law to hold a hearing, the executive director or the executive director's designee, who may be, but is not limited to, the chief engineer or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., shall preside over the hearing to take evidence and make findings and report them to the executive director and to the commission; except that, whenever the chief engineer is authorized or required by law to adopt rules or regulations for the engineering, design, and construction division, the chief engineer, his or her designee for rule-making, or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., shall preside over any hearing held pursuant to article 4 of title 24, C.R.S.

Source: L. 91: Entire part R&RE, p. 1022, § 1, effective July 1. **L. 94:** (3) added, p. 566, § 18, effective April 6. **L. 98:** (1)(e) and (4) added, pp. 1098, 1096, §§ 18, 10, effective June 1. **L. 99:** (5) added, p. 1118, § 2, effective June 2. **L. 2015:** (6) added, (HB 15-1209), ch. 64, p. 174, § 4, effective March 30.

43-1-106. Transportation commission - powers and duties - repeal. (1) There is hereby created a transportation commission, which shall consist of eleven members. The initial members of the commission shall be the members of the state highway commission immediately prior to July 1, 1991, and each such commission member shall continue to represent the same district.

(2) One member of the commission shall be appointed by the governor from each of the following districts:

(a) District 1: The city and county of Denver;

(b) District 2: The county of Jefferson;

(c) District 3: The counties of Arapahoe and Douglas;

(d) District 4: The counties of Adams and Boulder;

(e) District 5: The counties of Larimer, Morgan, and Weld;

(f) District 6: The counties of Rio Blanco, Grand, Moffat, Routt, Gilpin, Clear Creek, and Jackson;

(g) District 7: The counties of Chaffee, Eagle, Garfield, Lake, Summit, Pitkin, Delta, Gunnison, Mesa, Montrose, and Ouray;

(h) District 8: The counties of Alamosa, Archuleta, Conejos, Costilla, Dolores, Hinsdale, La Plata, Mineral, Montezuma, Rio Grande, Saguache, San Juan, and San Miguel;

(i) District 9: The counties of El Paso, Fremont, Park, and Teller;

(j) District 10: The counties of Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers, and Pueblo; and

(k) District 11: The counties of Cheyenne, Elbert, Kit Carson, Lincoln, Logan, Phillips, Sedgwick, Washington, and Yuma.

(3) Each district member shall actually reside in the district he or she represents. If a district member ceases to reside in the district he or she represents, such district member shall be deemed to have resigned as a member of the commission.

(4) (a) Each member of the commission shall be appointed by the governor, with the consent of the senate, for a term of four years.

(b) The terms of members of the commission who are transferred from the state highway commission on July 1, 1991, shall expire as follows:

(I) The terms of members of the commission representing districts 2, 4, 5, 6, 9, and 11 shall expire on July 1, 1991; and

(II) The terms of members of the commission representing districts 1, 3, 7, 8, and 10 shall expire on July 1, 1993.

(c) As the terms of the members of the commission expire, the governor shall consider the appointment to the commission of one or more individuals with knowledge or experience in mass transportation in order to provide for a commission with expertise in different modes of transportation and shall consider the appointment to the commission of at least one individual with knowledge or experience in engineering. In making appointments to the commission, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this paragraph (c) are met.

(5) All members of the commission, before entering upon the duties of their office, shall take the oath prescribed by the constitution of this state for state officers and file the same in the office of the secretary of state.

(6) The commission shall meet regularly not less than eight times a year, but special meetings may be called by the governor, the chairman of the commission, the executive director, or a majority of the members of the commission on three days' prior notice by mail or, in case of emergency, on twenty-four hours' notice by telephone or other telecommunications device. The commission shall adopt rules in relation to its meetings and the transaction of its business. Six members shall constitute a quorum of the commission. All meetings of the commission, in any suit or proceedings, shall be presumed to have been duly called and regularly held, and all orders, rules, and proceedings of the commission to have been authorized, unless the contrary is proved. Each member of the commission shall receive seventy-five dollars per day for each regular or special meeting of the commission actually attended and shall be reimbursed for his or her necessary expenses incurred in the discharge of such member's official duties. Mileage rates shall be computed in accordance with section 24-9-104, C.R.S.

(7) The members of the commission thus designated or appointed and their successors shall constitute a body corporate to be known by the name and style of the "transportation commission of Colorado", shall have the power to adopt and use a common seal and to change

and alter such seal at will, and shall have and exercise all powers necessarily incident to a body corporate or as provided by law.

(8) In addition to all other powers and duties imposed upon it by law, the commission has the following powers and duties:

(a) To formulate the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state and, in that capacity, to receive delegations, including county commissioners and municipal officials interested therein;

(b) To assure that the preservation and enhancement of Colorado's environment, safety, mobility, and economics be considered in the planning, selection, construction, and operation of all transportation projects in Colorado;

(c) To make such studies as it deems necessary to guide the executive director and the chief engineer concerning the transportation needs of the state;

(d) To prescribe the administrative practices to be followed by the executive director and the chief engineer in the performance of any duty imposed on them by law;

(e) Repealed.

(f) To require the executive director and the chief engineer to furnish whatever reports, statistics, information, or assistance it may request in studying any particular transportation problem or with respect to the operation of the department generally;

(g) To furnish the executive director and the chief engineer with advice on any transportation problem with which they may be confronted;

(h) To promulgate and adopt all department budgets, subject to section 43-1-113, and state transportation programs, including construction priorities and the approval of extensions or abandonments of the state highway system and including a capital construction request, based on the statewide transportation improvement programs, for state highway reconstruction, repair, and maintenance projects to be funded from the capital construction fund as provided in section 2-3-1304 (1)(a.5), C.R.S. The provisions of this paragraph (h) shall not apply to the budget of the aeronautics division; except that the commission has the authority to adopt the portion of the division's budget pertaining to its administrative costs and to make an allocation therefor.

(i) To act as consultants and to provide services and information, to the boards of county commissioners, which in the discretion of the commission are deemed beneficial to the state of Colorado. Such duty shall include the establishment of a formal hearing process for the boards of county commissioners.

(j) To do all other things necessary and appropriate in the construction, improvement, and maintenance of the state highway and transportation systems;

(k) To make all necessary and reasonable orders, rules, and regulations in order to carry out the provisions of this part 1 but not inconsistent therewith, but nothing in this section shall be deemed or construed to give the commission or any member thereof the power to direct any officer or any employee, other than the executive director of the department, to do or not to do anything;

(l) To do all things necessary and appropriate in the construction, improvement, and maintenance of the public roads serving the state parks and recreation areas and, to this end, to cooperate with the parks and wildlife commission and the director of the division of parks and wildlife;

(m) To do all things necessary and appropriate in the construction, maintenance, and improvement of recreational trails along and across new or existing state or interstate highways and, to this end, to cooperate with the parks and wildlife commission and the director of the division of parks and wildlife;

(n) To prepare an inventory of, description of use of, evaluation of future plans for, and assessment of the value of property, except for operating highway rights-of-way, held by the department and to determine whether or not the transfer, sale, lease, or other disposition of such property would result in a substantial net benefit to the highway users tax fund or any other fund to which such moneys would be directed. Upon such determination, the commission shall direct the department to dispose of any property that is not anticipated for use for transportation purposes in the reasonably foreseeable future, as determined by the chief engineer, subject to the provisions of section 43-1-210 (5).

(o) To require the internal auditor to perform such audits and furnish such other information or assistance as is set forth in subsection (12) of this section;

(p) (I) To promulgate all necessary and reasonable regulations to establish an emerging small business program for the department. In promulgating such regulations, the commission may provide such assistance to eligible small businesses as the commission determines is appropriate to promote the participation of small businesses in the performance of highway construction work, professional services work, and practice of research work and thereby to increase the competition and lower the cost to the state for such work. For the purposes of this paragraph (p), "professional services" shall have the meaning provided for such term in section 24-30-1402 (6), C.R.S. For the purposes of this paragraph (p), "practice of research" means the performance of professional services involving the design, data collection and data analysis of studies such as evaluation studies, usage studies, feasibility studies, environmental impact studies, polling studies, and other such studies performed by a person qualified by education or training or actual performance in the field.

(II) The assistance that is provided to small businesses under the regulations promulgated by the commission pursuant to the provisions of subparagraph (I) of this paragraph (p) may include, but is not necessarily limited to, the following:

(A) Assistance in developing business plans;

(B) The provision of technical assistance to small businesses;

(C) The provision of payments to prime contractors and consultants for the actual costs incurred by such contractors and consultants in providing job training to small business subcontractors and subconsultants;

(D) The restriction of certain smaller projects to only eligible small businesses;

(E) The provision of assistance to small businesses with bonding and retainage requirements, including, but not necessarily limited to, the waiver of bonding or retainage requirements for certain smaller projects;

(F) Increasing the number of smaller projects that could be completed by small businesses in construction and nonconstruction areas; and

(G) The adjustment of the points awarded in the evaluation of any prospective consultant who is an eligible small business or who will hire eligible small businesses as subconsultants in construction and nonconstruction areas.

(q) (I) To cooperate or contract with the department of transportation of one or more states, regional or national associations, or not-for-profit organizations to provide any function,

service, or facility lawfully authorized to each, including the sharing of costs, concerning the research, development, implementation, or utilization of transportation studies, issues, and new transportation technology. Said studies, issues, and technology shall include intelligent vehicle highway systems only if such cooperation or contracts are authorized by each party with the approval of its legislative body or other authority.

(II) Any such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the contracting parties.

(III) Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

(IV) Any such contract may provide for the joint exercise of any function, service, or facility, as specified in subparagraph (I) of this paragraph (q), including the establishment of a separate legal entity to do so.

(r) Subject to section 2-3-1307, C.R.S., to cooperate with the executive director in complying with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans for the department;

(s) To promulgate rules or guidelines for the maintenance and administration of the transportation infrastructure revolving fund in accordance with section 43-1-113.5.

(9) The commission may adopt rules and regulations to provide that traffic lanes of state highways, or portions thereof, may be designated as diamond lanes for the preferential treatment of buses. The commission may also by rule and regulation provide that diamond lanes, or portions thereof, may also be available for use by vanpools and carpools. Such rules and regulations may include, but shall not be limited to, the minimum number of persons that would constitute a vanpool or carpool, the conditions under which such vanpools and carpools may use such diamond lanes, time restrictions, if any, conformance with existing intergovernmental agreements, and variances between highways. The commission shall report to the senate transportation committee and the house transportation and energy committee as to the utilization of high-occupancy vehicle traffic lanes, and their overall impact on traffic flow and air quality. Any hearings held pursuant to article 4 of title 24, C.R.S., shall be presided over by the commission, its designee for rule-making, or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(9.5) (a) The commission shall promulgate and implement written policies based upon the policy directive number 1604.0 issued by the commission on November 18, 1999, or any subsequent policy directive as amended or revised requiring the department to notify and disseminate information regarding transportation construction projects to the public and to residential neighborhoods and businesses that may be affected by transportation construction projects. Such policies shall include at a minimum:

(I) Notification procedures to communities, residences, and businesses affected by a proposed transportation construction project, including time periods for notification and information about lane closures and detours;

(II) Notification and signage requirements to be followed by contractors for a transportation construction project;

(III) Requirements for mitigation of impacts, including but not limited to noise, dust, and access to property caused by a transportation construction project.

(b) The policies issued pursuant to this subsection (9.5) shall not be construed to reopen the project public participation process for any transportation construction project for which the public participation process has been completed prior to June 1, 2002.

(10) The commission shall define the succession of administrative officers in the department so that in the absence of the executive director, the deputy director, or the chief engineer there may always be a designated officer to act in his or her stead and to assume the obligation of his or her office.

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

(12) (a) Subject to the provisions of section 13 of article XII of the state constitution, the executive director of the department shall appoint an internal auditor, who shall have the status of a division director and shall have the authority to appoint such personnel as may be necessary for the efficient operation of his office. The executive director shall give presumptive consideration to the recommendations of the commission prior to appointing the internal auditor.

(b) The internal auditor shall conduct and supervise:

(I) Internal audits on the department;

(II) External audits on persons entering into contracts with the department, as deemed necessary or advisable by the commission;

(III) Such federally required audits as are delegated to the commission or the department to perform;

(IV) Financial audits in order to ensure the financial integrity of the department; and

(V) Performance audits to determine the efficiency and effectiveness of the operations of the department.

(c) The commission shall establish an audit review committee from the commission membership which shall oversee the operations of the internal auditor and his staff.

(d) The executive director may direct the internal auditor to conduct such other audits as the executive director may deem necessary.

(e) It is the intent of the general assembly to shift reporting of, supervision of, and control of the department's internal auditor to the commission.

(13) Repealed.

(14) The commission shall seek to enter into intergovernmental agreements with local governmental entities in order to encourage cooperation between the department and local governments and to maximize the efficiency of transportation systems in Colorado. Such intergovernmental agreements shall be negotiated by the chief engineer or the executive director pursuant to the provisions of section 43-1-110 (4).

(15) In addition to any other duties required by law, the commission shall have the following charges:

(a) To study the feasibility of generating income for highway operations through the usage of the powers granted to the department under the provisions of part 2 of article 3 of this title;

(b) To study the feasibility of transferring some or all of the existing tunnel and highway authorities to the department and to examine the building of a highway beltway in the Denver metropolitan area;

(c) To study whether the regulation of private and public bus companies should continue to be performed by the public utilities commission or whether such regulation should be performed by the department;

(d) To study and make recommendations for existing and future transportation systems in Colorado with a focus of such study and recommendations being a ten-year plan for each mode of transportation. Such ten-year plan shall be based on what can be reasonably expected to be implemented with the estimated revenues which are likely to be available.

(e) To examine the application of traffic systems management and intelligent vehicle highway systems for Colorado highways. The commission shall complete such examination as soon as practicable.

(16) Repealed.

(17) (a) The commission shall reestablish the standing efficiency and accountability committee that was initially established in 2009 and disbanded in 2013. The committee shall seek ways to maximize the efficiency and accountability of the department to allow increased investment in the transportation system over the short, medium, and long term. The committee shall include:

(I) From the executive branch of state government:

(A) One member of the commission designated by the commission;

(B) One member from the office of the executive director designated by the executive director;

(C) One member from each of the divisions of the department created in section 43-1-104 (1) designated by the executive director after consultation with the directors of each division; and

(D) Any other employees of the department that the executive director may designate;

(I.5) From the legislative branch of state government:

(A) Two members of the house of representatives, one appointed from the majority party by the speaker of the house of representatives and one appointed from the minority party by the minority leader of the house of representatives; and

(B) Two members of the senate, one appointed from the majority party by the president of the senate and one appointed from the minority party by the senate minority leader;

(II) From outside state government, representatives of:

(A) The construction industry;

(B) The engineering industry;

(C) The environmental community;

(D) Transportation planning organizations;

(E) Public transportation providers;

(F) Counties;

(G) Municipalities;

(H) Nonpartisan good governance organizations; and

(I) Any other industries or groups that the commission determines should be represented on the committee; and

(III) Any individuals or representatives of informally constituted groups of individuals that the commission determines should be represented on the committee.

(b) The efficiency and accountability committee shall seek to ensure that the commission and the department execute their duties efficiently and in compliance with all applicable federal

and state legal requirements. The committee shall periodically report to the commission and the executive director in order to recommend means by which the commission and the department may execute their duties more efficiently, point out any failures of the commission or the department to comply with applicable federal and state legal requirements, and recommend improvements to commission or department procedures that reduce the likelihood of inadvertent legal compliance failures. The committee shall also specifically examine actions taken by the commission and the department in response to the August 2015 performance audit report prepared by the state auditor titled "Collection and Usage of the FASTER Motor Vehicle Fees" and report its findings regarding the appropriateness, effectiveness, and efficiency of those actions. The executive director or the executive director's designee shall report at least once per calendar year to either the committees of the house of representatives and the senate that have jurisdiction over transportation or the transportation legislation review committee created in section 43-2-145 (1) regarding the activities and recommendations of the efficiency and accountability committee and any actions taken by the commission or the department to implement recommendations of the committee. Notwithstanding section 24-1-136 (11)(a), C.R.S., the reporting requirement continues indefinitely.

(c) A member of the efficiency and accountability committee who has a personal or private interest that could reasonably be expected to be affected if the commission or the department implements a proposed committee recommendation shall disclose the interest to the committee and shall abstain from any committee vote to adopt or reject the recommendation.

(d) This subsection (17) is repealed, effective July 1, 2019. Before its repeal, this subsection (17) is scheduled for review in accordance with section 2-3-1203, C.R.S.

Source: L. 91: Entire part R&RE, p. 1022, § 1, effective July 1. **L. 92:** (12)(b)(II) amended, p. 1335, § 1, effective April 9; (8)(p) added, p. 1336, § 1, effective June 1; (8)(o) amended, p. 2183, § 57, effective June 2. **L. 94:** (8)(q) added, p. 303, § 2, effective March 22; (8)(r) added, p. 566, § 19, effective April 6. **L. 95:** (8)(h) amended, p. 1297, § 4, effective June 5. **L. 96:** (15) amended, p. 1272, § 206, effective August 7. **L. 97:** (16) added, p. 959, § 1, effective August 6. **L. 98:** (8)(s) added, p. 1098, § 19, effective June 1. **L. 99:** (8)(e) amended, p. 1400, § 2, effective June 4. **L. 2000:** (13) amended, p. 1938, § 20, effective October 1. **L. 2001:** (13) amended, p. 1286, § 74, effective June 5. **L. 2002:** (9.5) added, p. 992, § 1, effective June 1; (16)(e) amended, p. 872, § 11, effective August 7. **L. 2003:** (8)(e) and (13) repealed, p. 2660, § 1, effective August 6. **L. 2004:** (16) repealed, p. 218, § 43, effective August 4. **L. 2006:** (8)(h) amended, p. 540, § 1, effective July 1. **L. 2008:** (4)(c) amended, p. 304, § 1, effective August 5. **L. 2009:** (17) added, (SB 09-108), ch. 5, p. 53, § 14, effective March 2; (4)(c) amended, (HB 09-1281), ch. 399, p. 2155, § 7, effective August 5. **L. 2012:** (8)(l) and (8)(m) amended, (HB 12-1317), ch. 248, p. 1239, § 105, effective June 4. **L. 2013:** (6) amended, (HB 13-1300), ch. 316, p. 1710, § 141, effective August 7. **L. 2016:** IP(17)(a), IP(17)(a)(I), (17)(a)(II)(E), (17)(a)(II)(F), and (17)(b) amended and (17)(a)(I.5), (17)(a)(II)(G), (17)(a)(II)(H), (17)(a)(II)(I), (17)(a)(III), (17)(c), and (17)(d) added, (HB 16-1172), ch. 331, p. 1341, § 3, effective August 10.

Editor's note: This section is similar to former §§ 43-1-103 and 43-1-105 as they existed prior to 1991.

Cross references: (1) For the oath of civil officers prescribed by the state constitution, see § 8 of art. XII, Colo. Const.; for rule-making procedures, see article 4 of title 24.

(2) For the legislative declaration contained in the 1996 act amending subsection (15), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 1999 act amending subsection (8)(e), see section 1 of chapter 338, Session Laws of Colorado 1999.

43-1-107. Duties of deputy director. At the request of the executive director or in his or her absence or disability, the deputy director of the department shall perform all of the duties of the executive director, and, when so acting, the deputy director shall have all the powers of and be subject to all of the restrictions imposed upon the executive director. In addition, the deputy director shall perform such other duties as may from time to time be assigned to him or her by the executive director.

Source: L. 91: Entire part R&RE, p. 1029, § 1, effective July 1.

43-1-108. Transfer of functions, employees, and property - contracts. (1) The department shall, on and after July 1, 1991, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the state department of highways as a principal department prior to July 1, 1991, concerning the duties and functions transferred to the department pursuant to this article. On and after July 1, 1991, the officers and employees of the state department of highways as a principal department prior to said date whose duties and functions concerned the duties and functions transferred to the department pursuant to this article and whose employment in the department of transportation is deemed necessary by the executive director to carry out the purposes of this article shall be transferred to the department and become employees thereof. Such employees shall retain all rights to state personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

(2) On July 1, 1991, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the state department of highways pertaining to the duties and functions transferred to the department pursuant to section 24-1-128.7, C.R.S., are transferred to the department of transportation and become the property thereof.

(3) The provisions of subsections (1) and (2) of this section shall not apply to functions, employees, and property transferred under the provisions of section 24-42-104, C.R.S.

(4) Whenever the state department of highways is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department pursuant to this article, such reference or designation shall be deemed to apply to the department of transportation pursuant to this article. All contracts entered into by the state department of highways as a principal department prior to July 1, 1991, in connection with the duties and functions transferred to the department pursuant to this article are hereby validated, with the department of transportation created by this article succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy

obligations incurred pursuant to such contracts are hereby transferred and appropriated to the department of transportation created by this article for the payment of such obligations.

Source: L. 91: Entire part R&RE, p. 1029, § 1, effective July 1.

43-1-109. Chief engineer. (1) There is hereby created the office of chief engineer. The chief engineer shall be a licensed professional engineer with a minimum of ten years' responsible engineering experience, including management and organization in the field of highway engineering.

(2) The chief engineer shall be appointed by the executive director pursuant to section 13 of article XII of the state constitution and shall be employed by the executive director of the department of transportation pursuant to the provisions of the constitution and laws of the state.

Source: L. 91: Entire part R&RE, p. 1030, § 1, effective July 1. **L. 2004:** (1) amended, p. 1318, § 79, effective May 28.

Editor's note: This section is similar to former § 43-1-104 as it existed prior to 1991.

Cross references: For provisions concerning the registration of professional engineers, see part 1 of article 25 of title 12.

43-1-110. Powers and duties of the chief engineer - hearings - rule-making. (1) The chief engineer is the director of the engineering, design, and construction division and has direct control and management of the functions of the division subject only to the direction and supervision of the executive director as prescribed in this part 1. The chief engineer shall attend all meetings of the commission and, except as otherwise provided by this part 1 or other law, the chief engineer shall perform all of the duties and exercise all of the powers vested by law in the engineering, design, and construction division, including the awarding, under the supervision of the executive director, of all contracts for the construction or maintenance of state highways and mass transportation projects. It is the duty of the chief engineer in the administration of the division to so organize the same that all employees of the division, so far as possible, are interchangeable in work assignment and may be shifted within the division to meet seasonal and emergency demands.

(2) Repealed.

(3) The chief engineer and the executive director are hereby authorized to accept, on behalf of the state, any federal moneys made available for highway, railway, mass transit, and other public transportation purposes for which no regional or local subdivision of the state has operating authority; except that, if an intergovernmental agreement between the Denver regional transportation district and the department concerning the southeast corridor intermodal transportation project is not signed by October 15, 1999, then the chief engineer and the executive director are authorized to accept, on behalf of the state, any federal transit funds made available.

(4) The executive director or the chief engineer shall represent the department in negotiations with local governmental entities concerning intergovernmental agreements between the department and such local governmental entities to implement the provisions of this article.

No such intergovernmental agreement involving more than seven hundred fifty thousand dollars shall become effective without the approval of the commission.

Source: L. 91: Entire part R&RE, p. 1030, § 1, effective July 1. **L. 99:** (3) amended, p. 543, § 1, effective May 5. **L. 2015:** (1) amended and (2) repealed, (HB 15-1209), ch. 64, p. 175, § 5, effective March 30.

Editor's note: This section is similar to former § 43-1-106 as it existed prior to 1991.

43-1-111. Engineer to acquire property. On behalf of the department of transportation, the chief engineer has the authority to take and hold and to contract to take and hold title to real property, or any interest therein, in the name of the department of transportation, whether such real property or interest is used, or intended to be used, for right-of-way or maintenance purposes or for any other purpose authorized by law.

Source: L. 91: Entire part R&RE, p. 1032, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-107 as it existed prior to 1991.

43-1-112. Legal services. (1) The attorney general shall provide legal services for the department of transportation, including the commission.

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

(a) To acquire rights-of-way and other property for the department as provided by law for transportation purposes;

(b) To recover damages for negligence resulting in injury to property of the department as provided in subsection (3) of this section, but such damages shall be diminished in proportion to the amount of negligence, if any, attributable to the department;

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

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

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

(3) To recover damages to property of the department pursuant to paragraph (b) of subsection (2) of this section, the department shall send by first-class mail a written bill for the damage to any person causing such damage. If the person disputes liability for the damage or the amount of the bill, the person may file within twenty days of receipt of the bill an appeal with the department's chief engineer in charge of operations and maintenance in accordance with the provisions of section 24-4-105, C.R.S. The bill shall provide notice of the right to appeal.

Source: L. 91: Entire part R&RE, p. 1032, § 1, effective July 1. **L. 95:** (2)(b) amended and (3) added, p. 1301, § 3, effective June 5.

Editor's note: This section is similar to former § 43-1-108 as it existed prior to 1991.

43-1-112.5. Establishment of annual allowable revenues and expenditures by general assembly. (1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution limits state fiscal year spending;

(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, all state general fund expenditures and all state cash fund expenditures, including expenditures of the department and the commission, are included in the limitation on state fiscal year spending;

(c) The legislative powers of the general assembly, including but not limited to its plenary power of appropriation, authorize and require the general assembly to assure compliance with the limitation on state fiscal year spending and to make fundamental fiscal policy decisions establishing the level of activity of all departments and agencies of state government, including the department and the commission; and

(d) Consonant with the exercise of such legislative powers, the general assembly must establish limits on the revenues under the jurisdiction of and the expenditures of the department and the commission.

(2) For the 1993-94 fiscal year and fiscal years thereafter, the general assembly, in the general appropriation bill or by separate bill, shall prescribe the total amount of allowable revenues which may be collected and expenditures which may be made by the department and the commission for the fiscal year. The amounts prescribed by the general assembly pursuant to this subsection (2) shall be based upon the determination of the limitation on state fiscal year spending under section 20 of article X of the state constitution and upon decisions establishing the level of activity of all departments and agencies of state government, including the department and the commission.

Source: L. 93: Entire section added, p. 1512, § 15, effective June 6.

43-1-113. Funds - budgets - fiscal year - reports and publications - repeal. (1) All funds and moneys to the credit of the department of transportation shall be expended under the supervision and direction of the commission within the total expenditures prescribed by the general assembly for the fiscal year pursuant to section 43-1-112.5; except that moneys in the aviation fund shall be expended pursuant to the provisions of article 10 of this title.

(2) Annually on or before December 15, the commission shall adopt and the department of transportation shall submit to the joint budget committee, the house transportation and energy committee, the senate transportation committee, and the governor a proposed budget allocation plan for moneys subject to its jurisdiction for the fiscal year beginning on July 1 of the succeeding year. The plan shall be submitted in a format determined by the joint budget committee and shall include, but not be limited to, the following information:

(a) Estimates of all available revenues displayed by source of moneys, including any carry forward balances anticipated and any restrictions on any available moneys;

(b) All interest and debt redemption charges during the fiscal year;

(c) Allocation of spending, by the following categories of expenditure:

(I) Maintenance of the state highway system;

(II) Construction projects on the state highway system, including capacity increases;

(III) Administration, which is deemed to include salaries and expenses of the following offices and their staffs: Commission, executive director, chief engineer, district engineers,

budget, internal audits, public relations, equal employment, special activities, accounting, administrative services, building operations, management systems, personnel, procurement, insurance, legal, and central data processing;

(IV) Other departmental staff which are allocated to maintenance or construction costs on the state highway system and the basis for such allocation;

(V) Repealed.

(VI) (A) Estimated statewide indirect cost recoveries of state agencies payable from the state highway fund as required by subsection (8) of this section.

(B) Repealed.

(VII) Any land acquisitions pursuant to maintenance or construction projects, including land acquisitions which may be accomplished by eminent domain;

(VIII) All construction and maintenance projects, grouped by priority order according to both transportation commission district and statewide priority;

(d) A summary of allocation of spending for the current fiscal year indicating expenditures which are different from recommended changes made to the proposed budget allocation plan by the joint budget committee, the house transportation and energy committee, and the senate transportation committee in their responses to such plan for the current fiscal year;

(e) A procedure for dealing with emergencies and contingencies unforeseen at the time of the preparation of the plan and an enumeration of other spending which could be reduced in order to deal with such emergencies or contingencies.

(2.5) Annually on or before October 1, the commission shall submit a request for state highway reconstruction, repair, or maintenance projects to the capital development committee to be funded from money transferred to the capital construction fund pursuant to section 24-75-302 (2), C.R.S. Such request must be made in accordance with section 2-3-1304 (1)(a.5), C.R.S.

(3) (a) For the fiscal year 1993-94 and for each fiscal year thereafter, appropriations made by the general assembly to the department of transportation for administrative expenditures, which are listed in subparagraph (III) of paragraph (c) of subsection (2) of this section, shall be set forth in a single line item as a total sum, and such expenditures shall not be identified by project, program, or district.

(b) The provisions of this subsection (3) shall not apply to the aeronautics division.

(4) (Deleted by amendment, L. 2007, p. 593, § 1, effective August 3, 2007.)

(5) Repealed.

(6) (a) The amount budgeted for administration in no case shall exceed five percent of the total budget allocation plan. In addition to any other requirements, the budget allocation plan shall include a general state transportation budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and total anticipated revenues, together with the other means of financing the budget for the ensuing fiscal year compiled with corresponding figures for the last completed fiscal year and the fiscal year in progress. It shall also include the statements of the bonded indebtedness of the department of transportation showing the debt redemption requirements, the debt authorized and unissued, and the contents of the sinking funds. As an addendum to the budget allocation plan, there shall be published a complete list of all projects budgeted in prior years which have not been deleted or progressed to completion, including all funds carried over from the budget of previous years, whether resulting from construction or operation for less than the budgeted figure or from incomplete or deleted projects.

(b) Repealed.

(7) Repealed.

(8) (a) The department, out of moneys in the state highway fund budgeted therefor by the transportation commission and within the total expenditures prescribed by the general assembly for the fiscal year pursuant to section 43-1-112.5, shall reimburse other agencies of state government for the costs incurred by such state agencies in providing necessary services in support of the department and the administration of the highway funds of the state. Such state agencies include, but are not necessarily limited to, the office of the state controller in the department of personnel, the office of state planning and budgeting, the department of personnel, the department of revenue, and the department of the treasury. For any fiscal year, the amount paid to any such state agency shall be the amount indicated in the general appropriation act as the recovery of indirect costs by such state agency out of the state highway fund. The amount so indicated in the general appropriation act for the recovery of indirect costs by any state agency pursuant to this subsection (8) may exceed the actual indirect cost incurred by such agency, but the total of all such statewide indirect cost recoveries indicated in the general appropriation act shall not exceed the total indirect costs reasonably expected to be incurred by all state agencies in providing necessary services in support of the department and the administration of the highway funds of the state. Payments made pursuant to this subsection (8) shall not be subject to the limitations on appropriations and statutory distributions from the highway users tax fund contained in section 43-4-201 (3).

(b) Repealed.

(9) (a) The house transportation and energy committee and the senate transportation committee shall hold a joint meeting, including the opportunity for a public hearing, for the purpose of review and comment on the proposed budget allocation plan. No later than March 15 of each year, the official response of the house transportation and energy committee and the senate transportation committee to the proposed budget allocation plan, along with any recommended changes to such plan, shall be transmitted to the commission. The joint budget committee may also, by said March 15, transmit to the commission its response to the proposed budget allocation plan. The staff of the joint budget committee shall be available to assist the house transportation and energy committee and the senate transportation committee in their joint review of the proposed budget allocation plan. Nothing contained in this paragraph (a) shall be construed to affect the general powers and duties of the joint budget committee relating to its review of the executive budget and the budget requests of state agencies, including the department of transportation, under section 2-3-203, C.R.S.

(b) Repealed.

(c) (I) No later than April 15 of each year, the commission shall adopt a final budget allocation plan which shall, upon approval of the governor, constitute the budget for the department for the ensuing fiscal year and which shall comply with the total revenues and expenditures prescribed by the general assembly for such fiscal year pursuant to section 43-1-112.5. Concurrent with submission of the final budget allocation plan to the governor, the commission shall submit in writing to the general assembly its responses to the recommendations of the joint budget committee, the house transportation and energy committee, and the senate transportation committee, or any successor committees. The final budget allocation plan may include some or all of the changes recommended by such committees, but no other changes from the proposed budget allocation plan may be made; except that the

commission shall ensure that the final budget allocation plan is within the total revenues and expenditures prescribed by the general assembly pursuant to section 43-1-112.5, and the commission may adopt, consistent with said prescribed amounts, amendments reflecting increases or decreases in revenue or expenditures not anticipated at the time of adoption of the proposed budget allocation plan, amendments increasing or decreasing expenditures as a result of emergencies or contingencies unforeseen at the time of the preparation of the proposed budget allocation plan, and amendments reflecting changes in the amounts indicated in the general appropriation act as statewide indirect cost recoveries payable from the state highway fund as provided in subsection (8) of this section.

(II) This paragraph (c) is effective July 1, 1992.

(10) It is the duty of the department of transportation to report monthly on a form approved by the controller, within fifteen days after the close of each month, the expenditures made from each budget category and the unexpended and unencumbered balance of each such budget subcategory.

(11) Repealed.

(12) (a) No expenditure shall be made from the state highway funds in excess of the amount prescribed by the general assembly pursuant to section 43-1-112.5 and the amount proposed by the final budget allocation plan or amendments thereto adopted pursuant to paragraph (c) of subsection (9) of this section. It is the duty of the controller to disapprove any such expenditures when the reports reflect such excessive expenditures in relation to the amount prescribed by the general assembly pursuant to section 43-1-112.5 and the proposed final budget allocation plan or amendments thereto adopted pursuant to paragraph (c) of subsection (9) of this section.

(b) This subsection (12) is effective July 1, 1992.

(13) The commission shall have no power to adopt a budget allocation plan which diverts federal funds designated for other projects to any beltway within the Denver metropolitan region constructed by a public highway authority pursuant to part 5 of article 4 of this title.

(14) (a) Except as provided in paragraph (b) of this subsection (14), the fiscal year of the department of transportation shall commence on July 1 and end on June 30 of each year. The annual final budget allocation plan is to be adopted by the commission on or before April 15 of each year for the ensuing fiscal year, except for that portion of the budget for construction projects which shall be prepared as soon as practicable but not later than sixty days after receipt of notification of federal highway fund apportionments for the ensuing federal fiscal year.

(b) The fiscal year for the department of transportation for the purpose of highway construction projects shall be a calendar year.

(15) In any highway construction project involving an expenditure not exceeding five million dollars of state funds in any one fiscal year, the department of transportation, under the supervision and direction of the transportation commission, is authorized to enter into a single contract or agreement for such project and to finance same by revenue from more than one fiscal period. Any such project shall be budgeted by providing the required funds from future as well as current fiscal periods, and the anticipated revenues from future fiscal periods shall be shown in the final budget allocation plan for the first fiscal period in which the project appears, together with the anticipated necessary expenditures for future fiscal periods. Commitment on any such contract shall have priority for payment in the future fiscal periods after payment of such

commitments as are now provided by law and after the payment of fixed expenditures for maintenance, administration, and other nonconstruction items.

(16) (a) If there are fewer than three bidders on a design bid build highway project, no award shall be made if the award is more than ten percent over the estimate of the department of transportation on the project; except that, if the estimate of the department on the project is less than one million dollars and there are fewer than three bidders, the executive director may make an award of more than ten percent, but less than twenty-five percent, over the estimate of the department to the low responsible bidder, as defined in section 24-101-301 (24).

(b) Repealed.

(c) (I) Notwithstanding the limitations set forth in paragraph (a) of this subsection (16), the executive director may make an award to the low responsible bidder regardless of the estimate of the department if the executive director determines in writing that it is in the best financial, economic, or other interest of the state to do so. The written determination must be included in the contract file and made publicly available by posting on the department's website.

(II) In its annual presentation to the joint committees of reference of the general assembly that have jurisdiction over transportation required by section 2-7-203, C.R.S., the department shall identify each project for which the executive director made an award pursuant to subparagraph (I) of this paragraph (c) and shall explain the reasons for making the award and estimate the amount of cost savings achieved by making the award.

(III) This paragraph (c) is repealed, effective July 1, 2018.

(17) In the event that geotechnical testing or materials testing is required for any state highway project, the department of transportation may submit a request for proposals to the private sector for the completion of such testing. Such private sector individuals shall be certified by the department of transportation.

(18) Repealed.

(19) (a) Any payments for transportation revenue anticipation notes issued to finance any qualified federal aid transportation project and any costs associated with the issuance and administration of such notes shall be subject to annual allocation by the commission, in its sole discretion, in accordance with part 7 of article 4 of this title.

(b) Federal transportation funds, as defined in section 43-4-702 (4), that are paid to the state shall be allocated and used to reimburse the state highway fund, the state highway supplementary fund, or both, for any moneys in said fund or funds used to pay transportation revenue anticipation notes or any costs associated with the issuance and administration of such notes in accordance with section 43-4-705 (2)(c)(II).

Source: L. 91: Entire part R&RE, p. 1032, § 1, effective July 1. **L. 93:** (1), (3)(a), (8)(a), (9)(c)(I), and (12)(a) amended, p. 1513, § 16, effective June 6. **L. 94:** (12)(a) amended, p. 1647, § 86, effective May 31. **L. 95:** (2.5) and (18) added, p. 1297, § 5, effective June 5; (8)(a) amended, p. 667, § 109, effective July 1. **L. 99:** (19) added, p. 1119, § 3, effective June 2; (16) amended, p. 598, § 1, effective August 4. **L. 2004:** (18) repealed, p. 219, § 44, effective August 4. **L. 2005:** (2)(c)(VI)(B), (6)(b), and (8)(b) repealed, p. 290, § 43, effective August 8. **L. 2007:** (4) and (9)(c)(I) amended, p. 593, § 1, effective August 3. **L. 2009:** (16) amended, (SB 09-297), ch. 285, p. 1298, § 4, effective May 20. **L. 2010:** (8)(a) amended, (HB 10-1181), ch. 351, p. 1631, § 32, effective June 7. **L. 2014:** (2.5) amended, (HB 14-1387), ch. 378, p. 1853, § 67,

effective June 6. **L. 2015:** (16) amended, (HB 15-1046), ch. 88, p. 255, § 2, effective April 8. **L. 2017:** (16)(a) amended, (HB 17-1051), ch. 99, p. 353, § 73, effective August 9.

Editor's note: (1) This section is similar to former § 43-1-111 as it existed prior to 1991.

(2) Subsection (2)(c)(V)(B) provided for the repeal of subsection (2)(c)(V), subsection (5)(b) provided for the repeal of subsection (5), subsection (7)(b) provided for the repeal of subsection (7), subsection (9)(b)(II) provided for the repeal of subsection (9)(b), and subsection (11)(b) provided for the repeal of subsection (11), effective July 1, 1992. (See L. 91, p. 1032.)

(3) Subsection (16)(b)(II) provided for the repeal of subsection (16)(b), effective July 1, 2013. (See L. 2009, p. 1298.)

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014; for the legislative declaration in HB 15-1046, see section 1 of chapter 88, Session Laws of Colorado 2015.

43-1-113.5. Creation and administration of transportation infrastructure revolving fund. (1) There is hereby created in the state treasury the transportation infrastructure revolving fund, referred to in this section as the "revolving fund", which shall be maintained and administered by the executive director. The revolving fund shall consist of federal, state, or private grants and all moneys that may be transferred or appropriated thereto by the general assembly or that may otherwise be made available to the fund pursuant to law. All interest or other return on the investment of moneys in the revolving fund and all payments of principal and interest credited to the revolving fund as repayment of loans and other financial assistance provided from the revolving fund pursuant to this section shall be credited to the revolving fund. The state treasurer shall be authorized to invest moneys in the revolving fund in such manner as allowed by law so long as such moneys are not needed for the purpose of the revolving fund. Moneys in the revolving fund are continuously appropriated to the department for the purposes set forth in this section. Any moneys credited to the revolving fund shall remain in the revolving fund and shall not revert to the general fund at the end of any given fiscal year.

(1.5) Notwithstanding any provision of subsection (1) of this section to the contrary, on April 20, 2009, the state treasurer shall deduct three million dollars from the revolving fund and transfer such sum to the general fund.

(2) The revolving fund shall include a highway account, a transit account, an aviation account, and a rail account. The general assembly shall, by appropriation, determine how state general fund moneys in the revolving fund shall be allocated to the highway account.

(3) The commission shall adopt rules in accordance with the "State Administrative Procedure Act" regarding:

(a) The eligibility requirements for financial assistance from the revolving fund;

(b) The disbursement of revolving fund moneys;

(c) The interest rates to be charged on loans made from the revolving fund; and

(d) The repayment of loans made from the revolving fund.

(4) Subject to the provisions of section 18 of article X of the state constitution, moneys in the revolving fund may be used for the following purposes:

(a) To provide assistance to public and private entities for the acquisition, improvement, or construction of highways, multimodal transportation, and intermodal transportation facilities in the state. Such assistance includes, but is not limited to, the making of loans and other forms of financial assistance for qualified projects.

(b) To pay the costs incurred by the state treasurer and the department in the performance of duties pursuant to this section; and

(c) Any other purpose consistent with the provisions of this section.

(5) Except as otherwise provided in subsection (6) of this section, "qualified project" means:

(a) Any public or private transportation project as authorized by the commission, including, but not limited to, planning, environmental impact studies, feasibility studies, engineering, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of a public or private transportation facility within the state;

(b) The acquisition of real or personal property, or interests therein, for a public or private transportation facility within the state;

(c) Any highway, transit, aviation, rail, or other transportation project within the state that is eligible for financing or financial assistance under state or federal law;

(d) The maintenance, repair, improvement, or construction of any public or private highway, road, street, parkway, transit, aviation, or rail project within the state; and

(e) The acquisition, improvement, or construction of rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails, or protective structures within this state.

(6) The term "qualified project" shall not include transportation facilities and other transportation projects that are restricted to private use.

(7) In addition to requiring interest to be paid on loans made from the revolving fund, the executive director may charge to and collect from public and private entities receiving assistance from the revolving fund fees and charges sufficient to reimburse the department for reasonable expenses incurred in processing and reviewing applications and in recommending loans and financial assistance pursuant to the provisions of this section.

(8) (a) If a recipient of financial assistance from the revolving fund fails to meet any of the terms or conditions of the loan or other form of assistance, the department may bring a right of action through the state attorney general pursuant to section 43-1-112 against such recipient in district court to seek any applicable legal or equitable remedy, including reasonable attorneys fees.

(b) Except as otherwise provided in paragraph (c) of this subsection (8), in addition to the remedies provided under paragraph (a) of this subsection (8), if the recipient is a municipality or county and such recipient defaults on the repayment of any loan made from the revolving fund, the department may withhold funds that it would otherwise disburse to the recipient. In no event shall the amount withheld exceed the amount that a recipient owes to the revolving fund. Funds withheld from a defaulting recipient shall be deposited in the account of the revolving fund from which the recipient received financial assistance and credited towards the amount due to such fund from the recipient.

(c) For purposes of paragraph (b) of this subsection (8), the department may only withhold funds it would otherwise disburse to a municipality or county from the highway users tax fund if such municipality or county defaults on the repayment of a loan made from the

revolving fund for the construction, maintenance, or supervision of a public highway in this state.

Source: L. 98: Entire section added, p. 1099, § 20, effective June 1. **L. 2009:** (1.5) added, (SB 09-208), ch. 149, p. 628, § 35, effective April 20.

Cross references: For the "State Administrative Procedure Act", see article 4 of title 24.

43-1-114. Highway maintenance division - creation. (1) There is hereby created a highway maintenance division in the department of transportation. The executive director shall appoint the director of the division, and either the executive director, the director of the division, or another designee of the executive director shall appoint other necessary staff of the division in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The highway maintenance division and the director of the division shall exercise their powers and perform their duties and functions under the department and the executive director as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) Whenever the chief engineer is authorized to enter into contracts or agreements, the contracts or agreements must be executed in the name of the department of transportation, state of Colorado, by the chief engineer, or his or her designee. Whenever the chief engineer is authorized to acquire or convey real or personal property, title thereto must be acquired or conveyed in the name of the department of transportation, state of Colorado, and all such conveyances must be executed by the chief engineer, or his or her designee. All suits or proceedings brought by or against the chief engineer must be in the name of the department of transportation, state of Colorado.

(4) It is the duty of the director of the highway maintenance division, in the administration of the division, to organize the division so that all division employees so far as possible, are interchangeable in work assignment and may be shifted within the division to meet seasonal and emergency demands.

Source: L. 91: Entire part R&RE, p. 1039, § 1, effective July 1. **L. 2015:** Entire section amended, (HB 15-1209), ch. 64, p. 175, § 6, effective March 30.

43-1-115. Transportation data collection. (1) The transportation development division shall compile and maintain consistent information concerning the condition of the streets, roads, highways, and other transportation systems of this state. Such information shall be obtained from data available to the division, counties, and municipalities and shall be obtained from the appropriate personnel of the transportation development division, the governmental officials of any county or municipality in the state, or any other person deemed appropriate by the transportation development division. The transportation development division, after consultation with representatives of municipalities and counties, shall establish and disseminate a uniform method of reporting such information.

(2) The information obtained pursuant to subsection (1) of this section shall be reported annually in conjunction with the reports required to be submitted pursuant to sections 43-2-120 (5) and 43-2-132 (5).

Source: L. 91: Entire part R&RE, p. 1040, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-106.5 as it existed prior to 1991.

43-1-116. Engineering, design, and construction division - created - duties. (1) There is hereby created, in the department of transportation, the engineering, design, and construction division, the head of which shall be the chief engineer.

(2) The engineering, design, and construction division and the office of the chief engineer shall exercise their powers and perform their duties and functions under the department of transportation and the executive director as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) The engineering, design, and construction division shall be responsible for all engineering, design, and construction operations of the department.

(4) The department shall update the bidding rules regarding prequalification requirements, including the contract amounts for which a bidder is required to submit an audited financial statement reviewed by a certified public accountant. In addition, the chief engineer shall develop a policy regarding how previous relevant experience and the bonding capacity of a contractor will be considered when evaluating proposals and bids submitted for public projects.

Source: L. 91: Entire part R&RE, p. 1041, § 1, effective July 1. **L. 2017:** (4) added, (SB 17-211), ch. 373, p. 1936, § 1, effective August 9.

43-1-117. Transportation development division - created - duties. (1) There is hereby created, in the department of transportation, the transportation development division, the head of which shall be the director of the transportation development division, which office is hereby created.

(2) The transportation development division and the office of the director of such division shall exercise their powers and perform their duties and functions under the department of transportation and the executive director as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) The transportation development division shall be responsible for the implementation of the provisions of part 11 of this article.

Source: L. 91: Entire part R&RE, p. 1041, § 1, effective July 1.

43-1-117.5. Transit and rail division - created - powers and duties. (1) There is hereby created in the department of transportation the transit and rail division, the head of which shall be the director of the transit and rail division, which office is hereby created.

(2) The transit and rail division and the office of the director of the division shall exercise their powers and perform their duties and functions under the department and the executive director as if the same were transferred to the department by a **type 2** transfer, as defined in section 24-1-105, C.R.S.

(3) (a) The transit and rail division shall be responsible for the planning, development, operation, and integration of transit and rail, including, where appropriate, advanced guideway systems, into the statewide transportation system; shall, in coordination with other transit and rail providers, plan, promote, and implement investments in transit and rail services statewide; and shall have the following specific powers and duties:

(I) To develop, in accordance with part 11 of this article and consistent with the requirements of 23 U.S.C. secs. 134 and 135, a statewide transit and passenger rail plan that shall be integrated by the department as an element of the statewide transportation plan. The plan shall identify local, interregional, and statewide transit and passenger rail needs and priorities.

(II) To promote, plan, design, build, finance, operate, maintain, and contract for transit services, including, but not limited to, bus, passenger rail, and advanced guideway systems services;

(III) To establish and modify fares and schedules for transit, passenger rail, and advanced guideway services provided directly by the state or contracted for by the state;

(IV) To administer and expend state and federal funds that may be dedicated by law, by appropriation by the general assembly, or by the commission for:

(A) The construction, maintenance, and operation of interregional transit, advanced guideway, and passenger rail services; and

(B) Transit projects including, but not limited to, facilities, equipment, services, and the provision of grants to transit operators;

(V) To coordinate and negotiate with railroads regarding the siting of passenger rail tracks and other facilities and the coordination of transit services;

(VI) To support the department in representing the state with respect to the development of intercity rail facilities, including but not limited to submission of applications to the United States department of transportation for approval and funding of high-speed rail projects, commissioning of any necessary studies, and coordination with other states to facilitate such applications; and

(VII) To coordinate and cooperate with regional transportation authorities created pursuant to part 6 of article 4 of this title and other regional or corridor-specific entities concerned with the planning, development, operation, and integration of transit, passenger rail, or advanced guideway systems in the statewide transportation system.

(b) In exercising the powers and performing the duties set forth in paragraph (a) of this subsection (3), the transit and rail division shall coordinate with the regional transportation district created in article 9 of title 32, C.R.S., regional transportation authorities created pursuant to part 6 of article 4 of this title, and other transit operators to ensure the efficient provision of transit services. The authority given to the division pursuant to paragraph (a) of this subsection (3) shall not be construed to limit or otherwise affect the powers of any transit operator or other local governmental entity or to usurp or duplicate the existing regulatory authority over railroads of the federal railroad administration, the federal surface transportation board, or the public utilities commission.

Source: L. 2009: Entire section added, (SB 09-094), ch. 280, p. 1250, § 3, effective May 20.

43-1-118. Employees - duties. All employees of the department not otherwise provided for in this part 1 shall be employed and shall serve pursuant to the constitution and laws of the state. They shall have such powers and shall perform such duties as may be assigned to them by the chief engineer, by the executive director, or by the director of their respective divisions.

Source: L. 91: Entire part R&RE, p. 1041, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-109 as it existed prior to 1991.

43-1-119. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department or any authorized agent of the department shall require the applicant's name, address, and social security number.

(2) The department or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, C.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, C.R.S.

(3) (a) The department shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, C.R.S.

(b) The appropriate rule-making body of the department is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1311, § 48, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

43-1-120. Bicycle and pedestrian policy - codification - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the best interest of all Coloradans to promote transportation mode choice by enhancing safety and mobility for bicyclists and pedestrians on or along the state highway system;

(b) The department has adopted a bike and pedestrian policy directive to further this goal; and

(c) It is necessary and appropriate to elevate the status of the bike and pedestrian policy of the department to that of law by codifying it in subsection (2) of this section.

(2) (a) The department and its subdivisions shall provide transportation infrastructure that accommodates bicycle and pedestrian use of public streets in a manner that is safe and reliable for all users of public streets.

(b) The needs of bicyclists and pedestrians shall be included in the planning, design, and operation of transportation facilities as a matter of routine.

(c) Any decision of the department to not accommodate the needs of bicyclists and pedestrians shall be documented based on exemption criteria that were established by the commission before the decision was made.

Source: L. 2010: Entire section added, (HB 10-1147), ch. 422, p. 2185, § 2, effective July 1.

43-1-121. Interstate 70 mountain corridor - recommendation regarding short-term mobility solutions. (1) On or before December 20, 2011, the department shall make prioritized recommendations to the transportation committees of the house of representatives and the senate regarding actions that can be taken on or before July 1, 2014, to improve mobility in the interstate 70 mountain corridor. Each recommendation shall include an estimate of the amount of funding required to implement the recommendation and shall recommend available or potentially available sources of such funding. In developing its recommendations, the department shall consider operational and safety improvement options, transit options, and traffic demand management options and shall investigate the feasibility of nongovernmental actions that might improve mobility in the corridor.

(2) The department shall consult with interested local governments and business entities that are located within the interstate 70 mountain corridor or that have governmental or business interests that are likely to be substantially affected by any actions taken to improve mobility in the corridor and shall take such consultation into account when developing the recommendations required by subsection (1) of this section. The department may also hold public hearings at which interested members of the public may propose actions to improve mobility in the corridor or comment on any such actions proposed by others.

Source: L. 2011: Entire section added, (HB 11-1210), ch. 82, p. 221, § 1, effective August 10.

43-1-122. Removal of graffiti from departmental facilities - memorandums of understanding. (1) The department may, at its discretion, enter into a memorandum of understanding with any city, county, city and county, or other municipality of the state to allow the city, county, city and county, or other municipality to remove graffiti as needed from departmental property located within the city, county, city and county, or other municipality.

(2) A memorandum of understanding entered into by the department pursuant to subsection (1) of this section shall state that if the city, county, city and county, or other municipality chooses to remove graffiti from a departmental facility, the city, county, city and county, or other municipality shall do so at its own expense.

Source: L. 2011: Entire section added, (SB 11-256), ch. 254, p. 1101, § 4, effective August 10.

43-1-123. Project closure and project reporting requirements - repeal. (1) The department shall close each transportation project and release any money budgeted for the project as quickly as feasible and within one year following the substantial completion of the project unless a pending legal claim relating to the project or an unusual circumstance beyond the control of the department unavoidably requires a longer time to close the project.

(2) Notwithstanding any other provision of state law, for transportation projects for which the department awards a competitively bid contract on or after July 1, 2016, the department shall report on its public website within thirty days of the contract award:

(a) The identity of the winning bidder;

(b) The amount of the winning bid; and

(c) Whether or not the bid awarded was the low bid, and, if not, why the department chose the bid over a lower bid.

(3) No later than November 1, 2017, and no later than November 1 of each year thereafter, the department shall report to the transportation commission regarding the percentages and total amount of money budgeted and expended during the preceding fiscal year for:

(a) Payments to private sector contractors for work on transportation projects; and

(b) Total transportation project costs for projects completed by department employees, including indirect cost recoveries and employee salaries.

(4) (a) On or after July 1, 2016, and on or after July 1 of each year thereafter, the department shall report to the transportation legislation review committee created in section 43-2-145 (1) regarding all policy amendments made to the statewide transportation improvement plan that were adopted during the most recently ended fiscal year and that added or deleted a project from the plan or modified the funding priority of any project included in the plan. The report shall include an explanation of the reasons for each reported policy amendment.

(b) Pursuant to section 24-1-136 (11)(a)(I), this subsection (4) is repealed, effective July 2, 2019.

Source: L. 2016: Entire section added, (SB 16-122), ch. 91, p. 255, § 2, effective April 14. **L. 2017:** (4) amended, (SB 17-294), ch. 264, p. 1417, § 114, effective May 25; (4) amended, (SB 17-231), ch. 174, p. 634, § 3, effective August 9.

Editor's note: Amendments to subsection (4) by SB 17-231 and SB 17-294 were harmonized.

43-1-124. Study of transportation commission districts. No later than August 1, 2016, legislative council staff, with the cooperation of the department, shall prepare and present to the

transportation legislation review committee a research study of the commission districts established in section 43-1-106 (2). The study must document changes since the last time the general assembly modified the number and boundaries of the commission districts, including changes in population, number of lane miles, and annual vehicle miles traveled for each of the districts and must take into account existing county and municipal boundaries, regional transportation authorities and districts, and transportation planning regions.

Source: L. 2016: Entire section added, (HB 16-1031), ch. 323, p. 1309, § 1, effective June 10.

PART 2

THE HIGHWAY LAW

43-1-201. Short title. This part 2 shall be known and may be cited as the "Highway Law", and references to "this part 2" shall be understood to mean the highway law, including all its provisions.

Source: L. 21: p. 362, § 1. **C.L.** § 1385. **CSA:** C. 143, § 92. **CRS 53:** § 120-3-1. **C.R.S. 1963:** § 120-3-1.

43-1-202. Public highways or roads. All roads and highways which are, on May 4, 1921, by law open to public traffic shall be public highways within the meaning of this part 2.

Source: L. 21: p. 362, § 2. **C.L.** § 1386. **CSA:** C. 143, § 93. **L. 45:** Ex. Sess., p. 41, § 1. **CRS 53:** § 120-3-2. **C.R.S. 1963:** § 120-3-2.

43-1-202.5. Public rights in roads - transfer of right-of-way. (1) If any road has been established by law, the transfer of all or any part of the property upon which such road is constructed to any party, including, but not limited to, any government agency, shall not act to vacate such road. No such transfer shall act to diminish the rights of any person in such a road.

(2) If any public rights have been established by law in a road that provides access to any parcel of land, such rights may be transferred when such parcel of land is transferred.

Source: L. 93: Entire section added, p. 615, § 1, effective April 30.

43-1-202.7. Recording of documents vacating or abandoning a roadway. If any roadway is vacated or abandoned by the state, by a county, or by a municipality, the documents vacating or abandoning such roadway, including but not necessarily limited to any resolution, ordinance, deed, conveyance document, plat, or survey, shall be recorded in the office of the clerk and recorder of the county in which such roadway is located.

Source: L. 93: Entire section added, p. 615, § 1, effective April 30.

43-1-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Highway" includes bridges on the roadway and culverts, sluices, drains, ditches, waterways, embankments, retaining walls, trees, shrubs, and fences along or upon the same and within the right-of-way, and any subsurface support acquired in accordance with section 43-1-209.

Source: L. 21: p. 362, § 3. **C.L.** § 1387. **CSA:** C. 143, § 94. **CRS 53:** § 120-3-3. **C.R.S. 1963:** § 120-3-3. **L. 2008:** (1) amended, p. 627, § 2, effective August 5.

43-1-204. State highway. A "state highway" within the meaning of this part 2 is a right-of-way or location, whether actually used as a highway or not, designated for the construction of a state highway upon it.

Source: L. 21: p. 363, § 4. **C.L.** § 1388. **CSA:** C. 143, § 95. **CRS 53:** § 120-3-4. **C.R.S. 1963:** § 120-3-4.

43-1-205. Offices. The office of state planning and budgeting shall provide for the department of transportation suitable offices in the capitol or other state building at Denver at such rent and telephone or other expenses as are just and reasonable. Moneys for the payment of such rent and telephone or other expenses shall be paid from the department of transportation funds. In addition to the offices maintained in Denver, the department of transportation may maintain at its expense such additional offices in other towns or cities of the state as it may find necessary for the prosecution of its work.

Source: L. 21: p. 363, § 8. **C.L.** § 1392. **CSA:** C. 143, § 99. **L. 41:** p. 658, § 1. **CRS 53:** § 120-3-5. **C.R.S. 1963:** § 120-3-5. **L. 75:** Entire section amended, p. 822, § 19, effective July 18. **L. 91:** Entire section amended, p. 1091, § 105, effective July 1.

43-1-206. Attorney general legal advisor. (Repealed)

Source: L. 21: p. 369, § 16. **C.L.** § 1400. **CSA:** C. 143, § 107. **CRS 53:** § 120-3-6. **C.R.S. 1963:** § 120-3-6. **L. 79:** Entire section repealed, p. 1590, § 2, effective February 22.

43-1-207. Petition for acceptance of road as state highway. If a board of county commissioners desires to have the transportation commission accept as a state highway any section of road in the county, the board of county commissioners by resolution may so request the commission, and the chief engineer shall then examine the section of road referred to and report to the commission as to whether it is of such construction and in such state of repair as will make it proper to accept it as a state highway. The commission in its discretion may accept such section as a state highway.

Source: L. 21: p. 370, § 19. **C.L.** § 1403. **CSA:** C. 143, § 110. **CRS 53:** § 120-3-7. **C.R.S. 1963:** § 120-3-7. **L. 91:** Entire section amended, p. 1091, § 106, effective July 1.

43-1-207.5. Colorado scenic byway program - criteria for designation - notice and hearing. (Repealed)

Source: L. 93: Entire section added, p. 1485, § 1, effective June 6.

Editor's note: Subsection (9) provided for the repeal of this section, effective May 15, 1995. (See L. 93, p. 1485.)

43-1-208. State highway - damages - eminent domain. (1) The chief engineer, when he deems it desirable to establish, open, relocate, widen, add mass transit to, or otherwise alter a portion of a state highway or when so required by the commission, shall make a written report to the commission describing the portion of the highway to be established, opened, added to, or changed and the portions of land of each landowner to be taken for the purpose and shall accompany his report with a map showing the present and proposed boundaries of the portion of the highway to be established, opened, added to, or changed, together with an estimate of the damages and benefits accruing to each landowner whose land may be affected thereby.

(2) If, upon receipt of such report, the commission decides that public interest or convenience will be served by the proposed change, it shall enter a resolution upon its minutes approving the same and authorizing the chief engineer to tender each landowner the amount of damages, as estimated by him and approved by the commission. In estimating the amount of damages to be tendered a landowner, due account shall be taken of any benefits which will accrue to such landowner by the proposed action. The amount of benefit shall not in any case exceed the amount of damages awarded.

(3) Any person owning land or having an interest in any land over which any proposed state highway extends who is of the opinion that the tender made to him by the transportation commission is inadequate, personally or by agent or attorney on or before ten days from the date of such tender, may file a written request addressed to the transportation commission for a jury to ascertain the compensation which he may be entitled to by reason of damages sustained by altering, widening, changing, or laying out such state highway. Thereupon the transportation commission shall proceed in the acquisition of such premises, under articles 1 to 7 of title 38, C.R.S. The transportation commission also has the power and is authorized to proceed in the acquisition of the lands of private persons for state highway purposes, according to said articles 1 to 7 of title 38, C.R.S., without tender or other proceedings under this part 2.

(4) Notwithstanding any other provision of this section, the commission may not acquire through condemnation any interest in oil, natural gas, or other mineral resources beneath land acquired as authorized by this section except to the extent required for subsurface support.

Source: L. 21: p. 370, § 20. **C.L.** § 1404. **CSA:** C. 143, § 111. **CRS 53:** § 120-3-8. **C.R.S. 1963:** § 120-3-8. **L. 91:** (3) amended, p. 1091, § 107, effective July 1. **L. 2008:** (1) amended and (4) added, p. 628, § 3, effective August 5.

43-1-209. Subsurface support deemed acquired. Whenever real property is acquired for road, highway, or mass transit purposes, whether such acquisition is by purchase, lease, or other means or by eminent domain, the right to subsurface support of such real property is deemed to be acquired therewith; except that no right to oil, natural gas, or other mineral resources beneath such real property shall be acquired by a governmental entity through condemnation unless the acquiring authority determines that such acquisition is required for subsurface support. In the event the acquiring authority determines that public convenience,

necessity, and safety do not require such subsurface support or determines that only a part of such subsurface support is required for public convenience, necessity, and safety, such acquiring authority may specifically exclude such subsurface support, either in whole or in part, in such acquisition in accordance with said determination.

Source: L. 53: p. 511, § 1. **CRS 53:** § 120-3-9. **C.R.S. 1963:** § 120-3-9. **L. 2008:** Entire section amended, p. 628, § 4, effective August 5.

43-1-210. Acquisition and disposition of property - department of transportation renovation fund. (1) Whenever a part of a parcel of land is to be taken for state highway purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, the department of transportation may acquire by purchase or condemnation the whole parcel; except that the owner of said parcel may, at his option, retain the mineral or gravel interests therein, subject to the right to subsurface support retained by the department of transportation pursuant to section 43-1-209. The owner who retains said mineral or gravel interests shall not disturb the surface of the acquired parcel. The department of transportation may sell or lease the remainder of said parcel or may exchange the same for other property needed for state highway purposes.

(2) The department of transportation may acquire by purchase, exchange, or condemnation excess right-of-way whenever in the opinion of the chief engineer public interest, safety, or convenience will be served by acquiring such excess. In connection with the construction, maintenance, and supervision of the public highways of this state, the department of transportation may also acquire by purchase, exchange, or condemnation strips or parcels of land, or interests therein, adjacent to federal-aid highways necessary for the restoration, preservation, and enhancement of scenic beauty and for the development of rest, recreation, and sanitary areas; but no state funds shall be expended to acquire said strips or parcels of land, or interests therein, necessary for the restoration, preservation, and enhancement of scenic beauty and for the development of rest, recreation, and sanitary areas unless the acquisition and development of land for such purposes is approved by the secretary of transportation to make the state eligible for reimbursement from federal funds.

(3) The department of transportation has the authority to acquire by purchase, exchange, or condemnation rights-of-way for future needs for which rights-of-way have been identified in the current five-year highway program of projects and to lease any lands which are held for state highway purposes and are not presently needed therefor on such terms and conditions as the chief engineer, with the approval of the governor, may fix. When any right-of-way is to be acquired for future needs pursuant to this subsection (3), the department of transportation may obtain possession of such right-of-way pursuant to section 38-1-105 (6)(a), C.R.S., even though construction funds are not available at the time of acquisition, following the approval of an environmental assessment.

(4) All moneys received from sale or rent of lands shall be deposited with the state treasurer to the credit of the state highway fund.

(5) (a) (I) The department of transportation is authorized subject to approving resolution of the transportation commission, to dispose of any property or interest therein in the manner specified in this section which, in the opinion of the chief engineer, is no longer needed for transportation purposes. Subject to the provisions of this section, any sale or exchange of such

property or interest shall be upon the terms and conditions as the commission and chief engineer, with the approval of the governor, may fix. Title to such property shall be transferred by appropriate instruments of conveyance, without warranties, and any moneys received shall be deposited with the state treasurer to the credit of the state highway supplementary fund.

(II) Prior to the disposal of any property or interest therein that the department determines has an approximate value of five thousand dollars or more, the department shall obtain an appraisal from an appraiser, who is certified as a general appraiser under section 12-61-706, C.R.S., to determine the fair market value of such property or interest.

(III) If the department determines that the property or interest therein is of use only to one abutting owner or, in the case of an easement, to the underlying fee owner, the abutting owner or underlying fee owner shall have first right of refusal to purchase or exchange the property or interest therein upon which disposition is being made at the fair market value.

(IV) (A) If the abutting owner or underlying fee owner refuses to exercise the first right of refusal to purchase or exchange the property or interest therein under subparagraph (III) of this paragraph (a) or if the department determines that such property or interest is of use to more than one owner or potential owner, any political subdivision of this state including but not limited to any state agency, city or town, or county located within the boundaries of the property or interest therein shall have first right of refusal to purchase or exchange such property or interest at the fair market value.

(B) If no political subdivision exercises its right of first refusal to purchase or exchange the property or interest therein pursuant to sub-subparagraph (A) of this subparagraph (IV), the department shall dispose of such property or interest by means of a sale or exchange for not less than its fair market value.

(V) For property or interest therein subject to disposition that the department determines has an approximate value of less than five thousand dollars, the department shall dispose of such property or interest by means of a sale or exchange at not less than its fair market value in the manner set forth in this subsection (5); except that the department may employ a right-of-way acquisition agent as specified in section 12-61-702 (11), C.R.S., to provide an estimate of the fair market value of such property or interest and to determine to whom such property or interest is of use.

(b) (Deleted by amendment, L. 96, p. 1453, § 1, effective June 1, 1996.)

(c) If the department is not able to dispose of the property or interest therein by means of a sale or exchange following a diligent effort for a five-year period, the department shall vacate such property or interest and title to such property or interest shall vest in accordance with the provisions of part 3 of article 2 of this title.

(d) As used in this subsection (5), "exchange" means the transferring of property, including improvements, water rights, land, or interests in land or water rights, by the department to another person in consideration for the transfer to the department of other property, including improvements, water rights, land, or interests in land or water rights, cash, or services or other consideration thereof; except that any cash or services received may not exceed fifty percent of the total value of the consideration. A transaction otherwise qualifying as an exchange shall not be deemed a sale merely because dollar values have been assigned to any property, including improvements, water rights, land, or interests in land or water rights, for the purpose of ensuring that the department will receive adequate compensation.

(6) and (7) Repealed.

Source: L. 45: p. 559, §§ 1-4. **CSA:** C. 143, § 112(1). **CRS 53:** § 120-3-10. **C.R.S. 1963:** § 120-3-10. **L. 65:** p. 955, § 1. **L. 66:** p. 178, § 1. **L. 73:** p. 1234, § 1. **L. 85:** (1) and (2) amended, p. 1195, § 7, effective June 6; (5)(a) amended, p. 1337, § 1, effective July 1. **L. 87:** (2), (3), (5)(a), and (5)(b) amended, p. 1549, § 1, effective April 16. **L. 91:** (1), (2), (3), and (5) amended, p. 1092, § 108, effective July 1; (3) amended, p. 1016, § 1, effective July 1. **L. 96:** (5) amended, p. 1453, § 1, effective June 1. **L. 98:** (2) amended, p. 1097, § 13, effective June 1. **L. 2004:** (6) added, p. 1560, § 1, effective May 28. **L. 2012:** (7) added, (HB 12-1222), ch. 81, p. 270, § 1, effective April 6. **L. 2014:** (5)(a)(V) amended, (SB 14-117), ch. 385, p. 1923, § 10, effective July 1.

Editor's note: (1) Amendments to subsection (3) by Senate Bill 91-20 and House Bill 91-1198 were harmonized.

(2) Subsection (6)(d) provided for the repeal of subsection (6), effective July 1, 2007. (See L. 2004, p. 1560.)

(3) Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2015. (See L. 2012, p. 270.)

43-1-210.5. Rights-of-way use by adjacent landowners. (1) The general assembly hereby finds and declares that the department of transportation controls the use of thousands of acres of rights-of-way in Colorado for highway purposes. The general assembly further finds that, although the primary use of such rights-of-way is for highways, certain rights-of-way could also be used for productive agricultural purposes without reducing the suitability or safety of such rights-of-way for highway purposes and for authorized utility accommodations.

(2) The department of transportation may issue permits to persons who own land adjacent to state highway rights-of-way so that such persons may use such rights-of-way for agricultural purposes. The executive director of the department of transportation, or the director's designee, shall promulgate rules and regulations which describe the terms, conditions, and purposes of such permits. Included in such regulations shall be a definition of adjacent landowner, a description of the types of agricultural uses allowed, the procedure which shall be used to obtain a permit, and any insurance requirements which the executive director finds appropriate. In no event shall a right-of-way permit be entered into which, in the judgment of the department, would not be in the best interests of the state or would be detrimental to the public health, safety, or welfare or in conflict with any applicable federal, state, or local law or for any agricultural purpose which involves irrigation. No right-of-way permit shall authorize the use for agricultural purposes of any median separating traffic lanes on a state highway, or where ownership of the right-of-way is not of public record.

(3) The department of transportation may charge reasonable and necessary fees for the application and approval of any permits authorized by this section.

(4) Prior to obtaining a permit from the department of transportation, the permittee shall show proof of insurance in the amount required by the department. The department of transportation shall not be liable for any property damage or injury which may result from the permitting of right-of-way as provided for in this section.

Source: L. 91: Entire section added, p. 1137, § 1, effective July 1.

43-1-211. Department to acquire land - buildings. For the purpose of constructing, maintaining, and supervising the public highways of this state, the department of transportation is authorized to purchase land and cause to be erected thereon by a nonprofit corporation or authority buildings suitable for offices or for housing machines, tools, and equipment, or for both of such purposes.

Source: L. 51: p. 733, § 1. **CSA:** C. 143, § 175. **CRS 53:** § 120-3-11. **C.R.S. 1963:** § 120-3-11. **L. 91:** Entire section amended, p. 1093, § 109, effective July 1.

43-1-212. Department - rental agreements. The department of transportation is authorized to enter into rental or leasehold agreements under which the department shall acquire title to such buildings within a period not exceeding thirty years upon payment of the stipulated aggregate annual rentals. The plans, specifications, bids, and contracts for such buildings and the terms of all such rental or leasehold agreements shall be approved by the governor, the chief engineer, a majority of the members of the commission, and the director of the office of state planning and budgeting. The rentals shall be paid solely out of the state highway fund, and the obligation to pay such rentals shall not constitute an indebtedness of the state or be paid out of any other fund. Such rental shall be included in the annual budgets of the department and shall be certified, audited, and paid in the same manner as all other accounts and expenditures payable out of said state highway fund.

Source: L. 51: p. 733, § 2. **CSA:** C. 143, § 176. **CRS 53:** § 120-3-12. **C.R.S. 1963:** § 120-3-12. **L. 75:** Entire section amended, p. 822, § 20, effective July 18. **L. 83:** Entire section amended, p. 970, § 25, effective July 1, 1984. **L. 91:** Entire section amended, p. 1093, § 110, effective July 1.

43-1-213. Fees and taxes - not reduced. The excise fees and taxes payable into the state highway fund shall never be reduced to the extent that amounts payable into such fund are insufficient to comply with the terms of any rental or leasehold agreement entered into pursuant to this part 2.

Source: L. 51: p. 734, § 3. **CSA:** C. 143, § 177. **CRS 53:** § 120-3-13. **C.R.S. 1963:** § 120-3-13.

43-1-214. Property exempt from taxation. Property acquired or occupied pursuant to this part 2 shall be exempt from taxation so long as it is used for state highway or other public purposes.

Source: L. 51: p. 734, § 4. **CSA:** C. 143, § 178. **CRS 53:** § 120-3-14. **C.R.S. 1963:** § 120-3-14.

43-1-215. Agreements enforceable. Purchase or leasehold agreements entered into by the department of transportation pursuant to this part 2 shall be enforceable in any court of competent jurisdiction.

Source: L. 51: p. 734, § 5. **CSA:** C. 143, § 179. **CRS 53:** § 120-3-15. **C.R.S. 1963:** § 120-3-15. **L. 91:** Entire section amended, p. 1094, § 111, effective July 1.

43-1-216. Notices and tenders by mail. All notices to landowners referred to in this part 2 may be given by mailing the same to such landowners. All tenders of payment of damages to landowners referred to in this part 2 may be made by mailing to each landowner to whom such tender is to be made a written or printed statement reciting the action of the chief engineer and of the commission relating to the award of damages to such landowner, specifying the amount of damages awarded to him, and stating where and by whom payment of the sum so awarded will be made upon demand of such landowner. Depositing in the general post office in the city of Denver or at the county seat of the county in which the land in controversy is located a written or printed copy of any notice referred to in this section, or any statement tendering payment of damages, signed by the proper officer, enclosed in a sealed envelope with proper postage prepaid, and properly addressed to the landowner at his last known place of residence or address, is sufficient mailing of the same for the purpose of this part 2.

Source: L. 21: p. 372, § 22. **C.L.** § 1406. **CSA:** C. 143, § 113. **CRS 53:** § 120-3-16. **C.R.S. 1963:** § 120-3-16.

43-1-217. Inclusion of streets in highways. (1) For all of the purposes of this part 2 and, with respect to state highways, for all the purposes of part 1 of article 3 of this title, state highways or county highways may be designated, established, and constructed in, into, or through cities and counties, cities, or towns when such highways form necessary or convenient connecting links for carrying state highways or county highways into or through such cities and counties, cities, or towns, and for such purposes the department of transportation and the boards of county commissioners of the several counties may condemn or otherwise acquire rights-of-way and access rights.

(2) Each county highway in a city or town shall be maintained by such city or town. Each state highway in a city and county, city, or town shall be maintained by the department of transportation. By agreement between any such city and county, city, or town, and the chief engineer with respect to a state highway or the board of county commissioners with respect to a county highway, the department of transportation or the board of county commissioners, as the case may be, may agree to perform or pay for all or a part of the maintenance of such state or county highway in such city and county, city, or town.

Source: L. 21: p. 373, § 23. **C.L.** § 1407. **CSA:** C. 143, § 114. **L. 45, 1st Ex. Sess.** p. 41, § 2. **L. 47:** p. 764, § 1. **CRS 53:** § 120-3-17. **C.R.S. 1963:** § 120-3-17. **L. 67:** p. 85, § 1. **L. 91:** Entire section amended, p. 1094, § 112, effective July 1.

Cross references: For provisions similar to those in subsection (2) of this section, see §§ 43-2-103 and 43-2-104.

43-1-218. State and school lands. The provisions of this part 2 shall apply to state lands and school lands as well as other lands.

Source: L. 21: p. 373, § 24. **C.L.** § 1408. **CSA:** C. 143, § 115. **CRS 53:** § 120-3-18. **C.R.S. 1963:** § 120-3-18.

43-1-219. Funds created. There are hereby created two separate funds, one to be known as the state highway fund and the other to be known as the state highway supplementary fund. All moneys paid into either of said funds shall be available immediately, without further appropriation, for the purposes of such fund as provided by law. Any sums paid into the state treasury, which by law belong to the state highway fund or to the state highway supplementary fund, shall be immediately placed by the state treasurer to the credit of the appropriate fund. Upon request of the commission or of the chief engineer, it is the duty of the state treasurer to report to the commission or to the chief engineer the amount of money on hand in each of said two funds and the amounts derived from each source from which each such fund is accumulated. All accounts and expenditures from each of said two funds shall be certified by the chief engineer and paid by the state treasurer upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the specified fund upon such vouchers properly certified and audited. Nothing in this part 2 shall operate to alter the manner of the execution and issuance of transportation revenue anticipation notes provided in part 7 of article 4 of this title.

Source: L. 21: p. 373, § 25. **C.L.** § 1409. **L. 35:** p. 463, § 2. **CSA:** C. 143, § 116. **CRS 53:** § 120-3-19. **C.R.S. 1963:** § 120-3-19. **L. 99:** Entire section amended, p. 1119, § 4, effective June 2. **L. 2005:** Entire section amended, p. 290, § 44, effective August 8.

Cross references: For the transfer to the state highway supplementary fund of moneys paid to the department of transportation for expenses incurred in conducting the closure of highways for athletic or special events, see § 24-33.5-226 (3)(d).

43-1-220. Sources of funds - assumption of obligations. (1) All receipts from the following sources shall be paid into and credited to the state highway fund as soon as received from:

(a) Such appropriation as may, from time to time, be made by law to the state highway fund from excise tax revenues;

(b) All revenue accruing to the state highway fund under the provisions of law, by way of excise taxation from the imposition of any license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highways in this state, and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel.

(c) Repealed.

(2) All receipts from the following sources shall be paid into and credited to the state highway supplementary fund as soon as received from:

(a) Such appropriations as may, from time to time, be made by law to the state highway supplementary fund;

(b) All receipts from the sale of bonds that may be authorized by the people of the state for state highway purposes;

(c) The federal government or any department thereof for the purpose of constructing, improving, or maintaining state highways, and from all public donations for such purpose. All

such donations shall be paid to the credit of the state highway supplementary fund for such particular purpose as may be indicated by the donor. The state treasurer shall not receive any gift for such purpose without the approval of the board.

(d) Private investors representing advances for or purchase price of state highway fund revenue anticipation warrants;

(e) All moneys for state highway purposes from sources other than those specified in subsection (1) of this section;

(f) Contributions, revenues, or income pursuant to section 43-1-1205;

(g) Any proceeds from the issuance of transportation revenue anticipation notes in accordance with part 7 of article 4 of this title; and

(h) Any revenues received from political subdivisions pursuant to section 43-4-709, including but not limited to federal transportation funds as defined in section 43-4-702 (4).

Source: L. 21: p. 374, § 26. **C.L.** § 1410. **L. 35:** p. 464, § 3. **CSA:** C. 143, § 117. **L. 36, 2nd Ex. Sess.:** p. 18, § 2. **CRS 53:** § 120-3-20. **L. 59:** p. 630, § 2. **C.R.S. 1963:** § 120-3-20. **L. 94:** (1)(c) added, p. 1217, § 2, effective May 22. **L. 95:** (2)(f) added, p. 261, § 3, effective April 17. **L. 99:** (2)(g) and (2)(h) added, p. 1119, § 5, effective June 2. **L. 2011:** (1)(c) repealed, (SB 11-159), ch. 54, p. 145, § 9, effective March 25.

Cross references: For the legislative declaration contained in the 1995 act enacting subsection (2)(f), see section 1 of chapter 90, Session Laws of Colorado 1995.

43-1-221. Proceeds from sale of bonds. The proceeds from the sale of any bonds that may be authorized for state highways shall be expended only for such purposes as are specified in the law authorizing the issue of the bonds and not more than ten percent of any bond issue for administrative and engineering purposes.

Source: L. 21: p. 376, § 28. **C.L.** § 1412. **CSA:** C. 143, § 119. **CRS 53:** § 120-3-21. **C.R.S. 1963:** § 120-3-21.

43-1-222. Cash available for small payments. In order that the chief engineer may make immediate cash payment to laborers and in other instances where, in his or her judgment, it is advantageous or necessary for the conducting of the work supervised by the chief engineer to make such payments, the state treasurer shall deposit in a bank in the city and county of Denver, Colorado, from the state highway fund, the sum of twenty-five thousand dollars, which must be made payable upon order of the chief engineer in the form of a voucher check, the voucher to show to whom and for what payment is made. A duplicate of all such vouchers shall be retained in the office of the chief engineer. An amount equal to the checks returned and found in proper form shall thereupon be deposited by the state treasurer to the credit of such special fund from the state highway fund. Voucher checks drawn upon the special fund shall not be used to pay salaries of officers or regular employees of the department.

Source: L. 21: p. 377, § 31. **C.L.** § 1415. **CSA:** C. 143, § 122. **CRS 53:** § 120-3-22. **C.R.S. 1963:** § 120-3-22. **L. 65:** p. 159, § 11. **L. 91:** Entire section amended, p. 1094, § 113,

effective July 1. **L. 2015:** Entire section amended, (HB 15-1209), ch. 64, p. 176, § 7, effective March 30.

43-1-223. Supervision of construction. If, as the result of any agreement made by the department of transportation on behalf of the state and any branch of the federal government, there is undertaken actual construction or improvement of highways in the state, the letting of contracts and preparation and approval of specifications and plans, together with supervision of construction, shall, on behalf of the state, be under the direct control of the chief engineer, subject to the terms of the agreement so made. No agreement or contract shall be made which requires the expenditure of funds greater than that included in the budget for the current fiscal year plus additional advances from the federal government and from private investors made after the date of the budget.

Source: L. 21: p. 378, § 32. **C.L.** § 1416. **L. 35:** p. 468, § 6. **CSA:** C. 143, § 123. **L. 36, 2nd Ex. Sess.:** p. 21, § 4. **CRS 53:** § 120-3-23. **C.R.S. 1963:** § 120-3-23. **L. 91:** Entire section amended, p. 1095, § 114, effective July 1.

43-1-224. Cooperation with federal departments. The department of transportation is further authorized to cooperate in such manner as it may consider for the public benefit with any department of the federal government in undertaking any experiments or collecting any data that has to do with public highways.

Source: L. 21: p. 378, § 33. **C.L.** § 1417. **CSA:** C. 143, § 124. **CRS 53:** § 120-3-24. **C.R.S. 1963:** § 120-3-24. **L. 91:** Entire section amended, p. 1095, § 115, effective July 1.

43-1-225. Power of transportation commission - relocation of utility facilities - payment of cost. (1) The transportation commission has the following powers in addition to the powers now possessed by it: To make reasonable regulations for the installation, construction, maintenance, repair, renewal, and relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances or connections thereto, called "utility facilities" in this section, of any governmental subdivision of the state of Colorado or of an abutting landowner in, on, along, over, across, through, or under any project on the federal-aid primary or secondary systems or on the interstate system, including extensions thereof within urban areas. Whenever the commission determines that it is necessary that any such utility facilities which may be located in, on, along, over, across, through, or under any such federal-aid primary or secondary system or on the interstate system, including extensions thereof within urban areas, should be relocated, the governmental subdivision of the state of Colorado or abutting landowner owning or operating such facilities shall relocate the same in accordance with the order of the commission; but the cost of relocation shall be paid to the governmental subdivision of the state of Colorado or abutting landowner so ordered to relocate its utility facilities without discrimination or impairment on account of any agreement entered into by any department, commission, or governmental subdivision of this state. In case of any such relocation of utility facilities, as provided in this section, the governmental subdivision of the state of Colorado or abutting landowner owning or operating the same may maintain and operate such utility facilities, with the necessary appurtenances, in the new location. Said payment of

costs shall be made from the state highway fund or the state highway supplementary fund upon due certification made by the chief engineer and paid by the state treasurer upon warrants drawn by the controller as provided for and authorized by section 43-1-219.

(2) As used in this section, unless the context otherwise requires:

(a) "Governmental subdivision" includes a county or city and county, a city or town, a municipal or quasi-municipal corporation, and a school district.

(b) "Cost of relocation" includes the entire amount paid by such governmental subdivision of the state of Colorado properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(3) The cost of relocating utility facilities owned by any governmental subdivision of the state of Colorado or abutting landowner on the federal-aid primary or secondary systems or on the interstate system, including extensions thereof within urban areas, shall be a cost of highway construction.

Source: L. 65: p. 957, § 2. **C.R.S. 1963:** § 120-3-25. **L. 91:** (1) amended, p. 1095, § 116, effective July 1.

43-1-226. Legislative declaration. It is declared to be the purpose of the general assembly in the passage of section 43-1-225 that the state of Colorado may more fully avail itself of the benefits of funds apportioned for expenditure on federal-aid primary or secondary systems and on the interstate system, including extensions thereof within urban areas, in conformance with the "Federal-Aid Road Act", approved July 11, 1916, and all acts of the congress amendatory thereof and supplementary thereto.

Source: L. 65: p. 957, § 1. **C.R.S. 1963:** § 120-3-26.

Cross references: For the "Federal-Aid Road Act", actually titled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes.", see 39 Stat. 355. For current provisions pertaining to the "Federal-Aid Road Act", see 23 U.S.C. §§ 101, 202, 204, 205.

PART 3

HIGHWAY RELOCATION ASSISTANCE ACT

43-1-301 to 43-1-311. (Repealed)

Source: L. 89: Entire part repealed, p. 1084, § 14, effective March 31.

Editor's note: This part 3 was numbered as article 3 of chapter 120, C.R.S. 1963. For amendments to this part 3 prior to its repeal in 1989, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For the relocation assistance and land acquisition policies, see article 56 of title 24.

PART 4

ROADSIDE ADVERTISING

Editor's note: This part 4 was numbered as article 18 of chapter 120, C.R.S. 1963. The substantive provisions of this part were repealed and reenacted in 1981, causing some addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 4 prior to 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973, beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For regulation of advertising on county roads, see §§ 43-2-139 and 43-2-141.

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

Source: L. 81: Entire part R&RE, p. 2006, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-401 as it existed prior to 1981.

43-1-402. Legislative declaration. (1) (a) It is declared to be the purpose of the general assembly in the passage of this part 4 to control the existing and future use of advertising devices in areas adjacent to the state highway system in order to protect and promote the health, safety, and welfare of the traveling public and the people of Colorado and such purposes are declared to be of statewide concern. The general assembly finds and declares that the enactment of this part 4 is necessary to further the following substantial state interests:

(I) Protection of the public investment in the state highway system;

(II) Promotion of safety upon the state highway system;

(III) Promotion of the recreational value of public travel;

(IV) Promotion of public pride and spirit both on a statewide and local basis;

(V) Preservation and enhancement of the natural and scenic beauty of this state;

(VI) Broadening the economic well-being and general welfare by attracting to this state tourists and other travelers;

(VII) Providing the traveling public with information as to necessary goods and services in the immediate vicinity of the traveler;

(VIII) Protection and encouragement of local tourist-related businesses for the general economic well-being of this state;

(IX) Insuring that Colorado receives its full share of funds to be apportioned by the congress of the United States for expenditures on federal-aid highways.

(b) In furtherance of the substantial state interests stated in paragraph (a) of this subsection (1), it is the intent of the general assembly that Colorado comply with the federal "Highway Beautification Act of 1965" and rules and regulations adopted thereunder.

(2) The general assembly further finds and declares that this part 4, taken as a whole, represents a balancing of the above-stated substantial state interests.

Source: L. 81: Entire part R&RE, p. 2006, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-407 as it existed prior to 1981.

Cross references: For the "Highway Beautification Act of 1965", see Pub.L. 89-285, codified at 23 U.S.C. sec. 131 et seq.

43-1-403. Definitions. As used in this part 4, unless the context otherwise requires:

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

(1.5) (a) "Comprehensive development" means a group of two or more lots or parcels of land used primarily for multiple separate commercial or industrial activities that:

(I) Is located entirely on one side of a highway;

(II) Consists of lots or parcels that are contiguous except for public or private roadways or driveways that provide access to the development;

(III) Has been approved by the relevant local government as a development with a common identity and plan for public and private improvements;

(IV) Has common areas such as parking, amenities, and landscaping; and

(V) Has an approved plan of common ownership in which the owners have recorded irrevocable rights to use common areas and that provides for the management and maintenance of common areas.

(b) "Comprehensive development" includes all land used or to be used or occupied for the activities of the development, including buildings, parking, storage and service areas, streets, driveways, and reasonably necessary landscaped areas. A comprehensive development includes only land that is used for a purpose reasonably related to the activities of the development other than an attempt to qualify the land for on-premise advertising.

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

(3) "Department" means the department of transportation.

(4) "Directional advertising device" includes, but is not limited to: Advertising devices containing directional information to facilitate emergency vehicle access to remote locations or about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and

religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. Such devices shall conform to standards promulgated by the department pursuant to section 43-1-415, which standards shall conform to the national policy.

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

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

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

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

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

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

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

(12) "Nonconforming advertising device" means any advertising device that was lawfully erected under state law and has been lawfully maintained in accordance with the provisions of this part 4 or prior state law, except those advertising devices allowed by section 43-1-404 (1).

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

(14) "On-premise advertising device" means:

(a) An advertising device advertising the sale or lease of the property on which it is located or advertising activities conducted on the property on which it is located; or

(b) An advertising device located within a comprehensive development that advertises any activity conducted in the comprehensive development, so long as the placement of the advertising device does not cause a reduction of federal aid highway moneys pursuant to 23 U.S.C. sec. 131.

(15) "Person" means any individual, corporation, partnership, association, or organized group of persons, whether incorporated or not, and any government, governmental subdivision, or agency thereof.

(16) "Tourist-related advertising device" means any legally erected and maintained advertising device which was in existence on May 5, 1976, and which provides directional information about goods and services in the interest of the traveling public limited to the following: Lodging, campsite, food service, recreational facility, tourist attraction, educational or historical site or feature, scenic attraction, gasoline station, or garage.

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

(18) "Would work or suffer a substantial economic hardship" means tending to cause or causing a significant negative economic effect, such as a loss of business income, an increase in unemployment, a reduction in sales taxes or other revenue to the state or other governmental

entity, a reduction in real estate taxes to the county, and other significant negative economic factors.

Source: L. 81: Entire part R&RE, p. 2007, § 1, effective July 1. **L. 91:** (3) amended, p. 1096, § 117, effective July 1. **L. 96:** (4) amended, p. 776, § 1, effective May 23. **L. 2006:** (1.5) added and (14) amended, p. 78, § 1, effective August 7. **L. 2008:** (12) amended, p. 256, § 1, effective August 5.

Editor's note: This section is similar to former § 43-1-402 as it existed prior to 1981.

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

(a) Official advertising devices;

(b) On-premise advertising devices;

(c) Directional advertising devices;

(d) Advertising devices located in areas which were zoned for industrial or commercial uses under authority of state law prior to January 1, 1970;

(e) (I) Advertising devices located along primary and secondary highways in areas which were zoned for industrial or commercial uses under authority of state law on and after January 1, 1970, provided:

(A) The advertising device shall be no larger than one hundred fifty square feet; and

(B) The advertising device shall be located within one thousand feet of an industrial or commercial building in place; and

(C) The advertising device shall only inform the traveling public of necessary goods or services available within a five-mile radius of the advertising device; necessary goods and services shall be limited to lodging, camping, food, gas, vehicle repair, health-related goods or services, recreational facilities or services, and places of cultural importance; and

(D) No person providing necessary goods or services shall be eligible for more than two advertising devices pursuant to this paragraph (e); and

(E) The advertising device shall predominately display the name and location of the necessary goods or services advertised.

(II) In enacting the provisions of this paragraph (e), the general assembly declares each and every provision is necessary and not severable in order to further the substantial state interests contained in section 43-1-402. It is not the intent of the general assembly to allow advertising devices in areas zoned for industrial or commercial uses on or after January 1, 1970, unless each and every provision contained in this paragraph (e) is satisfied.

(III) The department shall consult with the council on creative industries and the state historical society to determine places of cultural importance which are eligible to erect advertising devices pursuant to sub-subparagraph (C) of subparagraph (I) of this paragraph (e). It is the intent of the general assembly that no state moneys nor any federal funds be used to erect such advertising devices.

(f) (I) Notwithstanding any other provision of law, with the exception of section 43-1-416, any advertising device, except for a nonconforming advertising device, may contain a message center display with movable parts and a changeable message that is changed by

electronic processes or by remote control. The illumination of an advertising device containing a message center display is not the use of a flashing, intermittent, or moving light for the purposes of any rule, regulation, and standard promulgated by the department or any agreement between the department and the secretary of transportation of the United States. No message center display may include any illumination that is in motion or appears to be in motion, that changes in intensity or exposes its message for less than four seconds, or that has an interval between messages of less than one second. No advertising device with a message center display may be placed within one thousand feet of another advertising device with a message center display on the same side of a highway. No message center display may be placed in violation of section 131 of title 23 of the United States code.

(II) Subparagraph (I) of this paragraph (f) shall not apply if the department receives written notification from the applicable federal authority that the proposed advertising device with a message center display will directly cause the repayment or denial of federal moneys that would otherwise be available or would otherwise be inconsistent with federal law, but only to the extent necessary to prevent the repayment or denial of the moneys or to eliminate the inconsistency with federal law.

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

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

(4) Notwithstanding paragraphs (d) and (e) of subsection (1) of this section, any advertising device which is more than six hundred sixty feet off the nearest edge of the right-of-way, located outside urban areas as such areas are defined in 23 U.S.C. sec. 101, and which is visible from the roadway of the state highway system and erected with the purpose of its message being read from such roadway is prohibited. Advertising devices beyond six hundred sixty feet of the right-of-way which were lawfully erected under state law prior to January 4, 1975, shall be compensated for and removed pursuant to this part 4.

(5) (a) Notwithstanding any other provision of law, except for section 43-1-416, as an alternative to removing any advertising device that is otherwise permitted by this part 4 or acquiring all real and personal property rights pertaining to the device, the department may permit the advertising device to be remodeled and relocated on the same property in a commercial or industrial zoned area, or on another area where the device would otherwise be permitted under this article.

(b) Paragraph (a) of this subsection (5) shall not apply if the department receives written notification from the applicable federal authority that the proposed advertising device to be remodeled and relocated will directly cause the repayment or denial of federal moneys that would otherwise be available or would otherwise be inconsistent with federal law, but only to the extent necessary to prevent the repayment or denial of the moneys or to eliminate the inconsistency with federal law.

Source: L. 81: Entire part R&RE, p. 2008, § 1, effective July 1. **L. 83:** (1)(e)(I)(C) amended and (1)(e)(III) added, p. 1662, § 1, effective June 10. **L. 92:** (1)(e)(III) amended, p. 563, § 8, effective March 25. **L. 2002:** (1)(f) and (5) added, pp. 543, 544, §§ 1, 2, effective August 7. **L. 2006:** (1)(b) amended, p. 79, § 2, effective August 7. **L. 2010:** IP(1) and (1)(e)(III) amended, (SB 10-158), ch. 231, p. 1014, § 5, effective July 1.

Editor's note: This section is similar to former § 43-1-408 as it existed prior to 1981.

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

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

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

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

Source: L. 81: Entire part R&RE, p. 2009, § 1, effective July 1.

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

(2) As used in this section:

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

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

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

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

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided interstate highway or the center line of the main-traveled way of a nondivided interstate highway.

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

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

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

(a) On-premise advertising devices;

(b) Advertising devices located in a Kerr area;

(c) Advertising devices located in a Cotton area;

(d) Directional or official advertising devices.

Source: L. 81: Entire part R&RE, p. 2010, § 1, effective July 1. **L. 2006:** (5)(a) amended, p. 79, § 3, effective August 7.

Editor's note: This section is similar to former § 43-1-413 as it existed prior to 1981.

43-1-407. Permits. (1) A permit from the department shall be required for the erection or maintenance of the following advertising devices:

(a) Each nonconforming advertising device as defined in section 43-1-403 (12);

(b) Each directional advertising device as defined in section 43-1-403 (4), except that the following advertising devices shall not require permits:

(I) Advertising devices which are no larger than eight square feet and which advertise farms, ranches, or nonprofit educational, veterans', religious, charitable, or civic organizations; or

(II) Directory signs no larger than thirty-two square feet, the sole purpose of which is to provide direction to individual farms or ranches by way of individual signs, each of which is no larger than eight square feet.

(c) Each advertising device allowed pursuant to section 43-1-404 (1)(d) and (1)(e). Renewals of such permits are subject to the provisions of section 43-1-409.

(2) (a) (I) Any other provision of law notwithstanding, the department shall issue a permit to erect or maintain an advertising device on a bus bench or bus shelter located either within the right-of-way of any state highway or on land adjacent to or visible from the right-of-way of any state highway if the local governing body having authority over the state highway pursuant to section 43-2-135 has approved such advertising device. The state shall accept the local permit as a state approved permit if the approval procedure of the local governing body included a determination that the advertising device does not restrict pedestrian traffic and is not a safety hazard to the motoring public.

(II) Except for safety requirements for bus benches or bus shelters located within the right-of-way of any state highway, the department shall not impose any additional requirements or more strict requirements in connection with permits for advertising devices on a bus bench or

bus shelter than those imposed by the local governing body unless specifically required by federal law.

(III) The department shall implement this subsection (2) with the purpose of promoting the use of bus transportation.

(b) This subsection (2) shall not apply if the department receives written notification from the applicable federal authority that compliance with this subsection (2) will directly cause denial of federal moneys that would otherwise be available or would otherwise be inconsistent with federal law, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal law.

Source: L. 81: Entire part R&RE, p. 2011, § 1, effective July 1. **L. 92:** (1)(b) amended, p. 1342, § 1, effective July 1. **L. 96:** (2) amended, p. 776, § 2, effective May 23. **L. 2001:** (2) amended, p. 410, § 1, effective April 19.

43-1-408. Application for permit - contents. (1) Application for a permit for each advertising device shall be made on a form provided by the department, shall be signed by the applicant or his duly authorized officer or agent, and shall show:

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

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

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

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

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

(f) (I) For all devices erected on or after July 1, 1981, certification from the local zoning administrator or authority that the advertising device conforms to local zoning requirements or a copy of a local government permit for the device;

(II) For devices erected prior to July 1, 1981, an affidavit from the sign owner that the advertising device was lawfully erected under local law.

Source: L. 81: Entire part R&RE, p. 2011, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-414 as it existed prior to 1981.

43-1-409. Permit term - renewal - fees. (1) (a) Applications for renewal of permits shall be made before June 1 of each year and shall be issued for a one-year period beginning July 1 and ending June 30. Permits shall be issued without proration for periods of less than one year. If the sign authorized by a permit is not erected within one year from the date the permit was issued, then the permit is void as of one year from the date it was issued.

(b) Each application for a permit or renewal of a permit shall be accompanied by a permit fee for each advertising device, in accordance with the following schedule:

Sign size 100 square feet of face area or less $10.00

Sign size 101 square feet of face area to
250 square feet of face area $20.00

Sign size 251 square feet of face area to
600 square feet of face area $40.00
Sign size 601 square feet of face area or more $75.00

(2) No permit renewals from the department shall be required for any advertising device erected in an area zoned for industrial or commercial use where the local zoning authority has entered into an agreement of certification with the department and where the local zoning authority has enacted rules, regulations, or ordinances concerning the control of advertising devices in industrial or commercial areas that are at least as restrictive as this part 4 and the rules and regulations promulgated under this part 4 as to size, lighting, spacing, use, and maintenance. As used in this subsection (2), an "agreement of certification" means the local zoning authority agrees to: Enforce its rules, regulations, or ordinances concerning outdoor advertising devices or billboards; require a permit be obtained from the department before any new device is erected within the certification area; require a new permit be obtained from the department before any material change is made to a device in existence at the time of certification; tender to the department semiannually inspection records and records of actions taken on violations. If the department determines after public hearing that the local zoning authority has failed to comply with its agreement of certification, the department may rescind the agreement of certification by serving a written decision on the local zoning authority by certified mail. The decision of the department shall constitute final agency action. Upon rescission the department shall require all permit holders to renew their permits unless the device is otherwise in violation of this part 4 in which case the department shall proceed pursuant to section 43-1-412.

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

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

(5) The permit holder shall, during the term thereof, have the right to change the advertising copy, ornamentation, or trim on the structure or sign for which it was issued without payment of any additional fee. The permit holder shall also have the right and obligation to repair, replace, and maintain in good condition any damaged advertising device structure, however caused, if the right to maintain any nonconforming advertising device has not been terminated pursuant to section 43-1-413.

(6) (Deleted by amendment, L. 92, p. 1342, § 2, effective July 1, 1992.)

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

Source: L. 81: Entire part R&RE, p. 2012, § 1, effective July 1. **L. 92:** (1)(a) and (6) amended, p. 1342, § 2, effective July 1.

Editor's note: This section is similar to former § 43-1-415 as it existed prior to 1981.

43-1-410. Denial or revocation of permit or renewal. A permit under this part 4 may be denied or revoked, or a renewal denied, for false or misleading information given in the application for such permit or renewal or for the erection or maintenance of an advertising device in violation of the provisions of this part 4 or in violation of the rules and regulations of the department promulgated to enforce and administer this part 4.

Source: L. 81: Entire part R&RE, p. 2013, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-416 as it existed prior to 1981.

43-1-411. Issuance of permits prohibited - when. (1) No permit shall be issued for the erection, use, or maintenance of any advertising device which is or would be:

(a) At a point where it would encroach upon the right-of-way of a public highway without written approval of the department;

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

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

(d) Designed, used, or intended to be designed or used to include more than two advertising panels on an advertising device facing in the same direction.

(2) On or after July 1, 1981, no permit shall be issued for any advertising device which required a permit under state law prior to July 1, 1981, and for which no permit was obtained.

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

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

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

(6) No permit shall be issued for any advertising device which does not conform to size, lighting, and spacing standards as prescribed by rules and regulations adopted by the department, where such rules and regulations were adopted prior to the erection of said device.

Source: L. 81: Entire part R&RE, p. 2013, § 1, effective July 1. **L. 2001:** (1)(d) amended, p. 411, § 2, effective April 19.

Editor's note: This section is similar to former § 43-1-418 as it existed prior to 1981.

43-1-412. Notice of noncompliance - removal authorized. (1) Any outdoor advertising device which does not comply with this part 4 and the rules and regulations issued by the department shall be subject to removal as provided in this section.

(2) (a) If no permit has been obtained for the advertising device as required by this part 4, the department shall give written notice by certified mail to the owner of the property on which the advertising device is located informing said landowner that the device is illegal and requiring him within sixty days of receipt of the notice to remove the device or have a permit obtained if such permit may be issued and advising him of the right to request the department to conduct a hearing.

(b) If no application for renewal of a permit is received by the department as required by this part 4, the department shall give written notice by certified mail to the permittee requiring him within sixty days of receipt of the notice to apply for a renewal permit and pay an additional late fee of fifty dollars or remove the advertising device and advising him of the right to request the department to conduct a hearing.

(c) If the department determines that an application for renewal permit should be denied or that an existing permit should be revoked, the department shall give written notice by certified mail to the applicant or permittee specifying in what respect he has failed to comply with the requirements of this part 4 and requiring him within sixty days of receipt of the notice to remove the device or correct the violation if correction is permissible pursuant to this part 4 and advising him of the right to request the department to conduct a hearing.

(3) A request for a hearing shall be made in writing and must be received by the department no later than sixty days after receipt of notice. Such hearings shall be held pursuant to the "State Administrative Procedure Act".

(4) After the sixty-day notice period has expired, the department is authorized to make a determination with or without hearing that the device is or is not in compliance with this part 4. If the department determines the device is not in compliance with this part 4 and the rules and regulations promulgated under this part 4, it shall issue an order setting forth the provisions violated, the facts alleged to constitute the violation, and the time by which the device must be removed at the party's expense. The order shall be served upon the party by certified mail.

(5) If the party does not remove the device as ordered, the department is authorized to remove the device forthwith. If the landowner does not consent to entry upon the land by the department to remove the device and no party has sought judicial review pursuant to the "State Administrative Procedure Act", the department may apply to a court of competent jurisdiction for an order allowing the department to enter upon the land for the purpose of removing the device forthwith. The court shall issue such order upon proof the device has not been removed and judicial review has not been sought.

(6) Upon removal of an advertising device pursuant to this section, neither the owner of the property upon which the advertising device was erected nor the department shall be liable in damages to anyone who claims to be the owner of the advertising device who has not obtained a permit. The department shall not be responsible for damages otherwise created by the removal of said advertising device or for its destruction subsequent to removal.

Source: L. 81: Entire part R&RE, p. 2014, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-417 as it existed prior to 1981.

Cross references: For the "State Administrative Procedure Act", see article 4 of title 24.

43-1-413. Nonconforming advertising devices. (1) A nonconforming advertising device may be continued to be maintained at the same location at which the nonconforming advertising device was lawfully erected.

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

(a) Abandonment of the nonconforming advertising device;

(b) Increase of any dimension of the nonconforming advertising device;

(c) Change of any aspect of or in the character of the nonconforming device;

(d) Failure to comply with the provisions of this part 4, concerning permits for the maintenance of advertising devices;

(e) Damage to or destruction of the nonconforming advertising device from any cause whatsoever, except willful destruction, where the cost of repairing the damage or destruction exceeds fifty percent of the cost of such device on the date of damage or destruction, as determined by the department-approved schedule of compensation;

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

(3) Reasonable and customary repair and maintenance of the device, including a change of advertising message or design, is not a change that would violate subsection (2) of this section. However, such message or design change shall not be compensable under section 43-1-414.

(4) If the right to maintain any nonconforming advertising device is terminated under this section, the advertising device shall become illegal and shall be removed pursuant to section 43-1-412.

Source: L. 81: Entire part R&RE, p. 2015, § 1, effective July 1. **L. 2008:** (1) and (2)(b) amended, p. 256, § 2, effective August 5.

Editor's note: This section is similar to former § 43-1-422 as it existed prior to 1981.

43-1-414. Removal of nonconforming devices. (1) The department may remove any nonconforming advertising device and may acquire all real and personal property rights pertaining to the nonconforming advertising device by gift, purchase, agreement, exchange, or eminent domain. All proceedings in eminent domain shall be conducted as may be provided by law. The department may adopt appraisal concepts and acquisition procedures which are appropriate to the evaluation and removal of nonconforming advertising devices.

(2) Just compensation shall be paid for each lawfully permitted nonconforming advertising device. Where the nonconforming advertising device has been modified with approval of the department, just compensation shall be determined as if no changes had been made, unless the changes shall have resulted in a decrease in value. Just compensation shall be paid for the taking, from the owner of such advertising device, of all right, title, leasehold, and interest in such advertising device and for the taking from the owner of real property on which such advertising device is located and of the right to maintain such advertising device.

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

(4) The department shall promulgate reasonable rules and regulations governing acquisition procedures for the advertising devices, appraisal of advertising devices, and the administration and enforcement of this section. Rules for the appraisal of advertising devices shall take into account normal depreciation.

(5) Tourist-related advertising devices which comply with the rules and regulations adopted by the department may be exempted from removal under the following conditions:

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

(b) Each exempted tourist-related advertising device must comply with requirements of the department concerning the directional contents of the device.

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

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

Source: L. 81: Entire part R&RE, p. 2015, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-423 as it existed prior to 1981.

Cross references: For the federal "Highway Beautification Act of 1965", see Pub.L. 89-285, codified at 23 U.S.C. sec. 131 et seq.

43-1-415. Administration and enforcement - authority for agreements. (1) The department shall administer and enforce the provisions of this part 4 and shall promulgate and enforce rules, regulations, and standards necessary to carry out the provisions of this part 4 including, but not limited to:

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

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

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

(d) Regulations governing the removal and acquisition of nonconforming advertising devices;

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

(f) Regulations governing specific information signs under section 43-1-420.

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

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

(4) The rules and regulations of the department shall not impose any additional requirements or more strict requirements than those imposed by this part 4.

Source: L. 81: Entire part R&RE, p. 2017, § 1, effective July 1. **L. 92:** (4) added, p. 1343, § 3, effective July 1.

Editor's note: This section is similar to former § 43-1-410 as it existed prior to 1981.

Cross references: For promulgation of rules and regulations, see article 4 of title 24.

43-1-416. Local control of outdoor advertising devices. Nothing in this part 4 shall be construed to prevent use of zoning powers and establishment of stricter limitations or controls on advertising devices by any municipality or county within its boundaries so long as such limitations or controls do not jeopardize the receipt by the state of its full share of federal highway funds.

Source: L. 81: Entire part R&RE, p. 2017, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-405 as it existed prior to 1981.

43-1-417. Violation and penalty. (1) The erection, use, or maintenance of any advertising device in violation of any provision of this part 4 is declared to be illegal and, in

addition to other remedies provided by law, the department is authorized to institute appropriate action or proceeding to prevent or remove such violation in any district court of competent jurisdiction. The removal of any advertising device unlawfully erected shall be at the expense of the person who erects and maintains such device.

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

(3) (a) Except as provided in section 43-1-421, no person other than the department without written approval of the department shall erect or maintain any advertising device located either wholly or partly within the right-of-way of any state highway that is a part of the state highway system, including streets within cities, cities and counties, and incorporated towns. All advertising devices so located are hereby declared to be public nuisances, and any law enforcement officer or peace officer in the state of Colorado or employee of the department is hereby authorized and directed to remove the same without notice.

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

Source: L. 81: Entire part R&RE, p. 2018, § 1, effective July 1. **L. 95:** (3)(a) amended, p. 278, § 2, effective April 20.

Editor's note: This section is similar to former § 43-1-406 as it existed prior to 1981.

43-1-418. Outdoor advertising program cost recovery center. (1) The department shall establish a cost recovery center within the state highway fund. Except for revenue required to be credited to the state highway fund as specified in subsection (2) of this section, the department shall deposit permit fees collected under this part 4 in the cost recovery center to carry out its duties under this part 4. The fee structure shall be reviewed by the department every four years.

(2) The department shall expend all revenue collected pursuant to section 43-1-420 to defray the costs of administering specific information signs, business signs installed on specific information signs, and tourist-oriented directional signs and shall credit all other revenue collected pursuant to this part 4 to the state highway fund.

Source: L. 81: Entire part R&RE, p. 2018, § 1, effective July 1. **L. 2014:** Entire section amended, (HB 14-1188), ch. 73, p. 304, § 1, effective July 1.

Editor's note: This section is similar to former § 43-1-420 as it existed prior to 1981.

43-1-419. Scenic byways - Independence pass scenic area highway. (1) (a) State highways designated as scenic byways by the transportation commission shall have no new advertising devices erected which are visible from the highway, except the following:

(I) Official advertising devices, as defined in section 43-1-403 (13);

(II) On-premise advertising devices, as defined in section 43-1-403 (14); or

(III) Directional advertising devices, as defined in section 43-1-403 (4).

(b) Existing advertising devices along scenic byways which are in compliance with this part 4 and the rules and regulations of the department may be maintained as long as they remain in compliance with all provisions of this part 4 and the rules and regulations of the department.

(c) (I) An advertising device shall be considered to be visible from a designated highway if it is plainly visible to the driver of a vehicle who is proceeding in a legally designated direction and traveling at the posted speed.

(II) As used in this paragraph (c), "visible" shall have the same meaning as provided in section 43-1-403 (17).

(2) Independence pass on state highway 82 and sixteen miles of said highway extending on either side of Independence pass in Pitkin and Lake counties, Colorado, is designated as a scenic area highway, and no advertising devices shall be erected on or near said highway so as to be visible to motor vehicle operators on said highway.

Source: L. 81: Entire part R&RE, p. 2018, § 1, effective July 1. **L. 92:** Entire section amended, p. 1343, § 4, effective July 1. **L. 93:** (1)(c) added, p. 1487, § 2, effective June 6.

Editor's note: This section is similar to former § 43-1-421 as it existed prior to 1981.

43-1-420. Specific information signs and tourist-oriented directional signs authorized - rules. (1) (a) The department may erect, administer, and maintain signs within highway rights-of-way for the display of advertising and information of interest to the traveling public, pursuant to the federal authority set forth in 23 U.S.C. secs. 109 (d), 131 (f), and 315 and 49 CFR 1.48 (b).

(b) In addition to erecting, administering, and maintaining the signs authorized by paragraph (a) of this subsection (1), the department may authorize the erection, administration, and maintenance of specific information signs within highway rights-of-way upon the interstate system for the purpose of providing information pursuant to federal authority.

(1.5) As used in this section, "urbanized area" means that area within the boundary of a metropolitan area having a population of fifty thousand or more as determined by the United States bureau of the census in its latest census and as included on the urbanized area map approved by the department.

(2) The department may issue permits for business signs to be installed on specific information signs, all such specific information signs and business signs to be constructed and installed at the expense of the business being identified unless otherwise specified by a contractor in an agreement negotiated pursuant to section 43-1-1202 (1)(a)(XI). Permits for such business signs shall be issued for a period of one year, beginning each January 1, without proration for periods less than a year. Each application for an initial permit or for a renewal of an existing permit shall be accompanied by an administration and maintenance fee to be determined by the department or by the contractor in an agreement negotiated pursuant to section 43-1-1202 (1)(a)(XI). In the event that the number of applications for permits for a particular location exceeds the number of business signs that can be accommodated at that location, the department or, if so specified in an agreement negotiated pursuant to section 43-1-1202 (1)(a)(XI), the contractor, shall develop a method for the annual rotation of such business signs. The department shall not condition eligibility for business signs on the utilization of any other off-premise outdoor advertising devices.

(3) The department may issue permits and adopt rules for the erection, administration, and maintenance of tourist-oriented directional signs within highway rights-of-way not on the interstate system and not on freeways or expressways, as such highways are defined in the rules, that are in urbanized areas, for the display of information of interest to the traveling public pursuant to the federal authority therefor as set forth in 23 U.S.C. secs. 109 (d), 315, and 402 (a) and 49 CFR 1.48 (b) and in accordance with federal requirements. Any tourist-oriented directional sign erected pursuant to this subsection (3) shall be required to comply with all applicable regulations of the county, city and county, or municipality in which the sign is located. A county, city and county, or municipality may choose to authorize such signs within its jurisdiction by adoption of a resolution to that effect by the governing body of the county, city and county, or municipality, which resolution shall be directed to the executive director of the department or the executive director's designee. Upon receipt of the resolution, the department shall authorize further implementation of the tourist-oriented directional sign program within the affected jurisdiction subject to the rules adopted by the department. The department shall not condition eligibility for business signs on the utilization of any other off-premise outdoor advertising devices.

(4) The department may contract with private businesses to implement all or part of the sign programs authorized by this section pursuant to the public-private initiatives program set forth in part 12 of this article.

(5) Repealed.

Source: L. 81: Entire part R&RE, p. 2018, § 1, effective July 1. **L. 87:** Entire section amended, p. 1551, § 1, effective March 12. **L. 89:** (3) added, p. 1628, § 1, effective May 26. **L. 98:** Entire section amended, p. 165, § 2, effective August 5. **L. 2004:** (5) added, p. 9, § 1, effective August 4. **L. 2008:** (1)(b) and (3) amended, p. 287, § 1, effective August 5. **L. 2012:** (1)(a) and (5) amended, (HB 12-1108), ch. 187, p. 713, § 1, effective August 8. **L. 2013:** (5) repealed, (HB 13-1300), ch. 316, p. 1710, § 142, effective August 7.

Cross references: For the legislative declaration contained in the 1998 act amending this section, see section 1 of chapter 65, Session Laws of Colorado 1998.

43-1-421. On-premise advertising device - extension authorized. (1) Notwithstanding any other provision of law and except as otherwise provided in subsection (2) of this section, on-premise advertising devices shall be allowed to extend over existing rights-of-way and future rights-of-way as described in section 43-1-210 (3) of any state highway if all of the following requirements are met:

(a) The on-premise advertising device is attached to and extended from a building and only advertises activities or services offered in that building;

(b) The building and attached on-premise advertising device is adjacent to the state highway within a city, city and county, or incorporated town having authority over the state highway pursuant to section 43-2-135;

(c) The on-premise advertising device does not restrict pedestrian traffic and is not a safety hazard to the motoring public; and

(d) Before erecting the on-premise advertising device, the owner of the on-premise advertising device obtains written permission from the city, city and county, or incorporated town.

(2) This section shall not apply if the department determines that compliance with this section will cause denial of federal moneys that would otherwise be available or would otherwise be inconsistent with federal law, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal law. The department shall pursue every lawful remedy available to obtain permission or authority, if required by federal law, to apply this section in any such case.

Source: L. 95: Entire section added, p. 277, § 1, effective April 20. **L. 96:** (1) amended, p. 777, § 3, effective May 23.

PART 5

JUNKYARDS ADJACENT TO HIGHWAYS

43-1-501. Legislative declaration. It is declared to be the purpose of the general assembly in the passage of this part 5 that in connection with the construction, maintenance, and supervision of the public highways of this state, the state of Colorado place itself in a position to receive its full share of funds to be apportioned by the congress of the United States for expenditures on federal-aid highways in this state and, to this end, to control the existing and future use and maintenance of junkyards in areas adjacent to the interstate and primary highway systems in order to protect the public investment in such highways; to promote the safety and recreational value of public travel; to promote public pride and public spirit, both on a statewide and local basis; to attract to this state tourists and other travelers with a view toward broadening the economic well-being and general welfare; and to preserve and enhance the natural and scenic beauty of this state.

Source: L. 66: p. 9, § 1. **C.R.S. 1963:** § 120-16-1.

43-1-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(2) "Department" means the department of transportation.

(3) "Highway" means the federal-aid primary and interstate systems, as defined in section 43-2-101.

(4) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, appliances, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(5) "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard, and the term includes garbage dumps and sanitary fills.

(6) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, or corporation who operates a junkyard or who allows a junkyard to be placed or to remain on premises controlled by him.

Source: L. 66: p. 9, § 2. **C.R.S. 1963:** § 120-16-2. **L. 91:** (2) amended, p. 1096, § 118, effective July 1.

43-1-503. Permits required - exceptions. Except as provided in this part 5, on and after February 11, 1966, no person shall establish, operate, and maintain a junkyard which is within one thousand feet of the nearest edge of the right-of-way of the highway and visible from the main-traveled way thereof unless a permit is first obtained from the department. No permit shall be required and junkyards, automobile graveyards, and scrap metal processing facilities may be operated within areas adjacent to said highways which are within one thousand feet of the nearest edge of the right-of-way which are zoned industrial under authority of state law, or any of its political subdivisions.

Source: L. 66: p. 10, § 3. **C.R.S. 1963:** § 120-16-3.

43-1-504. Permits issued - when. The department has the sole authority to issue permits for the establishment, maintenance, and operation of junkyards within the limits prescribed by this part 5. No permit shall be issued unless such junkyard can be effectively screened, as required by regulation, by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of such highways. Such screening shall be at the expense of the person applying for said permit.

Source: L. 66: p. 10, § 4. **C.R.S. 1963:** § 120-16-4.

43-1-505. Permit fees - expiration - renewal. Each application or request for a permit shall be accompanied by a fee of twenty-five dollars to defray the costs of administration of this part 5 by the department. All permits issued under this section shall expire one year from the date of issue and shall be renewed upon compliance with the provisions of this part 5 from year to year upon payment to the department of said annual fee. Such fees shall be collected, in accordance with the collection rules of the department of revenue, for deposit in the state treasury to the credit of the general revenue fund. The general assembly shall make annual appropriations from the general revenue fund for the administration of this part 5.

Source: L. 66: p. 10, § 5. **C.R.S. 1963:** § 120-16-5.

43-1-506. Regulations. The department may promulgate such regulations as may be necessary concerning the issuance of such permits in order to qualify the state of Colorado for payments made available by congress to those states that meet federal standards for control of junkyards adjacent to its highways. The provisions of article 4 of title 24, C.R.S., shall not be applicable, except that section 24-4-106, C.R.S., shall apply.

Source: L. 66: p. 11, § 6. **C.R.S. 1963:** § 120-16-6.

43-1-507. Judicial review. Any person aggrieved by action of the department in denying or revoking a permit may, within thirty days of the date of notice thereof, apply to a court of competent jurisdiction for appropriate relief pursuant to the Colorado rules of civil procedure or section 24-4-106, C.R.S.

Source: L. 66: p. 11, § 7. **C.R.S. 1963:** § 120-16-7.

43-1-508. Violations - penalties. Any person who violates any of the provisions of this part 5 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. Each day of violation of the provisions of this part 5 shall constitute a separate offense. In addition, and not in lieu of or as a bar to criminal enforcement as provided in this section, the department is authorized to institute appropriate action or proceedings to prevent or remove any junkyard existing in violation of the provisions of this part 5.

Source: L. 66: p. 11, § 8. **C.R.S. 1963:** § 120-16-8.

43-1-509. Screening - removal of existing junkyards. Any junkyard in existence on February 11, 1966, which is not in compliance with this part 5 shall, at the expense of the department, be screened, as provided by regulations, by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway or, at the expense of the department, shall be removed from sight. The department is authorized to acquire, move, or relocate property, real or personal, or interests therein, by purchase, donation, condemnation, or by exchange of other property owned by the state to accomplish such objectives and to dispose of any property, real or personal, acquired thereby.

Source: L. 66: p. 11, § 9. **C.R.S. 1963:** § 120-16-9.

Cross references: For condemnation proceedings, see articles 1 to 7 of title 38.

PART 6

TRANSPORTATION SERVICES FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES

43-1-601. Transportation services for the elderly and for persons with disabilities. The department of transportation and the executive director thereof are designated and authorized to take all steps and adopt all proceedings necessary to make and enter into such contracts or agreements as may be necessary for state application and administration of the "Federal Transit Act", 49 U.S.C. sec. 5310, specifically designed for state operations including grant programs for the purpose of assisting nonprofit corporations, associations, and public bodies in making available appropriate highway transportation services for the elderly and for persons with disabilities. In performing this work, the said department shall consult with concerned local authorities for a productive statewide coordinated effort and shall prepare a statewide survey showing the transportation needs of elderly and of persons with disabilities in

priority order. The commission shall budget and allocate the amounts to be expended for such purposes in accordance with section 43-1-113.

Source: L. 77: Entire part added, p. 1933, § 1, effective July 1. **L. 91:** Entire section amended, p. 1096, § 119, effective July 1. **L. 92:** Entire section amended, p. 1346, § 3, effective July 1. **L. 93:** Entire section amended, p. 1677, § 99, effective July 1. **L. 2000:** Entire section amended, p. 261, § 2, effective July 1. **L. 2008:** Entire section amended, p. 1916, § 136, effective August 5.

43-1-602. Department to promulgate rules. The department of transportation is authorized to promulgate necessary rules and regulations in order to carry out the purposes of this part 6.

Source: L. 77: Entire part added, p. 1934, § 1, effective July 1. **L. 91:** Entire section amended, p. 1096, § 120, effective July 1.

Cross references: For promulgation of rules and regulations, see article 4 of title 24.

43-1-603. Participation of political subdivisions. Municipalities, counties, and special districts organized for transportation purposes shall have the authority to enter into contracts with and make grants to those private nonprofit entities that have been designated as recipients of funds pursuant to the "Federal Transit Act", 49 U.S.C. sec. 5301 et seq. Such contracts or grants may be for either operating or capital assistance.

Source: L. 77: Entire part added, p. 1934, § 1, effective July 1. **L. 2007:** Entire section amended, p. 2050, § 100, effective June 1. **L. 2008:** Entire section amended, p. 1916, § 137, effective August 5.

PART 7

PUBLIC TRANSPORTATION IN NONURBANIZED AREAS

43-1-701. Public transportation projects in nonurbanized areas. The department of transportation and the executive director thereof are designated and authorized to take all steps and adopt all proceedings necessary to make and enter into such contracts or agreements as may be necessary for state application and administration of the "Federal Transit Act", 49 U.S.C. sec. 5311, designated for public transportation projects in areas other than urbanized areas. The department of transportation shall prepare a program of such projects for submission to the secretary of transportation, which shall provide for a fair and equitable distribution of funds within the state and may include distributions to the state, municipalities, counties, and special districts organized for transportation purposes.

Source: L. 79: Entire part added, p. 1594, § 1, effective June 22. **L. 91:** Entire section amended, p. 1097, § 121, effective July 1. **L. 2008:** Entire section amended, p. 1916, § 138, effective August 5.

43-1-702. Rules and regulations. The department of transportation is authorized to promulgate necessary rules and regulations in order to carry out the purposes of this part 7.

Source: L. 79: Entire part added, p. 1594, § 1, effective June 22. **L. 91:** Entire section amended, p. 1097, § 122, effective July 1.

Cross references: For promulgation of rules and regulations, see article 4 of title 24.

PART 8

LOCAL RAIL SERVICE ASSISTANCE

43-1-801. State rail plan - administration and implementation - local rail service assistance. (1) The department of transportation and the executive director thereof are designated and authorized to:

(a) Take all steps and adopt all proceedings necessary to enter into contracts and make agreements with the federal railroad administration, other state or federal agencies, or any other person for state administration and implementation of section 803 of the federal "Railroad Revitalization and Regulatory Reform Act of 1976", 49 U.S.C. sec. 1654, and amendments thereto, which are designated for local rail service assistance, including administration and updating of the state rail plan;

(b) Receive and accept grants, gifts, or contributions for the purposes of paragraph (a) of this subsection (1) from the federal or state government, any other public agency, or from any other source.

Source: L. 80: Entire part added, p. 780, § 1, effective May 6. **L. 91:** IP(1) amended, p. 1097, § 123, effective July 1.

43-1-802. Financing. The general assembly shall determine the amount necessary to be expended for the purposes of this part 8 and shall make annual appropriations as necessary from the general fund and from revenues made available under section 43-1-801 (1)(b). Moneys received or expended pursuant to the authorization contained in this part 8 shall be maintained in a separate fund. Said fund shall not be considered as part of either the state highway fund or the state highway supplementary fund. No part of this annual appropriation shall be utilized for hazardous wastes disposal studies.

Source: L. 80: Entire part added, p. 780, § 1, effective May 6.

43-1-803. Authority of executive director - 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.

(2) The executive director may, 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 qualified to operate 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 deposit the proceeds of the sale in the state rail bank fund created in section 43-1-1309.

(4) 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.

Source: L. 97: Entire section added, p. 1617, § 1, effective June 4. **L. 2009:** (2) amended, (SB 09-094), ch. 280, p. 1252, § 5, effective May 20.

PART 9

TRANSIT PLANNING IN AREAS WITH POPULATION UNDER 200,000

43-1-901. Transit planning. The department of transportation and the executive director thereof are hereby designated and authorized to take all steps and adopt all procedures necessary to make and enter into such contracts or agreements as are necessary for state application and administration of the "Federal Transit Act", 49 U.S.C. sec. 5304. The department of transportation shall develop a procedure in conjunction with affected counties, municipalities, and other public bodies, which procedure shall provide for a fair and equitable distribution of funds pursuant to 49 U.S.C. sec. 5304 within the state. The department of transportation shall develop a procedure in cooperation with affected metropolitan planning organizations, which procedure shall provide for a fair and equitable distribution of section 8 funds within the state.

Source: L. 83: Entire part added, p. 1663, § 1, effective June 15. **L. 91:** Entire section amended, p. 1097, § 124, effective July 1. **L. 92:** Entire section amended, p. 1346, § 4, effective July 1. **L. 2008:** Entire section amended, p. 1916, § 139, effective August 5.

43-1-902. Rules and regulations. The department of transportation is authorized to promulgate necessary rules and regulations in order to carry out the provisions of this part 9.

Source: L. 83: Entire part added, p. 1663, § 1, effective June 15. **L. 91:** Entire section amended, p. 1097, § 125, effective July 1.

Cross references: For promulgation of rules and regulations, see article 4 of title 24.

PART 10

ADMINISTRATION OF FUNDS UNDER THE "FEDERAL TRANSIT ACT"

43-1-1001. Urban mass transportation grants. (1) The department of transportation and the executive director thereof are hereby designated and authorized to take all steps and adopt all procedures necessary to make and enter into such contracts or agreements as are necessary for the state application and administration of any funds made available under the "Federal Transit Act", codified at 49 U.S.C. sec. 5301 et seq.

(2) The authority contained in subsection (1) of this section shall not apply to federal grant funds where there exists a designated recipient for such funds, and funds made available under the "Federal Transit Act", 49 U.S.C. sec. 5309, within the Denver regional transportation district, and funds for other projects in urbanized areas with populations in excess of two hundred thousand persons, except as provided in sections 43-1-601 and 43-1-901.

Source: L. 89: Entire part added, p. 1630, § 1, effective April 12. **L. 91:** (1) amended, p. 1098, § 126, effective July 1. **L. 92:** (2) amended, p. 1346, § 5, effective July 1. **L. 99:** (2) amended, p. 543, § 2, effective May 5. **L. 2005:** (2) amended, p. 291, § 45, effective August 8. **L. 2006:** (2) amended, p. 1514, § 82, effective June 1. **L. 2008:** Entire section amended, p. 1917, § 140, effective August 5.

43-1-1002. Rules and regulations. The state department of transportation is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this part 10.

Source: L. 92: Entire section added, p. 1347, § 6, effective July 1.

Cross references: For promulgation of rules and regulations, see article 4 of title 24.

PART 11

TRANSPORTATION PLANNING

43-1-1101. Legislative declaration. The general assembly hereby finds and declares that local government involvement in transportation planning is critical to the overall statewide transportation planning process. The general assembly recognizes that regional planning commissions and transportation planning regions are the proper forum for transportation planning and that the county hearing process is the proper forum for local government input into the five-year program of projects. However, the general assembly also recognizes that state involvement in transportation planning, through the department of transportation, is equally critical to overall statewide planning, and the general assembly recognizes the department of transportation as the proper body, in cooperation with regional planning commissions and local

government officials, for developing and maintaining the state transportation planning process and the state transportation plan.

Source: L. 91: Entire part added, p. 1042, § 2, effective July 1.

43-1-1102. Definitions. For the purposes of this part 11, unless the context otherwise requires:

(1) "Committee" means the transportation advisory committee created by section 43-1-1104.

(2) "County hearing process" means the process of review of highway projects in counties performed by the department.

(3) "Department" means the department of transportation.

(3.5) "Metropolitan area" means the area determined by agreement between a metropolitan planning organization and the governor pursuant to 23 U.S.C. sec. 134.

(4) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act", codified at 49 U.S.C. sec. 5301 et seq.

(5) "Regional planning commission" means a regional planning commission formed under the provisions of section 30-28-105, C.R.S.

(6) "Regional transportation plan" means a technically based, long-range, future mobility needs assessment for any planning and management region.

(7) "State plan" means the comprehensive statewide transportation plan formed by the commission pursuant to the provisions of section 43-1-1103 (5).

(8) (a) "Transportation planning region" means a region of the state as defined by the rule or regulation process required by section 43-1-1103 (5). The maximum number of such regions shall be fifteen unless such number is increased pursuant to paragraph (b) of this subsection (8).

(b) Each metropolitan planning organization's metropolitan area shall, at a minimum, comprise a transportation planning region. If any new metropolitan planning organization is designated on or after January 1, 1998, the maximum allowable number of transportation planning regions under paragraph (a) of this subsection (8) shall be increased by one region for each such new metropolitan planning organization.

Source: L. 91: Entire part added, p. 1042, § 2, effective July 1. **L. 98:** (3.5) added and (7) amended, p. 462, § 1, effective April 21. **L. 2007:** (1) and (4) amended, p. 2050, § 101, effective June 1. **L. 2008:** (4) amended, p. 1917, § 141, effective August 5.

Editor's note: Subsection (7) was originally numbered as subsection (8) and subsection (8) was originally numbered as subsection (7) in House Bill 91-1198, Session Laws of Colorado 1991, chapter 188, section 1, but those subsections were renumbered on revision in 1999 for proper placement.

43-1-1103. Transportation planning. (1) A twenty-year transportation plan shall be required for each transportation planning region that includes the metropolitan area of a metropolitan planning organization. Other transportation planning regions may, through intergovernmental agreements defined in section 30-28-105, C.R.S., prepare and submit such a

transportation plan. A regional transportation plan shall include, but shall not be limited to, the following:

(a) Identification of transportation facilities and services, including expansion or improvement of existing facilities and services, required to meet the estimated demand for transportation in the region over the twenty-year period;

(b) Time schedules for completion of transportation projects which are included in the transportation plan;

(c) Additional funding amount need and identification of anticipated funding sources;

(d) Expected environmental, social, and economic impacts of the recommendations contained in the transportation plan, including an objective evaluation of the full range of reasonable transportation alternatives, including traffic system management options, travel demand management strategies and other transportation modes, as well as improvements to the existing facilities and new facilities, in order to provide for the transportation and environmental needs of the area in a safe and efficient manner; and

(e) Shall assist other agencies in developing transportation control measures for utilization in accordance with state and federal statutes or regulations, and the state implementation plan, and shall identify and evaluate measures that show promise of supporting clean air objectives.

(2) A regional transportation plan shall state the fiscal need to maintain mobility and what can be reasonably expected to be implemented with the estimated revenues which are likely to be available.

(3) (a) Any regional planning commissions formed for the purpose of conducting regional transportation planning or any transportation planning region shall be responsible, in cooperation with the state and other governmental agencies, for carrying out necessary continuing, cooperative, and comprehensive transportation planning for the region represented by such commission and for the purpose of meeting the requirements of subsection (4) of this section.

(b) In the absence of a locally generated regional transportation plan by a duly formed regional planning commission, the department shall include these areas in the statewide transportation plan and shall be responsible for the appropriate level of planning and analysis to incorporate the needs and recommendations of the region in an equitable and consistent manner with other regions of the state.

(4) The regional transportation plan for any region may recommend the priority for any transportation improvements planned for such region. The commission shall consider the priorities contained in such plan in making decisions concerning transportation improvements.

(5) The department shall integrate and consolidate the regional transportation plans for the transportation planning regions into a comprehensive statewide transportation plan. The formation of the state plan shall be accomplished through a statewide planning process set by rules and regulations promulgated by the commission. The state plan shall address but shall not be limited to the following factors:

(a) An emphasis on multi-modal transportation considerations, including the connectivity between modes of transportation;

(b) An emphasis on coordination with county and municipal land use planning, including examination of the impact of land use decisions on transportation needs and the exploration of opportunities for preservation of transportation corridors;

(b.5) Coordination with federal military installations in the state to identify the transportation infrastructure needs of the installations and ensure that those needs are given full consideration during the formation of the state plan.

(c) The development of areawide multi-modal management plans in coordination with the process of developing the elements of the state plan;

(d) The targeting of infrastructure investments, including preservation of the existing transportation system commonly known as "fixing it first" to support the economic vitality of the state and region;

(e) Safety enhancement;

(f) Strategic mobility and multimodal choice;

(g) The support of urban or rural mass transit;

(h) Environmental stewardship;

(i) Effective, efficient, and safe freight transport; and

(j) Reduction of greenhouse gas emissions.

(6) Repealed.

Source: L. 91: Entire part added, p. 1043, § 2, effective July 1. **L. 94:** (6) added, p. 1820, § 8, effective June 1. **L. 97:** (6) repealed, p. 161, § 3, effective March 28. **L. 98:** IP(1) amended, p. 463, § 2, effective April 21. **L. 2009:** IP(5) amended and (5)(d), (5)(e), (5)(f), (5)(g), (5)(h), (5)(i), and (5)(j) added, (SB 09-108), ch. 5, p. 54, § 15, effective March 2. **L. 2016:** IP(5) amended and (5)(b.5) added, (HB 16-1061), ch. 57, p. 138, § 2, effective August 10.

Cross references: For the legislative declaration in HB 16-1061, see section 1 of chapter 57, Session Laws of Colorado 2016.

43-1-1104. Transportation advisory committee. (1) (a) A transportation advisory committee is hereby created. The committee is composed of one representative from each transportation planning region, one representative of the Southern Ute tribe chosen by the Southern Ute Indian tribal council, and one representative of the Ute Mountain Ute tribe chosen by the Ute Mountain Ute tribal council. If a regional planning commission has been formed in a transportation planning region, the chairman of such commission or the chairman's designee shall be the representative for the region on the committee. If any transportation planning region has not formed a regional planning commission, then the representative shall be chosen by the boards of county commissioners of the counties contained in such region in consultation with officials of the municipalities contained in such region.

(b) No later than three months after May 20, 2009, the executive director, in consultation with the commission, shall appoint a special interim transit and rail advisory committee to specifically advise the commission and the executive director regarding the initial focus of the transit and rail division created in section 43-1-117.5 and to recommend a long-term advisory structure, including the advisory structure's purpose and role, in support of the transit and rail-related functions of the department. The special interim transit and rail advisory committee shall include such representatives of industries and other groups interested in transit and rail issues and such other individuals as the executive director, in consultation with the commission, deems appropriate; except that the committee shall include, at a minimum, one or more:

(I) Representatives of transit operators;

(II) Representatives of class I railroads;

(III) Representatives of short line railroads; and

(IV) Representatives of entities or interest groups involved in the promotion, planning, or development of passenger rail systems.

(2) The committee shall provide advice to both the department and the commission on the needs of the transportation systems in Colorado, including but not limited to budgets, transportation improvement programs, the statewide transportation improvement program, transportation plans, and state transportation policies, and shall review and provide comment to both the department and the commission on all regional transportation plans submitted for the transportation planning regions. The activities of the committee shall not be construed to constrain or replace the county hearing process.

Source: L. 91: Entire part added, p. 1044, § 2, effective July 1. **L. 2009:** (1) amended, (SB 09-094), ch. 280, p. 1251, § 4, effective May 20; (1) amended, (SB 09-292), ch. 369, p. 1985, § 129, effective August 5. **L. 2016:** (1)(a) amended, (HB 16-1169), ch. 95, p. 272, § 2, effective August 10; (2) amended, (HB 16-1018), ch. 2, p. 3, § 1, effective August 10.

Editor's note: Amendments to subsection (1) by Senate Bill 09-094 and Senate Bill 09-292 were harmonized.

Cross references: For the legislative declaration in HB 16-1169, see section 1 of chapter 95, Session Laws of Colorado 2016.

43-1-1105. Metropolitan planning commissions. The provisions of this part 11 shall not be construed to replace or interfere with the duties of metropolitan planning organizations.

Source: L. 91: Entire part added, p. 1045, § 2, effective July 1. **L. 2007:** Entire section amended, p. 2050, § 102, effective June 1.

PART 12

PUBLIC-PRIVATE INITIATIVES PROGRAM

Cross references: For the legislative declaration contained in the 1995 act enacting this part 12, see section 1 of chapter 90, Session Laws of Colorado 1995.

43-1-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Private contribution" means the supply by a private entity of resources to accomplish all or any part of the work on a transportation system project, including funds, financing, income, revenue, cost sharing, technology, staff, equipment, expertise, data, or engineering, construction, or maintenance services.

(2) "Public benefit" means a department grant of a right or interest in or concerning a transportation system project, including:

(a) A lease or easement in, under, or above a state highway right-of-way, notwithstanding section 43-1-210;

(b) Any use of state highway right-of-way that does not impair highway operation or safety, notwithstanding section 43-3-101 (3);

(c) All or part of any revenue or income resulting from the private use of a state highway right-of-way;

(d) A money payment for services from available funds; and

(e) Any other benefit that is specifically authorized by law.

(3) "Public-private initiative" means a nontraditional arrangement between the department and one or more private or public entities that provides for:

(a) Acceptance of a private contribution to a transportation system project or service in exchange for a public benefit concerning that project or service other than only a money payment;

(b) Sharing of resources and the means of providing transportation system projects or services; or

(c) Cooperation in researching, developing, and implementing transportation system projects or services.

(4) "Retail goods and services" means all goods and services sold to the public other than communications services.

(5) "Transportation system" means the state transportation infrastructure and related systems, including highways and toll roads open to the public and associated rights-of-way, bridges, vehicles, equipment, park and ride lots, transit stations, transportation management systems, intelligent vehicle highway systems, and other ground transportation systems.

(6) "Unsolicited proposal" means a written proposal for a public-private initiative that is submitted by a private entity for the purpose of entering into an agreement with the department but that is not in response to a formal solicitation or request issued by the department.

Source: L. 95: Entire part added, p. 255, § 2, effective April 17. **L. 2006:** (5) amended, p. 239, § 2, effective March 31.

43-1-1202. Department powers. (1) Notwithstanding any other law, the department may:

(a) Solicit and consider proposals, enter into agreements, grant benefits, and accept contributions for public-private initiatives pursuant to this part 12 concerning any of the following:

(I) Use of advanced transportation technologies for traveler information services;

(II) Systems for road weather information, safety warning, advanced traffic management, information broadcasting, real-time transit information, route finding and vehicle navigation, and collision avoidance;

(III) Hazardous and nonhazardous incident detection, response, and removal and facilitation of emergency medical response;

(IV) Promotion of private investment in traffic operations centers, use of telecommunications, use of telecommuting to reduce transportation demand, conversion of defense technologies to civilian transportation uses, operational efficiency on urban and rural roads, and electronic payment for transportation services;

(V) Voluntary emissions testing and mitigation;

(VI) Ride matching and reservation in support of demand management;

(VII) Safety monitoring systems;

(VIII) Commercial fleet management and electronic clearance of ports of entry;

(IX) Development of national standards and protocols for intelligent transportation systems;

(X) Design, financing, construction, operation, maintenance, and improvement of toll roads open to the public and turnpike projects within the state pursuant to part 2 of article 3 of this title;

(XI) The specific information and tourist-oriented directional sign programs authorized in section 43-1-420. The department may provide by contract for private businesses to pay a reasonable fee to the department to reflect the cost of the use of highway rights-of-way and the department's costs of administering the program.

(XII) Codevelopment of transportation transfer facilities, as defined in section 43-1-1501 (3), including transfer facilities that provide retail goods and services by private entities; and

(XIII) Design, financing, construction, operation, maintenance, or improvement of a high occupancy toll lane described in section 42-4-1012 (1), C.R.S.;

(b) Solicit proposals for public-private initiatives as requests for proposals pursuant to section 24-103-203;

(c) Consider and accept unsolicited proposals pursuant to section 43-1-1203;

(d) Grant a public benefit in or concerning a transportation system project in exchange for a private contribution to that project, but the term of any lease, easement, or franchise granted by the department as a public benefit under this part 12 shall:

(I) Reasonably relate to the value of the private contribution as determined by the department; and

(II) Not exceed ninety-nine years;

(e) Accept a private contribution to a transportation system project;

(f) Exercise any power of the department authorized by law to facilitate the development and performance of public-private initiatives, including but not limited to the department's power of eminent domain for the purpose of acquiring property and rights-of-way necessary for the completion of a toll road or toll highway open to the public that is incorporated into the statewide transportation plan prepared pursuant to section 43-1-1103 (5).

(2) Services shall not be provided under this part 12 unless they are consistent and compatible with the use and zoning of the land adjacent to the right-of-way.

(3) Retail goods and services shall not be authorized under this part 12. This subsection (3) shall not prohibit:

(a) Retail goods and services existing on April 17, 1995;

(b) Any vending facilities, as defined in section 8-84-202 (4), C.R.S.;

(c) The provision of retail goods and services at transfer facilities authorized under part 15 of this article.

Source: L. 95: Entire part added, p. 256, § 2, effective April 17. **L. 96:** (1)(a)(VIII) and (1)(a)(IX) amended and (1)(a)(X) added, p. 467, § 10, effective April 23. **L. 98:** (1)(a)(XI) added, p. 167, § 3, effective August 5. **L. 99:** (1)(a)(XII) added and (3) amended, p. 262, §§ 3, 4, effective April 9; (1)(a)(XIII) added, p. 1321, § 2, effective August 4. **L. 2006:** (1)(a)(X) and (1)(f) amended, p. 239, § 3, effective March 31. **L. 2015:** (3)(b) amended, (SB 15-239), ch. 160,

p. 489, § 12, effective July 1, 2016. **L. 2017:** (1)(b) amended, (HB 17-1051), ch. 99, p. 353, § 74, effective August 9.

Cross references: For the legislative declaration contained in the 1998 act enacting subsection (1)(a)(XI), see section 1 of chapter 65, Session Laws of Colorado 1998; for the legislative declaration contained in the 1999 act enacting subsection (1)(a)(XII) and amending subsection (3), see section 1 of chapter 88, Session Laws of Colorado 1999; for the legislative declaration in SB 15-239, see section 1 of chapter 160, Session Laws of Colorado 2015.

43-1-1203. Unsolicited and comparable proposals. (1) The department may consider, evaluate, and accept an unsolicited proposal for a public-private initiative only if the proposal complies with all of the requirements of this section.

(2) The department may consider an unsolicited proposal only if the proposal:

(a) Is innovative and unique;

(b) Is independently originated and developed by the proposer;

(c) Is prepared without department supervision;

(d) Is not an advance proposal for a known department requirement that can be acquired by competitive methods unless:

(I) The department has not established a timetable for satisfying the known requirement in either the state plan, as such term is defined in section 43-1-1102 (7), or the statewide transportation improvement program that is the short-range element of the state plan; or

(II) The proposal is likely to significantly shorten a timetable for satisfying the known requirement established in the state plan or the statewide transportation improvement program; and

(e) Includes sufficient detail and information for the department to evaluate the proposal in an objective and timely manner and to determine if the proposal benefits the department.

(2.5) Paragraphs (b) and (c) of subsection (2) of this section shall not be deemed to prohibit the department from encouraging the submission of unsolicited proposals that are well-developed and consistent with the department's general policy priorities by providing written or oral information to any person regarding the policy priorities or the requirements and procedures for submitting an unsolicited proposal.

(3) If the unsolicited proposal does not comply with the requirements of subsection (2) of this section, the department shall return the proposal without further action. If the unsolicited proposal complies with all the requirements of subsection (2) of this section, the department may further evaluate the proposal pursuant to this section.

(4) The department shall base its evaluation of the unsolicited proposal on the following factors:

(a) Unique and innovative methods, approaches, or concepts demonstrated by the proposal;

(b) Scientific, technical, or socioeconomic merits of the proposal;

(c) Potential contribution of the proposal to the department's mission;

(d) Capabilities, related experience, facilities, or techniques of the proposer or unique combinations of these qualities that are integral factors for achieving the proposal objectives;

(e) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are critical in achieving the proposal objectives; and

(f) Any other factors appropriate to a particular proposal.

(5) The department may accept an unsolicited proposal only if:

(a) The unsolicited proposal receives a favorable evaluation; and

(b) The department makes a written determination based on facts and circumstances that the unsolicited proposal is an acceptable basis for an agreement to obtain services either without competition or after the actions are taken pursuant to subsection (6) of this section, as applicable.

(6) If the unsolicited proposal requires the department to spend public moneys in an amount that is reasonably expected to exceed fifty thousand dollars in the aggregate for any fiscal year, including an unsolicited proposal for a public project as defined in section 24-92-102 (8), C.R.S., the department shall take the following actions, except as otherwise provided in subsection (7) of this section, before accepting the unsolicited proposal:

(a) Provide public notice that the department will consider comparable proposals. The notice shall:

(I) Be given at least fourteen days prior to the date set forth therein for the opening of proposals, pursuant to rules. Such notice may include publication in a newspaper of general circulation at least fourteen days prior to considering comparable proposals.

(II) Be provided to any person or entity that expresses, in writing to the department, an interest in a public-private initiative that is similar in nature and scope to the unsolicited proposal;

(III) Outline the general nature and scope of the unsolicited proposal, including the location of the transportation system project, the work to be performed on the project, and the terms of any private contributions offered and public benefits requested concerning the project;

(IV) Request information to determine if the proposer of a comparable proposal has the necessary experience and qualifications to perform the public-private initiative; and

(V) Specify the address to and the date by which the comparable proposals must be submitted, allowing a reasonable time to prepare and submit the proposals;

(b) Determine, in its discretion, if any submitted proposal is comparable in nature and scope to the unsolicited proposal and warrants further evaluation;

(c) Evaluate each comparable proposal, taking relevant factors into consideration; and

(d) Conduct good faith discussions and, if necessary, negotiations concerning each comparable proposal.

(7) The actions required by subsection (6) of this section do not apply to an unsolicited research proposal if the department reasonably determines that the actions would improperly disclose either the originality of the research or proprietary information associated with the research proposal.

(8) The department may accept a comparable proposal submitted pursuant to subsection (6) of this section if the department determines that the comparable proposal is the most advantageous to the state in comparison to an unsolicited proposal or other submitted proposals.

(9) If the unsolicited proposal is accepted or if a comparable proposal is accepted pursuant to subsection (8) of this section, the department shall use the proposal as the basis for negotiation of an agreement.

(10) The department's procurement officer or the procurement officer's designee has the authority to make the determinations and take the actions required by this section.

Source: L. 95: Entire part added, p. 257, § 2, effective April 17. **L. 2001:** (2)(d) amended and (2.5) added, p. 1085, § 1, effective August 8.

43-1-1204. Public-private initiative agreement. (1) The department shall enter into an agreement for each public-private initiative.

(2) The department shall include terms and conditions in the agreement that it determines are appropriate in the public interest and to protect highway and traffic safety.

(3) The agreement may provide that:

(a) The private entity may pledge the transportation system project or the right-of-way involved in the transportation system project if the project or right-of-way is entirely funded by private moneys and the department determines that such a pledge is in the public interest. The private entity shall not pledge or cause a lien to be created on a transportation system project or a right-of-way involved in a transportation system project if public funds were used to purchase the project or right-of-way or the department owns the project or right-of-way.

(b) The private entity owns the highway and right-of-way involved in the transportation system project if the project or right-of-way is entirely funded by private moneys and the department determines that such ownership is in the public interest. The department may not transfer ownership of a transportation system project or a right-of-way involved in a transportation system project if public funds were used to purchase the project or right-of-way or the department owns the project or right-of-way.

(4) Notwithstanding the fact that the department enters into an agreement for a public-private initiative, the department is not a partner or a joint venturer with the private entity for any purpose.

(5) The department shall not enter into any exclusive arrangement, lease, or other agreement for use of the public rights-of-way by a telecommunications provider that in any way discriminates or prevents a similar arrangement being made with any other telecommunications provider. All leases of rights-of-way to telecommunications providers must be done on a nondiscriminatory same-term basis. If a telecommunications provider compensates the state in other than cash, a cash equivalent value must be imputed and attached to the agreement, and any other telecommunications provider may have equal access to the right-of-way for the cash equivalent. The cash equivalent shall be an estimate of the fair market value of the service or product provided to the state, and a telecommunications provider may ask a court of competent jurisdiction to review the imputed monetary amount which the court may lower to the reasonable fair market value if necessary.

Source: L. 95: Entire part added, p. 259, § 2, effective April 17. **L. 98:** (3) amended, p. 447, § 12, effective August 5.

Cross references: For the legislative declaration contained in the 1998 act amending subsection (3), see section 1 of chapter 154, Session Laws of Colorado 1998.

43-1-1205. Revenue - disposition - use. The department shall deposit any private contribution of money and any department share of revenue or income resulting from a transportation system project, if any, in the state highway supplementary fund created in section 43-1-219. The department shall use the contributed moneys for transportation purposes.

Source: L. 95: Entire part added, p. 260, § 2, effective April 17.

43-1-1206. Rules. The transportation commission created pursuant to section 43-1-106 shall adopt rules that it determines are necessary or appropriate to implement this part 12, including rules on the solicitation and evaluation of public-private initiatives, initiative agreements, private contributions, public benefits to be granted in exchange for contributions, and the receipt, content, and proper handling of unsolicited or comparable proposals for transportation system projects.

Source: L. 95: Entire part added, p. 260, § 2, effective April 17.

43-1-1207. Applicability - public highway use by public and private entities. This part 12 is subject to applicable state and federal laws to the extent that such laws authorize the use of public highways by any public or private entity.

Source: L. 95: Entire part added, p. 260, § 2, effective April 17.

43-1-1208. Repeal of part. (Repealed)

Source: L. 95: Entire part added, p. 261, § 2, effective April 17. **L. 98:** Entire section repealed, p. 447, § 11, effective August 5.

Cross references: For the legislative declaration contained in the 1998 act repealing this section, see section 1 of chapter 154, Session Laws of Colorado 1998.

43-1-1209. Notice of investment opportunities. (1) The department or the private entity responsible for funding a public-private initiative under this part 12 may forward the agreement and a description of the investment opportunity for such initiative to any of the following for consideration under their respective statutory authority:

(a) The board of trustees of the public employees' retirement association created under section 24-51-202, C.R.S.;

(b) Repealed.

(c) The board of directors of the fire and police pension association, as defined in section 31-31-102 (2), C.R.S.;

(d) The boards of trustees of the firefighters' and police officers' old hire pension funds, as defined in section 31-30.5-102 (1.5), C.R.S.;

(e) The board of trustees of the volunteer firefighter pension fund, as defined in section 31-30-1102 (1), C.R.S.;

(f) Repealed.

(g) The board of directors of the university of Colorado hospital authority, as defined in section 23-21-502 (2), C.R.S.;

(h) The state treasurer for consideration under section 23-20-117.5, C.R.S.;

(i) The county boards of retirement, as described in section 24-54-107, C.R.S.;

(j) The governing boards of state colleges and universities, as defined in sections 24-54.5-102 (5) and 24-54.6-102 (4), C.R.S.; and

(k) Any employer who has established a defined contribution plan.

Source: L. 98: Entire section added, p. 442, § 2, effective August 5. **L. 2001:** (1)(a) amended, p. 1286, § 75, effective June 5. **L. 2009:** (1)(b) repealed, (SB 09-066), ch. 73, p. 260, § 25, effective July 1; (1)(d) amended, (HB 09-1030), ch. 16, p. 92, § 5, effective August 5. **L. 2010:** (1)(f) repealed, (HB 10-1422), ch. 419, p. 2125, § 187, effective August 11.

Cross references: For the legislative declaration contained in the 1998 act enacting this section, see section 1 of chapter 154, Session Laws of Colorado 1998.

PART 13

ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY

43-1-1301. Legislative declaration - intent. (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 further declares 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) The general assembly hereby finds and declares that the preservation of railroad service and railroad rights-of-way benefits the transportation system and the economy of the state. The general assembly further finds and declares that the loss of railroad service and of railroad rights-of-way threaten the potential future use of established railroad corridors for transportation purposes if the rail lines or rights-of-way are allowed to be abandoned or sold for purposes other than transportation.

(3) It is the intent of the general assembly by enacting this part 13 to establish and endorse policies to encourage the continued use of existing rail lines, preserve lines and rights-of-way, and promote the future use of railroad rights-of-way for transportation and interim recreational purposes.

(4) If a rail line or right-of-way proposed for abandonment is being considered for acquisition by the state for transportation purposes, which may include interim recreational purposes, the regional planning commissions, acting on behalf of the transportation planning regions, shall assist the state in determining appropriate uses of such rail line or right-of-way. The department and the regional planning commissions shall include in their deliberations representatives from each of the following interests, if such interests are not already represented: Private property owners, recreation and environmental interests, the department of local affairs, and the department of natural resources.

Source: L. 97: Entire part added, p. 1618, § 2, effective June 4.

43-1-1302. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Interim recreational purposes" means a use for hiking, biking, equestrian, or similar recreational use which does not prevent the restoration and reconstruction of the right-of-way for railroad or other transportation purposes.

(2) "Railroad right-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 usable to continue rail service.

(3) "TLRC" means the transportation legislation review committee created in section 43-2-145.

Source: L. 97: Entire part added, p. 1619, § 2, effective June 4.

43-1-1303. Duties of the executive director - TLRC approval - property eligible for acquisition. (1) An existing rail line or railroad right-of-way or an abandoned railroad right-of-way is eligible for acquisition by the department if the executive director determines that it serves or may serve any one or more of the following purposes:

(a) Preservation of the rail line for freight or passenger service;

(b) Maintenance of a rail corridor or railroad right-of-way for future transportation purposes or interim recreational purposes;

(c) Access to surrounding state manufacturing facilities, agricultural areas, or other locales that may be adversely affected by the loss of rail service or loss of the railroad corridor; or

(d) Any public use of the rail line or railroad right-of-way that is compatible with the future use as a railroad or other transportation system as transportation is defined in section 43-1-102.

(2) The commission shall review any property determined to be eligible for acquisition and approve the acquisition before the executive director submits the prioritized list of rail lines or rights-of-way to be acquired to the TLRC pursuant to subsection (3) of this section.

(3) The executive director shall submit a prioritized list with recommendations to the TLRC concerning the railroad rights-of-way or rail lines proposed to be acquired by the state and their proposed uses.

(4) 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 to be credited to the state rail bank fund created in section 43-1-1309.

Source: L. 97: Entire part added, p. 1619, § 2, effective June 4.

43-1-1304. Notice of rail line or right-of-way availability. Whenever an owner of a rail line or railroad right-of-way intends to dispose of such property, the owner shall notify the executive director of such intention in writing. The executive director shall, within thirty days after the receipt of such notice, inform all departments of the state of Colorado, the metropolitan or regional transportation authorities, and cities, counties, and towns where the property or a portion thereof is located of the owner's intention to dispose of the rail line or right-of-way. The state and any metropolitan or regional transportation authority, cities, counties, and towns affected by the intended disposal shall have ninety days after the announcement of the intended

disposal in which to contact the owner in writing to express an interest in acquiring the property or preserving rail service. If the owner receives written notice within the ninety-day period after the announcement of the intended disposal, the owner shall provide such public entities the opportunity to purchase the rail line or right-of-way.

Source: L. 97: Entire part added, p. 1620, § 2, effective June 4.

43-1-1305. Acquisition for state rail bank. (1) The department, subject to section 43-1-1303, may acquire by purchase all or part of any eligible rail line or right-of-way made available as provided in this part 13. Rail lines and rights-of-way purchased by the department pursuant to this part 13 shall constitute the state rail bank.

(2) Prior to any acquisition of a rail line or right-of-way pursuant to this part 13 or section 43-1-803, the department shall prepare an environmental audit of the property and shall consider the environmental condition of the property in its acquisition.

(3) The commission shall review any property determined to be eligible for acquisition and approve the acquisition before the executive director submits the prioritized list of rail line or right-of-way to be acquired to the TLRC pursuant to section 43-1-1303 (3).

(4) Repealed.

Source: L. 97: Entire part added, p. 1620, § 2, effective June 4. **L. 98:** (4) added, p. 496, § 1, effective April 22. **L. 99:** (4)(c)(I), (4)(e), and (4)(f) amended, p. 544, § 3, effective May 5. **L. 2002:** (4)(e) amended, p. 262, § 1, effective August 7.

Editor's note: Subsection (4)(f) provided for the repeal of subsection (4), effective upon the date the revisor of statutes receives notice from the department of transportation that the Towner railroad line has been sold or abandoned. The revisor of statutes was notified on December 15, 2011, that the Towner line had been sold, effective October 4, 2011. (See L. 99, p. 544.)

43-1-1306. Disposition of state rail bank property. (1) The executive director shall maintain property within the state rail bank, including weed control, in a manner that minimizes maintenance costs and provides a benefit to the state. The executive director shall assume the responsibilities of the abandoning railroad company for the construction and maintenance of fencing of abandoned rail lines or railroad rights-of-way within the state rail bank; except that, where no agreement exists, then no requirement for fencing shall be imposed.

(2) The executive director may make property in the state rail bank available for interim recreational purposes, but such interim recreational use shall not limit the ability to restore or reconstruct the property for railroad service or other transportation services.

(3) The executive director may provide a first right of refusal to purchase or lease any rail line or railroad right-of-way held in the state rail bank to metropolitan or regional transportation authorities, cities, towns, counties, or transit agencies if those entities have first undertaken and approved a plan or program to use the property for transportation purposes.

(4) The executive director may sell or lease any rail line or railroad right-of-way held in the state rail bank to a financially responsible railroad operator who will use the property to provide rail service. In any sale of a rail line or railroad right-of-way held in the state rail bank

pursuant to this subsection (4) or section 43-1-803 (2), the executive director shall retain a possibility of reverter to the state in the event that the railroad operator abandons the rail line or railroad right-of-way or if the rail line or railroad right-of-way is used or conveyed for any purpose other than the operation of railroad services, and, additionally, for any purpose that is inconsistent or in conflict with the continued provision of rail service on the line. The department shall retain a right of first refusal to purchase the rail line, railroad right-of-way, or any right to use such rail line or right-of-way in the event the railroad operator sells all or any part of the rail line, railroad right-of-way, or any right to use such rail line or right-of-way. Any such property that reverts back to the state shall be held in the state rail bank.

(5) The executive director may convert property in the state rail bank to other transportation uses following appropriate studies and upon approval by the commission and the TLRC.

(6) The executive director shall ensure that, in any sale, lease, or other conveyance of a rail line or railroad right-of-way held in the state rail bank, any agreement of the railroad company that abandoned such rail line or right-of-way to construct or maintain fencing relative to such rail line or right-of-way shall be transferred to the person to whom the right-of-way is conveyed.

(7) (a) Any transfer of title of the railroad rights-of-way from a railroad company as provided in this part 13 or in section 43-1-803 shall not impair or diminish the right of any ditch owner to construct, operate, maintain, or enlarge any irrigation ditch as provided by law. Any damage to an irrigation ditch that is located in or adjacent to such railroad right-of-way and any increases in ditch maintenance caused by the use of the railroad right-of-way for a public purpose shall be the responsibility of the person to whom the title of the railroad right-of-way was transferred. Any such transfer of title shall not impair or diminish existing contracts between the railroad company and any ditch owner for the use, operation, and maintenance of any ditch. The executive director shall ensure that the necessary contract provisions and deed restrictions or annotations, pursuant to this subsection (7), are made to the documents required to transfer the title of such railroad right-of-way.

(b) An owner of an irrigation ditch located in or adjacent to the railroad right-of-way to which title is transferred as provided in this part 13 or in section 43-1-803 is immune from suit and from any and all liability arising out of or related to the use of the railroad right-of-way for a public purpose.

Source: L. 97: Entire part added, p. 1621, § 2, effective June 4. **L. 99:** (4) amended, p. 544, § 4, effective May 5. **L. 2009:** (3) amended, (SB 09-094), ch. 280, p. 1252, § 6, effective May 20.

43-1-1307. Powers and duties of the TLRC 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 43-1-1303 (3) for acquisition of, and use or uses for, abandoned or proposed to be 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 or proposed to be abandoned railroad rights-of-way. The 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 state rail bank fund, created in section 43-1-1309, 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.

Source: L. 97: Entire part added, p. 1622, § 2, effective June 4.

43-1-1308. Recommendations and findings of the TLRC. The 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.

Source: L. 97: Entire part added, p. 1622, § 2, effective June 4.

43-1-1309. State rail bank fund - creation. (1) There is hereby created the state rail bank fund to which shall be allocated such revenues as the general assembly may from time to time determine. Moneys in the state rail bank fund may be used for the acquisition, maintenance, improvement, or disposal of rail lines or 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.

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, on March 27, 2002, the state treasurer shall deduct five hundred thousand dollars from the state rail bank fund and transfer such sum to the general fund.

(3) Notwithstanding any provision of subsection (1) of this section to the contrary, on April 20, 2009, the state treasurer shall deduct one million five hundred forty-three thousand nine hundred thirty-seven dollars from the state rail bank fund and transfer such sum to the general fund.

(4) Notwithstanding any provision of subsection (1) of this section to the contrary, the state treasurer shall transfer to the general fund any unexpended and unencumbered moneys remaining in the state rail bank fund as of June 30, 2012.

Source: L. 97: Entire part added, p. 1623, § 2, effective June 4. **L. 2002:** Entire section amended, p. 160, § 22, effective March 27. **L. 2009:** (3) added, (SB 09-208), ch. 149, p. 628, § 36, effective April 20. **L. 2012:** (4) added, (HB 12-1343), ch. 157, p. 558, § 1, effective May 3.

43-1-1310. Effect of transfer of railroad rights-of-way. Any transfer of title of the railroad rights-of-way from a railroad company as provided in section 43-1-803 or in this part 13 shall not affect the title, either possessory or reversionary, of an owner of real property along the currently existing railroad right-of-way. Nothing in this part 13 or in section 43-1-803 shall be construed to supersede 16 U.S.C. sec. 1241 et seq.

Source: L. 97: Entire part added, p. 1623, § 2, effective June 4.

43-1-1311. Survey required - railroad track removal. (1) Before any railroad tracks are removed from abandoned railroad rights-of-way in Colorado, if a proper legal description is not available, the person or entity removing the railroad tracks shall cause a field survey of the centerline of such railroad tracks to be made by a professional land surveyor, if title to any land references such railroad tracks. The professional land surveyor shall deposit a survey plat in accordance with section 38-50-101, C.R.S., showing the following:

(a) Field-measured dimensions of the centerline of the railroad tracks; and

(b) Field-measured bearing and distance ties to public land survey monument corners so that no point on said abandoned railroad rights-of-way is further than two miles from a public land survey monument corner.

Source: L. 97: Entire part added, p. 1623, § 2, effective June 4.

PART 14

DESIGN-BUILD CONTRACTS

Law reviews: For article, "Design-Build Contracts for Colorado Highway Construction: New Contractual Issues--Part I", see 29 Colo. Law. 49 (Feb. 2000); for article, "Design-Build Contracts for Colorado Highway Construction: New Contractual Issues--Part II", see 29 Colo. Law. 53 (March 2000).

43-1-1401. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The increased population growth and economic activity within the state has resulted in the significant and growing demand for increased construction and reconstruction of highways and other transportation projects within the state to facilitate the movement of people, goods, and information;

(b) As a result of the increased federal and state funding provided to the department of transportation in recent years for transportation projects, together with the increasing number, size, and complexity of planned transportation projects, the department will benefit from the use of a faster, more efficient, and more cost-effective contractor selection and procurement process to design and construct transportation projects;

(c) A design-build selection and procurement process will provide the department of transportation with: A savings of time, cost, and administrative burden; improved quality expectations with respect to the schedule and budget of transportation projects, as well as completion of such projects; and a reduction in the risks associated with transportation projects, including reduced duplication of expenses and improved coordination of efforts to meet the transportation needs of Colorado.

(2) The general assembly intends that this part 14 authorize the department of transportation to enter design-build contracts and to use an adjusted score design-build selection and procurement process for particular transportation projects regardless of the minimum or maximum cost of such projects, based on the individual needs and merits of such projects, and

subject to approval by the transportation commission. The general assembly also intends that the department's use of an adjusted score design-build contract process shall not prohibit use of the low bid process currently used by the department pursuant to part 1 of article 92 of title 24 and part 14 of article 30 of title 24, C.R.S.

Source: L. 99: Entire part added, p. 256, § 1, effective April 9.

43-1-1402. Definitions. As used in this part 14:

(1) "Adjusted score design-build contract process" means a process to award contracts based on the lowest adjusted score of proposals submitted to the department.

(2) "Best value" means the overall maximum value of a proposal to the department after considering all of the evaluation factors described in the specifications for the transportation project or the request for proposals, including but not limited to the time needed for performance of the contract, innovative design approaches, the scope and quality of the work, work management, aesthetics, project control, and the total cost of the transportation project.

(3) "Design-build contract" means the procurement of both the design and the construction of a transportation project in a single contract with a single design-build firm or a combination of such firms that are capable of providing the necessary design and construction services. A design-build contract may also include in the contract the procurement of the financing, operation, or maintenance of the project.

(4) "Design-build firm" means any company, firm, partnership, corporation, association, joint venture, or other entity permitted by law to practice engineering, architecture, or construction contracting in the state of Colorado.

(4.5) "Force majeure" means fire, explosion, action of the elements, strike, interruption of transportation, rationing, shortage of labor, equipment, or materials, court action, illegality, unusually severe weather, act of God, act of war, or any other cause that is beyond the control of the party performing work on a design-build transportation or utility relocation project and that could not have been prevented by the party while exercising reasonable diligence.

(4.7) "Project specific utility relocation agreement" means an agreement entered into by the department and a utility company for the purpose of performing utility relocation work necessitated by a design-build transportation project. The agreement may incorporate reasonable and appropriate conditions, including, but not limited to, conditions for ensuring:

(a) The prompt performance of utility relocation work by either the utility company or the contractor for the design-build transportation project, as specified in the agreement;

(b) The cooperation of the utility company with the contractor for the design-build transportation project;

(c) The timely repayment of any funds advanced to the utility company for the relocation construction, including interest based on the costs incurred by the department for advancing the funds; and

(d) The payment by the utility company of any damages caused by the company's delay in the performance of the relocation work or interference with the performance of the project by any other contractor, except when such delay or interference is caused by a force majeure.

(5) "Transportation project" means any project that the department is authorized by law to undertake including but not limited to a highway, tollway, bridge, mass transit, intelligent

transportation system, traffic management, traveler information services, or any other project for transportation purposes.

(6) "Utility company" or "utility" shall have the same meaning as set forth in 23 CFR 645.105.

Source: L. 99: Entire part added, p. 257, § 1, effective April 9. **L. 2000:** (4.5), (4.7), and (6) added, p. 1610, § 1, effective June 1. **L. 2007:** (6) amended, p. 2050, § 103, effective June 1. **L. 2009:** (3) amended, (SB 09-108), ch. 5, p. 55, § 17, effective March 2.

43-1-1403. Authority to use a design-build contract process. Notwithstanding any other provision of law to the contrary, the department may select a design-build firm and award a design-build contract for a transportation project as provided in this part 14. The department may include a warranty provision in any design-build contract that requires the design-build firm to perform maintenance services on the completed transportation project.

Source: L. 99: Entire part added, p. 258, § 1, effective April 9.

43-1-1404. Criteria. (1) The department may use a design-build contract for a transportation project if the design work for such project must be performed before a potential bidder can develop a price or cost proposal for such project and if the chief engineer of the engineering, design, and construction division determines that using a design-build contract is appropriate. The chief engineer shall consider the following factors in making a determination pursuant to this subsection (1):

(a) The extent to which the transportation project requirements are adequately defined;

(b) The time constraints for completing the transportation project;

(c) The capability and experience of potential design-build firms;

(d) The suitability of the transportation project to a design-build contract; and

(e) The capability of the department to manage the design-build contract.

(2) The department may use a design-build contract regardless of the estimated minimum or maximum cost of a transportation project.

Source: L. 99: Entire part added, p. 258, § 1, effective April 9.

43-1-1405. Public notice procedures. At least forty-five days prior to the anticipated date of selecting a design-build firm for a transportation project, the department shall publish a public notice at least twice in one or more daily newspapers of general circulation in the state. The public notice shall set forth a general description of the transportation project.

Source: L. 99: Entire part added, p. 258, § 1, effective April 9.

43-1-1406. General procedures. (1) The department shall describe in the specifications for the transportation project the particular design-build contract and selection procedures to be used in awarding such contract, including but are not limited to the following:

(a) A scope of work statement that defines the transportation project and provides prospective design-build firms with sufficient information regarding the department's requirements for the transportation project;

(b) If the department uses an adjusted score design-build contract process to select a design-build firm, a scope of work statement that is flexible and that identifies the end result that the department wants to achieve. The department may determine the adjustment factors and methods it will use to adjust scores and shall state such factors and methods in the specifications for the transportation project. The department may also provide a general concept of the transportation project to potential design-build firms. Adjusted score design-build procedures shall consist of the following two phases:

(I) In the first phase, the department shall issue a request for qualifications within the time specified in section 43-1-1405 to solicit proposals that include information on the design-build firm's qualifications and its technical approach to the proposed transportation project. The department shall include appropriate evaluation factors in the request for qualifications, including the factors set forth in section 24-30-1403 (2), C.R.S. The department shall not include cost-related or price-related factors in the request for qualifications. In accordance with the time requirements specified in the department's rules, the department shall develop a short list of the highest qualified design-build firms from the proposals submitted in response to the request for qualifications.

(II) In the second phase, the department shall issue a request for proposals to the design-build firms included on the short list developed pursuant to subparagraph (I) of this paragraph (b) in accordance with the time requirements specified in the department's rules. The request for proposals shall include:

(A) A request to separately submit a sealed technical proposal and a sealed cost proposal for the transportation project;

(B) The required content of the technical proposal to be submitted by the design-build firm, including design concepts for the transportation project, the proposed solutions to the requirements addressed in the department's scope of work statement, or both;

(C) Any other evaluation factors the department considers appropriate, including the estimated cost of the transportation project; and

(D) Any formula the department determines is appropriate to adjust the total score of a design-build firm's proposal.

(2) Except as provided in this subsection (2), the department shall allow the preference to Colorado residents provided in section 24-103-908 in awarding an adjusted score design-build contract pursuant to this part 14. In evaluating and selecting a proposal for a design-build contract under this part 14, the department shall assign greater value to a proposal in proportion to the extent such proposal commits to using Colorado residents to perform work on the transportation project. If, however, the department determines that compliance with this subsection (2) may cause the denial of federal moneys that would otherwise be available for the transportation project or if such compliance would otherwise be inconsistent with the requirements of federal law, the department shall suspend the preference granted under this subsection (2) only to the extent necessary to prevent denial of federal moneys or to eliminate the inconsistency with federal law.

(3) The department may use any basis for awarding a design-build contract pursuant to this part 14 that it deems appropriate so long as the basis for awarding such contract is

adequately described in the specifications for the transportation project or the request for proposals. Such basis may include awarding a contract to the design-build firm whose proposal provides the best value to the department.

(4) The department may cancel any request for qualifications, request for proposals, or other solicitation issued pursuant to this part 14 or may reject any or all proposals in whole or in part when the department determines that such cancellation or rejection is in the best interest of the department.

(5) If the department awards a design-build contract pursuant to this part 14, the department shall execute a design-build contract with the successful design-build firm and shall give notice to said firm to commence work on the transportation project.

Source: L. 99: Entire part added, p. 258, § 1, effective April 9. **L. 2017:** (2) amended, (HB 17-1051), ch. 99, p. 353, § 75, effective August 9.

43-1-1407. Stipulated fee. At its discretion, the department may award a stipulated fee to the design-build firms that submit responsive proposals but that are not awarded the design-build contract for a transportation project. The department shall not be required to award such stipulated fee, but if it elects to award such fee for a transportation project, the department shall identify the availability and the amount of such fee in its request for proposals.

Source: L. 99: Entire part added, p. 260, § 1, effective April 9.

43-1-1408. Commission approval required. The department shall obtain approval from the transportation commission prior to using an adjusted score design-build contract process for any transportation project.

Source: L. 99: Entire part added, p. 260, § 1, effective April 9.

43-1-1409. Rule-making authority. (1) The department may adopt rules in accordance with sections 43-1-110 and 24-4-103, C.R.S., to:

(a) Establish requirements for the procurement of design-build contracts that it determines necessary or appropriate, including but not limited to rules implementing the design-build selection and contract procedures, subcontracting, and the warranty provisions of this part 14; and

(b) Further define and implement the processes and procedures for the performance of utility relocation work necessitated by a design-build transportation project, including, but not limited to, the allocation of responsibility for damages due to delay among the department, the design-build contractor, and utility companies that do not enter into project specific utility relocation agreements, and the creation of a forum and process to resolve changes in the conditions of the design-build transportation project that impact utility relocation work when the department and a utility company have not entered into a project specific utility relocation agreement.

Source: L. 99: Entire part added, p. 260, § 1, effective April 9. **L. 2000:** Entire section amended, p. 1611, § 2, effective June 1.

43-1-1410. Utility relocation - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The department is authorized by law to use a design-build process for transportation projects that allows for the improved coordination, scheduling, and timely performance of transportation projects, resulting in time and cost efficiency;

(b) The scheduling and timely performance of design-build transportation projects partially depend upon the coordination with utility companies for the prompt performance of utility relocation work necessitated by the project;

(c) Increased coordination between the department and utility companies is in the public interest and the encouragement and requirement of prompt performance of utility relocation work within the design-build transportation project performance schedule will reduce delays and costs of the projects;

(d) The preferred approach for utility relocation work in a design-build transportation project is for the utility company to authorize the department's design-build contractor to engage the services of the utility company's prequalified contractors for the design and construction of the relocation work because it places the responsibility for the timely performance of the utility relocation work on the design-build contractor and removes the risk of utility relocation delays from multiple utility companies;

(e) Current law limits the department's authority in relation to payment for utility relocation, and nothing in this part 14 is intended to alter the department's obligation to pay for utility relocations pursuant to section 43-1-225 or to pay for utility relocations when utility facilities are located on easements owned by the utility;

(f) Allowing the department to fund the design of the utility relocation work necessitated by a design-build transportation project will foster the coordination of the utility relocation work, which is in the public interest;

(g) In the interest of the public, the department, the design-build contractor, and the utility company should coordinate their efforts, perform the utility relocation work in accordance with the design-build transportation project performance schedule, and allocate the responsibility for any damages caused by a party's failure to timely perform the relocation work, except when such failure is due to a force majeure;

(h) The review and approval of the utility company of any design work prior to the commencement of any utility relocation construction in relation to a design-build transportation project will assure that such work meets the quality standards and construction methods of the utility company. The department also recognizes the obligation of utility companies to maintain service to their customers, and the department agrees to work within utility company terms and conditions to maintain service continuity.

(i) For purposes of design-build transportation projects, allowing the department to provide and condemn, when necessary, a replacement easement for a utility company to relocate its facilities when the utility company's facilities are located in an easement owned by the utility company and to pay for the future relocation of a utility company's facilities if no replacement easement is provided is in the public interest.

Source: L. 2000: Entire section added, p. 1611, § 3, effective June 1.

43-1-1411. Project specific utility relocation agreements. (1) Notwithstanding any other provision of law, if a utility company enters into a project specific utility relocation agreement with the department, the department may:

(a) Pay for the performance of the design work to relocate a utility company's facilities that are affected by the scope of the design-build transportation project;

(b) Advance funds for the performance of the construction work to relocate a utility company's facilities affected by the scope of the design-build transportation project; except that any advance of funds pursuant to this paragraph (b) shall be subject to full repayment by the utility company with interest based on the cost incurred by the department for advancing the funds; and

(c) Perform any utility relocation work through the contractor for the design-build transportation project in accordance with the utility company's specifications for the relocation work and subject to the utility company's prior review and written approval of the relocation work to assure that the work meets the quality standards and construction methods of the company. The performance of any relocation work shall also be subject to inspection and approval by the utility company, during the performance of the work and prior to completion of the relocation work, and the department shall take appropriate measures to ensure service continuity.

(2) It is the intent of the general assembly that the department work with the utility company to come to a mutually satisfactory agreement with the utility company so that the design-build transportation project may proceed to be constructed in an efficient manner without causing interruption of utility services. If the utility company is unable to reach a project specific utility relocation agreement with the project manager negotiating such agreement for the department, the utility company shall be provided the opportunity to address its concerns with the department's district engineer, who shall give due consideration to all issues raised by the utility company and shall strive to accommodate reasonable modifications requested by the utility company to the department's proposed project specific utility relocation agreement. If an agreement cannot be reached between the district engineer and the utility company, the executive director of the department shall review the disputed issues and seek to resolve the dispute. If the executive director is unable to reach agreement with the utility company, the executive director shall prepare a written report setting forth the reasons that the dispute could not be resolved and shall provide such report to the utility company within three business days.

(3) For any utility company that chooses not to enter into a project specific utility relocation agreement with the department for the performance of utility relocation work:

(a) The department may direct the utility company to perform or allow the performance of the utility relocation work within the performance schedule for the design-build transportation project;

(b) The utility company shall pay for damages caused by the company's delay in the performance of the utility relocation work or interference with the performance of the design-build transportation project by other contractors, including, but not limited to, payments made by the department to any third party based on a claim that performance of the design-build transportation project was delayed or interfered with as a direct result of the utility company's failure to timely perform the utility relocation work; except that damages resulting from delays in the performance of the utility relocation work caused by a force majeure shall not be charged to the utility company; and

(c) The department may withhold issuance of a permit for the location or installation of other facilities to a utility company until the company pays the department damages caused by the company's delay in the performance of the relocation work or interference with the performance of the design-build transportation project by any other contractor. Any person aggrieved by an action of the department in denying a permit may apply to a court of competent jurisdiction for appropriate relief pursuant to the Colorado rules of civil procedure or section 24-4-106, C.R.S.

(4) The department shall provide written notice to any utility company of a design-build transportation project that will require the relocation of the company's facilities as soon as practicable following the environmental clearance for the project. The notice shall include all available and relevant information concerning the project, including the performance schedule for the project within which the utility relocation work must be completed in order to coordinate with and avoid delay in the performance of the project.

(5) When feasible, the department shall provide a replacement easement for a utility company whose facilities are to be relocated from an easement owned by the utility company to accommodate a design-build transportation project, and the department shall condemn the replacement easement when necessary. If no replacement easement is provided, the department shall fund the initial relocation of the easement owner's facilities and shall also fund all future relocations of those utility companies whose facilities occupy the easement at the time of the design-build transportation project at the department's sole expense in lieu of compensating the utility companies for the loss of the easement. The utility company shall quitclaim to the department that portion of the easement that is replaced or extinguished.

(6) Nothing in this section or in section 43-1-1412 shall change the authority, rights, responsibilities, or obligations of the department or of any owner of real or personal property in an eminent domain proceeding or any existing statutory or case law applicable to eminent domain proceedings.

Source: L. 2000: Entire section added, p. 1613, § 3, effective June 1.

43-1-1412. Utility relocation delays. (1) When a utility company delegates the responsibility for the performance of any utility relocation work necessitated by a design-build transportation project to the department's contractor for the project pursuant to a project specific utility relocation agreement, the utility company shall not be responsible to the department for any damages caused by the delay in the performance of the relocation work or the interference by the department's contractor in the performance of any part of the project by another contractor.

(2) (a) When a utility company chooses to perform any utility relocation work necessitated by a design-build transportation project, the utility company shall complete the relocation work within the time specified in the project specific utility relocation agreement or in the performance schedule for the project as set forth in the written notice provided to the company by the department in accordance with section 43-1-1411 (4). The company shall not interfere with the performance of the design-build transportation project by any other contractor.

(b) Notwithstanding the provisions of section 43-1-1411 (3)(b), a utility company shall not be liable for damages caused by the failure to timely perform the relocation work or the

interference with the performance of the design-build transportation project by any other contractor when the failure to perform or the interference is caused by a force majeure.

Source: L. 2000: Entire section added, p. 1615, § 3, effective June 1.

PART 15

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

Cross references: For the legislative declaration contained in the 1999 act enacting this part 15, see section 1 of chapter 88, Session Laws of Colorado 1999.

43-1-1501. Definitions. As used in this part 15, unless the context otherwise requires:

(1) "Public entity" includes, but is not limited to, a public body, as that term is defined in section 32-9-103 (11), C.R.S., and any other governmental entity, agency, or official.

(2) "Retail goods and services" means all goods and services sold to the public.

(3) "Transfer facility" means a public park-n-ride, bus terminal, light rail station, or other bus or rail transfer facility operated on property that is owned by the department.

Source: L. 99: Entire part added, p. 263, § 5, effective April 9.

43-1-1502. Provision of retail and commercial goods and services at transfer facilities on department property. Any public entity other than the department shall obtain the approval of the executive director of the department before negotiating and entering into any agreement with any person or public entity for the provision of retail and commercial goods and services to the public at a transfer facility that is located on property that is owned by the department and leased to the regional transportation district or such other public entity for the operation of such transfer facility.

Source: L. 99: Entire part added, p. 263, § 5, effective April 9.

43-1-1503. Department transfer facilities - provision of retail and commercial goods and services. (1) Notwithstanding the provisions of section 43-3-101, the executive director shall have the authority to negotiate and enter into agreements with any person or public entity for the provision of retail and commercial goods and services to the public at any transfer facility that is owned, leased, or operated by the department.

(2) Any person or public entity obtaining the use of any portion of a transfer facility that is owned, leased, or operated by the department for the provision of retail or commercial goods or services shall enter into an agreement with the department that is consistent with section 43-1-1204. Such agreement may provide that private contributions to the department include the provision of real property, services, or capital improvements to facilities used in transit services.

(3) Any use of a transfer facility that is owned, leased, or operated by the department for the provision of retail or commercial goods or services shall not be implemented if the use would

reduce transit services or the availability of adequate parking for the public or would result in a competitive disadvantage to a private business reasonably near a transfer facility engaging in the sale of similar goods and services. The provision of retail and commercial goods and services at transfer facilities that are owned, leased, or operated by the department shall be designed to offer convenience to transit customers and shall not be conducted in a manner that encourages automobile traffic from nontransit users.

(4) Any development of any portion of a transfer facility owned, leased, or operated by the department and made available by the department for the provision of retail or commercial goods or services shall be subject to all applicable laws, ordinances, and regulations of any municipality, county, or city and county in which the transfer facility is located, including planning and zoning regulations.

Source: L. 99: Entire part added, p. 263, § 5, effective April 9.

43-1-1504. Possessory interests in transfer facilities - taxation. Any person obtaining a possessory interest in any portion of a transfer facility located on property that is owned by the department for the provision of retail or commercial goods or services pursuant to this section shall be deemed in control of that portion of the facility and shall be subject to property taxation to the extent of the person's possessory interest in that portion of the facility.

Source: L. 99: Entire part added, p. 264, § 5, effective April 9. **L. 2002:** Entire section amended, p. 1009, § 5, effective August 7.

PART 16

SAFE ROUTES TO SCHOOL

43-1-1601. Safe routes to school program. (1) The commission shall establish and the department shall administer a safe routes to school program to distribute federal moneys received by the state or state moneys to political subdivisions of the state for projects to improve safety for pedestrians and bicyclists in school areas.

(2) Projects funded by grants under the safe routes to school program may include:

(a) Construction of paved shoulders to be used as bike routes;

(b) Construction of multiple-use bicycle and pedestrian trails and pathways;

(c) Construction, replacement, and improvement of sidewalks;

(d) Installation and improvement of pedestrian and bicycle crossings;

(e) Construction and improvement of on-street bicycle facilities, including bike lanes;

(f) Installation of safety signs, including, but not limited to, traffic signals;

(g) Educational programs;

(h) Implementation of traffic-calming programs in neighborhoods near schools;

(i) Traffic diversion improvements;

(j) Construction or improvement of bicycle parking facilities; and

(k) Other projects authorized by applicable federal laws or regulations.

(3) Grants shall be awarded under the safe routes to school program based on:

(a) The demonstrated need of the applicant;

(b) The potential of the proposed project to reduce injuries and fatalities among children;

(c) The potential of the proposed project to encourage walking and bicycling among students;

(d) The extent to which the application identifies existing safety hazards;

(e) The extent to which the application identifies existing and potential walking and bicycling routes and the extent to which the proposed project would improve or connect them;

(f) Support for the proposed project from local school-based associations, traffic engineers, elected officials, law enforcement agencies, and school officials;

(g) Repealed.

(g.5) Consideration for implementation of safe routes to schools in communities with schools having greater than fifty percent of the students eligible for free or reduced-priced lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; and

(h) Other criteria allowed or required by applicable federal laws or regulations.

(3.5) (a) Of the grants awarded using state moneys, at least twenty percent but not more than thirty percent of the moneys must be awarded for grants for noninfrastructure programs.

(b) Repealed.

(4) The executive director shall appoint an advisory committee to make recommendations to the commission, which shall award grants under the safe routes to school program. The committee shall have no more than nine members, who shall receive no compensation for service on the committee. The committee shall include at least one person from a statewide organization representing each of the following groups:

(a) Educators;

(b) Parents;

(c) Bicyclists;

(d) Pedestrians; and

(e) Law enforcement personnel.

(5) Repealed.

Source: L. 2004: Entire part added, p. 1984, § 1, effective June 5. **L. 2014:** (1) amended, (3)(g) repealed, and (3)(g.5), (3.5), and (5) added (HB 14-1301), ch. 320, p. 1400, § 2, effective June 3.

Editor's note: Subsection (3.5)(b)(II) provided for the repeal of subsection (3.5)(b) and subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2015. (See L. 2014, p. 1400.)

Cross references: For the legislative declaration in HB 14-1301, see section 1 of chapter 320, Session Laws of Colorado 2014.

43-1-1602. Federal funds. (1) The department may allocate funds received from the federal government under the hazard elimination program, 23 U.S.C. sec. 152, as amended, or its successor program, to projects funded under the safe routes to school program.

(2) It is the intent of the general assembly that the department allocate to the safe routes to school program any funds received from the federal government under any federal safe routes

to school program or other new federal program that designates funds for any of the following purposes:

(a) To enable and encourage children to walk and bicycle to school;

(b) To make bicycling and walking to school a safer and more appealing transportation alternative; or

(c) To facilitate planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

Source: L. 2004: Entire part added, p. 1986, § 1, effective June 5.

43-1-1603. Use of funds. A political subdivision of the state that receives moneys under this part 16 may not use such moneys as a substitute for funds currently being used to support similar activities.

Source: L. 2004: Entire part added, p. 1986, § 1, effective June 5.

43-1-1604. Rules. The executive director shall promulgate rules in accordance with article 4 of title 24, C.R.S., to implement this part 16.

Source: L. 2004: Entire part added, p. 1986, § 1, effective June 5.

HIGHWAYS AND HIGHWAY SYSTEMS

ARTICLE 2

State, County, and Municipal Highways

PART 1

STATE, COUNTY, AND CITY HIGHWAY SYSTEMS

43-2-101. State highway system. (1) There shall be established in this state a system of roads known as "the state highway system". The state highway system shall consist of the federal-aid primary roads, the federal-aid secondary roads, and the interstate system, including extensions thereof within urban areas, plus an amount not to exceed five percent of the mileage of such systems which may be declared to be state highways by the transportation commission while not being any part of any federal system.

(2) "Interstate system" as used in this section means any highway included as a part of the national system of interstate and defense highways as authorized and designated in accordance with section 7 of the "Federal-Aid Highway Act of 1944" (58 Stat. 838) and any other subsequent acts of congress.

(3) Nothing in this section shall be construed as limiting the mileage of the state highway system to the total mileage constituting the system as of December 31, 1953, but federal-aid primary roads and federal-aid secondary roads may be added or deleted by the

department of transportation according to need as determined by said department. Deletions from the federal-aid secondary system shall be mutually decided by the federal government, the state, and the affected county.

(4) (a) In addition to the powers now possessed by the transportation commission, it has the authority to select or designate any public highway, road, or street as a part of the federal-aid urban system or as an extension of the federal-aid primary or secondary system, in order to qualify such public highways, roads, or streets for the expenditure by the state of federal-aid funds to be apportioned to the state pursuant to the provisions of 23 U.S.C. sec. 135, as amended, and section 106 of the "Federal-Aid Highway Act of 1970", and regulations promulgated thereunder. Any provision of this title to the contrary notwithstanding, any public highway, road, or street selected or designated under this subsection (4) shall continue to be a part of the county highway or city street systems and shall not be deemed to be a part of the state highway system unless the commission specifically provides to the contrary.

(b) Any receipt of moneys from the federal government, or any department thereof, pursuant to the provisions of 23 U.S.C. sec. 135, as amended, and section 106 of the "Federal-Aid Highway Act of 1970" shall be paid into and credited to the state highway supplementary fund.

(c) The construction of all improvements authorized pursuant to the provisions of 23 U.S.C. sec. 135, as amended, and section 106 of the "Federal-Aid Highway Act of 1970", and moneys received therefor, are under the supervision and control of the chief engineer.

Source: L. 53: p. 512, § 1. **CRS 53:** § 120-13-1. **L. 57:** p. 641, § 1. **C.R.S. 1963:** § 120-13-1. **L. 70:** p. 329, § 1. **L. 71:** p. 1140, § 1. **L. 91:** (1), (3), (4)(a), and (4)(c) amended, p. 1098, § 127, effective July 1. **L. 2015:** (4)(c) amended, (HB 15-1209), ch. 64, p. 176, § 8, effective March 30.

Cross references: For the "Federal-Aid Highway Act of 1970", see Pub.L. 91-605, codified at 23 U.S.C. sec. 101 et seq.

43-2-101.5. Devolution of commuter highways to counties and municipalities - required study - definitions. (1) The transportation commission, using existing or easily obtainable data, shall conduct or direct the department of transportation to conduct a study of the state highway system for the purpose of determining which highways or portions of highways that are part of the state highway system are commuter highways. The commission shall report the results of the study to the transportation and energy committee of the house of representatives and the transportation committee of the senate, or any successor committees, no later than February 1, 2011. The commission may include in the report recommendations as to whether all or some of the identified commuter highways should be removed from the state highway system and thereafter maintained and supervised by counties and municipalities. If the commission recommends the removal of any commuter highways from the state highway system, it shall first have consulted with the affected metropolitan planning organizations in the conduct of the study, received the input of one local government elected official appointed by each of the five metropolitan planning organizations in the state for the purpose of providing such input, and presented the recommendations to the boards of the affected metropolitan planning organizations for review and comment and shall also make recommendations regarding

modification of the formulas used to allocate moneys in the highway users tax fund between the state, counties, and municipalities set forth in part 2 of article 4 of this title to provide the level of funding necessary to avoid any unfunded mandates created by changes in the allocation of highway maintenance and supervision responsibilities between the state, counties, and municipalities that would result from the removal. A report made pursuant to this section that includes recommendations as to whether commuter highways should be removed from the state highway system shall include a statement regarding the extent to which the elected officials appointed by the metropolitan planning organizations in the state agree with the commission's recommendations.

(2) For purposes of this section:

(a) "Commuter highway" means a highway or a portion of a highway that:

(I) Is part of the state highway system;

(II) Is located within the territory of a metropolitan planning organization;

(III) Is not an interstate highway; and

(IV) Is determined in the conduct of the study required by subsection (1) of this section to be used at least eighty percent of the time, estimated as a percentage of total trips on the highway or portion of a highway, for travel within the territory of the metropolitan planning organization.

(b) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act of 1998", 49 U.S.C. sec. 5301 et seq., as amended.

Source: L. 2010: Entire section added, (HB 10-1405), ch. 368, p. 1733, § 1, effective June 7.

43-2-102. Department maintain system. The department of transportation shall construct and maintain all roads comprising the state highway system as provided by this part 1.

Source: L. 53: p. 512, § 2. **CRS 53:** § 120-13-2. **C.R.S. 1963:** § 120-13-2. **L. 91:** Entire section amended, p. 1098, § 128, effective July 1. **L. 2005:** Entire section amended, p. 291, § 46, effective August 8.

43-2-103. Urban highway contracts. In all cases where any part of the state highway system extends into or through a city or incorporated town, the construction and maintenance of such systems shall remain the obligation of the department of transportation. Nothing in this part 1, however, shall be construed as denying the department of transportation the right to enter into a contract with a city or incorporated town for the maintenance or construction of such urban connections, where it appears that such city or incorporated town has adequate facilities.

Source: L. 53: p. 513, § 3. **CRS 53:** § 120-13-3. **C.R.S. 1963:** § 120-13-3. **L. 91:** Entire section amended, p. 1099, § 129, effective July 1.

Cross references: For similar provisions, see § 43-1-217 (2).

43-2-104. County highway contracts. The department of transportation may also contract with the counties wherein any roads comprising a part of the state highway system are situated for the maintenance or construction of such roads directly by the county.

Source: L. 53: p. 513, § 4. **CRS 53:** § 120-13-4. **C.R.S. 1963:** § 120-13-4. **L. 91:** Entire section amended, p. 1099, § 130, effective July 1.

Cross references: For similar provisions, see § 43-1-217 (2).

43-2-104.5. Reimbursement of counties and municipalities. (1) The department of transportation is authorized to reimburse, pursuant to contract, counties, cities, or incorporated towns for maintenance or construction of highways which are part of the state highway system. Such reimbursement may be over a period of time, and any funds available to the department of transportation for the maintenance and construction of public highways may be used.

(2) Any municipality, county, or political subdivision may enter into an intergovernmental agreement with the department of transportation to loan to the department of transportation funds necessary to accelerate the completion of state highway projects. Such loaned funds may be repaid by the department of transportation from any funds available to that department for the maintenance and construction of public highways. Such acceleration of projects must be approved by the transportation commission and the governing board of the municipality, county, or political subdivision involved. The construction of projects conducted pursuant to this section shall be carried out under the supervision of the chief engineer of the department of transportation, who may contract with private parties for construction services. Any municipality, county, or political subdivision may contract with private parties for construction services when conducting projects pursuant to this section.

Source: L. 89, 1st Ex. Sess.: Entire section added, p. 63, § 19, effective August 1. **L. 91:** Entire section amended, p. 1099, § 131, effective July 1.

43-2-105. Secondary road unit. (Repealed)

Source: L. 53: p. 513, § 5. **CRS 53:** § 120-13-5. **C.R.S. 1963:** § 120-13-5. **L. 91:** Entire section amended, p. 1099, § 132, effective July 1. **L. 2004:** Entire section repealed, p. 219, § 45, effective August 4.

43-2-106. Abandoned state highways. (1) (a) When a portion of a state highway is relocated and, because of the relocation, a portion of the route as it existed before the relocation is, in the opinion of the transportation commission, no longer necessary as a state highway, the portion shall be considered as abandoned. The transportation commission may also determine that all or a portion of a state highway no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway or portion thereof shall be considered as abandoned. An abandoned state highway or portion thereof shall become a county highway, upon the adoption of a resolution to that effect by the board of county commissioners of an affected county, or a city street, upon the adoption of an ordinance to that effect by the governing body of any affected municipality, within ninety days after the official

notification of abandonment by the transportation commission. If the county or municipality ceases to use the abandoned portion of the highway for the purpose of a county highway or a city street, title to the abandoned state highway or portion thereof shall revert to the department of transportation.

(b) When the department of transportation makes a payment to a county or municipality as compensation for the transfer of ownership to the county or municipality of all or a portion of a state highway abandoned pursuant to paragraph (a) of this subsection (1) as a result of the granting of an application for such a transfer of ownership filed on or after August 5, 2009, the county or municipality shall credit the payment to a special fund to be used only for transportation-related expenditures.

(c) For purposes of this subsection (1), all or a portion of a state highway shall be considered to function as part of the state highway system, and shall not be determined by the transportation commission to no longer function as a part of the state highway system, unless the commission and each county or municipality that would be affected by the abandonment of the state highway or portion of a state highway agree that the state highway or portion of a state highway no longer serves the ongoing purposes of the state highway system.

(2) If, pursuant to the provisions of subsection (1) of this section, the abandoned portion of a state highway is not claimed by a county, city, or town or if title to such abandoned portion reverts to the department of transportation, the department of transportation shall dispose of the abandoned portion by means of a sale or exchange for not less than fair market value in the manner set forth in section 43-1-210 (5).

(3) If the department of transportation is not able to dispose of the abandoned portion of a state highway by means of a sale or exchange following a diligent effort for a five-year period, the department shall vacate the abandoned portion and title to such portion shall vest in accordance with the provisions of part 3 of this article.

(4) If it appears to the transportation commission that any landowner suffers damages because of the abandonment of any portion of a state highway, such damages shall be determined, tendered, and paid out of funds allocated to the department of transportation in the same manner as other damages as provided by law.

(5) As used in this section, "exchange" has the same meaning as set forth in section 43-1-210 (5)(d).

Source: L. 53: p. 513, § 6. **CRS 53:** § 120-13-6. **C.R.S. 1963:** § 120-13-6. **L. 91:** Entire section amended, p. 1100, § 133, effective July 1. **L. 96:** Entire section amended, p. 1455, § 2, effective June 1. **L. 2009:** (1) amended, (SB 09-078), ch. 178, p. 786, § 1, effective August 5.

43-2-107. Standards of construction. (1) After December 31, 1953, any roads which are constructed so as to become a part of the state highway system, as defined in this part 1, or any road not on said date a part of the state highway system which may be added thereto shall be constructed or improved in accordance with standards for highway construction as adopted and approved by the commission.

(2) Any roads, streets, or highways constructed after July 1, 1975, by the state or any of its political subdivisions shall provide adequate and reasonable access for the safe and convenient movement of persons with disabilities, including those in wheelchairs, across all

newly constructed or replaced curbs at all pedestrian crosswalks; except that this subsection (2) shall not be applicable to any contracts executed or let for bid on or before July 1, 1975.

Source: L. 53: p. 514, § 7. **CRS 53:** § 120-13-7. **C.R.S. 1963:** § 120-13-7. **L. 75:** Entire section amended, p. 1571, § 1, effective June 29. **L. 93:** (2) amended, p. 1677, § 100, effective July 1.

43-2-108. County highway systems. There shall be established in each county a primary system and a secondary system of county roads.

Source: L. 53: p. 514, § 8. **CRS 53:** § 120-13-8. **C.R.S. 1963:** § 120-13-8.

43-2-109. County primary systems. The board of county commissioners of each county shall select the county primary system of roads on the basis of greatest general importance, and the system as selected shall constitute an integrated system within itself or with the state highway system as defined in this part 1.

Source: L. 53: p. 514, § 9. **CRS 53:** § 120-13-9. **C.R.S. 1963:** § 120-13-9.

43-2-110. Selection by county - notice - secondary system. (1) The initial selection of the county road system shall be done in the following manner:

(a) The board of county commissioners of each county shall cause a map to be prepared showing each road in the county primary and secondary system and designating each primary road by appropriate number, and said board shall cause notice of intention to adopt said map as the official map of such system to be given, which notice shall specify the time and place at which all interested persons will be heard. Such notice of intention shall be published once a week for at least two successive weeks preceding the date of such hearing in a newspaper of general circulation in the county.

(b) After such hearing, the board of county commissioners shall adopt such map, with any changes or revisions deemed by it to be advisable, as the official map of the road system of the county.

(1.5) The board of county commissioners of any county with a population of two hundred fifty thousand or more may designate as a primary road any four-lane controlled-access county highway, the construction of which commences in 2016, that is located within the unincorporated area of the county and that intersects with an interstate highway or a United States numbered highway. If a city or an incorporated town subsequently annexes any portion of a highway that has been designated as a primary road, the respective jurisdiction, control, and duty of the county and of the city or incorporated town with respect to the highway is as follows:

(a) The city or incorporated town shall exercise full responsibility for and control over the highway beyond and including the curbs and, if no curb is installed, beyond the traveled way, its contiguous shoulders, and appurtenances.

(b) The county has the authority to grant or deny access to the highway and to establish weight restrictions for vehicles traveling on the highway as authorized by section 42-4-106 (1), (2), and (3), C.R.S.

(c) The county has the authority to prohibit the suspension of signs, banners, or decorations above the portion of the highway between the curbs or, if the highway does not have curbs, between the portion of the highway used for vehicular travel up to a vertical height of twenty feet above the surface of the highway.

(d) The city or incorporated town shall maintain all of its underground facilities under the highway at its own expense and has the right to construct such underground facilities as may be necessary under the highway.

(e) The city or incorporated town has the right to grant the privilege to open the surface of the highway, but all resulting damages shall promptly be repaired either by the city or incorporated town itself or at its direction.

(f) The city or incorporated town shall provide street illumination at its own expense and shall clean the highway, including storm sewer inlets and catch basins.

(g) The county has the right to utilize all storm sewers on the highway without cost; and if new storm sewer facilities are necessary in construction of the highway by the county, the county and the municipality shall bear the cost of the facilities as mutually agreed upon by the board of county commissioners of the county and the local governing body of the city or incorporated town.

(h) The city or incorporated town shall regulate and enforce all traffic and parking restrictions on the portion of the highway that is located within the city or incorporated town.

(i) The county shall erect, control, and maintain at county expense all route markers and directional signs, except street signs, on the portion of the highway located within the city or incorporated town.

(j) The county shall install, operate, maintain, and control at county expense all traffic control signals, signs, and traffic control devices on the portion of the highway located within the city or incorporated town. No local authority shall erect or maintain any stop sign or traffic control signal at any location that requires the traffic on the highway to stop before entering or crossing any intersecting highway unless the local authority first obtains approval in writing from the county. For the purposes of this paragraph (j), "traffic control device" includes, but is not limited to, striping, lane-marking, and channelization.

(k) Either the city or incorporated town or the county shall acquire rights-of-way for the highway as mutually agreed upon. Costs of acquiring the rights-of-way may be the sole expense of the county or the city or incorporated town, or shared by both, as mutually agreed upon. Title to all rights-of-way acquired vest in the city or incorporated town, or in the county, according to the agreement under which the rights-of-way were secured.

(l) The county is authorized to acquire rights-of-way for the highway by purchase, gift, or condemnation. Any condemnation proceeding shall be conducted in the manner provided by law for condemnation proceedings to acquire lands required for county highways. Nothing in this subsection (1.5) abrogates the right of a home rule city to acquire lands for purposes and in the manner set forth in the charter of the city.

(m) The county may enter into an intergovernmental agreement with a city or incorporated town located within the county to add to the highway specified roads or streets annexed by the city or incorporated town before the designation of the highway as a primary road. Such an agreement must define the respective jurisdiction, control, and duty of the county and the city or incorporated town with respect to the highway and may modify the division of

such jurisdiction, control, and duty from the division specified in paragraphs (a) to (l) of this subsection (1.5).

(2) All roads not on the county primary system and for which the boards of county commissioners assume responsibility shall be the county secondary system.

(3) Nothing in this section shall limit the power of any board of county commissioners to subsequently include or exclude any road from the county primary system in the same manner provided for the selection of the initial road system as provided in this section. Where a portion of a state highway is abandoned and it appears that such abandoned portion is necessary for use as a public highway, then such abandoned portion shall become a part of the county system upon the adoption of a resolution to that effect by the board of county commissioners of the county wherein such abandoned portion is located within ninety days after such abandonment.

Source: L. 53: p. 514, § 10. **CRS 53:** § 120-13-10. **C.R.S. 1963:** § 120-13-10. **L. 2016:** (1.5) added, (HB 16-1155), ch. 134, p. 386, § 2, effective August 10.

Cross references: For publication of legal notices, see article 70 of title 24.

43-2-111. Road supervisors - districts - duties - powers. (1) The county systems, both primary and secondary roads, shall be assigned to the county for construction and maintenance. The board of county commissioners of each county shall, except in counties where the boundaries thereof coincide with the boundaries of a city, prior to January 1, 1954, appoint road supervisors for all roads constituting the county system. Said supervisors shall be competent to handle the road and highway work of the county and shall be approved by the board of county commissioners. Nothing in this section shall preclude one such person from serving two or more counties. The county surveyor may be appointed, if found by the board of county commissioners to be properly qualified, or a county commissioner may act as such supervisor. The board of county commissioners shall determine the general policies of the county as to county highway matters, and the same shall be carried out and administered by the county road supervisors.

(2) Each county shall furnish evidence to the transportation commission that it has complied with the provisions of this section.

(3) The board of county commissioners of the respective counties of the state may divide their counties into such suitable road districts as, in their judgment, will best subserve the interest of the people of the whole county.

(4) The board of county commissioners of the respective counties, by mutual agreement, may form road districts consisting of more than one county. Nothing in this section shall be construed to deny any county the right to expend any funds for county road purposes outside the limits of said county if the interests of the people of the county will be subserved thereby. In all cases where road districts from more than one county are consolidated, the road supervisor shall be appointed by mutual agreement of the boards of county commissioners of the counties so forming a road district subject to the same provisions and limitations as provided for road supervisors of single counties. Road supervisors so appointed by a county or group of counties shall receive a salary to be determined by the board of county commissioners in the respective county or, in cases of two or more counties combining to appoint a single supervisor, by agreement between the boards of county commissioners of the counties so combining. He shall

hold office during satisfactory service, but he may be removed by any board of county commissioners at any time at the discretion of said board, and a successor appointed.

(5) A road supervisor's duties shall be to take charge of and be responsible for all road personnel, road machinery, and tools owned by the county and to inspect all roads and bridges within the county and locate proper road material. He shall make such recommendations for road repair and for construction of roads as in his judgment may be required. He shall, on the first day of each month, make written recommendations for road and bridge work together with an estimate of the cost, which shall be subject to the approval of the board of county commissioners. He shall, on or before the first Monday of each month, render a full and complete account of all expenditures and contracts for the month preceding. The type of report shall be prepared in conformity with rules established by the board of county commissioners. At least once each year the department of transportation shall hold a meeting for the express purpose of exchanging information with representatives of the counties relating to highway construction and maintenance.

(6) He has the power now lodged with the board of county commissioners by general enactment for the prevention of damages to public highways from ditch overflows, insufficient or unsafe conduits, flumes, or ditches crossing the public highways, the removal or disposition of any material injurious to the public highway, unsafe railroad or tramway crossings, or any other cause which may arise and which comes under the jurisdiction of the board of county commissioners.

Source: L. 53: p. 515, § 11. **CRS 53:** § 120-13-11. **C.R.S. 1963:** § 120-13-11. **L. 91:** (2) and (5) amended, p. 1100, § 134, effective July 1.

43-2-112. Condemnation for county roads. (1) The board of county commissioners on its own initiative may lay out, widen, alter, or change any county road, and the board of county commissioners shall cause the county road supervisor of the respective county to survey the proposed road and make a written report to the board of county commissioners of the county, describing the proposed road to be laid out, opened, or changed, as the case may be, and the portions of land of each landowner to be taken for that purpose, said report to be accompanied by a map showing the present and proposed boundaries of the portion of the county road to be established, opened, or changed, together with an estimate of the damages and benefits accruing to each landowner whose land may be affected thereby. If, upon receipt of such report, the board of county commissioners decides that public interest or convenience will be subserved by the proposed change, said board shall certify such proposal to the transportation commission and cause a plat to be filed in the office of the county clerk and recorder in a book kept for that purpose.

(2) The board of county commissioners shall tender to each landowner the amount of damages as estimated and approved by the board, and the board may designate any person to act as its agent in making such tender. In estimating the amount of damages to be tendered, due account shall be taken of any benefits which will accrue to the landowner by the proposed action; but the amount of benefit shall not in any case exceed the amount of damages awarded. Any person owning land or having interest in land over which any proposed county road extends, who is of the opinion that such tender is inadequate, may personally, or by agent or attorney, on or before ten days from the date of such tender, file a written request addressed to

the board of county commissioners of said county for a jury to ascertain the compensation which he may be entitled to by reason of damages sustained therefrom. Thereupon, the board of county commissioners shall proceed in the acquisition of such premises under articles 1 to 7 of title 38, C.R.S. The board of county commissioners also has the power and is authorized to proceed in the acquisition of lands of private persons for county roads, under and according to articles 1 to 7 of title 38, C.R.S., in the first instance without tender or other proceedings under this part 1.

Source: L. 53: p. 516, § 12. **CRS 53:** § 120-13-12. **C.R.S. 1963:** § 120-13-12. **L. 91:** (1) amended, p. 1100, § 135, effective July 1.

43-2-113. Abandoned county primary roads. When a portion of the county primary system is relocated and because of such relocation a portion of the route as it existed before such relocation is, in the opinion of the board of county commissioners, no longer necessary as part of the county road system, such portion shall be considered as abandoned, and title to it shall revert to the owner of the land through which such abandoned portion may lie subject to the provisions of part 3 of this article. If it appears that such abandoned portion is necessary for use as a secondary road, then such abandoned portion shall become a secondary road, upon the adoption by the board of county commissioners of a resolution to that effect. If it appears to the board that any landowner suffers damages because of the abandonment of any portion of a county primary road, such damages shall be determined, tendered, and paid in the same manner as other damages referred to in this part 1.

Source: L. 53: p. 517, § 13. **CRS 53:** § 120-13-13. **C.R.S. 1963:** § 120-13-13.

43-2-114. Standards for county primary roads. After December 31, 1953, roads constructed by the respective counties as part of the primary road system shall be constructed to general standards acceptable for county primary roads, where found practicable by the board of county commissioners. Such general standards shall conform to those adopted by the transportation commission for the state highway system for the corresponding class of road in the state highway system.

Source: L. 53: p. 518, § 14. **CRS 53:** § 120-13-14. **C.R.S. 1963:** § 120-13-14. **L. 91:** Entire section amended, p. 1101, § 136, effective July 1.

43-2-115. Allocations - reports - grace period. The state treasurer or any other state officer so designated shall make complete allocations from highway user revenues to only those counties which have complied with all the requirements of this part 1. The state agency or department designated in this part 1 to receive county reports shall inform the counties in writing, by certified mail, of any delinquencies in reporting and shall forward a copy of such notice to the state treasurer. Delinquent counties shall be allowed a grace period of sixty days after date of notice in which to rectify the delinquency. If the required reports have not been received at the end of the sixty-day grace period, the state treasurer shall withhold the moneys due to such counties until he has been informed that the required reports have been received. Payments withheld will be paid to the counties upon receipt of the delinquent reports.

Source: L. 53: p. 518, § 15. **CRS 53:** § 120-13-15. **C.R.S. 1963:** § 120-13-15. **L. 71:** p. 1138, § 3. **L. 77:** Entire section amended, p. 1935, § 1, effective July 1.

43-2-116. Federal aid - matching funds. In the event that any fund becomes available from the federal government for expenditure in conjunction with county funds, for the construction, alteration, repair, or improvement of any roads in any county, the board of county commissioners of the respective counties, upon approval by the department of transportation, may use such funds which have accrued to their respective counties from the highway users tax fund for the purpose of matching the federal funds becoming available if the board of county commissioners of any such county has, by proper resolution filed in duplicate with the department of transportation and approved by said department, determined the road construction, alteration, repair, or improvement to be performed in such county and the same is found to conform in all respects to the requirements necessary for the use of such funds of the federal government and if all such funds so available for matching purposes are expended only as provided by law. Any county using highway users tax funds for the purpose of matching federal funds shall be required to reimburse the department of transportation for engineering services rendered by said department in connection with the expenditure of federal funds.

Source: L. 53: p. 518, § 16. **CRS 53:** § 120-13-16. **C.R.S. 1963:** § 120-13-16. **L. 91:** Entire section amended, p. 1101, § 137, effective July 1.

43-2-117. County line roads - apportionment. If any proposed county road is on the county line between two counties, the board of county commissioners of each county interested shall proceed in the same manner provided in section 43-2-112, and the board of county commissioners of each interested county by mutual agreement shall designate the county road supervisor who shall survey the proposed road and make the report to said boards in the same manner as provided in section 43-2-112; and the concurrence of the boards of county commissioners of both counties shall be necessary to establish it. If any such road is established, each of such counties shall open and maintain a definite part thereof, which the board of county commissioners of such counties shall apportion by mutual agreement between the two counties or by application of subsection (4) of section 43-2-111, and if the boards of county commissioners cannot agree upon the apportionment, it may refer the matter to three disinterested freeholders as arbitrators, whose duty it shall be to apportion same and report thereon to the boards of county commissioners of both counties.

Source: L. 53: p. 519, § 17. **CRS 53:** § 120-13-17. **C.R.S. 1963:** § 120-13-17.

43-2-118. Private roads. The manner of laying out any private road from the land of any person so as to connect with any public road and of condemning the lands necessary therefor shall be the same as provided in this part 1; except that the petition in such cases need be signed by only such person and the damages which may accrue and the expense of opening such road shall be paid by such petitioner.

Source: L. 53: p. 519, § 18. **CRS 53:** § 120-13-18. **C.R.S. 1963:** § 120-13-18.

43-2-119. County road budgets. The board of county commissioners shall each year prepare a preliminary or tentative road budget for the county in compliance with the local government budget law. The county road budget shall show in detail anticipated revenues from all sources and proposed expenditures for all purposes. The budget shall be compiled so that it will show, separately, the anticipated revenues and expenditures for the county road system.

Source: L. 53: p. 519, § 19. **CRS 53:** § 120-13-19. **C.R.S. 1963:** § 120-13-19.

Cross references: For the local government budget law, see part 1 of article 1 of title 29.

43-2-120. Annual county reports. (1) On or before the thirtieth day of June of each year, the board of county commissioners of each county shall cause to be made and filed with the highway maintenance division a complete report of the expenditures of all moneys applied to county road systems during the calendar year ending on the thirty-first day of December next preceding. The division shall prescribe the form and contents of the report.

(2) The report must contain the following:

(a) A detailed statement identifying the separate amounts and sources of all moneys available during the calendar year covered by the report, including moneys made available by the United States government, the state, and any other governmental agency and moneys available from bond issues, special assessments, tax levy, or any other source whatever for expenditure for street and road purposes;

(b) A detailed statement of all expenditures during the calendar year covered by the report for street and road purposes, including obligations incurred but not yet paid. The statement must contain uniform categories prescribed by the highway maintenance division, including, but not be limited to, expenditures for rights-of-way or other property, construction, maintenance, acquisition of equipment, and administration. The statement must also set forth the amount of funds on hand at the beginning of the calendar year covered by the report and any unexpended funds remaining at the close of the calendar year. The division shall prescribe such other expenditure categories and such other information as may be deemed necessary by the division to fully disclose the nature and extent of all transactions by any county relating to streets and roads.

(3) The highway maintenance division shall prepare detailed instructions for the uniform reporting of receipts and expenditures of all moneys applied to county streets and roads.

(4) The highway maintenance division shall annually tabulate and compile all such reports and statements received from the counties and shall publish these data in accordance with the provisions of section 24-1-136, C.R.S.

(5) (a) On or before March 1 of each year, the board of county commissioners of each county shall submit to the department of transportation a map which indicates any changes in the mileage or location of any road within the county system of roads, together with any changes in the surface classification of any roads within the county system which have been made during the calendar year ending on December 31 next preceding.

(b) Information concerning the condition of the streets, roads, and highways submitted pursuant to section 43-1-115 (2), shall be reported in conjunction with the report required by paragraph (a) of this subsection (5).

Source: L. 53: p. 519, § 20. **CRS 53:** § 120-13-20. **L. 54:** p. 153, § 1. **C.R.S. 1963:** § 120-13-20. **L. 64:** p. 169, § 130. **L. 67:** p. 919, § 1. **L. 71:** pp. 1138, 1142, §§ 4, 1. **L. 72:** p. 617, § 149. **L. 77:** (5) amended, p. 1935, § 2, effective July 1. **L. 83:** (4) amended, p. 845, § 82, effective July 1. **L. 86:** (5) amended, p. 1209, § 2, effective April 21. **L. 91:** (1), (2)(b), and (3) to (5) amended, p. 1101, § 138, effective July 1. **L. 98:** (1) amended, p. 1098, § 16, effective June 1. **L. 2015:** (1), IP(2), (2)(b), (3), and (4) amended, (HB 15-1209), ch. 64, p. 177, § 9, effective March 30.

43-2-121. Annual state report. At the same time that the highway maintenance division tabulates the reports and statements from the various counties, the division shall also prepare a statement setting forth the amount expended by the division during the preceding calendar year in the same manner as required of counties. Publication of the data shall be in accordance with the provisions of section 24-1-136, C.R.S.

Source: L. 53: p. 520, § 21. **CRS 53:** § 120-13-21. **C.R.S. 1963:** § 120-13-21. **L. 64:** p. 169, § 131. **L. 83:** Entire section amended, p. 845, § 83, effective July 1. **L. 91:** Entire section amended, p. 1102, § 139, effective July 1. **L. 2015:** Entire section amended, (HB 15-1209), ch. 64, p. 177, § 10, effective March 30.

43-2-122. State inspection of county projects. Whenever any county or group of counties undertakes the construction of any highway project which involves the expenditure of highway users tax funds and federal funds, it is the duty of the department of transportation to inspect such projects at such times as the department of transportation considers necessary for the purpose of determining that such project is being built to the prescribed standard.

Source: L. 53: p. 520, § 22. **CRS 53:** § 120-13-22. **C.R.S. 1963:** § 120-13-22. **L. 91:** Entire section amended, p. 1103, § 140, effective July 1.

43-2-123. City street systems. There shall be established in each city, city and county, and incorporated town a system of streets to be known as the city street system. It shall not include any street established by law as a part of the state highway system.

Source: L. 53: p. 521, § 23. **CRS 53:** § 120-13-23. **C.R.S. 1963:** § 120-13-23.

43-2-124. City streets defined - maintenance. (1) The city street system shall consist of all streets open and used, which shall include the primary system of major streets to be designated arterial streets, and a secondary system to be designated local service streets.

(2) Arterial streets are those streets carrying general traffic within the city and providing communication with surrounding territory and which are not part of the federal-aid and state highway connecting links within the city.

(3) Local service streets are all streets within a city open to public travel and which are not a part of the federal-aid connecting links, state highways, or streets designated as arterial streets.

(4) The city streets system, both arterial and local service streets, shall be constructed and maintained by the respective city, city and county, or incorporated town.

Source: L. 53: p. 521, § 24. **CRS 53:** § 120-13-24. **C.R.S. 1963:** § 120-13-24.

43-2-125. Adoption of street systems - reports. (1) The arterial streets and local service streets in any town, city, or city and county shall constitute its city street system. The system of arterial streets shall be selected in the following manner:

(a) On or before December 31, 1953, the city council, local governing body, or designated officer of each incorporated town, city, or city and county shall determine the total mileage of its city street system, and prepare a certification showing the amount of total mileage.

(b) The city council, local governing body, or designated officer of each municipality shall then cause a map to be prepared showing each street in the city arterial system and designating each street by appropriate number for the purpose of identification and shall cause notice of intention to adopt said map as the official map of such system to be given, which notice shall specify the time and place at which all interested persons shall be heard. Such notice of intention shall be published once a week for two successive weeks preceding the date of such hearing in a newspaper of general circulation in the city, or in case of cities or towns which have no newspaper published within their limits, notice of intention shall be published by placing said notice in a conspicuous place in such city or incorporated town generally used for publishing such public notices.

(c) After such hearing the city council, local governing body, or designated officer shall certify such map, with any changes or revisions deemed to be advisable, as the official map of the arterial street system.

(d) On or before December 31, 1953, each town, city, or city and county shall file copies of the following information with the department of transportation:

(I) Certification of the total mileage of streets in its city street system as provided in paragraph (a) of this subsection (1);

(II) Certification adopting its arterial street system, together with a copy of the map of the arterial street system as provided in paragraph (c) of this subsection (1).

(2) Changes in total mileage and arterial mileage shall be made in a similar manner and all such changes shall be reported as made. Each annual report as required in section 43-2-132 shall include all changes or a statement that no changes have been made.

Source: L. 53: p. 521, § 25. **CRS 53:** § 120-13-25. **C.R.S. 1963:** § 120-13-25. **L. 91:** IP(1)(d) amended, p. 1103, § 141, effective July 1.

Cross references: For publication of legal notices, see article 70 of title 24.

43-2-126. Street supervisors - duties. (Repealed)

Source: L. 53: p. 522, § 26. **CRS 53:** § 120-13-26. **C.R.S. 1963:** § 120-13-26. **L. 89:** Entire section repealed, p. 1293, § 18, effective April 6.

43-2-127. Contracts for street supervision - report. (Repealed)

Source: L. 53: p. 523, § 27. **CRS 53:** § 120-13-27. **C.R.S. 1963:** § 120-13-27. **L. 89:** Entire section repealed, p. 1293, § 18, effective April 6.

43-2-128. Municipalities exempt from street supervision sections. (Repealed)

Source: L. 53: p. 523, § 28. **CRS 53:** § 120-13-28. **C.R.S. 1963:** § 120-13-28. **L. 75:** Entire section amended, p. 1272, § 13, effective July 1. **L. 89:** Entire section repealed, p. 1293, § 18, effective April 6.

43-2-129. Accounting by municipalities - unexpended funds - matching federal aid. (1) All amounts paid to each city, city and county, or incorporated town out of the highway users tax fund shall be accounted for as provided in this part 1.

(2) A city, city and county, or incorporated town, if moneys paid from the highway users tax fund are not expended in any fiscal year, may carry over and rebudget such moneys for the succeeding year; or it may make expenditures in anticipation of receipt of these moneys and receive credit for them in the year in which the moneys are received.

(3) In the event that any funds become available from the federal government for expenditure by the cities and incorporated towns in conjunction with funds which have accrued to such cities and incorporated towns for the construction, alteration, repair, or improvement of any street within the limits of said cities or incorporated towns, the city council or local governing authority of the respective cities and incorporated towns, upon the approval by the department of transportation, may use such funds which have accrued to them from the highway users tax fund for the purpose of matching the federal funds becoming available; if the city council or local governing authority of such city or incorporated town has, by proper resolution, filed in duplicate with the department of transportation and approved by said department, determined that the street construction, alteration, repair, or improvement to be performed in such city or incorporated town conforms in all respects to the requirements necessary for the use of such funds from the federal government and if all such funds becoming available are expended only as provided by law.

Source: L. 53: p. 523, § 29. **CRS 53:** § 120-13-29. **C.R.S. 1963:** § 120-13-29. **L. 91:** (3) amended, p. 1103, § 142, effective July 1.

43-2-130. Street budgets. In each city, city and county, and incorporated town, the street supervisor or authorized budget officer, in compliance with the local government budget law, shall prepare each year a tentative street budget covering all proposed expenditures for the ensuing calendar year for the city street system. He shall submit the same as his recommended budget for the city street system to the city council or local governing authority for approval.

Source: L. 53: p. 524, § 30. **CRS 53:** § 120-13-30. **C.R.S. 1963:** § 120-13-30.

Cross references: For the local government budget law, see part 1 of article 1 of title 29.

43-2-131. Municipal allocations - delinquent reports - grace period. The state treasurer or any other state officer so designated shall make complete allocations from highway user revenues to only those cities, cities and counties, or towns which have complied with all the requirements of this part 1. The state agency or department designated in this part 1 to receive reports shall inform the cities, cities and counties, or towns in writing, by certified mail, of any

delinquencies in reporting and shall forward a copy of such notice to the state treasurer. Delinquent cities, cities and counties, or towns shall be allowed a grace period of sixty days after date in which to rectify the delinquency. If the required reports have not been received at the end of the sixty-day grace period, the state treasurer shall withhold the moneys due to such cities, cities and counties, or towns until he has been informed that the required reports have been received. Payments withheld will be paid to the cities, cities and counties, or towns upon receipt of the delinquent reports.

Source: L. 53: p. 524, § 31. **CRS 53:** § 120-13-31. **C.R.S. 1963:** § 120-13-31. **L. 71:** p. 1138, § 5. **L. 77:** Entire section amended, p. 1936, § 3, effective July 1.

43-2-132. Annual municipal reports. (1) On or before the thirtieth day of June of each year, every city, city and county, and incorporated town shall cause to be made and filed with the highway maintenance division a complete report of the expenditures of all moneys applied to city street systems during the calendar year ending on the thirty-first day of December next preceding. The division shall prescribe the form and contents of such report.

(2) The report shall contain the following:

(a) A detailed statement identifying the separate amounts and sources of all moneys available during the calendar year covered by the report, including moneys made available by the United States government, the state, the county, and any other governmental agency, and moneys available from bond issues, special assessments, tax levy, or any other source whatever for street or road purposes;

(b) A detailed statement of all expenditures during the calendar year covered by the report for street and road purposes, including obligations incurred but not yet paid. The statement shall contain uniform categories to be prescribed by the department of transportation, such categories to include but not be limited to expenditures for rights-of-way or other property, construction, maintenance, acquisition of equipment, and administration. The statement shall also set forth the amount of funds on hand at the beginning of the calendar year covered by the report, the manner in which highway users tax fund moneys and the county road and bridge fund were spent during such calendar year, and the amount of any unexpended funds remaining at the close of such calendar year. The department of transportation shall prescribe such other expenditure categories and such other information as may be deemed necessary by the department to fully disclose the nature and extent of all transactions by any city, city and county, or incorporated town relating to streets and roads. Any moneys which have become available to any city, city and county, and incorporated town for expenditure on roads and bridges by virtue of a condition placed on any type of land use approval shall be accounted for separately and said expenditures shall be limited to roads and bridges in connection with such land use project.

(3) The highway maintenance division shall prepare detailed instructions for the uniform reporting of receipts and expenditures of all moneys to city streets and roads.

(4) The highway maintenance division shall annually tabulate and compile all such reports and statements received from the cities, city and counties, and incorporated towns and shall publish these data in accordance with the provisions of section 24-1-136, C.R.S.

(5) (a) On or before March 1 of each year, each city, city and county, and incorporated town shall submit to the department of transportation the certification prepared as provided by

section 43-2-125 showing all changes in total mileage and arterial mileage having been made during the calendar year ending on December 31 next preceding.

(b) Information concerning the condition of the streets, roads, and highways submitted pursuant to section 43-1-115 (2), shall be reported in conjunction with the report required by paragraph (a) of this subsection (5).

(6) The reports required by this section shall be audited in accordance with the provisions of part 6 of article 1 of title 29, C.R.S., and such reports shall be included as supplementary information in the annual audit report.

Source: L. 53: p. 524, § 32. **CRS 53:** § 120-13-32. **C.R.S. 1963:** § 120-13-32. **L. 64:** p. 169, § 132. **L. 67:** p. 920, § 2. **L. 71:** pp. 1139, 1143, §§ 6, 2. **L. 72:** p. 617, § 150. **L. 77:** (5) amended, p. 1936, § 4, effective July 1. **L. 83:** (4) amended, p. 845, § 84, effective July 1. **L. 86:** (5) amended, p. 1210, § 3, effective April 21. **L. 89:** (2)(b) amended and (6) added, p. 1261, § 2, effective July 1. **L. 91:** (1), (2)(b), and (3) to (5) amended, p. 1103, § 143, effective July 1. **L. 98:** (1) amended, p. 1098, § 17, effective June 1. **L. 2015:** (1), (3), and (4) amended, (HB 15-1209), ch. 64, p. 177, § 11, effective March 30.

43-2-132.5. Maintenance of local effort - highways. (Repealed)

Source: L. 89, 1st Ex. Sess.: Entire section added, p. 60, § 16, effective August 1. **L. 91:** (4) amended, p. 1104, § 144, effective July 1. **L. 94:** Entire section repealed, p. 96, § 1, effective March 18.

43-2-133. State inspection of municipal projects. Whenever any city, city and county, or incorporated town undertakes the construction of any street project which involves the expenditure of state funds and federal funds, it is the duty of the department of transportation to inspect such projects at such times as the department of transportation deems necessary for the purposes of determining whether such projects are being built to the recommended standards.

Source: L. 53: p. 525, § 33. **CRS 53:** § 120-13-33. **C.R.S. 1963:** § 120-13-33. **L. 91:** Entire section amended, p. 1105, § 145, effective July 1.

43-2-134. Certification of designations - notice of change. (1) Within thirty days after December 31, 1979, the department of transportation shall certify by brief description in duplicate to the governing body and to the clerk of each municipality which streets, together with the bridges or other structures thereon, if any, in such municipality are presently designated as part of the state highway system as defined in this part 1.

(2) Thereafter, the department of transportation shall inform each municipality of any change in designation that has occurred within its jurisdiction not later than sixty working days after the change.

(3) No change shall be made in the designation of such street as a part of the state highway system without prior notice to the municipality and without opportunity for hearing before the commission.

Source: L. 53: p. 525, § 34. **CRS 53:** § 120-13-34. **C.R.S. 1963:** § 120-13-34. **L. 79:** Entire section amended, p. 1596, § 1, effective April 25. **L. 91:** (1) and (2) amended, p. 1105, § 146, effective July 1.

43-2-135. Division of authority over streets. (1) The jurisdiction, control, and duty of the state, cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system is as follows:

(a) The city, city and county, and incorporated town shall exercise full responsibility for and control over any such street beyond and including the curbs and, if no curb is installed, beyond the traveled way, its contiguous shoulders, and appurtenances; except that the regulation and control of driveways shall be subject to the provisions of section 43-2-147.

(b) The department of transportation has authority to prohibit the suspension of signs, banners, or decorations above the portion of such streets between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway.

(c) The city, city and county, or incorporated town at its own expense shall maintain all underground facilities in such streets and has the right to construct such underground facilities as may be necessary in such streets.

(d) The city, city and county, or incorporated town has the right to grant the privilege to open the surface of any such street, but all damages occasioned thereby shall promptly be repaired either by the city, city and county, or incorporated town itself or at its direction.

(e) The city, city and county, or incorporated town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins.

(f) The department of transportation has the right to utilize all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of streets by the department of transportation, the cost of such facilities shall be borne by the state and municipality as may be mutually agreed upon between the department of transportation and the local governing body of the city, city and county, or incorporated town.

(g) Cities, cities and counties, and incorporated towns shall regulate and enforce all traffic and parking restrictions on streets which are state highways, but all regulations adopted after December 31, 1979, shall be approved in writing by the department of transportation before becoming effective on such streets; except that such regulations shall become effective on such streets sixty days after receipt for review by the department of transportation if not disapproved in writing by said department during that sixty-day period.

(h) The department of transportation shall erect, control, and maintain at state expense all route markers and directional signs, except street signs on those streets.

(i) The department of transportation shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices on state highways in cities, the city and county of Denver, the city and county of Broomfield, and incorporated towns. No local authority shall erect or maintain any stop sign or traffic control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department of transportation. For the purpose of this paragraph (i), striping, lane-marking, and channelization are considered traffic control devices.

(j) Rights-of-way for such street shall be acquired by either the city, city and county, or incorporated town or by the state as is mutually agreed upon. Costs of acquiring such rights-of-

way may be at the sole expense of the state or the city, city and county, or incorporated town, or both, as may be mutually agreed. Title to all rights-of-way so acquired shall vest in the city, city and county, or incorporated town, or the state, according to the agreement under which said rights-of-way were secured.

(k) The department of transportation is authorized to acquire rights-of-way by purchase, gift, or condemnation for any such streets, highways, and bridges. Any such condemnation proceeding shall be exercised in the manner provided by law for condemnation proceedings to acquire lands required for state highways. Nothing in this section shall be construed as abrogating the rights of home rule cities to acquire lands for state purposes in the manner set forth in the charter of said cities.

Source: L. 53: p. 526, § 35. **CRS 53:** § 120-13-35. **C.R.S. 1963:** § 120-13-35. **L. 71:** p. 202, § 10. **L. 74:** (1)(i) amended, p. 358, § 1, effective July 1. **L. 79:** (1)(g) amended, p. 1598, § 2, effective May 18. **L. 80:** (1)(a) amended, p. 798, § 66, effective June 5. **L. 91:** (1)(b), (1)(f) to (1)(i), and (1)(k) amended, p. 1105, § 147, effective July 1. **L. 2001:** (1)(i) amended, p. 273, § 27, effective November 15.

43-2-136. Department makes rules for rating. (1) The department of transportation shall promulgate and adopt rules and regulations for a practical system of rating roads, streets, and highways based on sufficiency rating studies for the systems under its specific jurisdiction as follows:

(a) Priorities for construction on the state highway system as designated by this part 1 shall be determined by the transportation commission not later than May thirtieth of the year preceding the year during which said construction is to be undertaken.

(b) The transportation commission in establishing priorities shall make use of a sufficiency rating which shall take into consideration traffic volume, composition of traffic, width of the roadbed, pavement type, and such other construction factors as it deems necessary in order to adequately compare existing highway facilities with the known desirable standards for highways which should apply.

Source: L. 53: p. 528, § 36. **CRS 53:** § 120-13-36. **C.R.S. 1963:** § 120-13-36. **L. 91:** Entire section amended, p. 1106, § 148, effective July 1.

Cross references: For rule-making procedures, see article 4 of title 24.

43-2-137. Counties submit priorities - instructions. The boards of county commissioners of the various counties in Colorado and the city council of the city and county of Denver and the city council of the city and county of Broomfield shall annually submit to the commission priorities for the construction of roads and streets within their specific jurisdiction on the state highway system, plus all proposed projects not a part of the state highway system but utilizing federal funding. For purposes of this section and section 43-2-138, the city and county of Denver and the city and county of Broomfield shall be considered counties.

Source: L. 53: p. 528, § 37. **CRS 53:** § 120-13-37. **C.R.S. 1963:** § 120-13-37. **L. 79:** Entire section amended, p. 1596, § 2, effective April 25. **L. 2001:** Entire section amended, p. 273, § 28, effective November 15.

43-2-138. Municipalities submit priorities - instructions. The city council or local governing authority of each incorporated place situated in Colorado shall annually submit to the commission, directly or through the board of county commissioners, priorities for the construction of roads and streets within its specific jurisdiction on the state highway system, plus all proposed projects not a part of the state highway system but utilizing federal funding.

Source: L. 53: p. 528, § 38. **CRS 53:** § 120-13-38. **C.R.S. 1963:** § 120-13-38. **L. 79:** Entire section amended, p. 1597, § 3, effective April 25.

43-2-139. Roadside advertising on county roads. The board of county commissioners of each county has the power to require all persons placing or maintaining road signs, guide boards, billboards, and bulletin boards, of any kind on any road constituting a part of the county highway system which do not conform to the standards designated by the transportation commission, to remove the same, and if such persons do not comply with such requirements, the board of county commissioners has the power to remove said signs and boards. Where said signs and boards are erected outside the right-of-way of any county road in such a manner that any portion of said sign or board projects onto the right-of-way of said county road, the board of county commissioners has the power to remove as much of said sign or board projecting onto said right-of-way as is necessary to keep said right-of-way free and clear of obstruction.

Source: L. 53: p. 529, § 39. **CRS 53:** § 120-13-39. **C.R.S. 1963:** § 120-13-39. **L. 91:** Entire section amended, p. 1107, § 149, effective July 1.

43-2-140. Roadside advertising on state highways. (Repealed)

Source: L. 53: p. 529, § 40. **CRS 53:** § 120-13-40. **C.R.S. 1963:** § 120-13-40. **L. 81:** Entire section repealed, p. 2019, § 4, effective July 1.

Cross references: For provisions concerning roadside advertising, see the "Outdoor Advertising Act", part 4 of article 1 of this title.

43-2-141. Violation of sections - penalties. Any person or corporation who places or maintains any road signs, guide boards, billboards, or bulletin boards on any road constituting the county system in violation of section 43-2-139, upon conviction thereof, shall be punished by a fine of not less than fifteen dollars nor more than fifty dollars. Any person or corporation which injures, defaces, or destroys any road sign placed on any county road, as provided by law, shall be punished by a fine of not less than fifteen dollars nor more than fifty dollars.

Source: L. 53: p. 529, § 41. **CRS 53:** § 120-13-41. **C.R.S. 1963:** § 120-13-41. **L. 81:** Entire section amended, p. 2019, § 2, effective July 1.

43-2-142. Jurisdiction. All courts of record having jurisdiction of misdemeanors have jurisdiction to try any case arising from the violation of this part 1 or any provision thereof.

Source: L. 53: p. 529, § 42. **CRS 53:** § 120-13-42. **C.R.S. 1963:** § 120-13-42. **L. 64:** p. 312, § 283.

43-2-143. Obstructing highway view - penalty. (Repealed)

Source: L. 53: p. 530, § 43. **CRS 53:** § 120-13-43. **C.R.S. 1963:** § 120-13-43. **L. 81:** Entire section repealed, p. 2019, § 4, effective July 1.

43-2-144. Intergovernmental highway contracts. (1) The transportation commission, counties, and municipalities have the following powers, in addition to powers which they may already have, to contract with one another concerning streets, roads, and highways.

(2) The board of county commissioners of any county is authorized to contract with the transportation commission or with any city or town within the county, or with both the transportation commission and a city or town, for the construction or maintenance, or both, of county or state highways within the county or within the county and the city or town. Adjoining counties may also contract with each other for construction or maintenance, or both, of public highways where roads in one county may be constructed or maintained, or both, more economically by an adjoining county.

(3) Towns and cities are authorized to contract with the transportation commission or with the board of county commissioners, or with both the transportation commission and the board of county commissioners, for the construction or maintenance, or both, of city streets or county or state highways within the town or city.

(4) Such contracts may extend for an indefinite period of time. The expenditures to be required each year shall be separately budgeted, and where the contract may extend over more than one budgeting period, the entire amount required by such contract need not be budgeted before such contract is made.

(5) Existing valid contracts between the parties enumerated in subsections (2) and (3) of this section shall not automatically be voided by the adoption of this part 1 but are expressly confirmed and ratified; but, upon the agreement of all parties to a contract, such contract may be modified in accordance with this part 1.

Source: L. 53: p. 530, § 44. **CRS 53:** § 120-13-44. **C.R.S. 1963:** § 120-13-44. **L. 91:** (1) to (3) amended, p. 1107, § 150, effective July 1.

43-2-145. Transportation legislation review - committee. (1) (a) The transportation legislation review committee is hereby created in order to give guidance and direction to:

(I) The department of transportation in the development of the state transportation system and to provide legislative overview of and input into such development;

(II) The department of revenue in the licensing of drivers and registration and titling of motor vehicles; and

(III) Any state agency or political subdivision of Colorado that regulates motor vehicles or traffic, including, without limitation, penalties imposed for violating traffic statutes and rules.

(b) The committee shall meet at least once each year to review transportation, traffic, and motor vehicle legislation and may consult with experts in the fields of traffic regulation, the licensing of drivers, the registration and titling of motor vehicles, and highway construction and planning and may consult with the personnel of the department of transportation or the department of revenue as may be necessary; except that the committee shall not meet during the 2010 interim. All personnel of the department of transportation, department of revenue, or any state agency or political subdivision of Colorado that regulates motor vehicles or traffic shall 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.

(c) 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 five-, ten-, and fifteen-year plans for the development of the state transportation system, and the committee shall 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 shall make recommendations to the governor and to the general assembly for such additional legislation as it deems necessary. The committee shall 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.

(d) Prior to January 1, 2016, the committee shall develop and make recommendations concerning the financing of the completion of the strategic transportation projects identified by the department as the "seventh pot projects". No later than February 1, 2016, the committee shall recommend legislation to implement the recommendations, and such legislation 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; except that the bills shall not be subject to review by or approval of legislative council.

(e) Repealed.

(1.3) (a) (I) For purposes of this subsection (1.3), "agency" means any state, regional, or local agency, authority, department, district, or organization, other than an individual municipality or county, that:

(A) Is responsible for researching, planning, developing, or improving transportation systems, mass transit systems, or regional plans that include the provision of mass transit within the jurisdiction of the agency; and

(B) Has or may have overlapping or coterminous jurisdiction with another agency.

(II) The term "agency" includes, without limitation, the department of transportation, the regional transportation district, the Colorado intermountain fixed guideway authority, and the Denver regional council of governments.

(b) Each agency shall share information and coordinate efforts with other agencies in the research, planning, and development of mass transit systems to avoid the creation of duplicative or conflicting mass transit systems in the state. The committee may review the operations of any agency to ensure compliance with the provisions of this paragraph (b). In connection with the

review of the committee, any agency required to share information and coordinate efforts in accordance with this paragraph (b) shall report to the committee no later than August 15, 2001, and each August 15 thereafter through August 15, 2009, and no later than August 15, 2011, and each August 15 thereafter regarding compliance with this paragraph (b).

(1.5) The committee may review any phase of operations of any public highway authority created pursuant to part 5 of article 4 of this title, including planning and construction of public highway projects, prior to and during the completion of such projects. The committee may also conduct a postoperation review of a project to determine whether the project was completed in the most cost-effective and efficient manner. The committee may require any public highway authority to prepare and adopt long-range plans for the development of the public highways, and the committee shall monitor the progress of such plans. The committee may also require the state auditor to conduct a financial or performance audit of any public highway authority.

(1.6) and (1.8) Repealed.

(1.9) The committee may review any phase of operations of any regional transportation authority created pursuant to part 6 of article 4 of this title, including the planning and construction of regional transportation systems, prior to and during the completion of such systems. The committee may also conduct a postoperation review of any system to determine whether the system was completed in the most cost-effective and efficient manner. The committee may require any regional transportation authority to prepare and adopt long-range plans for the development of regional transportation systems, and the committee shall monitor the progress of the plans. The committee may also require financial or performance audits to be conducted.

(2) Repealed.

(2.5) (a) Effective January 1, 2001, the committee shall be comprised of the members of the transportation and energy committee of reference of the house of representatives and the members of the transportation committee of reference of the senate. The chairman of the senate transportation committee shall be the chairman in even-numbered years and vice-chairman in odd-numbered years. The chairman of the house transportation and energy committee shall be chairman in odd-numbered years and vice-chairman in even-numbered years.

(b) The members of the respective committees of reference shall receive the usual per diem and necessary travel and subsistence expenses as provided for members of the general assembly who attend interim committee meetings pursuant to section 2-2-307, C.R.S.

(3) and (4) Repealed.

(5) The legislative council staff shall be made available to assist the committee in carrying out its duties pursuant to this section.

(6) to (8) Repealed.

(9) In the 2015 interim between the first regular session of the seventieth general assembly and the second regular session of the seventieth general assembly, the committee shall examine:

(a) The statutory and regulatory requirements for entry into the market for taxicab service; and

(b) Regulations governing the provision of taxicab service.

Source: L. 53: p. 531, § 45. **CRS 53:** § 120-13-45. **C.R.S. 1963:** § 120-13-45. **L. 86:** Entire section amended, p. 427, § 68, effective March 26; entire section R&RE, p. 1133, § 10, effective July 1. **L. 87:** (1.5) added, p. 1856, § 3, effective August 27. **L. 88:** (1.6) added, p. 1387, § 13, effective July 1. **L. 89, 1st Ex. Sess.:** (1.8) added, p. 62, § 17, effective August 1. **L. 90:** (1) amended and (6) repealed, pp. 1826, 1827, §§ 1, 2, effective March 13. **L. 91:** (1) amended, p. 1107, § 151, effective July 1. **L. 94:** (1) amended, p. 621, § 1, effective April 14; (7) added, p. 1388, § 4, effective May 25. **L. 97:** (1.9) added, p. 499, § 4, effective August 6. **L. 2000:** (2), (3), and (4) amended and (2.5) added, p. 116, § 4, effective March 15. **L. 2001:** (1.3) added, p. 298, § 1, effective August 8. **L. 2005:** (1.6) and (1.8) repealed, p. 291, § 47, effective August 8; (1.9) amended, p. 1069, § 18, effective January 1, 2006. **L. 2007:** (1.3)(b) amended, p. 2050, § 104, effective June 1; (1) amended, p. 341, § 1, effective August 3. **L. 2009:** (1)(d) added, (SB 09-228), ch. 410, p. 2264, § 15, effective July 1; (8) added, (HB 09-1230), ch. 232, p. 1067, § 3, effective August 5. **L. 2010:** (1)(b) and (1.3)(b) amended, (SB 10-213), ch. 375, p. 1765, § 14, effective June 7. **L. 2011:** (1.5) amended, (HB 11-1118), ch. 84, p. 228, § 2, effective March 31. **L. 2015:** (1)(e) added, (HB 15-1173), ch. 189, p. 626, § 1, effective May 13; (9) added, (HB 15-1316), ch. 339, p. 1377, § 2, effective August 5.

Editor's note: (1) Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 1995. (See L. 94, p. 1388.)

(2) Subsection (2)(d) provided for the repeal of subsection (2), subsection (3)(b) provided for the repeal of subsection (3), and subsection (4)(b) provided for the repeal of subsection (4), effective January 1, 2001. (See L. 2000, p. 116.)

(3) Subsection (8)(c) provided for the repeal of subsection (8), effective July 1, 2010. (See L. 2009, p. 1067.)

(4) Subsection (1)(e)(II) provided for the repeal of subsection (1)(e), effective September 1, 2016. (See L. 2015, p. 626.)

Cross references: For the legislative declaration contained in the 2005 act amending subsection (1.9), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-2-145.5. Transportation legislation review committee - study of revisions to the traffic law - compulsory insurance. (Repealed)

Source: L. 91: Entire section added, p. 1403, § 1, effective May 24. **L. 93:** (4) and (6) amended, p. 66, § 1, effective March 22. **L. 94:** (3)(a), (4), and (6) amended and (3)(e) and (3)(f) added, p. 575, § 1, effective April 7; (1)(a) amended, p. 622, § 4, effective April 14; (4) and (6) amended, p. 2539, § 3, effective January 1, 1995.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 1996. (See L. 94, p. 2539.)

43-2-146. Highway bypasses - public policy - when. (1) It is the public policy of the state of Colorado that where the transportation commission has authorized a highway bypass to be built around any incorporated city or town or unincorporated business community of the state of Colorado, the original state highway or state and federal highway markings shall remain on

the existing highway through such incorporated city, town, or unincorporated business community and the existing highway shall be maintained, and the new bypass highway shall carry the designation "bypass" or other similar markings.

(2) In all cases where such relocation has been authorized as a part of the national system of interstate and defense highways, the original state highway may be retained as part of the state system or a new and more direct approach road may be constructed to maintain service to such incorporated city, town, or unincorporated business community. In the event a new and more direct approach road is constructed, such approach road shall be placed on the state highway system and the original state highway may be deleted from the state system as provided in section 43-2-106. The markings of the relocated system of highways shall be accomplished in accordance with the practice established under section 42-4-104, C.R.S.

Source: L. 55: p. 752, § 1. **CRS 53:** § 120-13-46. **L. 61:** p. 647, §§ 1, 2. **C.R.S. 1963:** § 120-13-46. **L. 91:** (1) amended, p. 1108, § 152, effective July 1. **L. 94:** (2) amended, p. 2571, § 98, effective January 1, 1995.

43-2-147. Access to public highways - definitions. (1) (a) The department of transportation and local governments are authorized to regulate vehicular access to or from any public highway under their respective jurisdiction from or to property adjoining a public highway in order to protect the public health, safety, and welfare, to maintain smooth traffic flow, to maintain highway right-of-way drainage, and to protect the functional level of public highways. In furtherance of these purposes, all state highways are hereby declared to be controlled-access highways, as defined in section 42-1-102 (18), C.R.S.

(b) Vehicular access to or from property adjoining a state highway shall be provided to the general street system, unless such access has been acquired by a public authority. Police, fire, ambulance, and other emergency stations shall have a right of direct access to state highways. After June 21, 1979, no person may submit an application for subdivision approval to a local authority unless the subdivision plan or plat provides that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway access code.

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

(2) and (3) Repealed.

(4) The commission shall adopt a state highway access code, by rule and regulation, for the implementation of this section, on or after March 16, 1980. The access code shall address the design and location of driveways and other points of access to public highways. The access code shall be consistent with the authority granted in this section and shall be based upon consideration of existing and projected traffic volumes, the functional classification of public highways, adopted local transportation plans and needs, drainage requirements, the character of lands adjoining the highway, adopted local land use plans and zoning, the type and volume of traffic to use the driveway, other operational aspects of the driveway, the availability of vehicular access from local streets and roads rather than a state highway, and reasonable access by city streets and county roads.

(5) (a) After the effective date of the access code, no person shall construct any driveway providing vehicular access to or from any state highway from or to property adjoining a state

highway without an access permit issued by the appropriate local authority with the written approval of the department of transportation. If the local authority fails to act within forty-five days after an access permit has been requested, such permit shall be deemed issued subject to written approval of the department of transportation. If the department of transportation does not act upon an access permit within twenty days after notice by the local authority, or within twenty days after local authorities should have acted, whichever is the lesser, such permit shall be deemed approved. Upon written request by a local authority, the department of transportation shall administer or assist in the administration of access permits in that jurisdiction. If the department of transportation undertakes to administer access permits in a jurisdiction, it shall act upon requested access permits within forty-five days of request. If the department of transportation fails to act within forty-five days upon a requested access permit, such permit shall be deemed approved. Access permits shall be issued only in compliance with the access code and may include terms and conditions authorized by the access code.

(b) The issuing authority shall establish a reasonable schedule of fees for access permits issued pursuant to the access code and this section, which fees shall not exceed the costs of administration of access permits.

(c) When a permitted driveway is constructed or utilized in violation of the access code, permit terms and conditions, or this section, either the issuing authority or the department of transportation or both may obtain a court order enjoining violation of the access code, permit terms and conditions, or this section. Such access permits may be revoked by the issuing authority if, at any time, the permitted driveway and its use fail to meet the requirements of this section, the access code, or the terms and conditions of the permit. The department of transportation may install barriers across or remove any driveway providing direct access to a state highway which is constructed without an access permit.

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

(b) Any driveway, whether constructed before, on, or after June 30, 1979, may be required by the department of transportation with written concurrence of the appropriate local authority to be reconstructed or relocated to conform to the access code, either at the property owner's expense if the reconstruction or relocation is necessitated by a change in the use of the property which results in a change in the type of driveway operation or at the expense of the department of transportation if the reconstruction or relocation is necessitated by changes in road or traffic conditions. The necessity for the relocation or reconstruction shall be determined by reference to the standards set forth in the access code.

(c) Any party who has received an adverse decision by the department of transportation may request and shall receive a hearing before the transportation commission or before an administrative law judge from the department of personnel, at the discretion of the transportation commission. Such hearing shall be conducted in accordance with the provisions of article 4 of title 24, C.R.S. Decisions by the transportation commission or by an administrative law judge shall be considered final agency action.

(d) Reconstruction or relocation of a driveway shall be administered in the same manner as the revocation of a license under the "State Administrative Procedure Act".

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

(7.5) The issuing authority shall grant a variance from the state highway access code if such variance would not be inconsistent with paragraph (a) of subsection (1) of this section and if such variance is reasonably necessary for the convenience, safety, and welfare of the public. If failure to grant a variance would deny reasonable access to the general street system, such denial may be subject to the provisions of section 43-1-208 and section 15 of article II of the state constitution.

(8) As used in this section, unless the context otherwise requires:

(a) "Access control plan" means a roadway design plan which designates preferred access locations and their designs for the purpose of bringing those portions of roadway included in the access control plan into conformance with their functional classification to the extent feasible.

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

(c) "Functional classification" means a classification system that defines a public roadway according to its purposes in the local or statewide highway plans. The commission shall determine the functional classification of all state highways. The functional classification of county roads and city streets shall be determined by the appropriate local authority.

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

(e) "Issuing authority" means the entity which issues access permits and includes the board of county commissioners, the governing body of a municipality, and the department of transportation.

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

Source: L. 79: Entire section added, p. 1600, § 1, effective June 21. **L. 81:** (1)(b), (5)(a), and (6)(b) to (6)(d) amended, p. 2020, § 1, effective April 14. **L. 84:** (6)(b) and (6)(c) amended and (7.5) added, p. 1110, § 1, effective July 1. **L. 87:** (6)(c) amended, p. 976, § 101, effective March 13. **L. 91:** (1)(a), (5)(a), (5)(c), (6)(a) to (6)(c), and (8)(e) amended, p. 1108, § 153, effective July 1. **L. 94:** (1)(a) amended, p. 2571, § 99, effective January 1, 1995. **L. 95:** (6)(c) amended, p. 668, § 110, effective July 1. **L. 2006:** (2) and (3) repealed, p. 150, § 38, effective August 7.

Cross references: For the state highway access code, see 2 CCR 601-1; for the "State Administrative Procedure Act", see article 4 of title 24.

43-2-148. Metropolitan transportation development commission. (Repealed)

Source: L. 89, 1st Ex. Sess.: Entire section added, p. 69, § 1, effective July 11. **L. 97:** Entire section repealed, p. 195, § 1, effective April 1.

43-2-149. Roadside memorials authorized - specifications - permit - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "County memorial" means a plaque, monument, or similar object placed in a particular location on a county road to commemorate one or more people who died on that county road.

(b) "Department" means the department of transportation.

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

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

(e) "Maintain" means to preserve, keep in repair, or replace a roadside memorial.

(f) "State memorial" means a sign on a highway to commemorate one or more people who died on that highway.

(2) (a) (I) The department shall erect and maintain a state memorial requested in accordance with this subsection (2). The department shall be exclusively responsible for the type, location, and design of the state memorial.

(II) An application for a state memorial shall be made on a form provided by the department, shall be signed by the applicant or the applicant's duly authorized officer or agent, and shall include:

(A) The name and address of the applicant;

(B) The name of the individual memorialized and the highway where such individual lost his or her life; and

(C) A fee to be determined by the department; except that such fee shall not exceed the direct and indirect expenses associated with erecting and maintaining such state memorial. The department shall transmit the fee to the state treasurer for deposit in the state highway fund, created in section 43-1-219.

(b) A state memorial shall be located within the highway easement as far from the roadway as is practicable or reasonably necessary to preserve public safety and facilitate highway maintenance, given the proposed location. A state memorial shall contain the name of the person memorialized and shall be erected and maintained for at least two years.

(c) Notwithstanding any provision of this section to the contrary, if any provision of this section conflicts with federal law, the department shall not erect or maintain state memorials pursuant to this section.

(2.5) (a) (I) The department shall erect and maintain a permanent state memorial for each Colorado state trooper who has died on a highway while in the line of duty.

(II) The state memorial erected pursuant to subparagraph (I) of this paragraph (a) must:

(A) Be placed in the location where the trooper's death occurred, located within the highway easement as far from the roadway as is practicable or reasonably necessary to preserve public safety and facilitate highway maintenance, given the proposed location; and

(B) Measure four feet in height by three feet in width.

(b) The department shall use gifts, grants, and donations to fund the state memorials placed pursuant to this subsection (2.5).

(c) Notwithstanding any provision of this section to the contrary, if the application of any provision of this subsection (2.5) in a specific location conflicts with federal law, the department shall neither erect nor maintain a state memorial at that location.

(3) (a) (I) A person may erect and maintain a county memorial if the proposed county memorial conforms with the requirements of this subsection (3) and, where required by the county, the applicable board of county commissioners, or the board's designee, has issued a permit to erect the county memorial on a county road in a primary or secondary system, as described in section 43-2-108. An applicant for a permit to erect a county memorial on a county road shall be exclusively responsible for the type, location, and design of the county memorial, subject to the requirements of this section.

(II) An application for a permit shall be made on a form provided by the county, shall be signed by the applicant or the applicant's duly authorized officer or agent, and shall include:

(A) The type, proposed location, and dimensions of the proposed county memorial and other information required by the form;

(B) The name and address of the applicant;

(C) The name of the individual memorialized and the highway where such individual lost his or her life;

(D) An agreement by the applicant to erect and maintain the county memorial in a safe, sound, and good condition; and

(E) A uniform fee not to exceed the county's direct and indirect expenses associated with issuing and administering the permit. The county shall transmit the fee to the county treasurer, who shall credit it to the applicable county highway or transportation fund.

(b) County memorials shall not exceed three feet in height above the ground, two feet in width, and six inches in thickness. County memorials shall be constructed of a durable material and shall not contain any moving or electronic parts. County memorials shall be located within the highway easement as far from the roadway as is practicable or reasonably necessary to preserve public safety and facilitate highway maintenance, given the proposed location. County memorials may contain the name of the person memorialized, the dates of such person's birth and death, and other relevant information.

(4) (a) The department shall deny an application for a state memorial if the proposed location of the memorial would result in a potential safety hazard or maintenance impediment. The department may suggest that the applicant consider an alternative design or placement and may remove any memorial on a highway that does not comply with the provisions of subsection (2) of this section. The department may deny or revoke a permit for false or misleading information given in the application for a state memorial pursuant to subsection (2) of this section.

(b) A board of county commissioners, or the board's designee, shall deny an application if the proposed type or location of the county memorial would result in a potential safety hazard or maintenance impediment. The board of county commissioners, or the board's designee, may suggest that the applicant consider an alternative design or placement and may remove any county memorial that does not comply with subsection (3) of this section, including through the applicant's failure to substantially perform any erection or maintenance agreement specified in the permit. The board of county commissioners, or the board's designee, may deny or revoke a permit for false or misleading information given in the application or for the erection or maintenance of a county memorial in violation of this section.

(c) Nothing in this section shall be construed to require a county to establish a permitting process pursuant to this section, but no county may prohibit or deny requests for placement of

roadside memorials on county roads in the absence of a permitting process that complies with this section.

Source: L. 2004: Entire section added, p. 774, § 1, effective May 20. **L. 2016:** (2.5) added, (HB 16-1060), ch. 111, p. 315, § 1, effective April 21.

43-2-150. Roadside chain service - rules. The department may contract with one or more entities to provide roadside assistance, selling or applying chains or other equipment to commercial vehicles, necessary to enable compliance with section 42-4-106, C.R.S. The department may authorize, by rule or contract, the entity to receive a reasonable fee for services provided.

Source: L. 2007: Entire section added, p. 1334, § 5, effective August 3.

PART 2

COUNTY AND OTHER PUBLIC HIGHWAYS

43-2-201. Public highways. (1) The following are declared to be public highways:

(a) All roads over private lands dedicated to the public use by deed to that effect, filed with the county clerk and recorder of the county in which such roads are situate, when such dedication has been accepted by the board of county commissioners. A certificate of the county clerk and recorder with whom such deed is filed, showing the date of the dedication and the lands so dedicated, shall be filed with the county assessor of the county in which such roads are situate.

(b) All roads over private or other lands dedicated to public uses by due process of law and not heretofore vacated by an order of the board of county commissioners duly entered of record in the proceedings of said board;

(c) All roads over private lands that have been used adversely without interruption or objection on the part of the owners of such lands for twenty consecutive years;

(d) All toll roads or portions thereof which may be purchased by the board of county commissioners of any county from the incorporators or charter holders thereof and thrown open to the public;

(e) All roads over the public domain, whether agricultural or mineral.

Source: L. 1883: p. 251, § 1. **G.S.** § 2953. **L. 1891:** p. 302, § 1. **L. 1893:** p. 435, § 1. **R.S. 08:** § 5787. **L. 21:** p. 380, § 1. **C.L.** § 1243. **CSA:** C. 143, § 1. **CRS 53:** § 120-1-1. **C.R.S. 1963:** § 120-1-1.

Cross references: For toll roads, see part 3 of article 3 of this title.

43-2-201.1. Closure of public highways extending to public lands - penalty. (1) Any person, other than a governing body of a municipality or county acting pursuant to part 3 of this article, who intentionally blocks, obstructs, or closes any public highway, as described in section 43-2-201, that extends to any public land, including public land belonging to the federal

government, thereby closing public access to public lands, without good cause therefor, commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(2) The provisions of this section shall not apply to temporary and reasonable obstruction of the public highways described in subsection (1) of this section by a railroad train at a railroad crossing.

(3) Any peace officer of this state, as described in section 16-2.5-101, C.R.S., has the authority to enforce the provisions of this section.

(4) (a) Notwithstanding the provisions of subsection (1) of this section, any owner of private land who complies with the provisions of this subsection (4) may post notice of intent to close a road crossing such land if such road has been abandoned. Said owner shall promptly notify the board of county commissioners of the county in which such road is located of such proposed closure. The board of county commissioners so notified shall publish notice of such proposed closure in a newspaper of general circulation in such county within sixty days after receipt of notice from said owner and shall post notice of such proposed closure at each end of the road described in the notice. If the board of county commissioners receives no objection to such proposed closure within eighteen months after such publication, the road described in such notice shall be closed to public access.

(b) If the board of county commissioners receives objection to such proposed closure, it shall schedule a public hearing concerning the proposed closure and shall publish notice of said hearing in a newspaper of general circulation in such county at least ten days prior to said hearing. At said hearing, the board shall hear objections to the proposed closure and shall decide, within thirty days of the hearing, whether the road described in the notice shall be closed to public access.

Source: L. 76: Entire section added, p. 821, § 1, effective July 1. **L. 98:** (1) amended, p. 1444, § 35, effective July 1. **L. 2002:** (1) amended, p. 1565, § 386, effective October 1. **L. 2003:** (3) amended, p. 1617, § 22, effective August 6.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

43-2-202. County road and bridge fund - apportionment to municipalities. (1) (a) A fund to be known as the county road and bridge fund is created and established in each county of this state. Such fund shall consist of the revenue derived from the tax authorized to be levied under section 43-2-203 for road and bridge construction, maintenance, and administration, all moneys received by the county from the state or federal governments for expenditure on roads and bridges, and any other moneys that may become available to the county for such purpose. Any moneys that have become available to the county for expenditure on roads and bridges by virtue of a condition placed on any type of land use approval shall be accounted for separately and said expenditures shall be limited to roads and bridges in connection with such land use project.

(b) In addition to the moneys specified in paragraph (a) of this subsection (1), the county road and bridge fund consists of any general fund moneys that the board of county commissioners of the applicable county transfers to the fund pursuant to section 30-25-106 (3), C.R.S., after the governor declares a disaster emergency in the county. The board of county

commissioners may transfer back to the county general fund any moneys that it transferred to the county road and bridge fund pursuant to section 30-25-106 (3), C.R.S.

(2) Each municipality located in any county of this state is entitled to receive from the county road and bridge fund of the county wherein it is located an amount equal to fifty percent of the revenue accruing to said fund from extension only of the levy authorized to be made under section 43-2-203 against the valuation for assessment of all taxable property located within its corporate boundaries; except that, by mutual agreement between such municipality and the board of county commissioners, such municipality may elect to receive, in part or in full, the equivalent of such amount in the value of materials furnished or work performed on roads and streets located within its corporate boundaries by the county either during the calendar year in which such revenue is actually collected or by mutual agreement during any succeeding calendar year. A board of county commissioners may, at its option, provide additional money, furnish additional materials, or perform additional work for a municipality located in the county in excess of the money or equivalent materials or work entitled to be received by such municipality under this section. If so determined by the division of local government as provided in section 29-1-301 (1.2)(b), C.R.S., this subsection (2) shall not apply to any one-time, nonrecurring expenditure as a result of an increased levy under section 29-1-301 (1.2), C.R.S., if the expenditure is for a county road or bridge capital project or county road or bridge capital asset.

(3) In all cases where a municipality has not elected to receive its share of the county road and bridge fund in equivalent value of materials furnished or work performed by the county, under mutual agreement, it is the duty of the county treasurer, on the fifteenth day of each July, October, January, and April, to pay over to the treasurer of such municipality, out of the county road and bridge fund, the amount to which such municipality has become entitled during the preceding three calendar months.

(4) All moneys received by a municipality from the county road and bridge fund shall be credited to an appropriate fund and shall be used by such municipality only for construction and maintenance of roads and streets located within its corporate boundaries.

Source: L. 51: p. 752, § 1. **CSA:** C. 143, § 9(1). **CRS 53:** § 120-1-2. **C.R.S. 1963:** § 120-1-2. **L. 70:** p. 320, § 1. **L. 73:** p. 1230, § 1. **L. 75:** (2) amended, p. 1573, § 1, effective June 20. **L. 83:** (2) amended, p. 1204, § 2, effective April 29; (2) amended, p. 1201, § 2, effective May 23. **L. 89:** (1) amended, p. 1262, § 3, effective July 1. **L. 2014:** (1) amended, (SB 14-007), ch. 3, p. 78, § 2, effective February 19.

43-2-203. County road and bridge budget - tax levy. (1) As a part of the total county budget and in conformity with the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., each county shall annually adopt a county road and bridge budget for the ensuing fiscal year, which budget shall show: The aggregate amount estimated to be expended for county road and bridge construction, maintenance, and administration and the aggregate amount estimated to be paid from the county road and bridge fund to municipalities located within the county, either in cash or in equivalent value of materials to be furnished or work to be performed under mutual agreements with such municipalities, during said fiscal year; the amount being carried over for equivalent materials to be furnished or work to be performed from any prior fiscal year for any municipality within the county pursuant to section 43-2-202 (2); the estimated balance in said fund at the beginning of said fiscal year; the aggregate amount

estimated to be received from state, federal, or other sources during said fiscal year; and the amount necessary to be raised during said fiscal year from the levy authorized in subsection (2) of this section. The requirements of this subsection (1) do not apply to any moneys in the county road and bridge fund pursuant to section 30-25-106 (3), C.R.S.

(2) The board of county commissioners in each county is authorized to levy such rate of tax on all taxable property located within the county as required, when added to the estimated balance on hand at the beginning of said ensuing fiscal year and the amount of all revenues, other than property tax revenue, estimated to be received during said fiscal year, to defray all expenditures and payments estimated to be made from the county road and bridge fund during said fiscal year. When determining the rate of tax to be levied pursuant to this subsection (2), the board of county commissioners shall exclude from the estimated balance of the county road and bridge fund any moneys that it transferred to the fund pursuant to section 30-25-106 (3), C.R.S.

Source: L. 51: p. 732, § 2. **CSA:** C. 143, § 9(2). **CRS 53:** § 120-1-3. **C.R.S. 1963:** § 120-1-3. **L. 70:** p. 321, § 2. **L. 75:** (1) amended, p. 1574, § 2, effective June 20. **L. 2014:** Entire section amended, (SB 14-007), ch. 3, p. 79, § 3, effective February 19.

43-2-204. Commissioners authorized to acquire property for highways. Boards of county commissioners, acting for their respective counties, are authorized to acquire by donation, by purchase, or by eminent domain proceedings in the name of such boards any private or public property necessary for the improvement or construction of state highways. Said boards have authority to contract with the department of transportation to pay for all or any part of such property so acquired.

Source: L. 43: p. 524, § 1. **CSA:** C. 143, § 63(1). **CRS 53:** § 120-1-4. **C.R.S. 1963:** § 120-1-4. **L. 91:** Entire section amended, p. 1110, § 154, effective July 1.

Cross references: For eminent domain proceedings, see articles 1 to 7 of title 38.

43-2-205. Rights-of-way - public land. The board of county commissioners of each county in the state of Colorado is authorized to lease a right-of-way over any lands in the state of Colorado held for public purposes which are not in actual use for the purpose to which they are dedicated, for such period of time and under such terms and conditions as it deems advisable, and to construct and maintain public roads and highways thereon.

Source: L. 21: p. 382, § 1. **C.L.** § 1311. **CSA:** C. 143, § 64. **CRS 53:** § 120-1-5. **C.R.S. 1963:** § 120-1-5.

43-2-206. Acquisition of rights of prior lessee. If the board of county commissioners of any county, after entering into contract of lease of lands for highway purposes under the provisions of section 43-2-205, is unable to agree with the person holding possession under a prior lease, or otherwise, of any portion of the land so leased by the board of county commissioners for highway purposes for the purchase of the interest, title, or right to possession of any portion of the land necessary or required for the construction of the proposed highway on

or over the strip of land so leased, such board may acquire the right to possession thereof in the manner provided by law for the condemnation of real estate.

Source: L. 21: p. 382, § 2. **C.L.** § 1312. **CSA:** C. 143, § 65. **CRS 53:** § 120-1-6. **C.R.S. 1963:** § 120-1-6.

Cross references: For condemnation proceedings, see articles 1 to 7 of title 38.

43-2-207. Expense of construction and maintenance. (1) The board of county commissioners of any county in the state of Colorado and the transportation commission of the state of Colorado are authorized to make such expenditures of moneys of the county and the state of Colorado appropriated to the construction and maintenance of highways upon lands leased or condemned for highway purposes under the provisions of section 43-2-205 as are necessary for the construction and the maintenance of public highways thereon.

(2) (a) Expenditures authorized under this title for the construction and maintenance of highways on land which has been purchased, condemned, leased, or otherwise acquired by the department of transportation or the board of county commissioners of any county of the state may include the spraying of such lands bordering highways which are infested with grasshoppers or other insects, as the latter are defined in paragraph (c) of this subsection (2), and may also include the destruction and eradication of noxious, injurious, and poisonous weeds growing along said highways.

(b) Expenditures made by the transportation commission pursuant to this subsection (2) shall be paid from the state highway fund.

(c) As used in this subsection (2), "insects" means any of the small invertebrate animals in the phylum arthropoda comprising the class insecta, arachnida, and chilopoda, that is six-legged winged and unwinged forms, eight-legged segmented forms and those with two or more pairs of legs per body segment.

Source: L. 21: p. 383, § 3. **C.L.** § 1313. **CSA:** C. 143, § 66. **CRS 53:** § 120-1-7. **L. 58, 1st Ex. Sess.:** p. 30, §§ 1, 2. **C.R.S. 1963:** § 120-1-7. **L. 91:** Entire section amended, p. 1110, § 155, effective July 1. **L. 94:** (2) amended, p. 1648, § 87, effective May 31.

Cross references: For creation of state highway fund, see § 43-1-219; for provisions for reimbursement to state or county for spraying lands, see § 35-4-107.

43-2-208. County commissioners authorized to construct highways and let contracts. (1) Whenever any county highway or bridge is to be constructed or any grading or repairing is to be done upon any county highway, the board of county commissioners is authorized to undertake such construction, grading, or repairing in its own behalf or to let contracts for the same. Boards of county commissioners are also authorized to make bids and to enter into contracts, where the contract price involved does not exceed one hundred thousand dollars, with the department of transportation or any agency of the federal or state government for the construction, maintenance, and repair of state or federal highways or bridges within their respective counties and to undertake and perform whatever work is necessary in connection therewith. All labor employed in such contracts shall be bona fide residents of the state of

Colorado, and in all cases preference shall be granted to residents of the county wherein the contract is being performed.

(2) Repealed.

Source: L. 33, Ex. Sess.: p. 68, § 1. **CSA:** C. 143, § 67. **CRS 53:** § 120-1-8. **C.R.S. 1963:** § 120-1-8. **L. 86:** (2) repealed, p. 502, § 125, effective July 1. **L. 91:** (1) amended, p. 1110, § 156, effective July 1.

43-2-209. Contract for work on highways - advertise for bids. If any board of county commissioners desires to let out any work on the county highways by contract, it may advertise in a legal newspaper in the county or post a notice in the county courthouse, for a period of not less than ten days before the contract is let, for sealed proposals for performing the work. When a contract for work on highways involves expenditures equal to or greater than the amount at which a contract requires a contractor's bond under section 38-26-105, C.R.S., the board of county commissioners shall advertise in a newspaper as provided in this section unless such advertisement, in the judgment of the board, would be detrimental to the immediate preservation of the public peace, health, and safety. The advertisement must describe the work to be done and its location and must refer all persons to the person holding the plans and specifications therefor. and such contract shall be awarded to the lowest responsible bidder, the board reserving the right to reject any bids proffered. The cost of any county highway work mentioned in sections 43-2-208 to 43-2-210 may be paid out of the county road and bridge fund or emergency road fund, as the board may determine.

Source: L. 33, Ex. Sess.: p. 69, § 2. **CSA:** C. 143, § 68. **CRS 53:** § 120-1-9. **C.R.S. 1963:** § 120-1-9. **L. 73:** p. 1232, § 1. **L. 2014:** Entire section amended, (HB 14-1121), ch. 31, p. 180, § 1, effective March 14.

43-2-210. Only residents of county to be given employment. Only those persons who, at the time of employment, are residents of the county in which the project is being carried on shall be given employment insofar as possible. The residence of a person is considered to be that place in which his habitation is fixed and to which, whenever he is absent, he has the intention of returning.

Source: L. 33, Ex. Sess.: p. 70, § 3. **CSA:** C. 143, § 69. **CRS 53:** § 120-1-10. **C.R.S. 1963:** § 120-1-10. **L. 77:** Entire section amended, p. 446, § 2, effective May 26.

43-2-211. Cattle guards - specifications. The board of county commissioners of a county has authority to establish cattle guards on highways at the expense of the county or to permit the owners of land adjoining a county highway to establish cattle guards on highways at the expense of the landowners. All such cattle guards shall be established according to fixed specifications and design and under the supervision of the board of county commissioners.

Source: L. 41: p. 652, § 1. **CSA:** C. 143, § 154. **CRS 53:** § 120-1-15. **C.R.S. 1963:** § 120-1-11.

43-2-212. Sections applicable only to county highways. The provisions of sections 43-2-211 to 43-2-213 shall apply to the establishment of cattle guards on highways designated as county highways.

Source: L. 41: p. 652, § 2. **CSA:** C. 143, § 155. **CRS 53:** § 120-1-16. **C.R.S. 1963:** § 120-1-12.

43-2-213. Not deemed an obstruction. Cattle guards permitted and established under the provisions of sections 43-2-211 and 43-2-212 shall not constitute an obstruction of the highway under the provisions of section 43-5-301.

Source: L. 41: p. 652, § 3. **CSA:** C. 143, § 156. **CRS 53:** § 120-1-17. **C.R.S. 1963:** § 120-1-13.

43-2-214. County highway anticipation warrant retirement fund. Whenever the board of county commissioners of any county within the territorial limits of which there is or may be developed a producing oil or gas field deems it necessary to anticipate its road revenues in whole or in part for the construction, making, or repairing of public roads, bridges, or highway structures within the territorial limits of such county, it may by an order entered of record establish a fund under the administration of the county treasurer to be known as the county highway anticipation warrant retirement fund.

Source: L. 47: p. 749, § 2. **CSA:** C. 143, § 157. **CRS 53:** § 120-1-18. **C.R.S. 1963:** § 120-1-14.

43-2-215. Moneys allocated to fund. Upon creation and establishment of such fund the board of county commissioners of such county shall thereupon allocate to said fund all moneys which may become available to such county for highway purposes from federal royalties, together with such additional revenues as the board of county commissioners may determine to be necessary from the county road and bridge fund, not to exceed fifty percent thereof. Moneys and revenues allocated to said fund shall be held in said fund inviolate for the primary purpose of the retirement of all outstanding and unpaid county highway anticipation warrants issued in accordance with the provisions of sections 43-2-214 to 43-2-218.

Source: L. 47: p. 750, § 3. **CSA:** C. 143, § 158. **CRS 53:** § 120-1-19. **C.R.S. 1963:** § 120-1-15.

43-2-216. Warrants - sale - duration - interest. When the board of county commissioners of such county has determined and approved, by resolution of the board, any highway project for the construction, repair, or improvement of highways within its territorial limits, either by the county itself or with the department of transportation of the state of Colorado and with or without federal aid so as to determine the cost thereof or the share of such cost to such county to be approved by such county, it may by resolution authorize the issuance of anticipation warrants in such amount as may be necessary to raise funds sufficient to defray costs of the same, said warrants thereupon to be delivered to the county treasurer and by him offered

for public sale at not less than par. The aggregate of such warrants outstanding shall not exceed ten percent of the valuation for assessment of all property of said county as of the date of issuance thereof. No warrants shall run for a period longer than ten years before retirement nor bear a rate of interest in excess of four percent.

Source: L. 47: p. 750, § 4. **CSA:** C. 143, § 159. **CRS 53:** § 120-1-20. **C.R.S. 1963:** § 120-1-16. **L. 91:** Entire section amended, p. 1111, § 157, effective July 1.

43-2-217. County treasurer fiscal agent. The county treasurer of such county shall be the fiscal agent of the county in connection with such highway anticipation warrants and shall administer said fund so as to retire such warrants therefrom at such times and in such manner as the board of county commissioners may prescribe in the issuance thereof, subject to the limitations provided in sections 43-2-214 to 43-2-218.

Source: L. 47: p. 750, § 5. **CSA:** C. 143, § 160. **CRS 53:** § 120-1-21. **C.R.S. 1963:** § 120-1-17.

43-2-218. Sections supplemental. Sections 43-2-214 to 43-2-218 are supplemental and in addition to all other powers and authorities by statute or otherwise granted and enjoyed by the respective counties of the state.

Source: L. 47: p. 750, § 6. **CSA:** C. 143, § 161. **CRS 53:** § 120-1-22. **C.R.S. 1963:** § 120-1-18.

43-2-219. County authority to privatize county highways and bridges - charge a toll. Notwithstanding any provision of law to the contrary, the board of county commissioners of a county may enter public-private initiatives, as defined in section 43-1-1201 (3), for county highways and bridges on behalf of the county. In addition, the board of county commissioners of a county may enter into contracts or other agreements on behalf of the county to privatize any county highway or bridge or charge a toll therefor. The board may also charge a toll for any county highway or bridge for the purpose of constructing, operating, or maintaining such bridge or highway.

Source: L. 98: Entire section added, p. 447, § 10, effective August 5.

Cross references: For the legislative declaration contained in the 1998 act enacting this section, see section 1 of chapter 154, Session Laws of Colorado 1998.

PART 3

VACATION PROCEEDINGS: ROADS, STREETS, AND HIGHWAYS

Cross references: For abandonment of town incorporation, see part 2 of article 3 of title 31.

43-2-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Block" means that portion of a subdivision surrounded by streets, however designated, or other boundary lines and platted as a block, plot, tract, square, or other designated unit.

(2) "Owner" or "owner of record" includes any person, firm, partnership, association, or corporation.

(3) "Roadway" includes any platted or designated public street, alley, lane, parkway, avenue, road, or other public way, whether or not it has been used as such.

Source: L. 49: p. 620, § 1. **CSA:** C. 143, § 69(1). **CRS 53:** § 120-1-11. **C.R.S. 1963:** § 120-14-1.

43-2-302. Vesting of title upon vacation. (1) Subject to the requirements set forth in sections 43-1-210 (5) and 43-2-106 governing the disposition of certain property by the department of transportation, whenever any roadway has been designated on the plat of any tract of land or has been conveyed to or acquired by a county or incorporated town or city or by the state or by any of its political subdivisions for use as a roadway, and thereafter is vacated, title to the lands included within such roadway or so much thereof as may be vacated shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

(a) In the event that a roadway which constitutes the exterior boundary of a subdivision or other tract of land is vacated, title to said roadway shall vest in the owners of the land abutting the vacated roadway to the same extent that the land included within the roadway, at the time the roadway was acquired for public use, was a part of the subdivided land or was a part of the adjacent land.

(b) In the event that less than the entire width of a roadway is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.

(c) In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway, except as provided in paragraphs (a) and (b) of this subsection (1). In the event that the boundary lines of abutting lands do not intersect said roadway at a right angle, the land included within such roadway shall vest as provided in paragraph (d) of this subsection (1).

(d) In all instances not specifically provided for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his land, or any part thereof, is nearest in proximity.

(e) No portion of a roadway upon vacation shall accrue to an abutting roadway.

(f) Notwithstanding any other provision of this subsection (1), a board of county commissioners may provide that title to the vacated roadway shall vest, subject to a public-access easement or private-access easement to benefit designated properties, in the owner of the land abutting the vacated roadway, in other owners of land who use the vacated roadway as access to the owners' land, or in a legal entity that represents any owners of land who use the vacated roadway as access to the owners' land. Title shall vest to the owner of the land abutting the vacated roadway as otherwise required by paragraphs (a) to (d) of this subsection (1), unless the board expressly requires the title to vest pursuant to the authority set forth in this paragraph (f) in the resolution to vacate the roadway that is approved by the board.

Source: L. 49: p. 620, § 2. **CSA:** C. 143, § 69(2). **CRS 53:** § 120-1-12. **C.R.S. 1963:** § 120-14-2. **L. 96:** IP(1) amended, p. 1456, § 3, effective June 1. **L. 2007:** (1)(f) added, p. 591, § 1, effective September 1.

43-2-303. Methods of vacation. (1) All right, title, or interest of a county, of an incorporated town or city, or of the state or of any of its political subdivisions in and to any roadway shall be divested upon vacation of such roadway by any of the following methods:

(a) The city council or other similar authority of a city or town by ordinance may vacate any roadway or part thereof located within the corporate limits of said city or town, subject to the provisions of the charter of such municipal corporation and the constitution and statutes of the state of Colorado.

(b) The board of county commissioners of any county may vacate any roadway or any part thereof located entirely within said county if such roadway is not within the limits of any city or town.

(c) If such roadway constitutes the boundary line between two counties, such roadway or any part thereof may be vacated only by the joint action of the boards of county commissioners of both counties.

(d) If said roadway constitutes the boundary line of a city or town, it may be vacated only by joint action of the board of county commissioners of the county and the duly constituted authority of the city or town.

(2) (a) No platted or deeded roadway or part thereof or unplatted or undefined roadway which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road.

(b) If any roadway has been established as a county road at any time, such roadway shall not be vacated by any method other than a resolution approved by the board of county commissioners of the county. No later than ten days prior to any county commissioner meeting at which a resolution to vacate a county roadway is to be presented, the county commissioners shall mail a notice by first-class mail to the last-known address of each landowner who owns one acre or more of land adjacent to the roadway. Such notice shall indicate the time and place of the county commissioner meeting and shall indicate that a resolution to vacate the county roadway will be presented at the meeting.

(c) If any roadway has been established as a municipal street at any time, such street shall not be vacated by any method other than an ordinance approved by the governing body of the municipality.

(d) If any roadway has been established as a state highway, such roadway shall not be vacated or abandoned by any method other than a resolution approved by the transportation commission pursuant to section 43-1-106 (11).

(e) Paragraphs (b), (c), and (d) of this subsection (2) shall not apply to any roadway that has been established but has not been used as a roadway after such establishment.

(f) If any roadway is vacated or abandoned, the documents vacating or abandoning such roadway shall be recorded pursuant to the requirements of section 43-1-202.7.

(3) In the event of vacation under subsection (1) of this section, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar

pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone, and similar lines and appurtenances.

(4) Any written instrument of vacation or a resubdivision plat purporting to vacate or relocate roadways or portions thereof which remains of record in the counties where the roadways affected are situated for a period of seven years shall be prima facie evidence of an effective vacation of such former roadways. This subsection (4) shall not apply during the pendency of an action commenced prior to the expiration of said seven-year period to set aside, modify, or annul the vacation or when the vacation has been set aside, modified, or annulled by proper order or decree of a competent court and such notice of pendency of action or a certified copy of such decree has been recorded in the recorder's office of the county where the property is located.

Source: L. 49: p. 621, § 3. **CSA:** C. 143, § 69(3). **CRS 53:** § 120-1-13. **C.R.S. 1963:** § 120-14-3. **L. 88:** (2) amended, p. 1122, § 2, effective April 20. **L. 93:** (2) amended, p. 615, § 2, effective April 30.

Cross references: For vacation by nonuser following admitted statutory dedication and acceptance, see Crane v. Beck, 133 Colo. 325, 295 P.2d 222 (1956), and Uhl v. McEndaffer, 123 Colo. 69, 225 P.2d 839 (1950).

43-2-304. Limitation of actions. Any limitation established by this part 3 shall apply to causes of action which have accrued prior to May 5, 1949, as well as to all causes of action accruing thereafter. The right to institute an action shall not be barred by reason of the limitations prescribed in said part 3 until the expiration of six months from May 5, 1949. This part 3 shall not be construed as reviving any action or limitation barred by any former or other statute.

Source: L. 49: p. 622, § 4. **CSA:** C. 143, § 69(4). **CRS 53:** § 120-1-14. **C.R.S. 1963:** § 120-14-4.

PART 4

NOISE MITIGATION

43-2-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Applicant" means a homeowner or renter residing in an eligible area, or the operator of a temporary housing facility or public housing facility located in an eligible area, who submits an application to the transportation commission in accordance with this part 4.

(2) "Department" means the department of transportation.

(3) "Eligible area" means a residential area that:

(a) Is located adjacent to a state highway;

(b) Existed as a residential area before the state highway was constructed or widened; and

(c) Is located within the boundaries of a local government that, as of the date of the application, has adopted an ordinance or resolution to mitigate the effects of noise in future

residential or other noise-sensitive development adjacent to the state highways within the boundaries of the local government.

(4) "Local government" means a city, town, county, or city and county.

(5) "Noise mitigation measures" means noise mitigation measures approved by the transportation commission pursuant to section 43-2-404.

Source: L. 2006: Entire part added, p. 1255, § 3, effective May 26.

43-2-402. Noise mitigation measures. (1) An applicant may submit an application for noise mitigation measures to the department between November 1 and March 31 in accordance with the application procedures established by the transportation commission by rule.

(2) An application for noise mitigation measures shall:

(a) Be accompanied by a petition in support of the noise mitigation measures signed by members of no less than seventy-five percent of the households in an eligible area who live no more than four-tenths of one mile from the nearest edge of the right-of-way of the state highway;

(b) Specify whether a local government has agreed to provide any of the moneys necessary to construct the noise mitigation measures; and

(c) Specify which noise mitigation measures the applicant proposes for the eligible area.

(3) If local governments in an eligible area have not agreed to provide at least fifty percent of the moneys necessary to construct the proposed noise mitigation measures in the eligible area, an applicant may submit an application for noise mitigation measures under this section only if the eligible area existed as a residential area before the state highway was constructed or widened.

(4) (a) The department shall consider applications received between November 1 and March 31 for noise mitigation measures to be constructed in the state fiscal year commencing the following July 1.

(b) No later than July 1 of each year, the department shall review applications received between November 1 and March 31 of the previous state fiscal year and place applications that meet the requirements of this section on a list of approved noise mitigation measures. The department shall prioritize the measures on the list using a formula that gives equal weight to the following factors:

(I) The hourly equivalent noise level at the first receivers in the eligible area;

(II) The number of homes in the area that will benefit significantly from noise mitigation measures; and

(III) The length of time that the area has been an eligible area.

(5) (a) The department shall construct noise mitigation measures on the list of approved measures for which a local government has agreed to provide no less than fifty percent of the necessary moneys in the order of priority established pursuant to subsection (4) of this section, using moneys provided by local governments and any moneys distributed to the department by the department of public health and environment pursuant to part 14 of article 20 of title 30, C.R.S.

(b) After the construction of noise mitigation measures in accordance with paragraph (a) of this subsection (5), the department shall use any moneys provided by local governments or distributed to the department pursuant to part 14 of article 20 of title 30, C.R.S., to construct

other noise mitigation measures on the list of approved measures in the order of priority established pursuant to subsection (4) of this section.

(c) If a noise mitigation measure on the list of approved measures is not constructed in a state fiscal year, the applicant may submit an application for the noise mitigation measure for the next state fiscal year.

Source: L. 2006: Entire part added, p. 1256, § 3, effective May 26. **L. 2010:** (5) amended, (HB 10-1018), ch. 421, p. 2181, § 15, effective June 10. **L. 2014:** (5)(a) and (5)(b) amended, (HB 14-1352), ch. 351, p. 1596, § 12, effective July 1.

43-2-403. Noise mitigation - privately funded - rules. (1) An applicant may submit an application for noise mitigation measures to be privately funded to the department at any time in accordance with the application procedures established by the transportation commission by rule.

(2) An application for privately funded noise mitigation measures shall:

(a) Be accompanied by a petition signed by no less than seventy-five percent of the resident homeowners in an eligible area whose homes are located no more than four-tenths of one mile from the nearest edge of the right-of-way of the state highway;

(b) Specify the source of the moneys necessary to construct the noise mitigation measures; and

(c) Specify which noise mitigation measures the applicant proposes for the eligible area.

(3) (a) The department shall consider an application for noise mitigation measures made pursuant to this section within three months after the application is received.

(b) The department shall approve an application for noise mitigation measures that meets the requirements of this section. The applicant may construct noise mitigation measures approved by the department.

(c) Noise mitigation measures constructed in accordance with this section shall:

(I) Comply with applicable rules and procedural directives of the department and the transportation commission;

(II) Meet the noise reduction standards established by the department;

(III) Be compatible with any existing noise mitigation measures in the eligible area; and

(IV) Comply with the zoning and building requirements established by a local government in the eligible area.

(4) Noise mitigation measures approved pursuant to this section may be constructed in the state highway right-of-way with the approval of the department or on private land. The department may sell at fair-market value or grant an easement to any land in the state highway right-of-way for the purpose of constructing noise mitigation measures approved in accordance with this section, subject to the provisions of section 43-1-210 (5).

(5) The applicant shall be responsible for the maintenance of the noise mitigation measures constructed in accordance with this section.

Source: L. 2006: Entire part added, p. 1257, § 3, effective May 26.

43-2-404. Rule-making authority. The transportation commission created by part 1 of article 1 of this title shall promulgate rules in accordance with article 4 of title 24, C.R.S., to

implement the provisions of this part 4. The rules shall include noise mitigation standards and a list of approved noise mitigation measures and products that meet the standards.

Source: L. 2006: Entire part added, p. 1258, § 3, effective May 26.

SPECIAL HIGHWAY CONSTRUCTION

ARTICLE 3

Special Highway Construction

PART 1

FREEWAYS AND LOCAL SERVICE ROADS

43-3-101. Freeways - how declared - commercial enterprises prohibited. (1) The transportation commission with the approval of the governor may designate any portion of a highway to be a freeway whenever, in its opinion, by reason of the volume and speed of traffic there is particular danger to the safety of the traveling public by collisions between vehicles proceeding in opposite directions thereon or between vehicles at intersections of said state highways with other public highways or at approaches to said state highways from private property abutting thereon.

(2) Whenever, in the establishment of a freeway, real property held under one ownership is severed by the freeway, then the chief engineer may provide access across the freeway from one such tract to the other either at grade or below or above grade at least once within one mile if there is a demand made for such crossing by the landowner, or he must compensate such landowner for any legally compensable damages sustained by any such severance as provided by law, but the compensable damage shall in no case be less than the difference in value caused by the severance. No such connecting roads shall be used for or in connection with the conduct of any roadside business or enterprise. If such tracts at any time cease to be held under one ownership, the chief engineer may terminate and discontinue such access roads.

(3) Except as provided in section 32-9-119.8, C.R.S., and part 15 of article 1 of this title, no commercial enterprise or activity for serving motorists, other than emergency services for disabled vehicles, shall be conducted or authorized on any property designated as or acquired for or in connection with a freeway or highway by the department of transportation, or any other governmental agency. At locations deemed appropriate by the transportation commission, the department of transportation shall construct local service roads, which open into or connect with a freeway, in such manner as to facilitate the establishment and operation of competitive commercial enterprises for serving users of the freeway on private property abutting such local service roads.

Source: L. 41: p. 654, § 1. **CSA:** C. 143, § 144. **L. 43:** p. 531, § 1. **CRS 53:** § 120-6-1. **L. 57:** p. 634, §§ 1-3. **L. 63:** p. 794, § 1. **C.R.S. 1963:** § 120-6-1. **L. 91:** (1) and (3) amended, p. 1111, § 158, effective July 1. **L. 97:** (3) amended, p. 343, § 2, effective April 19. **L. 99:** (3) amended, p. 264, § 6, effective April 9.

Cross references: For the legislative declaration contained in the 1999 act amending this subsection (3), see section 1 of chapter 88, Session Laws of Colorado 1999.

43-3-102. Engineer to divide freeway. (1) After such state highway or a portion of a state highway has been designated a freeway under section 43-3-101, the chief engineer is authorized to divide and separate such freeway into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations or by designating such separate roadways by signs, markers, stripes, or other devices and may direct the course of traffic thereon and the proper lane for such traffic by appropriate signs, markers, stripes, or other devices.

(2) No private right of access shall accrue to property abutting any freeway established on a new location except at such points as may be authorized; but nothing in this section shall authorize or permit the acquisition of any existing property rights except upon payment of just compensation as provided by law.

Source: L. 41: p. 655, § 2. **CSA:** C. 143, § 145. **CRS 53:** § 120-6-2. **L. 63:** p. 795, § 2. **C.R.S. 1963:** § 120-6-2.

43-3-103. Engineer may close street or road. The chief engineer, with the approval of the governor, is authorized to enter into agreements with the cities or towns having jurisdiction over city or town streets, or with the counties having jurisdiction over county highways, or with other authorities having jurisdiction over other public ways to close any city street or county highway or other public way at or near the point of its intersection with any such freeway or to make provisions for carrying such city street or county highway or other public way over or under or to a connection with the freeway and do any work on such city street or county highway or other public way as is necessary therefor.

Source: L. 41: p. 655, § 3. **CSA:** C. 143, § 146. **CRS 53:** § 120-6-3. **C.R.S. 1963:** § 120-6-3.

43-3-104. Street not to open into freeway. No city street, county highway, or other public way of any kind shall be opened into or connected with any such freeway unless the chief engineer, with the approval of the governor, consents in writing to the same. The chief engineer, with the approval of the governor, may fix the terms and conditions on which such connection shall be made if such connection will best serve the public interest, safety, and welfare and may withhold his consent to such connection if such connection will not serve the public interest, safety, and welfare. Appeal from any ruling or decision made under the provisions of this section may be had to the district court of the county in which that portion of the freeway affected is located.

Source: L. 41: p. 655, § 4. **CSA:** C. 143, § 147. **CRS 53:** § 120-6-4. **C.R.S. 1963:** § 120-6-4.

43-3-105. When local service roads laid out. Whenever a freeway is designated under the provisions of this part 1, the chief engineer is authorized to lay out and construct local

service roads or designate as local service roads any existing street or public way if the same is within reasonable distance of such freeway wherever, in his opinion, there is a particular danger to the traveling public of collisions due to vehicles entering the freeway from the sides thereof and may divide and separate any such service road from the freeway by raised curbs or dividing sections, or other appropriate devices. If such local service road is a highway or street already in existence, he may designate the same by appropriate signs, markers, or other devices.

Source: L. 41: p. 655, § 5. **CSA:** C. 143, § 148. **CRS 53:** § 120-6-5. **C.R.S. 1963:** § 120-6-5.

43-3-106. Acquiring land and right-of-way. The department of transportation is authorized to purchase or condemn any land necessary for the construction of any local service road authorized by this part 1 and is also authorized to purchase or condemn any right of access appertaining to any land abutting on a state highway or on a portion of a state highway when such right of access is disturbed or destroyed by the designation of a state highway or such portion of a state highway as a freeway under the provisions of this part 1 in the same manner and form as provided by law for the purchase or condemnation of highway rights-of-way.

Source: L. 41: p. 656, § 10. **CSA:** C. 143, § 153. **CRS 53:** § 120-6-10. **C.R.S. 1963:** § 120-6-10. **L. 91:** Entire section amended, p. 1111, § 159, effective July 1.

43-3-107. Acquisition by commissioners and department of transportation jointly. Boards of county commissioners of the several counties may join with the department of transportation to acquire by donation, purchase, or condemnation any land or right of access appurtenant thereto necessary for the construction of any state highway, freeway, or local service road.

Source: L. 55: p. 735, § 1. **CRS 53:** § 120-6-11. **C.R.S. 1963:** § 120-6-11. **L. 91:** Entire section amended, p. 1112, § 160, effective July 1.

PART 2

TURNPIKES

43-3-201. Legislative declaration. The development and improvement of the public highways and roads within the state of Colorado being essential to the well-being and prosperity of the state and the inhabitants thereof, it is declared to be the policy and purpose of the general assembly to provide for such development and improvement by conferring additional powers on the department of transportation as a body corporate under the laws of the state of Colorado.

Source: L. 49: p. 601, § 1. **CSA:** C. 143, § 125(1). **CRS 53:** § 120-8-1. **C.R.S. 1963:** § 120-8-1. **L. 91:** Entire section amended, p. 1112, § 161, effective July 1.

43-3-202. Powers granted to department. (1) In addition to the powers now possessed by it, the department of transportation has power:

(a) To formulate, by its own initiative or by recommendation of the governor, plans for the development and improvement of the state highway system by the construction of turnpikes within the state and to conduct engineering surveys and perform any other acts necessary in determining the feasibility of such plans. "Turnpike" means any highway or express highway, tunnel, or toll tunnel constructed under the provisions of this part 2 and includes all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, and administration, storage, and other buildings which the department of transportation may deem necessary for the operation of such turnpike, together with all property, rights, easements, and interests which may be acquired by the department of transportation for the construction or the operation of such turnpike.

(b) To design, finance, construct, operate, maintain, improve, and reconstruct turnpikes in the state and to acquire, construct, operate, control, and use the turnpikes and all works, facilities, and means necessary or convenient to the full exercise of the powers granted in this section. It is declared that such turnpikes are public highways of the state.

(c) To take all steps and adopt all proceedings and to make and enter into all contracts or agreements with other states, the United States, or any of its agencies, instrumentalities, or departments, including, without limiting the generality of the foregoing, the reconstruction finance corporation or with public corporations within the state necessary or incidental to the performance of its duties and the execution of its powers under this part 2; but any contract relating to the financing of any such construction, maintenance, improvement, or reconstruction shall be approved by the governor before the same becomes effective;

(c.5) To make and enter into contracts or agreements with one or more public or private entities to design, finance, construct, operate, maintain, reconstruct, or improve a turnpike project by means of a public-private initiative pursuant to section 43-3-202.5 and part 12 of article 1 of this title;

(d) To establish, revise periodically, and collect fees, fares, and tolls for the privilege of traveling along and over the turnpikes and for such other uses as may be made available by the establishment of such turnpikes, to adopt such rules governing the use of the turnpikes as the department of transportation may determine to be advisable, and to exercise such other powers and authority as may be necessary or convenient to the practical and full operation and use thereof;

(e) To set aside in a special sinking fund and to pledge any and all fees, fares, and tolls and all income however derived to the payment of the principal of and the interest on the bonds authorized in this part 2 to be issued;

(f) To set aside in a special sinking fund and to pledge from the proceeds in the state highway fund derived from the imposition of licenses, registration, and other charges with respect to the operation of any motor vehicle upon any public highway of the state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel an amount sufficient to insure the payment of the principal and interest on the bonds authorized in this part 2 to be issued promptly as the same respectively become due; except that any such pledge shall first be approved by joint resolution of the senate and house of representatives and further except that the amount so set aside and pledged shall not exceed in any one year one hundred percent of the total of the following:

(I) The amount of principal and interest falling due during such year; and

(II) The amount required to be paid into the special sinking fund as a reasonable reserve for the payment of the bonds authorized in this part 2 in accordance with the resolution of the transportation commission authorizing their issuance as approved by the joint resolution of the senate and house of representatives.

(g) To accept grants and permits from and to cooperate with the United States or any agency, instrumentality, or department thereof in the construction, reconstruction, maintenance, improvement, operation, and financing of turnpikes or their appurtenances and to do all things necessary to avail itself of such cooperation;

(h) To designate as a turnpike project a described territory or a described portion of the highway system of the state to be constructed or improved under this part 2;

(i) To cooperate, negotiate, and contract with other states in any manner necessary to effect the purposes of this part 2;

(j) To require that each contractor to whom is awarded any contract for the construction, erection, repair, maintenance, or improvement of any turnpike, as defined in paragraph (a) of this subsection (1), shall, before entering upon the performance of any work included in said contract, execute, deliver to, and file with the department of transportation a good and sufficient bond to be approved by the department of transportation in an amount to be fixed by the department of transportation, which amount shall be not less than twenty-five percent of the total amount payable by the terms of said contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the faithful performance of the contract according to the terms thereof, and, in addition, shall provide that, if the contractor or his subcontractors fail to duly pay for any labor, materials, motor vehicle or team hire, sustenance, provisions, provender, or other supplies used or consumed by such contractor or his subcontractor or contractors in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight percent per annum.

Source: L. 49: p. 601, § 2. **CSA:** C. 143, § 125(2). **CRS 53:** § 120-8-2. **L. 54:** pp. 151, 154, 155, §§ 1, 1-3. **L. 56, 1st Ex. Sess.:** pp. 28, 36, 37, §§ 1, 1-3. **C.R.S. 1963:** § 120-8-2. **L. 84:** (1)(a) and (1)(b) amended, p. 1112, § 1, effective April 9. **L. 91:** IP(1), (1)(a), (1)(d), (1)(f)(II), and (1)(j) amended, p. 1112, § 162, effective July 1. **L. 96:** (1)(b), (1)(d), and (1)(f) amended and (1)(c.5) added, p. 461, § 1, effective April 23.

43-3-202.5. Public-private initiatives - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The department of transportation is in need of funds to invest in new infrastructure projects, including turnpikes, within the state transportation system, and public-private partnerships can provide the state with a new source of capital for such projects;

(b) Privately-developed transportation projects can result in time and cost savings, risk reduction, and new tax revenues to the state; and

(c) Public-private agreements can be utilized by the state not only for the development of new turnpikes but also for the modernization and improvement of existing turnpikes.

(2) The department of transportation may enter into public-private initiatives pursuant to part 12 of article 1 of this title for the following purposes:

(a) To design, finance, construct, and operate a new turnpike project within the state; or

(b) To improve an existing turnpike project in the state by modernizing, upgrading, expanding, or maintaining an existing turnpike facility.

(3) (a) The department of transportation is authorized to solicit and consider proposals, enter into agreements, grant public benefits, and accept contributions for public-private initiatives pursuant to part 12 of article 1 of this title concerning the purposes set forth in subsection (2) of this section.

(b) As used in this subsection (3), "public benefit" has the same meaning as set forth in section 43-1-1201 (2).

(4) A public-private initiative under this section shall include a provision that the public or private entity shall secure and maintain liability insurance coverage during the construction and improvement of any turnpike project in amounts appropriate to protect a project's viability.

Source: L. 96: Entire section added, p. 462, § 2, effective April 23. **L. 2007:** (3)(a) amended, p. 2051, § 105, effective June 1.

43-3-203. Bonds authorized. (1) For the purpose of defraying the cost of constructing, improving, or reconstructing any such turnpike and all expenses incidental thereto, including all engineering and legal fees and interest during construction and for one year thereafter, the department of transportation may, upon the affirmative majority vote of the entire membership of the transportation commission and with the approval of the general assembly evidenced by joint resolution of the senate and house of representatives, and signed by the governor, issue bonds of the state of Colorado, payable from a fund consisting of the fees, fares, and tolls derived from any designated turnpike project and with the approval of the general assembly evidenced by joint resolution of the senate and house of representatives, additionally secured by a pledge of and payable from a special fund set aside from the state highway fund, but the amount so set aside and pledged shall not exceed in any one year one hundred percent of the total of the following:

(a) The amount of principal and interest falling due during such year; and

(b) The amount required to be paid into the special sinking fund as a reasonable reserve for the payment of the bonds authorized in this part 2 in accordance with the resolution of the transportation commission authorizing their issuance as approved by the joint resolution of the senate and house of representatives.

Source: L. 49: p. 603, § 3. **CSA:** C. 143, § 125(3). **CRS 53:** 120-8-3. **L. 54:** p. 155, § 4. **L. 56, Ex. Sess.:** p. 38, § 4. **C.R.S. 1963:** § 120-8-3. **L. 84:** IP(1) amended, p. 1112, § 2, effective April 9. **L. 91:** IP(1) and (1)(b) amended, p. 1113, § 163, effective July 1. **L. 96:** Entire section amended, p. 463, § 3, effective April 23.

Cross references: For presentation of resolutions to the governor, see § 39 of art. V, Colo. Const.

43-3-204. Bond details. All bonds issued under the provisions of this part 2 shall bear interest at a rate not exceeding a maximum net effective rate authorized by resolution of the transportation commission on the face value of the issue of bonds and shall be in such form and executed in such manner and shall be payable at such times extending not more than thirty years

from the date thereof, shall contain the provisions for prior redemption, and shall be payable at such places as the department of transportation determines. The bonds shall be sold at public or private sale on such terms as the department of transportation may determine. In case any of the officers whose signatures or countersignatures appear on the bonds or the coupons attached thereto cease to be officers before delivery of the bonds, the signatures and countersignatures shall nevertheless be valid and sufficient for all purposes with the same force and effect as if they had remained in office until the delivery. The bonds shall contain on their face the designation of the project as determined by the department of transportation and in anticipation of the revenues of which the same are issued. All bonds issued under the provisions of this part 2 shall have and are declared to have all the qualities and incidents of negotiable instruments under the law of the state.

Source: L. 49: p. 604, § 4. **CSA:** C. 143, § 125(4). **CRS 53:** § 120-8-4. **L. 56, Ex. Sess.:** p. 38, § 5. **C.R.S. 1963:** § 120-8-4. **L. 84:** Entire section amended, p. 1113, § 3, effective April 9. **L. 91:** Entire section amended, p. 1114, § 164, effective July 1. **L. 96:** Entire section amended, p. 463, § 4, effective April 23.

Cross references: For negotiable instruments, see article 3 of title 4.

43-3-205. Trust indentures. In the discretion of the department of transportation, such bonds may be secured by a trust indenture by and between the department of transportation and a corporate trustee which may be any trust company or bank having the powers of a trust company within or outside of the state. Such trust indentures may pledge or assign tolls and revenue to be received from the operation of the turnpike project but shall not convey or mortgage the turnpike or any part thereof. The resolution providing for the issuance of such bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, covenants setting forth the duties of the department of transportation in relation to the acquisition of properties and the construction, maintenance, operation, repair, and insurance of the turnpike project and the custody, safeguarding, and application of all moneys. Such indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action of bondholders. In addition to the foregoing, such trust indenture may contain such other provisions as the department of transportation may deem reasonable for the security of bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repair of the turnpike project.

Source: L. 49: p. 604, § 5. **CSA:** C. 143, § 125(5). **CRS 53:** § 120-8-5. **C.R.S. 1963:** § 120-8-5. **L. 91:** Entire section amended, p. 1114, § 165, effective July 1.

43-3-206. Payment of bonds - use and disposition of fund. (1) (a) At or before the issuance of any bonds under the provisions of this part 2, the department of transportation shall, by resolution of the transportation commission:

(I) Establish a schedule of fees, fares, and tolls to be charged for the use of the project; and

(II) Create a special sinking fund in the state treasury for the payment of the principal of and the interest on the bonds authorized to be issued promptly as the same, respectively, become due.

(b) Into the fund there shall be set aside and pledged by the department of transportation all the fees, fares, and tolls and all other income however derived resulting from the operation of the project and all moneys authorized to be set aside and pledged from the state highway fund not exceeding in any one year one hundred percent of the total of the following:

(I) The amount of principal and interest falling due during such year; and

(II) The amount required to be paid into the special sinking fund as a reasonable reserve for the payment of the bonds authorized in this part 2 in accordance with the resolution of the transportation commission authorizing their issuance as approved by the joint resolution of the senate and house of representatives.

(2) The department of transportation may, by resolution of the transportation commission passed prior to the issuance of the bonds or in the trust indenture, covenant to pay the cost of maintaining, repairing, and operating any turnpike constructed under the provisions of this part 2, and, inasmuch as such turnpike will at all times belong to the state, such resolution shall have the force of contract between the state and the holders of the bonds issued for such turnpike.

(3) To the extent that the fund provided for in this section is not required for the payment of bonds and the creation of a reserve fund and a sinking fund, the same shall be used to pay the cost of maintaining, repairing, and operating the turnpike project pursuant to section 43-3-212.5. Nothing in this section shall be construed as impairing the obligation of the state to maintain and operate any such turnpike project as a state highway.

(4) The bonds issued under this part 2 shall constitute an irrevocable charge against the special sinking fund. Separate accounts shall be kept in the office of the state treasury of the funds derived from each project against the revenues of which bonds are issued under this part 2. The resolution of the transportation commission may contain such other provisions or covenants not inconsistent with the provisions of this part 2 as the department of transportation may consider advisable to insure the payment of the bonds.

Source: L. 49: p. 606, § 6. **CSA:** C. 143, § 125(6). **CRS 53:** § 120-8-6. **L. 56, 1st Ex. Sess.:** p. 39, § 6. **C.R.S. 1963:** § 120-8-6. **L. 91:** IP(1), (1)(b), (2), and (3) amended, p. 1115, § 166, effective July 1. **L. 96:** Entire section amended, p. 464, § 5, effective April 23.

43-3-207. Bond lien. (1) All bonds issued pursuant to section 43-3-203 shall constitute a first lien on all or any part of the moneys pledged or set aside under sections 43-3-202 (1)(f) and 43-3-203; except that the department of transportation may provide preferential security for any bonds to be issued under section 43-3-203 over any bonds that may be issued under section 43-3-203 thereafter. No moneys which may, from time to time, be credited to the state highway fund which are derived from sources other than those described in section 43-3-202 (1)(f) or 43-3-203 shall be applied to the payment of the bonds issued pursuant to section 43-3-203.

(2) Any pledge made by the department of transportation to secure the payment of bonds issued pursuant to section 43-3-203 shall be valid and binding from the time when the pledge is made. The revenues, moneys, and funds so pledged shall immediately be subject to lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and

binding against all parties having claims of any kind in tort or contract or otherwise against the department of transportation, irrespective of whether such parties have notice of such lien. Each pledge, agreement, and resolution made for the benefit or security of any of the bonds issued pursuant to section 43-3-203 shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same are made has been fully paid or provision for such payment has been duly made.

(3) Any resolution of the transportation commission for the issuance of bonds pursuant to section 43-3-203 may contain the provisions for protecting and enforcing the rights and remedies of the holders of any of the bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the department of transportation in relation to the purposes to which proceeds of the bonds may be applied, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys. Any such resolution may set forth the rights and remedies of the holders of any bonds and may restrict the individual right of action by any such holders. In addition, any such resolution may contain any other provisions as the department of transportation may deem reasonable and proper for the security of the holders of any bonds. All expenses incurred in carrying out the provisions of the resolution may be paid from the revenues or assets pledged or assigned to the payment of the bonds. In the event of default in any such payment or in any agreements of the department of transportation made as part of the contract under which the bonds were issued or contained in the resolution concerning the bonds, the payment or agreement may be enforced by suit, mandamus, or either of the remedies.

Source: L. 49: p. 606, § 7. **CSA:** C. 143, § 125(7). **CRS 53:** § 120-8-7. **L. 56, 1st Ex. Sess.:** p. 40, § 7. **C.R.S. 1963:** § 120-8-7. **L. 84:** Entire section R&RE, p. 1113, § 4, effective April 9. **L. 91:** Entire section amended, p. 1115, § 167, effective July 1. **L. 96:** (3) amended, p. 465, § 6, effective April 23.

43-3-208. Bond proceeds. All moneys received from any bonds issued pursuant to this part 2 shall be applied solely to the payment of the cost of the turnpike project or to the appurtenant fund, and there is hereby created and granted a lien upon such moneys until so applied in favor of holders of such bonds or the trustee provided for in respect of such bonds.

Source: L. 49: p. 606, § 8. **CSA:** C. 143, § 125(8). **CRS 53:** § 120-8-8. **C.R.S. 1963:** § 120-8-8.

43-3-209. Tax exemption. The accomplishment by the department of transportation of the authorized purposes stated in this part 2 being for the benefit of the people of the state and for the improvement of their commerce and prosperity in which accomplishment the department of transportation will be performing essential governmental functions, the department of transportation shall not be required to pay any taxes or assessments on any property acquired or used by it for the purposes provided in this part 2.

Source: L. 49: p. 606, § 9. **CSA:** C. 143, § 125(9). **CRS 53:** § 120-8-9. **C.R.S. 1963:** § 120-8-9. **L. 91:** Entire section amended, p. 1116, § 168, effective July 1.

43-3-210. Refunding bonds. The department of transportation is authorized to provide, by resolution of the transportation commission, for the issuance of refunding bonds of the state of Colorado for the purpose of refunding any bonds issued under the provisions of this part 2 and then outstanding. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the department of transportation in respect to the same shall be governed by the provisions of this part 2 insofar as the same may be applicable.

Source: L. 49: p. 606, § 10. **CSA:** C. 143, § 125(10). **CRS 53:** § 120-8-10. **C.R.S. 1963:** § 120-8-10. **L. 91:** Entire section amended, p. 1117, § 169, effective July 1. **L. 96:** Entire section amended, p. 465, § 7, effective April 23.

43-3-211. Rights of bondholders. Any holder of bonds issued under the provisions of this part 2 or any of the coupons attached to said bonds and the trustee under the trust indenture, if any, except to the extent the rights given in this section may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, either at law or in equity by suit, action, mandamus, or other proceedings, may protect and enforce any and all rights granted under this section or under such resolution or trust indenture and may enforce and compel performance of any duties required by this part 2 or by such resolution or trust indenture to be performed by the department of transportation or any officer thereof, including the fixing, charging, and collecting of fees, fares, and tolls for the use of the turnpike project.

Source: L. 49: p. 606, § 11. **CSA:** C. 143, § 125(11). **CRS 53:** § 120-8-11. **C.R.S. 1963:** § 120-8-11. **L. 91:** Entire section amended, p. 1117, § 170, effective July 1.

43-3-212. Effect of payment of bonds. (Repealed)

Source: L. 49: p. 607, § 12. **CSA:** C. 143, § 125(12). **CRS 53:** § 120-8-12. **C.R.S. 1963:** § 120-8-12. **L. 91:** Entire section amended, p. 1117, § 171, effective July 1. **L. 96:** Entire section repealed, p. 465, § 8, effective April 23.

43-3-212.5. Disposition of tolls - when bonds issued. (1) If any bonds are issued pursuant to this part 2, any fees, fares, and tolls to be charged for the use of any turnpike shall be fixed and adjusted so that the fees, fares, and tolls collected, along with other revenues, if any, are at least sufficient to pay for, as applicable:

(a) Any bonds issued pursuant to this part 2 and interest thereon, all sinking fund requirements, and any other requirements provided for by resolution of the transportation commission or by any trust indenture to which the department is a party; or

(b) The reasonable return on investment of any private entity financing the project by means of a public-private initiative pursuant to section 43-3-202.5 and part 12 of article 1 of this title.

(2) If amounts generated from the fees, fares, and tolls collected exceed the amount required in subsection (1) of this section, such fees, fares, and tolls shall then be used to pay the necessary costs for the proper operation, maintenance, and repair of any turnpike project.

(3) If the transportation commission determines that a turnpike project is being adequately maintained, the department may use any proceeds in the special sinking fund in excess of the amounts required under subsections (1) and (2) of this section for the maintenance, construction, and operation of a network of turnpikes.

Source: L. 96: Entire section added, p. 466, § 9, effective April 23. **L. 98:** IP(1) amended, p. 1097, § 14, effective June 1.

43-3-212.6. Disposition of tolls - when bonds not issued. (1) If bonds are not issued pursuant to this part 2, any fees, fares, and tolls to be charged for the use of any turnpike shall be fixed and adjusted so that the fees, fares, and tolls collected, along with other revenues, if any, are at least sufficient to ensure, as applicable:

(a) Reimbursement or payment to the department of transportation for all costs relating to or resulting from the turnpike project, including, but not limited to, costs for the design, finance, construction, operation, maintenance, improvement, and reconstruction of the turnpike, and for all works, facilities, and means necessary or convenient to the full exercise of the powers granted to the department of transportation under this part 2;

(b) The reasonable return on investment of any private entity financing the turnpike project by means of a public-private initiative pursuant to section 43-3-202.5 and part 12 of article 1 of this title.

(2) If amounts generated from the fees, fares, and tolls collected exceed the amount required in subsection (1) of this section and if the transportation commission determines that a turnpike project is being adequately maintained, the department of transportation may use any proceeds in excess of such amounts for the maintenance, construction, and operation of a network of turnpikes.

Source: L. 96: Entire section added, p. 466, § 9, effective April 23. **L. 98:** (1) amended, p. 1097, § 15, effective June 1.

43-3-213. No debt authorized. Nothing in this part 2 shall be construed as authorizing the contracting by the state of a debt by loan in any form nor the pledging of general taxes of the state.

Source: L. 49: p. 607, § 13. **CSA:** C. 143, § 125(13). **CRS 53:** § 120-8-13. **C.R.S. 1963:** § 120-8-13.

43-3-214. Succession of powers and duties. It is the intention of this section that the powers conferred and the duties imposed on the department of transportation by this part 2 shall be exercised and performed by any corporation, commission, or department succeeding to the powers and duties of the department of transportation as now constituted and as extended by the provisions of this part 2.

Source: L. 49: p. 607, § 14. **CSA:** C. 143, § 125(14). **CRS 53:** § 120-8-14. **C.R.S. 1963:** § 120-8-14. **L. 91:** Entire section amended, p. 1117, § 172, effective July 1.

43-3-215. Legislative declaration. It is declared that the total interest payable on bonds issued pursuant to the provisions of sections 43-3-201 to 43-3-214 may be reduced by granting to the transportation commission the additional powers set forth in this part 2 in connection with the refunding of said bonds as authorized by section 43-3-210.

Source: L. 63: p. 796, § 1. **C.R.S. 1963:** § 120-8-15. **L. 91:** Entire section amended, p. 1118, § 173, effective July 1.

43-3-216. Additional powers. (1) In addition to the powers conferred upon it, the transportation commission has the power:

(a) To establish escrow accounts in any bank within the state of Colorado which is a member of the federal deposit insurance corporation under protective agreements in amounts sufficient to insure the payment of any bonds refunded under the provisions of sections 43-3-201 to 43-3-214. Any or all of the accounts so established may be invested in direct obligations of the United States with appropriate maturities and yields to insure such payment. The term of any such escrow agreement shall not exceed five and one-half years.

(b) To prescribe the terms, conditions, and manner in which such refunding bonds will be issued and sold and to provide for the payment of the costs of such refunding, including the fees of fiscal agents and attorneys and the charges of banks acting as escrow depositaries;

(c) To do and perform all other things and acts, whether or not specifically enumerated in sections 43-3-201 to 43-3-214 or in sections 43-3-215 to 43-3-218, to effect a refunding of said bonds in order to effect a saving in interest cost to the state, but nothing in sections 43-3-215 to 43-3-218 shall be construed as authorizing the impairment of the obligation of contract.

Source: L. 63: p. 796, § 2. **C.R.S. 1963:** § 120-8-16. **L. 91:** IP(1) amended, p. 1118, § 174, effective July 1.

43-3-217. Execution. Said refunding bonds may be executed in accordance with article 55 of title 11, C.R.S.

Source: L. 63: p. 797, § 3. **C.R.S. 1963:** § 120-8-17.

43-3-218. Bonds legal investments. It is lawful for the bonds issued pursuant to this part 2 to be purchased by any bank, trust company, savings and loan association, investment company and association, executor, administrator, guardian, trustee, and other fiduciary. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 63: p. 797, § 4. **C.R.S. 1963:** § 120-8-18. **L. 84:** Entire section R&RE, p. 1114, § 5, effective April 9. **L. 89:** Entire section amended, p. 1133, § 77, effective July 1.

43-3-219. Interest earnings. All interest derived from the investment of the proceeds of the bonds issued pursuant to this part 2 shall, at the discretion of the department of transportation, be applied to the purposes for which the bonds are issued or shall be credited to

the funds created by this part 2. The interest derived from the investment of the funds created by this part 2 shall remain in such funds.

Source: L. 84: Entire section added, p. 1114, § 6, effective April 9. **L. 91:** Entire section amended, p. 1118, § 175, effective July 1.

43-3-220. Notice of investment opportunity. (1) The department or the private entity responsible for issuing bonds under this part 2 may forward a copy of the bonds and a description of the investment opportunity for such bonds to any of the following for consideration under their respective statutory authority:

(a) The board of trustees of the public employees' retirement association created under section 24-51-202, C.R.S.;

(b) Repealed.

(c) The board of directors of the fire and police pension association, as defined in section 31-31-102 (2), C.R.S.;

(d) The boards of trustees of the firefighters' and police officers' old hire pension funds, as defined in section 31-30.5-102 (1.5), C.R.S.;

(e) The board of trustees of the volunteer firefighter pension fund, as defined in section 31-30-1102 (1), C.R.S.;

(f) Repealed.

(g) The board of directors of the university of Colorado hospital authority, as defined in section 23-21-502 (2), C.R.S.;

(h) The state treasurer for consideration under section 23-20-117.5, C.R.S.;

(i) The county boards of retirement, as described in section 24-54-107, C.R.S.;

(j) The governing boards of state colleges and universities, as defined in sections 24-54.5-102 (5) and 24-54.6-102 (4), C.R.S.; and

(k) Any employer who has established a defined contribution plan.

Source: L. 98: Entire section added, p. 443, § 3, effective August 5. **L. 2001:** (1)(a) amended, p. 1286, § 76, effective June 5. **L. 2009:** (1)(b) repealed, (SB 09-066), ch. 73, p. 260, § 25, effective July 1; (1)(d) amended, (HB 09-1030), ch. 16, p. 92, § 6, effective August 5. **L. 2010:** (1)(f) repealed, (HB 10-1422), ch. 419, p. 2126, § 188, effective August 11.

Cross references: For the legislative declaration contained in the 1998 act enacting this section, see section 1 of chapter 154, Session Laws of Colorado 1998.

PART 3

TOLL ROADS AND TOLL HIGHWAYS - PRIVATE

Editor's note: This part 3 was numbered as article 9 of chapter 120, C.R.S. 1963. The substantive provisions of this part 3 were repealed and reenacted in 2006, causing some addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 3 prior to 2006, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973, beginning on

page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

43-3-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Toll road" or "toll highway" shall have the meaning set forth in section 7-45-102 (8), C.R.S.

(2) "Toll road or toll highway company" shall have the meaning set forth in section 7-45-102 (9), C.R.S.

Source: L. 2006: Entire part R&RE, p. 1770, § 3, effective June 6.

43-3-302. Traffic laws - toll collection - definitions. (1) (a) The transportation commission shall review a toll road or toll highway company's toll schedule as part of the project description submitted for approval as part of the statewide transportation plan and every five years thereafter if eminent domain is used by the department of transportation to acquire any part of the right-of-way for a toll road or toll highway. The review shall be limited to determining whether a reduced toll may be imposed on high occupancy vehicles and public mass transit vehicles in order to encourage the use of such vehicles on the toll road or toll highway.

(b) As used in this subsection (1):

(I) "High occupancy vehicles" means vehicles that carry at least the number of persons specified by the transportation commission.

(II) "Public mass transit vehicles" means vehicles other than charter or sightseeing vehicles that:

(A) Are operated by or under contract with the regional transportation district created pursuant to article 9 of title 32, C.R.S., or a regional transportation authority created pursuant to part 6 of article 4 of this title; and

(B) Provide regular and continuing general or special transportation to the public.

(c) In determining whether a reduced toll may be imposed on high occupancy vehicles and public mass transit vehicles, the transportation commission shall ensure that the reduced toll does not limit or preclude a toll road or toll highway company's:

(I) Recovery of the costs associated with operations, toll collection, and administration; and

(II) Repayment of the company's capital outlay costs for the project and recovery of a reasonable return on the company's investment.

(2) State and local law enforcement authorities are authorized to enter into traffic and toll enforcement agreements with a toll road or toll highway company. Any funds received by a state law enforcement authority pursuant to a toll enforcement agreement shall be subject to annual appropriations by the general assembly to the law enforcement authority for the purpose of performing its duties pursuant to the agreement.

(3) A toll road or toll highway company may adopt rules pertaining to the enforcement of toll collection and evasion and providing a civil penalty for toll evasion. The civil penalty established by a toll road or toll highway company for any toll evasion shall be not less than ten dollars nor more than two hundred fifty dollars, in addition to any costs imposed by a court. A company may use state of the art technology, including but not limited to automatic vehicle identification photography, to aid in the collection of tolls and enforcement of toll violations.

The use of state of the art technology to aid in enforcement of toll violations shall be governed solely by this section.

(4) (a) Any person who evades a toll established by a toll road or toll highway company shall be subject to the civil penalty established by that company for toll evasion. Any peace officer as described in section 16-2.5-101, C.R.S., shall have the authority to issue civil penalty assessments or municipal summons and complaints if authorized pursuant to a municipal ordinance for the toll evasion.

(b) At any time that a person is cited for toll evasion, the person operating the motor vehicle involved shall be given either a notice in the form of a civil penalty assessment notice or a municipal summons and complaint. If a civil penalty assessment is issued, the notice shall be tendered by a peace officer as described in section 16-2.5-101, C.R.S., and shall contain the name and address of the person, the license number of the motor vehicle involved, the number of the person's driver's license, the nature of the violation, the amount of the penalty prescribed for the violation, the date of the notice, a place for the person to execute a signed acknowledgment of the person's receipt of the civil penalty assessment notice, a place for the person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear for adjudication of toll evasion pursuant to this section if the prescribed toll, fee, and civil penalty are not paid within twenty days. Every cited person shall execute the signed acknowledgment of the person's receipt of the civil penalty assessment notice.

(c) The acknowledgment of liability shall be executed at the time the cited person pays the prescribed penalty. The person cited shall pay the toll, fee, and civil penalty authorized by the toll road or toll highway company involved at the office of the company, either in person or by postmarking the payment within twenty days of the citation. If the person cited does not pay the prescribed toll, fee, and civil penalty within twenty days of the notice, the civil penalty assessment notice shall constitute a complaint to appear for adjudication of toll evasion in court or in an administrative toll enforcement proceeding, and the person cited shall, within the time specified in the civil penalty assessment notice, file an answer to this complaint in the manner specified in the notice.

(d) If a municipal summons and complaint is issued, the adjudication of the violation shall be conducted and the format of the summons and complaint shall be determined pursuant to the terms of the municipal ordinance authorizing issuance of such a summons and complaint. In no case shall the penalty upon conviction for violation of a municipal ordinance for toll evasion exceed the limit established in subsection (3) of this section.

(5) (a) The respective courts of the municipalities, counties, and cities and counties are given jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a toll road or toll highway operated by a toll road or toll highway company and arising under the toll evasion civil penalty regulations enacted by a toll road or toll highway company. Venue for such cases shall be in the municipality, county, or city and county where the alleged violation of municipal ordinance or state law or of the corporate regulation occurred.

(b) At the request of the judicial department, a toll road or toll highway company shall consider establishing an administrative toll enforcement process and may, by resolution, adopt rules creating such a process. The rules pertaining to the administrative enforcement of toll evasion shall require notice to the person cited for toll evasion and provide to the person an opportunity to appear at an open hearing conducted by an impartial hearing officer and a right to

appeal the final administrative determination of toll evasion to the county court for the county in which the violation occurred.

(c) If a toll road or toll highway company establishes an administrative toll enforcement process, no court of a municipality, county, or city and county shall have jurisdiction to hear toll evasion cases arising on a public highway operated by the company.

(d) A toll evasion case may be adjudicated by an impartial hearing officer in an administrative hearing conducted pursuant to this section and the rules promulgated by a toll road or toll highway company. The hearing officer shall be an independent contractor of the toll road or toll highway company.

(e) A toll road or toll highway company may file a certified copy of an order imposing a toll, fee, and civil penalty that is entered by the hearing officer in an adjudication of a toll evasion with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. The order shall have the effect of a judgment of the county court, and the court may execute the order as in the other cases.

(f) An administrative adjudication of a toll evasion by a toll road or toll highway company is subject to judicial review. The administrative adjudication may be appealed as to matters of law and fact to the county court for the county in which the violation occurred. The appeal shall be a review of the record of the administrative adjudication and not a de novo hearing.

(g) Notwithstanding the specific remedies provided by this section, a toll road or toll highway company shall have every remedy available under the law to enforce unpaid tolls and fees as debts owed to the toll road or toll highway company.

(6) The aggregate amount of penalties, exclusive of court costs, collected as a result of civil penalties imposed pursuant to rules authorized in subsection (3) of this section shall be remitted to the toll road or toll highway company in whose name the civil penalty assessment notice was issued and shall be applied by the company to defray the costs and expenses of enforcing the laws of the state and the rules of the company. If a municipal summons or complaint is issued, the aggregate penalty shall be apportioned pursuant to the terms of any enforcement agreement.

(7) (a) In addition to the penalty assessment procedure provided for in subsection (4) of this section, where an instance of toll evasion is evidenced by automatic vehicle identification photography or other technology not involving a peace officer, a civil penalty assessment notice may be issued and sent by first-class mail, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, by the toll road or toll highway company to the registered owner of the motor vehicle involved. The notice shall contain the name and address of the registered owner of the vehicle involved, the license number of the vehicle involved, the time and location of the violation, the amount of the penalty prescribed for the violation, a place for the registered owner of the vehicle to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear for adjudication of a toll evasion civil penalty assessment. The registered owner of the vehicle involved in a toll evasion shall be liable for the toll, fee, and civil penalty imposed by the company, except as otherwise provided by paragraph (b) of this subsection (7).

(b) In addition to any other liability provided for in this section, the owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a toll evasion violation civil penalty; except that, at the discretion of the owner:

(I) The owner may obtain payment for a toll evasion violation civil penalty from the person or company who leased or rented the vehicle at the time of the toll evasion through a credit or debit card payment and forward the payment on to the toll road or toll highway company; or

(II) The owner may seek to avoid liability for a toll evasion violation civil penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that, at the time of the toll evasion violation, the vehicle was leased or rented to another person. To avoid liability for payment, the owner of the motor vehicle shall, within thirty days after receipt of the notification of the toll evasion violation, furnish to the toll road or toll highway company an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented the vehicle. As a condition to avoid liability for payment of a toll evasion violation civil penalty, any person or company who leases or rents motor vehicles to a person shall include a notice in the leasing or rental agreement stating that, pursuant to the requirements of this section, the person renting or leasing the vehicle is liable for payment of a toll evasion violation civil penalty incurred on or after the date the person renting or leasing the vehicle takes possession of the motor vehicle. The notice shall inform the person renting or leasing the vehicle that the person's name, address, and state driver's license number shall be furnished to the toll road or toll highway company when a toll evasion violation civil penalty is incurred during the term of the lease or rental agreement.

(c) If the prescribed penalty is not paid within twenty days, in order to ensure that adequate notice has been given, a toll road or toll highway company shall send a second penalty assessment notice by certified mail, return receipt requested, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to certified mail, return receipt requested, with respect to receipt verification and delivery speed, reliability, and price, containing the same information as is specified in paragraph (a) of this subsection (7). The notice shall specify that the registered owner of the vehicle may pay the same penalty assessment at any time prior to the scheduled hearing. If the registered owner of the vehicle does not pay the prescribed toll, fee, and civil penalty within twenty days of the notice, the civil penalty assessment notice shall constitute a complaint to appear for adjudication of a toll evasion in court or in an administrative toll enforcement proceeding and the registered owner of the vehicle shall, within the time specified in the civil penalty assessment notice, file an answer to the complaint in the manner specified in the notice. If the registered owner of the vehicle fails to pay in full the outstanding toll, fee, and civil penalty set forth in the notice or to appear and answer the notice as specified in the notice, the registered owner of the vehicle shall be deemed to have admitted liability and to have waived the right to a hearing, and a final order of liability in default against the registered owner of the vehicle may be entered.

(8) A court with jurisdiction in a toll evasion case pursuant to paragraph (a) of subsection (5) of this section or a toll road or toll highway company with jurisdiction in a toll evasion case pursuant to paragraph (b) of subsection (5) of this section may report to the department of revenue any outstanding judgment or warrant or any failure to pay the toll, fee, and civil penalty for any toll evasion. Upon receipt of a certified report from a court or a toll road or toll highway company stating that the owner of a registered vehicle has failed to pay a

toll, fee, and civil penalty resulting from a final order entered by the toll road or toll highway company, the department shall not renew the vehicle registration of the vehicle until the toll, fee, and civil penalty are paid in full. The toll road or toll highway company shall contract with and compensate a vendor approved by the department for the direct costs associated with the nonrenewal of a vehicle registration pursuant to this subsection (8). The department has no authority to assess any points against a license under section 42-2-127, C.R.S., upon entry of a conviction or judgment for any toll evasion.

Source: L. 2006: Entire part R&RE, p. 1770, § 3, effective June 6.

43-3-303. Toll roads must be kept in repair. It is the duty of all owners or operators of roads upon which tolls are charged to keep their roads in good repair at all points, and the condition of the roads shall be determined by the grade thereof and the season of the year in which they are used.

Source: L. 2006: Entire part R&RE, p. 1775, § 3, effective June 6.

Editor's note: This section is similar to former § 43-3-313 as it existed prior to 2006.

43-3-304. Noncompete agreements. A toll road or toll highway company may not enter into a noncompete agreement with a public entity if the agreement would degrade an existing roadway or either delay or prevent the construction or upgrading of a road or highway that is included in the fiscally constrained regional transportation plan required by section 43-1-1103 (1) or the fiscally constrained comprehensive statewide transportation plan required by section 43-1-1103 (5).

Source: L. 2006: Entire part R&RE, p. 1775, § 3, effective June 6.

PART 4

TOLL TUNNELS

43-3-401. Legislative declaration. To improve highway transportation between the east and west slopes of Colorado and to enhance the designation of a national interstate and defense highway connecting U.S. highway 87 in Colorado with U.S. Highway 91 in Utah, the construction and operation of motor vehicle tunnels are authorized as provided in this part 4.

Source: L. 57: p. 642, § 1. **CRS 53:** § 120-15-1. **C.R.S. 1963:** § 120-15-1.

43-3-402. Powers and duties of transportation commission. The transportation commission is authorized to take all steps and adopt all proceedings and to make and enter into contracts or agreements with other states, the United States, or any of its agencies, instrumentalities, or departments, necessary or incidental to the performance of its duties and the execution of its powers under this part 4; but any contract relating to the financing, construction,

or operation of a toll or free tunnel provided for under this part 4 shall be approved by the governor before the same becomes effective.

Source: L. 57: p. 642, § 2. **CRS 53:** § 120-15-2. **C.R.S. 1963:** § 120-15-2. **L. 91:** Entire section amended, p. 1118, § 176, effective July 1.

43-3-403. Authority to construct tunnels. (1) The transportation commission is authorized to have constructed any tunnels between the east and west slopes of the state of Colorado for highway purposes as follows:

(a) In the event the state of Colorado receives a designation of an east-west national defense and interstate highway across the state of Colorado from the United States bureau of public roads, the transportation commission may have constructed along the route of such highway such tunnels as shall be determined jointly by the United States bureau of public roads and the transportation commission; but the cost of such tunnels shall be borne by the state of Colorado and the United States in such proportions as may be agreed upon between the transportation commission and the United States bureau of public roads.

(b) Repealed.

(2) The transportation commission may, with the approval of the governor, enter into a contract with a private individual, firm, or corporation for the construction, maintenance, and operation of one or more tunnels.

Source: L. 57: p. 643, § 3. **CRS 53:** § 120-15-3. **C.R.S. 1963:** § 120-15-3. **L. 91:** Entire section amended, p. 1118, § 177, effective July 1. **L. 2002:** (1)(b) repealed, p. 872, § 12, effective August 7. **L. 2003:** (2) amended, p. 2004, § 75, effective May 22.

43-3-404. Anticipation warrants. (Repealed)

Source: L. 57: p. 644, § 4. **CRS 53:** § 120-15-4. **C.R.S. 1963:** § 120-15-4. **L. 89:** (1) amended, p. 1133, § 80, effective July 1. **L. 91:** (3) amended, p. 1119, § 178, effective July 1. **L. 2003:** (3) amended, p. 2004, § 76, effective May 22. **L. 2005:** Entire section repealed, p. 291, § 48, effective August 8.

43-3-405. Interest - terms - public sale. (Repealed)

Source: L. 57: p. 644, § 5. **CRS 53:** § 120-15-5. **C.R.S. 1963:** § 120-15-5. **L. 91:** (2) to (5) amended, p. 1119, § 179, effective July 1. **L. 2005:** Entire section repealed, p. 292, § 49, effective August 8.

43-3-406. Warrants lawful investments. (Repealed)

Source: L. 57: p. 646, § 6. **CRS 53:** § 120-15-6. **C.R.S. 1963:** § 120-15-6. **L. 89:** Entire section amended, p. 1133, § 78, effective July 1. **L. 2005:** Entire section repealed, p. 293, § 50, effective August 8.

43-3-407. Cessation in office not to affect signature. (Repealed)

Source: L. 57: p. 646, § 7. **CRS 53:** § 120-15-7. **C.R.S. 1963:** § 120-15-7. **L. 2005:** Entire section repealed, p. 293, § 51, effective August 8.

43-3-408. Sinking fund and transfer from state highway fund. (Repealed)

Source: L. 57: p. 647, § 8. **CRS 53:** § 120-15-8. **C.R.S. 1963:** § 120-15-8. **L. 91:** Entire section amended, p. 1121, § 180, effective July 1. **L. 2005:** Entire section repealed, p. 293, § 52, effective August 8.

43-3-409. Redemption procedures. (Repealed)

Source: L. 57: p. 647, § 9. **CRS 53:** § 120-15-9. **C.R.S. 1963:** § 120-15-9. **L. 91:** Entire section amended, p. 1121, § 181, effective July 1. **L. 2005:** Entire section repealed, p. 294, § 53, effective August 8.

43-3-410. Highway revenue law not amended or repealed - when - rank of lien. (Repealed)

Source: L. 57: p. 647, § 10. **CRS 53:** § 120-15-10. **C.R.S. 1963:** § 120-15-10. **L. 91:** Entire section amended, p. 1121, § 182, effective July 1. **L. 2005:** Entire section repealed, p. 294, § 54, effective August 8.

43-3-411. Warrants - obligations limited to highway fund - not state indebtedness. (Repealed)

Source: L. 57: p. 648, § 11. **CRS 53:** § 120-15-11. **C.R.S. 1963:** § 120-15-11. **L. 91:** Entire section amended, p. 1122, § 183, effective July 1. **L. 2005:** Entire section repealed, p. 294, § 55, effective August 8.

43-3-412. No derogation of powers. (Repealed)

Source: L. 57: p. 648, § 12. **CRS 53:** § 120-15-12. **C.R.S. 1963:** § 120-15-12. **L. 91:** Entire section amended, p. 1122, § 184, effective July 1. **L. 2005:** Entire section repealed, p. 295, § 56, effective August 8.

43-3-413. Fees, fares, tolls - contracts - rules. (1) Upon the completion of the construction of such toll or free tunnel, the transportation commission has the power to establish and collect fees, fares, and tolls for the privilege of traveling through such tunnel and over the approaches thereto, and to credit all such fees, fares, and tolls and all income, however derived therefrom, to the payment of the maintenance and operation of said tunnel.

(2) In the event the commission shall, by contract as provided in section 43-3-403 (1), authorize the construction, maintenance, and operation of such tunnel by a private person, firm, or corporation, such contractor shall be reimbursed for the cost of such construction, maintenance, and operation together with a reasonable profit thereon only from fees, fares, and tolls to be charged by such contractor for the privilege of traveling through such tunnel and over

the approaches thereto. All such schedules or amendments to schedules containing fees, fares, and tolls to be charged by such contractor shall be approved by the commission before the same become effective. Said contract shall also provide for the duration thereof and for such limitations, obligations, and duties in connection with the construction, maintenance, and operation of such tunnel as the commission may determine to be advisable.

(3) The commission has the power to adopt such rules and regulations governing the use of said tunnel, whether or not such tunnel was constructed and operated by the commission or by a private person, firm, or corporation, as the commission may determine to be advisable, and the commission shall exercise such other powers and authority as may be necessary or convenient to the practical and full operation and use of such tunnel.

Source: L. 57: p. 648, § 13. **CRS 53:** § 120-15-13. **C.R.S. 1963:** § 120-15-13. **L. 91:** (1) amended, p. 1122, § 185, effective July 1. **L. 2005:** (1) amended, p. 295, § 57, effective August 8.

43-3-414. Vesting powers in transportation commission. This part 4 shall, without reference to any other statute, be deemed full authority for the construction of a tunnel under contract with, pursuant to design ordered or prepared by, and under the sole direction of the transportation commission. All the powers necessary to be exercised by the transportation commission in order to carry out the provisions of this part 4 are conferred by this article.

Source: L. 57: p. 649, § 14. **CRS 53:** § 120-15-14. **C.R.S. 1963:** § 120-15-14. **L. 91:** Entire section amended, p. 1122, § 186, effective July 1. **L. 2005:** Entire section amended, p. 295, § 58, effective August 8.

43-3-415. Transfer of assets. (Repealed)

Source: L. 57: p. 649, § 15. **CRS 53:** § 120-15-15. **C.R.S. 1963:** § 120-15-15. **L. 2005:** Entire section repealed, p. 295, § 59, effective August 8.

43-3-416. Notice of investment opportunity. (Repealed)

Source: L. 98: Entire section added, p. 444, § 4, effective August 5. **L. 2001:** (1)(a) amended, p. 1286, § 77, effective June 5. **L. 2005:** Entire section repealed, p. 295, § 60, effective August 8.

Cross references: For the legislative declaration contained in the 1998 act enacting this section, see section 1 of chapter 154, Session Laws of Colorado 1998.

FINANCING

ARTICLE 4

Financing

PART 1

LONG-RANGE HIGHWAY PROGRAM

43-4-101 to 43-4-113. (Repealed)

Source: L. 96: Entire part repealed, p. 467, § 12, effective April 23.

Editor's note: This part 1 was numbered as article 7 of chapter 120, C.R.S. 1963. For amendments to this part 1 prior to its repeal in 1996, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 2

HIGHWAY USERS TAX FUND

43-4-201. Highway users tax fund - created. (1) (a) The highway users tax fund is hereby created in the state treasurer's office.

(b) The unrestricted year-end balance of the highway users tax fund, created pursuant to paragraph (a) of this subsection (1), for the 1991-92 fiscal year shall constitute a reserve, as defined in section 24-77-102 (12), C.R.S., and, for purposes of section 24-77-103, C.R.S.:

(I) Any moneys credited to the highway users tax fund in any subsequent fiscal year shall be included in state fiscal year spending, as defined in section 24-77-102 (17), C.R.S., for such fiscal year; and

(II) Any transfers or expenditures from the highway users tax fund in any subsequent fiscal year shall not be included in state fiscal year spending, as defined in section 24-77-102 (17), C.R.S., for such fiscal year.

(2) Repealed.

(3) (a) (I) The general assembly shall not make any annual appropriation (whether by regular, special, or supplementary appropriation) or any statutory distribution from the highway users tax fund for any purpose or purposes in a total amount that is:

(A) More than twenty-three percent of the net revenue of said fund for the prior fiscal year;

(B) Commencing in the fiscal year 1995-96, and ending in the fiscal year 2012-13, more than a six percent increase over the appropriation to the department of public safety for the Colorado state patrol and to the department of revenue for the ports of entry division for the prior fiscal year; except in fiscal years 2009-10, 2010-11, and 2011-12, more than a six percent increase over the appropriation to the department of public safety for the Colorado state patrol, to the department of revenue for the ports of entry division, and to the department of revenue for the division of motor vehicles pursuant to sub-subparagraph (C) of subparagraph (III) of this paragraph (a) for the prior fiscal year; or

(C) Commencing in the fiscal year 2013-14, more than a six percent increase over the appropriation to the Colorado state patrol for the prior fiscal year, plus, for the fiscal years 2016-17, 2017-18, and 2018-19 only, the amount appropriated to the department of revenue for use by

the division of motor vehicles pursuant to sub-subparagraph (C) of subparagraph (III) of this paragraph (a).

(I.1) Repealed.

(II) The general assembly shall not make any annual appropriation or statutory distribution from the highway users tax fund except as follows:

(A) To the office of transportation safety;

(B) To the transportation development division;

(C) To the department of labor and employment for costs related to the oil inspection program;

(D) To the department of personnel for costs related to telecommunications support;

(E) To the department of corrections for costs related to the production of license plates by the division of correctional industries;

(F) To the department of revenue for highway-related programs, including capital construction costs;

(G) To the department of public safety for highway-related programs, including capital construction costs;

(H) Repealed.

(I) To the department of personnel for costs related to the salaries and benefits of the departments or programs listed in sub-subparagraphs (A) to (G) of this subparagraph (II);

(J) To the department of local affairs for the provision of disaster emergency services that relate to the transportation of hazardous materials.

(K) to (M) Repealed.

(III) (A) and (B) (Deleted by amendment, L. 2009, (SB 09-274), ch. 210, p. 955, § 9, effective May 1, 2009.)

(C) The general assembly shall not make any annual appropriation or statutory distribution from the highway users tax fund for the fiscal year 1997-98 or for any succeeding fiscal year authorized by subparagraph (II) of this paragraph (a), excluding the annual appropriation or statutory distribution to the Colorado state patrol and, through the fiscal year 2011-12 only, the ports of entry section and excluding any appropriation to the department of revenue for the fiscal years 2008-09, 2009-10, 2010-11, 2011-12, 2016-17, 2017-18, and 2018-19, for expenses incurred in connection with the administration of article 2 of title 42, C.R.S., by the division of motor vehicles within the department.

(D) For any annual appropriation or statutory distribution authorized by subparagraph (II) of this paragraph (a) but not funded from the highway users tax fund, the general assembly shall determine the amount necessary to be expended for those purposes and shall make an annual appropriation as necessary from the general fund.

(IV) In addition to any other allocations required by this article, there shall be allocated from the highway users tax fund on or after July 31 for fiscal year 1995-96 and each succeeding fiscal year an amount equal to that not annually appropriated or statutorily distributed pursuant to sub-subparagraph (C) of subparagraph (III) of this paragraph (a). The moneys shall be allocated in accordance with the provisions of section 43-4-205 (6)(b).

(V) Notwithstanding any other provision in this section, the general assembly may make an annual appropriation or statutory distribution from the highway users tax fund to the department of revenue for the data collection services provided for under section 39-27-109.7, C.R.S.

(VI) Notwithstanding any other provision in this section, subject to the limitations specified in section 40-29-116 (2), C.R.S., for the 2016-17 fiscal year only, the general assembly may make an appropriation from the highway users tax fund to the highway-rail crossing signalization fund created in section 40-29-116 (1), C.R.S.

(b) The balance of net revenues shall be paid to the state highway fund, counties, and municipalities pursuant to sections 43-4-206 to 43-4-208.

(c) Any additional moneys in the highway users tax fund which are made available for distribution as a result of the limitation on appropriations or statutory distributions from the highway users tax fund imposed by paragraph (a) of this subsection (3) shall be allocated in accordance with the provisions of section 43-4-205 (6)(b).

Source: L. 53: p. 502, § 1. **CRS 53:** § 120-12-1. **C.R.S. 1963:** § 120-12-1. **L. 65:** p. 928, § 2. **L. 79:** (3) added, p. 1604, § 1, effective July 1. **L. 89, 1st Ex. Sess.:** (3)(c) added, p. 63, § 18, effective August 1. **L. 90:** (3)(a) amended, p. 1828, § 1, effective July 1. **L. 91:** (3)(a)(II)(I) amended, p. 1018, § 1, effective May 16; (3)(a)(II)(A) and (3)(a)(II)(B) amended, p. 1126, § 199, effective July 1. **L. 92:** (3)(a)(II)(H) and (3)(a)(II)(I) amended and (3)(a)(II)(J) added, p. 1043, § 11, effective March 12. **L. 93:** (1) amended, p. 1510, § 12, effective June 6. **L. 95:** (3)(a)(I)(B) amended and (3)(a)(I.1), (3)(a)(III), and (3)(a)(IV) added, p. 1299, § 1, effective June 5; (3)(a)(II)(D) amended, p. 668, § 111, effective July 1. **L. 96:** (3)(a)(I.1), (3)(a)(III)(B), and (3)(a)(III)(C) amended, p. 1552, § 14, effective July 1. **L. 98:** (3)(a)(II)(I), (3)(a)(II)(J), and (3)(a)(III)(C) amended and (3)(a)(II)(K) added, p. 1061, § 4, effective June 1; (3)(a)(V) added, p. 1040, § 13, July 1. **L. 2000:** (3)(a)(V) amended, p. 1938, § 21, effective October 1. **L. 2003:** (3)(a)(I)(B) amended and (3)(a)(II)(L) added, pp. 6, 7, §§ 1, 2, effective March 5; (2) and (3)(a)(II)(H) repealed, p. 1700, § 8, effective May 14; (3)(a)(I)(B) and (3)(a)(III)(C) amended and (3)(a)(II)(M) added, pp. 1485, 1486, §§ 1, 3, 2, effective July 1. **L. 2004:** (3)(a)(II)(K) amended, p. 1212, § 104, effective August 4. **L. 2005:** (3)(a)(I)(B), (3)(a)(II)(M), and (3)(a)(III)(C) amended, p. 1509, § 1, effective June 9; (3)(a)(I)(B), (3)(a)(II)(M), and (3)(a)(III)(C) amended, p. 18, § 4, effective July 1. **L. 2006:** (3)(a)(II)(K) amended, p. 1515, § 83, effective June 1. **L. 2009:** IP(3)(a)(I), (3)(a)(I)(B), (3)(a)(III)(A), (3)(a)(III)(B), (3)(a)(III)(C), and (3)(a)(IV) amended, (SB 09-274), ch. 210, p. 955, § 9, effective May 1. **L. 2010:** (3)(a)(III)(C) amended, (HB 10-1387), ch. 205, p. 890, § 8, effective May 5. **L. 2011:** (3)(a)(I)(B) and (3)(a)(III)(C) amended, (HB 11-1161), ch. 64, p. 166, § 1, effective March 25. **L. 2012:** (3)(a)(I)(B), (3)(a)(I.1), and (3)(a)(III)(C) amended and (3)(a)(I)(C) added, (HB 12-1019), ch. 135, p. 473, § 25, effective July 1. **L. 2016:** (3)(a)(I)(C) and (3)(a)(III)(C) amended and (3)(a)(I.1) repealed, (HB 16-1415), ch. 139, p. 414, § 6, effective May 4; (3)(a)(VI) added, (SB 16-087), ch. 217, p. 832, § 3, effective June 6.

Editor's note: (1) Amendments to subsections (3)(a)(I)(B), (3)(a)(II)(M), and (3)(a)(III)(C) by House Bill 05-1196 and House Bill 05-1008 were harmonized.

(2) Subsection (3)(a)(II)(L) provided for the repeal of subsection (3)(a)(II)(L), effective July 1, 2006. (See L. 2003, p. 7.)

(3) Subsection (3)(a)(II)(M) provided for the repeal of subsection (3)(a)(II)(M), effective July 1, 2005. (See L. 2003, p. 1486.)

(4) Subsection (3)(a)(II)(K) provided for the repeal of subsection (3)(a)(II)(K), effective July 1, 2007. (See L. 2004, p. 1212.)

43-4-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Net revenue" means the amount derived from a tax or fee after paying refunds.

(2) Repealed.

Source: L. 53: p. 502, § 2. **CRS 53:** § 120-12-2. **C.R.S. 1963:** § 120-12-2. **L. 79:** (1) amended, p. 1604, § 2, effective July 1. **L. 80:** (2) added, p. 729, § 31, effective May 1. **L. 85:** (2) repealed, p. 288, § 8, effective May 23. **L. 87:** (1) amended, p. 1555, § 5, effective July 1.

43-4-203. Sources of revenue. (1) All net revenue from the following sources shall be paid into and credited to the highway users tax fund as soon as received:

(a) From the imposition of any excise tax on motor fuel;

(b) From the imposition of annual registration fees on drivers, motor vehicles, trailers, and semitrailers, except as provided in section 42-3-304 (19), C.R.S.;

(c) From the imposition of passenger-mile taxes on vehicles or any fee or payment substituted therefor;

(d) Repealed.

(e) From interest or income earned on the deposit and investment of moneys in the fund.

Source: L. 53: p. 502, § 3. **CRS 53:** § 120-12-3. **C.R.S. 1963:** § 120-12-3. **L. 77:** (1)(d) added, p. 1887, § 2, effective June 9. **L. 89:** (1)(d) repealed, p. 1600, § 23, effective January 1, 1990; (1)(c) amended, p. 1600, § 21, effective July 1, 1993. **L. 2001:** (1)(b) amended, p. 1022, § 8, effective June 5. **L. 2005:** (1)(e) added, p. 139, § 1, effective April 5; (1)(b) amended, p. 1184, § 38, effective August 8.

Cross references: For the legislative declaration contained in the 2001 act amending subsection (1)(b), see section 1 of chapter 278, Session Laws of Colorado 2001.

43-4-204. Appropriation. All moneys in the highway users tax fund are appropriated for the acquisition of rights-of-way for, and the construction, engineering, safety, reconstruction, improvement, repair, maintenance, and administration of, the state highway system, the county highway systems, the city street systems, and other public roads and highways of the state in accordance with the provisions of this part 2.

Source: L. 53: p. 502, § 4. **CRS 53:** § 120-12-4. **C.R.S. 1963:** § 120-12-4. **L. 65:** p. 929, § 3.

43-4-205. Allocation of fund. (1) The moneys in the highway users tax fund shall be apportioned monthly. The apportionment may be made by the state treasurer based upon estimates from the department of revenue on current monthly collections of highway users taxes, with monthly reconciliation of the state, county, and municipal accounts in each successive month. The department of revenue shall provide estimates to the state treasurer by the seventh working day of each month. The state treasurer shall apportion the funds within five working days of receiving estimates from the department of revenue.

(2) to (4) Repealed.

(5) Revenues raised by the excise tax imposed on gasoline and special fuel pursuant to sections 39-27-102 and 39-27-102.5, C.R.S., equal to the first seven cents per gallon of such tax shall be placed in the highway users tax fund to be allocated as follows:

(a) Sixty-five percent of such revenue shall be paid to the state highway fund and shall be expended as provided in section 43-4-206.

(b) Twenty-six percent of such revenue shall be paid to the county treasurers of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in section 43-4-207.

(c) Nine percent of such revenue shall be paid to cities and incorporated towns within the limits of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in section 43-4-208 (2).

(5.5) The following highway users tax fund revenues shall be allocated and expended in accordance with the formula specified in subsection (5) of this section:

(a) Revenues from fines, penalties, or forfeitures that are credited to the fund pursuant to sections 18-4-509 (2)(a), 39-27-102 (9)(c), 39-27-104 (1)(g)(III), 42-1-217 (1)(a), (1)(b), (1)(d), (1)(e), and (2), 42-4-225 (3), and 42-4-235 (2)(a), C.R.S.;

(b) Revenues from motor vehicle license plate, identification plate, and placard fees that are credited to the fund pursuant to section 42-4-202 (4)(d) and article 3 of title 42, C.R.S.;

(c) Revenues from driver's license fees, motor vehicle title and registration fees, and motorist insurance identification fees that are credited to the fund pursuant to sections 42-2-132 (4)(b), 42-3-304 (18)(d)(I), and 42-3-306 (6) and (7), C.R.S.;

(d) Revenues from the imposition of passenger-mile taxes on vehicles, any additional penalties or interest imposed thereon, or any fee or payment substituted therefor that is imposed pursuant to sections 42-3-304 (13), 42-3-306 (11)(a) and (11)(b), and 42-3-308 (5), C.R.S., and credited to the fund pursuant to section 43-4-203 (1)(c);

(e) Revenues from sales of abandoned motor vehicles that are credited to the fund pursuant to sections 42-4-1809 (2)(d) and 42-4-2108 (2)(c), C.R.S.;

(f) Revenues from fees that are credited to the fund pursuant to section 42-3-311 (1), C.R.S., and that exceed the amount of appropriations made from the fund pursuant to those sections for the purpose of defraying specified administrative expenses;

(g) Revenues from interest or income earned on the deposit and investment of moneys in the fund; and

(h) Revenues from any source that are credited to the fund, but not to any specific account within the fund, the allocation and expenditure of which is not otherwise specified by law.

(6) Revenues raised by the excise tax imposed on gasoline and special fuel pursuant to sections 39-27-102 and 39-27-102.5, C.R.S., in excess of seven cents per gallon of tax, shall be placed in the highway users tax fund to be allocated as follows; except that revenues raised by the excise tax imposed on gasoline in excess of eighteen cents per gallon of tax shall be allocated according to the provisions of paragraph (b) of this subsection (6):

(a) Sixteen percent of such revenue shall be deposited in a special account within the highway users tax fund until July 1, 1997, and shall be expended only for highway bridge repair, replacement, or posting, pursuant to provisions of paragraph (a) of subsection (7) of this section.

(b) The remaining balance of such revenue may be expended only for improvements to highways within the state, including new construction, safety improvements, maintenance, and

capacity improvements, and for other transportation-related projects to the extent authorized by sections 43-4-206 (3), 43-4-207 (1), and 43-4-208 (1), and may not be expended for administrative purposes. Such revenue is allocated as follows:

(I) Sixty percent of such revenue shall be paid to the state highway fund and shall be expended as provided in section 43-4-206.

(II) Twenty-two percent of such revenue shall be paid to the county treasurers of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in section 43-4-207.

(III) Eighteen percent of such revenue shall be paid to the cities and incorporated towns, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in section 43-4-208 (2)(b) and (6)(a).

(6.3) Revenues from the surcharges, fees, and fines credited to the highway users tax fund pursuant to section 43-4-804 (1) shall be allocated and expended in accordance with the formula specified in paragraph (b) of subsection (6) of this section.

(6.5) (a) The revenues accrued to and transferred to the highway users tax fund pursuant to section 39-26-123 (4)(a) or 24-75-219, C.R.S., or appropriated to the highway users tax fund pursuant to House Bill 02-1389, enacted during the second regular session of the sixty-third general assembly, shall be paid to the state highway fund for allocation to the department of transportation and shall be expended as provided in section 43-4-206 (2).

(b) Repealed.

(c) (Deleted by amendment, L. 2005, p. 296, § 61, effective August 8, 2005.)

(d) Repealed.

(6.6) (Deleted by amendment, L. 2009, (SB 09-228), ch. 410, p. 2270, § 24, effective July 1, 2009.)

(7) (a) Revenues accumulated in the special account for highway bridges, as provided in paragraph (a) of subsection (6) of this section, shall be allocated at least once each year among state, counties, and municipal highway systems based on total cost needs under the criteria developed by means of the most current report of the federal bridge inventory program. For the fiscal year commencing on July 1, 1981, the allocation shall be determined in accordance with needs developed by October 1, 1981. In subsequent fiscal years, the allocation shall be determined in accordance with needs reports available on January 1, 1982, and January 1 of each subsequent year, with the allocation amounts to be effective on July 1 of each year. After allocation of the state share of the special bridge account, the share for the counties and municipalities shall be allocated, subject to annual appropriation by the general assembly, based upon need as determined by the special highway committee which shall be composed of four representatives each from counties and municipalities. Allocations to local governments shall require a minimum of twenty percent of local matching funds from revenues other than the special bridge account within the highway users tax fund.

(b) Not later than July 1, 1997, the general assembly shall review the needs of this state for highway bridge repair, replacement, or posting and shall determine if the fund, as provided in paragraph (a) of subsection (6) of this section, should be continued. If said fund is not continued, the balance of revenues in said fund shall be allocated in accordance with the provisions of paragraph (b) of subsection (6) of this section.

(8) to (12) Repealed.

(13) All of the additional revenues which are credited to the highway users tax fund as a result of the enactment of House Bill No. 1012 at the first extraordinary session of the fifty-seventh general assembly, shall be expended only for improvements to highways within the state, including new construction, safety improvements, maintenance, and capacity improvements. No moneys shall be expended for administrative purposes.

Source: L. 53: p. 503, § 5. **CRS 53:** § 120-12-5. **C.R.S. 1963:** § 120-12-5. **L. 65:** p. 929, § 4. **L. 75:** (2) amended, p. 1575, § 1, effective March 26. **L. 79:** (3) and (4) added, pp. 1470, 1471, § 2, effective July 1. **L. 81:** (5) to (7) added, p. 1895, § 5, effective June 19. **L. 84:** (1) amended, p. 1026, § 3, effective March 16. **L. 86:** (6)(a) and (7)(b) amended, p. 1211, § 1, effective April 3; (2.5) added and IP(6)(b) amended, pp. 1120, 1134, §§ 21, 11, effective July 1. **L. 87:** (3) and (4) repealed and (8) to (12) added, pp. 1558, 1554, 1555, §§ 10, 3, effective July 1. **L. 88:** (2.5) repealed, p. 1434, § 24, effective June 11. **L. 89, 1st Ex. Sess.:** (13) added, p. 67, § 27, effective August 1. **L. 90:** IP(6) amended, p. 1829, § 2, effective July 1. **L. 92:** (6)(a) and (7)(b) amended, p. 1341, § 1, effective March 24. **L. 93:** (2), (5)(b), (5)(c), (6)(b)(II), (6)(b)(III), and (7)(a) amended, p. 1516, § 20, effective June 6. **L. 95:** (2) amended, p. 1300, § 2, effective June 5. **L. 97:** (6.5) added, p. 1533, § 2, effective July 1. **L. 98:** (6.5)(b) amended, p. 906, § 4, effective May 26. **L. 99:** (6.5)(b) repealed, p. 562, § 2, effective May 7. **L. 2000:** IP(5) and IP(6) amended, p. 1938, § 22, effective October 1; (6.5)(a) amended and (6.5)(c) added, p. 1361, § 47, effective July 1, 2001; (6.5)(a) amended and (6.5)(d) added, p. 1428, § 4, effective July 1, 2001. **L. 2002:** (6.5)(a) and IP(6.5)(c) amended, p. 146, § 3, effective March 27; (6.6) added, p. 738, § 8, effective August 7; (6.6) added, p. 718, § 8, effective August 7. **L. 2003:** (2) repealed, p. 1701, § 9, effective May 14. **L. 2005:** (5.5) added, p. 139, § 2, effective April 5; (6.5)(a) and (6.5)(c) amended, p. 296, § 61, effective August 8. **L. 2006:** (5.5)(b), (5.5)(c), (5.5)(d), and (5.5)(f) amended, p. 1515, § 84, effective June 1; (6.5)(a) amended, p. 1604, § 6, effective July 2. **L. 2007:** (5.5)(b) amended, p. 1574, § 11, effective July 1. **L. 2009:** (6.3) added, (SB 09-108), ch. 5, p. 55, § 18, effective March 2; (5.5)(f) amended, (SB 09-274), ch. 210, p. 957, § 10, effective May 1; (6.5)(a) and (6.6) amended, (SB 09-228), ch. 410, p. 2270, § 24, effective July 1. **L. 2010:** (5.5)(c) amended and (6.5)(d) repealed, (SB 10-212), ch. 412, pp. 2040, 2032, §§ 22, 1, effective July 1. **L. 2011:** (6.5)(a) amended, (HB 11-1303), ch. 264, p. 1183, § 114, effective August 10. **L. 2013:** IP(6)(b) amended, (SB 13-048), ch. 138, p. 450, § 2, effective July 1.

Editor's note: (1) Subsection (12) provided for the repeal of subsections (8) to (12), effective July 1, 1991. (See L. 87, p. 1554.)

(2) Amendments to subsection (6.5)(a) by House Bill 00-1227 and Senate Bill 00-011 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending the introductory portion to subsection (6)(b), see section 1 of chapter 138, Session Laws of Colorado 2013.

43-4-206. State allocation. (1) Except as otherwise provided in subsections (1)(a)(V), (2), and (3) of this section, after paying the costs of the Colorado state patrol and any other costs of the department, exclusive of highway construction, highway improvements, or highway

maintenance, that are appropriated by the general assembly, money in the highway users tax fund shall be paid to the state highway fund and expended for the following purposes:

(a) The state highway fund shall be subject to the sinking fund and bond lien provided by part 2 of article 3 of this title.

(b) Except as otherwise provided in subsection (2) of this section, all money in the state highway fund not required for the creation, maintenance, and application of the highway anticipation or sinking fund and all money in the state highway supplementary fund are available to pay for:

(I) All salaries, wages, and necessary traveling and other expenses of all persons connected with the department of transportation;

(II) All equipment, furniture, and supplies for officers, division offices, and laboratories as may be established by the director of the highway maintenance division;

(III) All incidental office expenses, including telegraph, telephone, postal, express charges, and expenses for printing, stationery, and advertising and for the publication of the quarterly bulletin;

(IV) All machines, tools, or other equipment necessary for the furtherance of the work of the department of transportation and also land and buildings for the housing and use of the same;

(V) The construction, reconstruction, repairs, improvement, planning, supervision, and maintenance of the state highway system and other public highways, including any county and municipal roads and highways, together with the acquisition of rights-of-way and access rights for the same. Any proceeds of lease-purchase agreements executed as required by section 24-82-1303 (2)(a) that are credited to the state highway fund pursuant to section 24-82-1303 (4)(b) shall be used only for qualified federal aid highway projects that are included in the strategic transportation project investment program of the department of transportation and that are designated for tier 1 funding as ten-year development program projects on the department's development program project list, with at least twenty-five percent of the money being used for projects that are located in counties with populations of fifty thousand or less as of July 2015 as reported by the state demography office of the department of local affairs. No more than ninety percent of the proceeds shall be expended for highway purposes or highway-related capital improvements, and at least ten percent of the proceeds shall be expended for transit purposes or for transit-related capital improvements.

(V.5) Repealed.

(V.7) (A) The payment of statewide indirect costs in accordance with section 43-1-113 (8).

(B) (Deleted by amendment, L. 2005, p. 297, § 62, effective August 8, 2005.)

(VI) All land damages incurred by reason of establishing, opening, altering, relocating, widening, or abandoning portions of any part of the state highway system;

(VII) The payment of just compensation for advertising devices required to be removed under the provisions of section 43-1-414 (2).

(2) (a) Revenue accrued to and transferred to the highway users tax fund pursuant to section 39-26-123 (4)(a) or appropriated to the highway users tax fund pursuant to House Bill 02-1389, enacted at the second regular session of the sixty-third general assembly, and credited to the state highway fund pursuant to section 43-4-205 (6.5) shall be expended by the department of transportation for the implementation of the strategic transportation project investment program:

(I) No more than ninety percent of such revenues shall be expended for highway purposes or highway-related capital improvements, including, but not limited to, high occupancy vehicle lanes, park-and-ride facilities, and transportation management systems, and at least ten percent of such revenues shall be expended for transit purposes or for transit-related capital improvements.

(II) (Deleted by amendment, L. 2000, p. 1741, § 1, effective June 1, 2000.)

(b) Beginning in 1998, the department of transportation shall report annually to the transportation committee of the senate and the transportation and energy committee of the house of representatives concerning the revenue expended by the department pursuant to subsection (2)(a) of this section and, beginning in 2018, any proceeds of lease-purchase agreements executed as required by section 24-82-1303 (2)(a) that are credited to the state highway fund pursuant to section 24-82-1303 (4)(b) and expended by the department pursuant to subsection (1)(b)(V) of this section. The department shall present the report at the joint meeting required under section 43-1-113 (9)(a), and the report shall describe for each fiscal year, if applicable:

(I) The projects on which the revenue and net proceeds are to be expended, including the estimated cost of each project, the aggregate amount of revenue actually spent on each project, and the amount of revenue allocated for each project in such fiscal year. The department of transportation shall submit a prioritized list of such projects as part of the report.

(II) The status of such projects that the department has undertaken in any previous fiscal year;

(III) The projected amounts of revenue and net proceeds that the department expects to receive under this subsection (2) and subsection (1)(b)(V) of this section during the fiscal year;

(IV) The amount of revenue and net proceeds that the department has already received under this subsection (2) and subsection (1)(b)(V) of this section during the fiscal year; and

(V) How the revenue and net proceeds expended under this subsection (2) and subsection (1)(b)(V) of this section during the fiscal year relate to the total funding of the federal aid transportation projects that are included in the strategic transportation project investment program.

(c) Beginning with the 1997-98 fiscal year, the department of transportation shall report annually to the joint budget committee at the department's hearing to review the department's budget request. The report shall contain for each fiscal year, if applicable, the reporting requirements specified in subparagraphs (I) to (V) of paragraph (b) of this subsection (2).

(d) Repealed.

(3) The revenue credited to the highway users tax fund pursuant to section 43-4-205 (6.3) shall be expended by the department of transportation only for road safety projects, as defined in section 43-4-803 (21); except that the department shall, in furtherance of its duty to supervise state highways and as a consequence in compliance with section 43-4-810, expend ten million dollars per year of the revenues for the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation, or administration of transit-related projects, including, but not limited to, designated bicycle or pedestrian lanes of highway and infrastructure needed to integrate different transportation modes within a multimodal transportation system, that enhance the safety of state highways for transit users.

Source: L. 53: p. 503, § 6. **CRS 53:** § 120-12-6. **C.R.S. 1963:** § 120-12-6. **L. 65:** p. 930, § 5. **L. 71:** p. 1135, § 5. **L. 79:** IP(1)(b) amended, p. 1608, § 1, effective May 18; IP(1) amended,

p. 1471, § 3, effective July 6; IP(1) amended, p. 1667, § 141, effective July 19. **L. 85:** (1)(b)(VII) amended, p. 1371, § 48, effective June 28. **L. 87:** IP(1) amended, p. 1556, § 6, effective July 1; (1)(b)(V.5) added, p. 1548, § 3, effective July 3. **L. 89, 1st Ex. Sess.:** (1)(b)(V) amended, p. 66, § 23, effective August 1. **L. 91:** (1)(b)(I), (1)(b)(II), (1)(b)(IV), and (1)(b)(V.5) amended and (1)(b)(V.7) added, p. 1126, § 200, effective July 1. **L. 93:** IP(1) amended, p. 1798, § 108, effective June 6. **L. 97:** IP(1) and IP(1)(b) amended and (2) added, p. 1533, § 3, effective July 1. **L. 98:** (2)(d) amended, p. 906, § 5, effective May 26. **L. 99:** (2)(d) repealed, p. 562, § 3, effective May 7. **L. 2000:** (2)(a) amended, p. 1741, § 1, effective June 1. **L. 2002:** IP(2)(a) amended, p. 146, § 4, effective March 27; (2)(a)(I) amended, p. 738, § 9, effective August 7; (2)(a)(I) amended, p. 718, § 9, effective August 7. **L. 2003:** IP(1) amended, p. 1702, § 12, effective May 14. **L. 2005:** (1)(a) and (1)(b)(V.7)(B) amended, p. 297, § 62, effective August 8. **L. 2006:** IP(2)(a) amended, p. 1604, § 7, effective July 2. **L. 2009:** (3) added, (SB 09-108), ch. 5, p. 55, § 19, effective March 2; IP(2)(a) amended, (SB 09-228), ch. 410, p. 2270, § 25, effective July 1. **L. 2015:** IP(1)(b) and (1)(b)(II) amended, (HB 15-1209), ch. 64, p. 178, § 12, effective March 30. **L. 2017:** IP(1), IP(1)(b), (1)(b)(V), IP(2)(a), (2)(b), and (3) amended, (SB 17-267), ch. 267, p. 1473, § 31, effective May 30.

Editor's note: Subsection (1)(b)(V.5)(B) provided for the repeal of subsection (1)(b)(V.5), effective July 1, 1992. (See L. 91, p. 1126.)

Cross references: For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of Colorado 2017.

43-4-207. County allocation. (1) After paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, twenty-six percent of the balance of the highway users tax fund shall be paid to the county treasurers of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. The moneys thus received shall be allocated to the counties as provided by law and shall be expended by the counties only on the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the county highway systems and any other public highways, including any state highways, together with acquisition of rights-of-way and access rights for the same, for the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation, or administration of transit-related projects, including, but not limited to, designated bicycle or pedestrian lanes of highway and infrastructure needed to integrate different transportation modes within a multimodal transportation system, and for no other purpose; except that a county may expend no more than fifteen percent of the total amount expended under this subsection (1) for transit-related operational purposes and except that moneys received pursuant to section 43-4-205 (6.3) shall be expended by the counties only for road safety projects, as defined in section 43-4-803 (21). The amount to be expended for administrative purposes shall not exceed five percent of each county's share of the funds available.

(2) For the fiscal year commencing July 1, 1989, and each fiscal year thereafter, for the purpose of allocating moneys in the highway users tax fund to the various counties throughout the state, the following method is hereby adopted:

(a) (I) The first sixty-nine million seven hundred thousand dollars or any portion thereof shall be allocated to the counties in such a manner that each county receives the same allocation that it received for the fiscal year 1987-88.

(II) The next seventeen million dollars or any portion thereof shall be allocated to the following seventeen counties in the following percentages: Adams, 9.5718; Alamosa, 1.1598; Arapahoe, 12.6560; Boulder, 7.3571; Douglas, 3.5148; El Paso, 13.0552; Jefferson, 14.9666; La Plata, 2.0733; Larimer, 7.9978; Lincoln, 1.8866; Logan, 2.0334; Mesa, 4.3285; Morgan, 2.9915; Otero, 1.6843; Pueblo, 4.6096; Rio Grande, 1.3384; and Weld, 8.7753.

(b) All moneys credited to the fund in excess of eighty-six million seven hundred thousand dollars shall be allocated to the counties in the following manner:

(I) Fifteen percent shall be allocated to the counties in proportion to the rural motor vehicle registration in each county. The term "rural motor vehicle registration" includes all passenger, truck, truck-tractor, and motorcycle registrations in unincorporated portions of the county. The number of registrations used in computing the percentage shall be those certified to the state treasurer by the department of revenue as constituting the rural motor vehicle registration for the last preceding year.

(II) Fifteen percent shall be allocated to the counties in proportion to the countywide motor vehicle registration in each county. The term "countywide motor vehicle registration" includes all passenger, truck, truck-tractor, and motorcycle registrations in unincorporated portions of the county and in cities and incorporated towns. The number of registrations used in computing the percentage shall be those certified to the state treasurer by the department of revenue as constituting the countywide motor vehicle registration for the last preceding year.

(III) Sixty percent shall be allocated to counties in proportion to the adjusted lane miles of open, used, and maintained county roads in each county, excepting mileage of state highways and municipal streets. A lane mile shall be measured by each ten-foot width of traveled roadway surface, or fractional lane mile thereof. The adjusted lane miles shall be determined by applying to the existing lane miles of county roads in each county a factor of difficulty. The lane miles, the adjusted lane miles, and the factor representing the difficulty of construction and maintenance in the various counties in the state by reason of terrain shall be determined by the department of transportation as provided in paragraphs (c), (d), and (e) of this subsection (2).

(IV) Ten percent shall be allocated to counties in proportion to the square feet of bridge deck for bridges greater than twenty feet in length in each county, as certified by the department of transportation.

(c) The percentage of area in each county classified as "plains", "plains rolling and irrigated", and "mountainous" shall be determined from an accredited topographical map. The department of transportation shall also classify the percentage of "paved" roads in each county. To the percentage indicated "plains" a factor of 1.00 shall be applied. To the percentage indicated "plains rolling and irrigated" a factor of 1.75 shall be applied. To the percentage indicated "mountainous" a factor of 3.00 shall be applied. To the percentage indicated "paved" roads a factor of 1.5 shall be applied.

(d) The department of transportation, prior to July 1 of each year, shall certify to the state treasurer the lane mile figures, as of December 31 of the preceding year, of the several

counties, and the state treasurer shall use such lane mile figures for the current fiscal year as the basis for the allocation mentioned in this subsection (2).

(e) The authorized agent, as defined in section 42-1-102, in each county shall certify to the department of revenue the number of motor vehicle licenses issued during the preceding calendar year to persons residing within the limits of a county and whether or not such persons reside in cities, incorporated towns, or unincorporated portions of the county. Upon receipt of the certified information, the department of revenue shall tabulate the total number of all motor vehicle licenses issued during the preceding calendar year to persons residing within the limits of the respective counties in the entire state and within the limits of each city or incorporated town within the respective counties. The department of revenue shall then determine the percentage that the rural motor vehicle registration in each county bears to the total rural motor vehicle registration in the entire state and shall then determine the percentage that the countywide motor vehicle registration in each county bears to the total countywide rural and urban motor vehicle registration in the entire state. On or before May 1 of each year, the department of revenue shall certify to the state treasurer the percentage of motor vehicle registration for each county as provided in this subsection (2)(e).

(3) For the purpose of this section, the city and county of Denver and the city and county of Broomfield shall not be considered as counties.

Source: L. 53: p. 503, § 7. **CRS 53:** § 120-12-7. **L. 59:** p. 646, § 1. **C.R.S. 1963:** § 120-12-7. **L. 65:** p. 930, § 6. **L. 71:** p. 1137, § 1. **L. 78:** (2)(b) amended, p. 525, § 1, effective July 1. **L. 79:** (1) amended, p. 1471, § 4, effective July 6; (1) amended, p. 1667, § 142, effective July 19. **L. 87:** (1) amended, p. 1556, § 7, effective July 1. **L. 89:** (2) R&RE, p. 1632, § 1, effective August 1. **L. 89, 1st Ex. Sess.:** (1) amended, p. 66, § 24, effective August 1. **L. 90:** (2)(b)(III) amended, p. 1829, § 3, effective July 1. **L. 91:** (2)(b)(III), (2)(b)(IV), (2)(c), and (2)(d) amended, p. 1126, § 201, effective July 1. **L. 93:** (1) amended, p. 1518, § 22, effective June 6; (1) amended, p. 1799, § 109, effective June 6. **L. 2000:** (2)(b)(I), (2)(b)(II), and (2)(e) amended, p. 1652, § 49, effective June 1. **L. 2001:** (3) amended, p. 273, § 29, effective November 15. **L. 2003:** (1) amended, p. 1703, § 13, effective May 14. **L. 2009:** (1) amended, (SB 09-108), ch. 5, p. 55, § 20, effective March 2. **L. 2013:** (1) amended, (SB 13-048), ch. 138, p. 451, § 3, effective July 1. **L. 2017:** (2)(e) amended, (HB 17-1107), ch. 101, p. 374, § 30, effective August 9.

Editor's note: Amendments to subsection (1) by Senate Bill 93-74 and House Bill 93-1342 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 138, Session Laws of Colorado 2013.

43-4-208. Municipal allocation. (1) After paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, and making allocation as provided by sections 43-4-206 and 43-4-207, the remaining nine percent of the highway users tax fund shall be paid to the cities and incorporated towns within the limits of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. Each city treasurer shall account for the

moneys thus received as provided in this part 2. Moneys so allocated shall be expended by the cities and incorporated towns for the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the system of streets of such city or incorporated town or of any public highways located within such city or incorporated town, including any state highways, together with the acquisition of rights-of-way and access rights for the same, and for the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation, or administration of transit-related projects, including, but not limited to, designated bicycle or pedestrian lanes of highway and infrastructure needed to integrate different transportation modes within a multimodal transportation system, and for no other purpose; except that a city or an incorporated town may expend no more than fifteen percent of the total amount expended under this subsection (1) for transit-related operational purposes and except that moneys paid to the cities and incorporated towns pursuant to section 43-4-205 (6.3) shall be expended by the cities and incorporated towns only for road safety projects, as defined in section 43-4-803 (21). The amount to be expended for administrative purposes shall not exceed five percent of each city's share of the funds available.

(2) For the purpose of allocating moneys in the highway users tax fund to the various cities and incorporated towns throughout the state, the following method is adopted:

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

Actual registrations	**Factor**
1 -- 500	1.0
501 -- 1,250	1.1
1,251 -- 2,500	1.2
2,501 -- 5,000	1.3
5,001 -- 12,500	1.4
12,501 -- 25,000	1.5
25,001 -- 50,000	1.6
50,001 -- 85,000	1.7
85,001 -- 130,000	1.8
130,001 -- 185,000	1.9
185,001 and over	2.0

(b) Twenty percent shall be allocated to the cities and incorporated towns in proportion to the mileage of open, used, and maintained streets in each city and incorporated town, excepting the mileage of state highways.

(3) The department of transportation, prior to July 1 of each year shall certify to the state treasurer the mileage figures as of December 31 of the preceding year of the several cities and

incorporated towns within the state, and the state treasurer shall use such mileage figures for the current fiscal year as the basis for the allocation mentioned.

(4) Repealed.

(5) For the purpose of this section, the city and county of Denver and the city and county of Broomfield shall be considered as cities.

(6) (a) In addition to the provisions of subsection (2)(a) of this section, on or after July 1, 1979, eighty percent of all additional funds becoming available to cities and incorporated towns from the highway users tax fund pursuant to sections 24-75-215, C.R.S., and 43-4-205 (6)(b)(III) shall be allocated to the cities and incorporated towns in proportion to the adjusted urban motor vehicle registration in each city and incorporated town. The term "urban motor vehicle registration", as used in this section, includes all passenger, truck, truck-tractor, and motorcycle registrations. The number of registrations used in computing the percentage shall be those certified to the state treasurer by the department of revenue as constituting the urban motor vehicle registration for the last preceding year. The adjusted registration shall be computed by applying a factor to the actual number of such registrations to reflect the increased standards and costs of construction resulting from the concentration of vehicles in cities and incorporated places. For this purpose the following table of actual registration numbers and factors shall be employed:

Actual registrations	**Factor**
1 -- 500	1.0
501 -- 1,250	1.1
1,251 -- 2,500	1.2
2,501 -- 5,000	1.3
5,001 -- 12,500	1.4
12,501 -- 25,000	1.5
25,001 -- 50,000	1.6
50,001 -- 85,000	1.7
85,001 -- 125,000	1.8
125,001 -- 165,000	1.9
165,001 -- 205,000	2.0
205,001 -- 245,000	2.1
245,001 -- 285,000	2.2
285,001 -- 325,000	2.3
325,001 -- 365,000	2.4
365,001 -- 405,000	2.5
405,001 -- 445,000	2.6
445,001 -- 485,000	2.7
485,001 -- 525,000	2.8
525,001 -- 565,000	2.9
565,001 -- 605,000	3.0

(b) The share allocated to the city and county of Denver shall be the amount determined by applying the applicable factors set forth in paragraph (a) of this subsection (6) and paragraph (b) of subsection (2) of this section.

(c) Repealed.

Source: L. 53: p. 505, § 8. **CRS 53:** § 120-12-8. **L. 59:** p. 648, § 2. **C.R.S. 1963:** § 120-12-8. **L. 65:** p. 930, § 7. **L. 71:** p. 1137, § 2. **L. 77:** (1) amended, p. 1937, § 1, effective May 26. **L. 79:** (1) amended, p. 1471, § 5, effective July 6; (1) amended and (6) added, p. 1606, §§ 1, 2, effective July 6. **L. 81:** (6)(c) R&RE, p. 1897, § 6, effective June 19. **L. 85:** (6)(c) repealed, p. 1271, § 12, effective May 30. **L. 87:** (1) and (6)(a) amended, p. 1556, § 8, effective July 1. **L. 89, 1st Ex. Sess.:** (1) amended, p. 67, § 25, effective August 1. **L. 91:** (3) amended, p. 1128, § 202, effective July 1. **L. 93:** (1) amended, p. 1518, § 23, effective June 6; (1) amended, p. 1799, § 110, effective June 6. **L. 2000:** (2)(a), (4), and (6)(a) amended, p. 1653, § 50, effective June 1. **L. 2001:** (5) amended, p. 273, § 30, effective November 15. **L. 2003:** (1) amended, p. 1703, § 14, effective May 14. **L. 2009:** (1) amended, (SB 09-108), ch. 5, p. 56, § 21, effective March 2. **L. 2013:** (1) amended, (SB 13-048), ch. 138, p. 451, § 4, effective July 1. **L. 2017:** (4) repealed, (HB 17-1107), ch. 101, p. 375, § 31, effective August 9.

Editor's note: (1) Amendments to subsection (1) by Senate Bill 79-407 and Senate Bill 79-536 were harmonized.

(2) Amendments to subsection (1) by Senate Bill 93-74 and House Bill 93-1342 were harmonized.

(3) The internal reference in the introductory portion to subsection (6)(a) to § 24-75-215 refers to that section as it existed prior to its repeal on July 1, 1991.

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 138, Session Laws of Colorado 2013.

43-4-209. Withholding municipal allocations. Any highway users tax fund money withheld by the state treasurer from allocation to any city or incorporated town, for any reason, shall in no case be withheld for a period to exceed six months from the date that the payment is to be made. After the six-month period has expired and the municipality has failed to correct the reason for withholding, the state treasurer shall pay the withheld funds to the county in which the city or incorporated town from which the funds are withheld is located, which funds shall be spent on the streets of said city or incorporated town.

Source: L. 53: p. 507, § 9. **CRS 53:** § 120-12-9. **L. 55:** p. 750, § 1. **C.R.S. 1963:** § 120-12-9. **L. 89, 1st Ex. Sess.:** Entire section amended, p. 63, § 20, effective August 1. **L. 94:** Entire section amended, p. 96, § 2, effective March 18.

43-4-210. Estimated county allocations. In all cases where the state treasurer is required by law to apportion the moneys in the highway users tax fund to the various counties, if the number of vehicles registered in any of the counties, excluding vehicles registered within the limits of a city or incorporated town within the county, is not available before the state treasurer makes the apportionment provided by law, the state treasurer may estimate the amount to be paid to any county, and may pay to any county a sum not to exceed seventy-five percent of the amount estimated to be due that county, and shall notify the county clerk and recorder in writing that the amount paid is an estimate because registration data is not available.

Source: L. 53: p. 507, § 10. **CRS 53:** § 120-12-10. **C.R.S. 1963:** § 120-12-10.

43-4-211. Estimated municipal allocations. In all cases where the state treasurer is required by law to apportion the moneys in the highway users tax fund to the various cities and incorporated towns within the state, if the number of vehicles registered in any of the cities or incorporated towns is not available before the state treasurer makes the apportionment provided by law, the state treasurer may estimate the amount to be paid to any such city or incorporated town, and may pay to such city or incorporated town a sum not to exceed seventy-five percent of the amount estimated to be due to such city or incorporated town, and shall notify the clerk of the city or incorporated town that the amount paid is an estimate because registration data is not available.

Source: L. 53: p. 507, § 11. **CRS 53:** § 120-12-11. **C.R.S. 1963:** § 120-12-11.

43-4-212. Payment of balances. After the state treasurer has made a payment to a county, city, or incorporated town based on his estimate, and the number of vehicles registered in the county, city, or incorporated town is available to the state treasurer, he shall compute the balance due and pay such balance to each of the counties, cities, or incorporated towns to which such payments have been made in the same manner as provided in this part 2.

Source: L. 53: p. 508, § 12. **CRS 53:** § 120-12-12. **C.R.S. 1963:** § 120-12-12.

43-4-213. Forfeiture of funds. Where any county, city, or incorporated town receiving funds from the state treasurer under the provisions of sections 43-4-210 and 43-4-211 fails to supply the state treasurer with the required information regarding the number of vehicles registered in said county, city, or incorporated town on or before the thirty-first day of December of the year following the year during which said registrations were made, the balance of said funds accruing to the said county, city, or incorporated town shall be deemed to be forfeited by said county, city, or incorporated town, and said funds shall be returned to the credit of the highway users tax fund to be reapportioned during the ensuing year in the manner provided in this part 2.

Source: L. 53: p. 508, § 13. **CRS 53:** § 120-12-13. **C.R.S. 1963:** § 120-12-13.

43-4-214. Future municipalities eligible. In cases of cities and towns incorporated subsequent to January 1, 1954, said cities and towns are entitled to such proportionate share of the highway users tax fund, subject to the same provisions and limitations as cities and incorporated towns included in the provisions of this part 2 before said date.

Source: L. 53: p. 508, § 14. **CRS 53:** § 120-12-14. **C.R.S. 1963:** § 120-12-14.

43-4-215. Allocation of funds to cities and towns as unincorporated territory - when. (Repealed)

Source: L. 55: p. 751, § 1. **CRS 53:** § 120-12-15. **C.R.S. 1963:** § 120-12-15. **L. 86:** Entire section repealed, p. 1134, § 12, effective July 1.

43-4-216. Liability unaffected. Nothing in sections 40-4-106 (2), C.R.S., 43-4-201, 43-4-204, 43-4-205, 43-4-206 (1), 43-4-207 (1), and 43-4-208 (1) shall be construed to affect, change, or modify in any way the existing law of this state concerning the responsibility or liability, if any, of the state or any agency thereof, or of any city, town, city and county, county, or other political subdivision of the state, or of any person, firm, or corporation, for any collision, accident, or occurrence at, about, or connected with any crossing of any public highway or road over the tracks of any railroad or street railway corporation.

Source: L. 65: p. 931, § 8. **C.R.S. 1963:** § 120-12-16.

PART 3

HIGHWAY ANTICIPATION WARRANTS

43-4-301. Legislative declaration. Because of the rapid growth of the economy of this state which has given rise to a greatly increased use of the public highways and roads and because of the fact that the existing roads and highways are insufficient by reason of the greatly expanded use of vehicular transportation thereon, it is declared to be the policy and purpose of the general assembly to make adequate provision for an expanded and improved network of highways and roads so as to serve properly the needs of the present-day economy.

Source: L. 55: p. 740, § 1. **CRS 53:** § 120-11-12. **C.R.S. 1963:** § 120-11-1.

43-4-302. Powers of commission - contracts approval. The transportation commission is authorized to enter into contracts with the federal government, the state of Colorado and any of its institutions and agencies, counties, municipalities, districts, and any other political subdivisions of the state, and any department, agency, or instrumentality thereof, or any political or public corporation of the state or with private investors necessary or incident to the performance of its duties and execution of its powers under this section; except that any contract relating to the financing of any such construction, improvement, and reconstruction of highways and bridges shall be approved by the governor before the same becomes effective.

Source: L. 55: p. 740, § 2. **CRS 53:** § 120-11-13. **C.R.S. 1963:** § 120-11-2. **L. 73:** p. 1415, § 88. **L. 91:** Entire section amended, p. 1128, § 203, effective July 1.

43-4-303. Anticipation warrants - issuance - sale - fund. (Repealed)

Source: L. 55: p. 741, § 3. p. 745, § 3. **CRS 53:** § 120-11-14. **C.R.S. 1963:** § 120-11-3. **L. 73:** p. 1415, § 89. **L. 91:** Entire section amended, p. 1128, § 204, effective July 1. **L. 2005:** Entire section repealed, p. 297, § 63, effective August 8.

43-4-304. Interest - terms - public sale. (Repealed)

Source: L. 55: pp. 741, 746, §§ 4, 4. **CRS 53:** § 120-11-15. **L. 57:** p. 638, § 1. **C.R.S. 1963:** § 120-11-4. **L. 91:** (2) to (5) amended, p. 1129, § 205, effective July 1. **L. 2005:** Entire section repealed, p. 297, § 64, effective August 8.

43-4-305. Warrants legal investments. (Repealed)

Source: L. 55: p. 741, § 5. **CRS 53:** § 120-11-16. **C.R.S. 1963:** § 120-11-5. **L. 2005:** Entire section repealed, p. 299, § 65, effective August 8.

43-4-306. Signatures validated. (Repealed)

Source: L. 55: p. 742, § 6. **CRS 53:** § 120-11-17. **C.R.S. 1963:** § 120-11-6. **L. 2005:** Entire section repealed, p. 299, § 66, effective August 8.

43-4-307. Sinking fund. (Repealed)

Source: L. 55: p. 742, § 7. **CRS 53:** § 120-11-18. **C.R.S. 1963:** § 120-11-7. **L. 91:** Entire section amended, p. 1130, § 206, effective July 1. **L. 2005:** Entire section repealed, p. 299, § 67, effective August 8.

43-4-308. Redemption. (Repealed)

Source: L. 55: p. 742, § 8. **CRS 53:** § 120-11-19. **L. 57:** p. 640, § 2. **C.R.S. 1963:** § 120-11-8. **L. 91:** Entire section amended, p. 1130, § 207, effective July 1. **L. 2005:** Entire section repealed, p. 299, § 68, effective August 8.

43-4-309. Warrant obligations. (Repealed)

Source: L. 55: pp. 742, 748, §§ 9, 5. **CRS 53:** § 120-11-20. **C.R.S. 1963:** 120-11-9. **L. 91:** Entire section amended, p. 1131, § 208, effective July 1. **L. 2005:** Entire section repealed, p. 300, § 69, effective August 8.

43-4-310. Obligation only from highway fund. (Repealed)

Source: L. 55: p. 743, § 10. **CRS 53:** § 120-11-21. **C.R.S. 1963:** § 120-11-10. **L. 91:** Entire section amended, p. 1131, § 209, effective July 1. **L. 2005:** Entire section repealed, p. 300, § 70, effective August 8.

43-4-311. Authority not in derogation of existing powers. (Repealed)

Source: L. 55: p. 743, § 11. **CRS 53:** § 120-11-22. **C.R.S. 1963:** § 120-11-11. **L. 91:** Entire section amended, p. 1131, § 210, effective July 1. **L. 2005:** Entire section repealed, p. 300, § 71, effective August 8.

43-4-312. Full authority. (Repealed)

Source: L. 55: p. 743, § 12. **CRS 53:** § 120-11-23. **C.R.S. 1963:** § 120-11-12. **L. 73:** p. 1415, § 90. **L. 91:** Entire section amended, p. 1131, § 211, effective July 1. **L. 2005:** Entire section repealed, p. 300, § 72, effective August 8.

43-4-313. Authorization. (Repealed)

Source: L. 55: p. 745, § 2. **CRS 53:** § 120-11-25. **C.R.S. 1963:** § 120-11-14. **L. 91:** Entire section amended, p. 1132, § 212, effective July 1. **L. 2005:** Entire section repealed, p. 301, § 73, effective August 8.

43-4-314. Highway building fund obligations unaffected. (Repealed)

Source: L. 55: p. 748, § 6. **CRS 53:** § 120-11-26. **C.R.S. 1963:** § 120-11-15. **L. 91:** Entire section amended, p. 1132, § 213, effective July 1. **L. 2005:** Entire section repealed, p. 301, § 74, effective August 8.

43-4-315. Legislative declaration. (Repealed)

Source: L. 63: p. 800, § 1. **C.R.S. 1963:** § 120-11-16. **L. 91:** Entire section amended, p. 1132, § 214, effective July 1. **L. 2005:** Entire section repealed, p. 301, § 75, effective August 8.

43-4-316. Additional powers. (Repealed)

Source: L. 63: p. 800, § 2. **C.R.S. 1963:** § 120-11-17. **L. 89:** (1)(c) amended, p. 1600, § 22, effective July 1, 1993. **L. 91:** IP(1), (1)(a), (1)(b), and (1)(c) amended, p. 1132, § 215, effective July 1. **L. 2005:** Entire section repealed, p. 301, § 76, effective August 8.

43-4-317. Execution. (Repealed)

Source: L. 63: p. 801, § 3. **C.R.S. 1963:** § 120-11-18. **L. 2005:** Entire section repealed, p. 302, § 77, effective August 8.

43-4-318. Legal investments. (Repealed)

Source: L. 63: p. 801, § 4. **C.R.S. 1963:** § 120-11-19. **L. 89:** Entire section amended, p. 1133, § 79, effective July 1. **L. 2005:** Entire section repealed, p. 302, § 78, effective August 8.

PART 4

LAW ENFORCEMENT ASSISTANCE FUND
FOR THE PREVENTION OF DRUNKEN DRIVING

43-4-401. Fund created. The law enforcement assistance fund for the prevention of drunken driving and the enforcement of laws pertaining to driving under the influence of alcohol

or drugs, referred to in this part 4 as the "fund", is hereby created in the office of the state treasurer.

Source: L. 82: Entire part added, p. 608, § 15, effective July 1.

43-4-402. Source of revenues - allocation of money. (1) The general assembly shall appropriate moneys annually to the fund in the general appropriation bill. In addition to any other penalty imposed pursuant to section 42-4-1307, C.R.S., every person who is convicted of, pleads guilty to, or receives a deferred sentence pursuant to section 18-1.3-102, C.R.S., for a violation of any of the offenses specified in section 42-4-1301 (1) or (2), C.R.S., shall be required to pay seventy-five dollars, which shall be deposited into the fund, and fifteen dollars, which shall be deposited into the county treasury of the county in which the conviction occurred.

(2) (a) The general assembly shall make an annual appropriation out of the money in the fund to the department of public health and environment in an amount sufficient to pay for the costs of evidential breath alcohol testing, including any education needs associated with testing, and implied consent specialists, the costs of which were previously paid out of the highway users tax fund. The general assembly shall also make an annual appropriation out of the money in the fund to the Colorado bureau of investigation to pay for the costs of toxicology laboratory services, including any education needs associated with the services. Of the money remaining in the fund, eighty percent shall be deposited in a special drunken driving account in the fund, which account is created, and be available immediately, without further appropriation, for allocation by the transportation commission to the office of transportation safety. The office of transportation safety shall allocate the money in accordance with the provisions of section 43-4-404 (1) and (2). The remaining twenty percent shall be appropriated by the general assembly to the office of behavioral health in the department of human services, which shall use the money for the purposes stated in section 43-4-404 (3). The office of transportation safety and the office of behavioral health in the department of human services may use amounts from the money allocated or appropriated to them by this subsection (2) as necessary for the purpose of paying the costs incurred by the office of transportation safety and the office of behavioral health in administering the programs established pursuant to this part 4; except that neither the office of transportation safety nor the office of behavioral health may use for the purposes of this part 4 an amount exceeding eight percent of the money allocated or appropriated.

(b) Repealed.

(3) and (4) Repealed.

Source: L. 82: Entire part added, p. 608, § 15, effective July 1. **L. 83:** Entire section amended, p. 1665, § 1, effective July 15. **L. 84:** (2) amended, p. 1124, § 41, effective June 7. **L. 86:** (1) amended, p. 1212, § 1, effective July 1. **L. 90:** (1) and (2) amended, p. 1829, § 4, effective July 1. **L. 91:** (2) amended, p. 1133, § 216, effective July 1. **L. 93:** (2) amended, p. 1126, § 48, effective July 1, 1994. **L. 94:** (1) amended, p. 2572, § 100, effective January 1, 1995. **L. 2000:** (2) amended, p. 262, § 3, effective July 1. **L. 2003:** (2) amended, p. 459, § 23, effective March 5. **L. 2006:** (2)(b) repealed, p. 150, § 39, effective August 7. **L. 2007:** (1) amended, p. 2051, § 106, effective June 1. **L. 2010:** (3) added, (HB 10-1327), ch. 135, p. 451, § 11, effective April 15; (4) added, (HB 10-1388), ch. 362, p. 1717, § 5, effective June 7; (1) amended, (HB 10-1347), ch. 258, p. 1160, § 12, effective July 1. **L. 2011:** (2)(a) amended, (HB 11-1303), ch. 264,

p. 1184, § 115, effective August 10. **L. 2013:** (2)(a) amended, (HB 13-1300), ch. 316, p. 1710, § 144, effective August 7. **L. 2014:** (2)(a) amended and (3) and (4) repealed, (HB 14-1340), ch. 124, p. 442, § 2, effective April 18. **L. 2017:** (2)(a) amended, (SB 17-242), ch. 263, p. 1261, § 26, effective May 25.

Cross references: (1) For additional costs imposed on criminal actions and traffic offenses, see §§ 24-4.1-119 and 24-4.2-104; for additional costs levied on alcohol- and drug-related traffic offenses, see §§ 42-4-1301.4 (5) and 42-4-1307 (14); for disposition of fines and surcharges, see § 42-1-217.

(2) For the legislative declaration contained in the 1993 act amending subsection (2) of this section, see section 1 of chapter 230, Session Laws of Colorado 1993.

(3) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

43-4-403. Drunken driving prevention and law enforcement program - minimum requirements. Any municipality, city and county, or county which establishes a qualified program to coordinate efforts to prevent drunken driving and enforce the laws pertaining to alcohol- and drug-related traffic offenses shall be eligible to receive moneys from the fund. The minimum requirements for such a qualified program shall be established by rules and regulations promulgated by the office of transportation safety in the department of transportation, which rules and regulations shall provide for programs, including but not limited to, programs to educate the public regarding alcohol- and drug-related traffic offenses.

Source: L. 82: Entire part added, p. 609, § 15, effective July 1. **L. 91:** Entire section amended, p. 1133, § 217, effective July 1.

43-4-404. Formula for allocation of money - rules. (1) The office of transportation safety shall allocate not less than thirty percent and not more than fifty percent of the moneys allocated to the office pursuant to section 43-4-402 (2) to counties that have established a qualified drunken driving prevention and law enforcement program. The intent of the general assembly is that these moneys be expended in a manner that will improve enforcement of drunken driving laws. To this end, rules for the distribution of these moneys shall be developed by the office of transportation safety. All moneys appropriated hereunder shall be used for drunken driving prevention and law enforcement improvement by counties and not for statewide programs.

(2) The office of transportation safety shall allocate not less than fifty percent and not more than seventy percent of the moneys to municipalities and city and counties that have established a qualified drunken driving prevention and law enforcement program. The intent of the general assembly is that these moneys be expended in a manner that will improve enforcement of drunken driving laws. To this end, rules for the distribution of these moneys shall be developed by the office of transportation safety. The office shall report annually to the transportation legislation review committee on the distribution and expenditure of these funds and the nature and purpose of the programs. All moneys appropriated hereunder shall be used for drunken driving prevention and law enforcement improvement by municipalities and city and counties and not for statewide programs.

(3) The money in the fund appropriated to the office of behavioral health in the department of human services pursuant to section 43-4-402 (2) must be used to establish a statewide program for the prevention of driving after drinking, including educating the public in the problems of driving after drinking; training teachers, health professionals, and law enforcement in the dangers of driving after drinking; preparing and disseminating educational materials dealing with the effects of alcohol and other drugs on driving behavior; and preparing and disseminating education curriculum materials for use at all school levels. The office of behavioral health in the department of human services is authorized to contract with a qualified private corporation to provide all or part of these services and to establish standards for the program.

Source: L. 82: Entire part added, p. 609, § 15, effective July 1. **L. 83:** (3) amended, p. 396, § 7, effective June 3; entire section amended, p. 1666, § 2, effective June 15. **L. 86:** (1) and (2) amended, p. 1212, § 2, effective July 1. **L. 91:** (1) and (2) amended, p. 1134, § 218, effective July 1. **L. 93:** (3) amended, p. 1126, § 49, effective July 1, 1994. **L. 2000:** (1) and (2) amended, p. 262, § 4, effective July 1. **L. 2002:** (1) and (2) amended, p. 873, § 13, effective August 7. **L. 2011:** (3) amended, (HB 11-1303), ch. 264, p. 1184, § 116, effective August 10. **L. 2017:** (3) amended, (SB 17-242), ch. 263, p. 1261, § 27, effective May 25; (1) amended, (SB 17-231), ch. 174, p. 634, § 4, effective August 9.

Editor's note: Amendments to this section by Senate Bill 83-215 and House Bill 83-1356 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1993 act amending subsection (3) of this section, see section 1 of chapter 230, Session Laws of Colorado 1993.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

PART 5

PUBLIC HIGHWAY AUTHORITY LAW

43-4-501. Short title. This part 5 shall be known and may be cited as the "Public Highway Authority Law".

Source: L. 87: Entire part added, p. 1843, § 1, effective August 27.

43-4-502. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The necessity for this part 5 results from the large population and population growth within metropolitan regions in the state, from the significant and growing demand for construction of beltways within such metropolitan regions to facilitate traffic movement in such metropolitan regions and the inadequacy of current transportation facilities to meet that demand, from the division of such metropolitan regions into a variety of incorporated and unincorporated areas, from the need to coordinate planning and construction of beltways or other transportation

improvements to serve regional needs, and from the limited availability of state and federal funds for such purposes;

(b) The creation of public highway authorities implements section 18 (2) of article XIV of the state constitution and is essential to the continued economic growth of the metropolitan regions of this state, is in the public interest, and will promote the health, safety, and welfare of the citizens of this state by securing for them more adequate transportation;

(c) It is the intention of the general assembly that public highway authorities be formed to finance, construct, operate, or maintain all or a portion of a beltway or other transportation improvements in a metropolitan region which, because of the cost or the location thereof in the jurisdiction of more than one municipality or county, cannot feasibly be financed, constructed, operated, or maintained by a municipality or county acting alone and that it is not the intention of the general assembly that public highway authorities be formed to assume, directly or indirectly, the traditional role of counties or municipalities to finance, construct, operate, or maintain local arterial or collector streets;

(d) It is the intention of the general assembly that a beltway developed pursuant to this part 5 shall ultimately be supported by tolls and that, therefore, it is the intention of the general assembly that revenue-raising powers other than tolls, granted by this part 5 to authorities, counties, and municipalities, shall be terminated at such time as the boards of the authorities determine that projected tolls will be sufficient to meet the authorities' obligations to their bondholders and to operate and maintain such beltways or other transportation improvements.

(2) It is further the intent of the general assembly that no provision of this part 5 shall affect the "Public School Finance Act of 1973", article 50 of title 22, C.R.S., the "Public School Finance Act of 1988", article 53 of title 22, C.R.S., the "Public School Finance Act of 1994", article 54 of title 22, C.R.S., or any additional school financing mechanisms adopted by the general assembly.

(3) The general assembly further finds, determines, and declares that it is the intention of the general assembly that public highway authorities be permitted to qualify as enterprises under section 20 of article X of the state constitution. Since the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), determined that the power to impose taxes is inconsistent with the establishment of a public highway authority as an "enterprise" under section 20 of article X of the state constitution, those powers of taxation are hereby eliminated by S.B. 96-173, as enacted at the second regular session of the sixtieth general assembly.

Source: L. 87: Entire part added, p. 1843, § 1, effective August 27. **L. 89:** (2) amended, p. 1647, § 27, effective June 5. **L. 96:** (3) added, p. 35, § 1, effective March 18. **L. 2007:** (2) amended, p. 2051, § 107, effective June 1.

43-4-503. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Authority" means a body corporate and political subdivision of the state created pursuant to this part 5.

(2) "Board" means the board of directors of an authority.

(3) "Bond" means any bond, note, interim certificate, contract, or other evidence of indebtedness of an authority authorized by this part 5.

(4) "Combination" means any two or more municipalities, two or more counties, or one or more municipalities and one or more counties. In addition, "combination" may include the state to the extent authorized by section 43-4-504 (4).

(5) "Construct" or "construction" means the planning, designing, engineering, acquisition, installation, construction, and reconstruction of public highways.

(6) "County" means any county organized under the laws of the state, including any city and county.

(7) "Division" means the division of local government in the department of local affairs.

(8) "Governmental unit" means the state or any political subdivision thereof located in a metropolitan region, except school districts or authorities.

(9) "Metropolitan region" means an area which is designated a consolidated metropolitan statistical area by the federal office of management and budget and has a population in excess of one million persons.

(10) "Municipality" has the same meaning as that provided in section 31-1-101, C.R.S.

(11) "Person" means any natural person, corporation, partnership, association, or joint venture, the United States of America, or any governmental unit.

(12) "Public highway" means a beltway or other transportation improvement located in a metropolitan region which shall be an expressway which generally circumscribes a metropolitan region and will be primarily utilized for major traffic movement at higher traffic speeds. A public highway may, as the board determines, consist of improvements, including, but not limited to, paving, grading, landscaping, curbs, gutters, culverts, sidewalks, bikeways, lighting, bridges, overpasses, underpasses, rail crossings, frontage roads, access roads, interchanges, drainage facilities, mass transit lanes, park-and-ride facilities, toll collection facilities, service areas, administrative or maintenance facilities, gas, electric, water, sewer, and other utilities located or to be located in the right-of-way for a public highway, and other real or personal property, including easements, rights-of-way, and other interests therein, relating to the financing, construction, operation, or maintenance of a public highway.

(13) "Revenues" means any tolls, fees, rates, charges, assessments, grants, contributions, or other income and revenues received by the authority.

(14) "Sales taxes" means, for the purposes of section 43-4-508, county or municipal sales and use taxes levied and collected within a value capture area.

(15) "State" means the state of Colorado or any of its agencies.

Source: L. 87: Entire part added, p. 1844, § 1, effective August 27. **L. 96:** (13) and (14) amended, p. 35, §2, effective March 18. **L. 2000:** (12) amended, p. 472, § 1, effective August 2.

43-4-504. Creation of authorities. (1) Any combination may create, by contract, an authority which shall be authorized to exercise the functions conferred by the provisions of this part 5 upon the issuance by the director of the division of a certificate stating that the authority has been duly organized according to the laws of the state. Such certificate shall be issued by the director upon the filing with him of a copy of the contract by the combination joining in the creation of the authority and upon a determination by him that each member of the combination is located in the same metropolitan region. The director shall cause such certificate to be recorded in the real estate records in each county which has territory included in the boundaries of the authority. Upon issuance of the certificate by the director of the division, the authority

shall constitute a separate political subdivision and body corporate of the state and shall have all of the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

(2) Any contract establishing an authority shall specify:

(a) The name and purpose of the authority and the public highways to be provided;

(b) The establishment and organization of the board of directors in which all legislative power of the authority is vested, including:

(I) The number of directors, which shall include at least one elected official from each member of the combination, except as provided in subsection (4) of this section; except that all of the directors shall be elected officials from the members of the combination, except as provided in subsection (4) of this section;

(II) The manner of their appointment, their qualifications, their compensation, if any, and the procedure for filling vacancies;

(III) The officers of the authority, the manner of their appointment, and their duties; and

(IV) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of the voting members of the board shall constitute a quorum and a majority of the quorum shall be necessary for action by the board of directors;

(c) Provisions for the distribution, disposition, or division of assets of the authority;

(d) The boundaries of the authority, which may include territory which, at the time of designation, is not more than one and one-half miles from the proposed center line of the public highway to be constructed but which may not include territory outside of the boundaries of the members of the combination; except that the boundaries of the authority may not include territory which, at the time the territory is included within the boundaries of the authority, is located within the boundaries of a municipality, unless such municipality is either a member of the combination or consents to the inclusion of such territory within the boundaries of the authority;

(e) The term of the contract, which may be for a definite term or until rescinded or terminated, and the method, if any, by which it may be terminated or rescinded; except that the contract may not be rescinded so long as the authority has bonds outstanding;

(f) Provisions for amendment of the contract;

(g) Limitations, if any, on the powers granted by this part 5 which may be exercised by the authority pursuant to this part 5; and

(h) The conditions to be satisfied to add or delete parties to the contract.

(3) No municipality or county shall enter into the contract establishing the authority without holding a hearing thereon. Notice of the time, place, and purpose of the hearing shall be given by publication in a newspaper of general circulation in the municipality or county, as the case may be, at least ten days prior to the date of the hearing.

(4) The state, acting by and through the commission and upon the approval of the governor, may join in the contract creating the authority. The number of members on the board to which the state shall be entitled shall be established in the contract, but in no case shall the state be entitled to less than one member of the board. The state member or members of the board shall be appointed by the governor, with the consent of the senate, for such term as shall be established by the governor.

(5) The appropriate regional transportation agency, if any, the air quality control commission, and the regional planning commission, if any, shall each designate a representative to serve as nonvoting members of the board.

Source: L. 87: Entire part added, p. 1845, § 1, effective August 27.

43-4-505. Board of directors. (1) (a) All powers, privileges, and duties vested in or imposed upon the authority shall be exercised and performed by and through the board. The board, by resolution, may delegate any of the powers of the board to any of the officers or agents of the board; except that, to ensure public participation in policy decisions, the board shall not delegate the following:

(I) Adoption of board policies and procedures;

(II) Approval of final roadway alignments;

(III) Ratification of acquisition of land by negotiated sale;

(IV) Instituting an eminent domain action, which may be at a public hearing or in executive session;

(V) Initiating or continuing legal action, not including traffic or toll violations; and

(VI) Establishment of fee policies.

(b) The board shall promulgate and adhere to policies and procedures that govern its conduct and provide meaningful opportunities for public input. Such policies shall include standards and procedures for calling an emergency meeting.

(2) Any member of the board shall disqualify himself from voting on any issue with respect to which he has a conflict of interest, unless such member has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S.

(3) The board, in addition to all other powers conferred by this part 5, has the following powers:

(a) To adopt bylaws;

(b) To fix the time and place of meetings, whether within or without the boundaries of the authority, and the method of providing notice of the meetings;

(c) To make and pass orders and resolutions necessary for the government and management of the affairs of the authority and the execution of the powers vested in the authority;

(d) To adopt and use a seal;

(e) To maintain offices at such place or places as it may designate;

(f) To appoint, hire, and retain employees, agents, engineers, attorneys, accountants, financial advisors, investment bankers, and other consultants;

(g) To prescribe methods for auditing and allowing or rejecting claims and demands and methods for the letting of contracts for the construction of improvements, works, or structures, for the acquisition of equipment, or for the performance or furnishing of such labor, materials, or supplies as may be required for carrying out the purposes of this part 5; and

(h) To appoint advisory committees and define the duties thereof.

Source: L. 87: Entire part added, p. 1847, § 1, effective August 27. **L. 2002:** (1) amended, p. 402, § 4, effective August 7.

43-4-506. Powers of the authority - inclusion or exclusion of property - determination of public highway alignment. (1) In addition to any other powers granted to the authority pursuant to this part 5, the authority has the following powers:

(a) To have perpetual existence, except as otherwise provided in the contract;

(b) To sue and be sued;

(c) To enter into contracts and agreements affecting the affairs of the authority;

(d) To establish, collect, and, from time to time, increase or decrease fees, tolls, rates, and charges for the privilege of traveling on any public highway financed, constructed, operated, or maintained by the authority, without any supervision or regulation of such fees tolls, rates, and charges by any board, agency, bureau, commission, or official;

(e) To pledge all or any portion of the revenues to the payment of bonds of the authority;

(f) To construct, finance, operate, or maintain public highways within or without the boundaries of the authority; except that:

(I) The authority shall not construct public highways in any territory located outside the boundaries of the authority and within the boundaries of a municipality without the consent of the governing body of such municipality or within the unincorporated boundaries of a county without the consent of the governing body of such county; and

(II) (A) Upon completion, no public highway of more than three lanes shall have at-grade intersections unless the authority is constructing a public highway to use or connect to existing at-grade infrastructure, the governing body of the municipality, county, or entity that owns the at-grade infrastructure has approved the use of the existing at-grade infrastructure as a part of the public three-lane highway, and the authority and the Colorado department of transportation have executed an intergovernmental agreement that specifies the circumstances under which the construction of an above-grade or below-grade intersection is required and the entity responsible for payment of construction costs to build such intersection.

(B) If the authority is connecting with the at-grade infrastructure of the Colorado department of transportation, the Colorado department of transportation shall be required to give the approval required by sub-subparagraph (A) of this subparagraph (II).

(g) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, and encumber real or personal property and any interest therein, including easements and rights-of-way, without restriction or limitation by other statutory or charter provisions;

(h) (I) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use and to take any private property necessary to exercise the powers granted in this part 5, either within or without the boundaries of the authority; except that the authority shall not exercise the power of eminent domain with respect to property located outside the boundaries of the authority and within the boundaries of a municipality without the consent of the governing body of such municipality or within the unincorporated boundaries of a county without the consent of the governing body of such county.

(II) To the extent applicable, in addition to any compensation awarded the owner in an eminent domain proceeding pursuant to the requirements of subparagraph (I) of this paragraph (h), and any benefits that may be due the owner pursuant to article 56 of title 24, C.R.S., the authority shall additionally reimburse the owner whose property is being acquired or condemned by such authority the following:

(A) An amount representing the reasonable costs of relocating the individuals, families, and business concerns that will be displaced by such authority, including, without limitation, moving expenses and actual direct losses of property resulting from the displacement. In the case of an owner that is a business concern, such amount shall also cover expenses incurred in connection with the reestablishment of such concern, including, without limitation, expenses incurred in connection with the construction of replacement facilities or utility, water, or sewer connections, as well as lost profits that are reasonably related to relocation of the business resulting from the displacement for which reimbursement or compensation is not otherwise made; and

(B) In connection with proceedings for the authority's acquisition or condemnation of property pursuant to this part 5 in which the final value of the property as determined by the court exceeds ten thousand dollars, the court shall award the owner all of such owner's reasonable attorney fees and the reasonable costs of the litigation incurred by such owner where the award by the court in such proceedings equals or exceeds one hundred thirty percent of the last written offer given to the property owner prior to the filing of the condemnation action. For purposes of this sub-subparagraph (B), the reasonable costs of litigation shall include, but not be limited to, those items includable as costs in accordance with section 13-16-122, C.R.S.

(i) To accept real or personal property for the use of the authority and to accept gifts and conveyances upon such terms and conditions as the board may approve;

(j) To establish, and from time to time increase or decrease, a highway expansion fee and collect such fee from persons who own property located within the boundaries of the authority who apply for a building permit for improvements on such property, which permit is issued in accordance with applicable ordinances, resolutions, or regulations of any county or municipality. After such fees have been established by the authority, no building permit shall be issued by any county or municipality for any improvement constructed within the boundaries of the authority until such fees have been paid to the authority.

(k) To impose an annual motor vehicle registration fee of not more than ten dollars for each motor vehicle registered with the authorized agent, as defined in section 42-1-102, of the county by persons residing in all or any designated portion of the members of the combination. The registration fee is in addition to any fee or tax imposed by the state or any other governmental unit. If a motor vehicle is registered in a county which is a member of more than one authority, the total of all fees imposed pursuant to this subsection (1)(k) for any such motor vehicle shall not exceed ten dollars. The authorized agent shall collect the fee and remit the fee to the authority. The authority shall apply the registration fees solely to the financing, construction, operation, or maintenance of public highways.

(l) to (n) Repealed.

(o) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this part 5. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5.

(2) A public highway authority shall not accept or expend federal funds unless such federal funds are in excess of federal funds for the fiscal year commencing July 1, 1987, or unless such federal funds are specifically authorized, allocated, or made available by the federal government, and unless such acceptance or expenditure is consistent with section 43-1-113 (13).

(3) (a) The board may include property within or exclude property from the boundaries of the authority in the manner provided in this subsection (3). Property may not be included within the boundaries of the authority unless it is within the boundaries of the members of the combination, is contiguous to property within the boundaries of the authority at the time of the inclusion, and is not more than two and one-half miles from the proposed center line of the public highway as described in the contract required by section 43-4-504 (2).

(b) Prior to any inclusion or exclusion of property, the board shall cause notice of the proposed inclusion or exclusion to be published in a newspaper of general circulation within the boundaries of the authority and cause such notice to be mailed to the division, to the transportation commission, and to the owners of property to be included or excluded at the last known address described for such owners in the real estate records of the county in which such property is located. Such notice shall describe the property to be included within or excluded from the boundaries of the authority, shall specify the date, time, and place at which the board shall hold a public hearing on the proposed inclusion or exclusion, and shall state that persons having objections to the inclusion or exclusion may appear at such hearing to object to the proposed inclusion or exclusion. The date of such public hearing contained in such notice shall be not less than twenty days after the mailing and publication of the notice. The board at the time and place designated in the notice or at such times and places to which the hearing may be adjourned shall hear all objections to the proposed inclusion or exclusion. The board, upon the affirmative vote of two-thirds of the members of the board, may adopt a resolution including or excluding all or any portion of the property described in the notice. Upon the adoption of such resolution, such property shall be included within or excluded from the boundaries of the authority as set forth in the resolution. Such resolution may be adopted by the board without amending the contract required by section 43-4-504 (2). The resolution shall be filed with the director of the division, who shall cause such resolution to be recorded in the real estate records of each county that has territory included in the boundaries of the authority.

(c) All property excluded from the authority shall thereafter be subject to the revenue-raising powers of the authority only to the extent that such powers have been exercised by the authority against such property prior to the exclusion and to the extent required to comply with agreements with the holders of bonds outstanding at the time of the exclusion. All property included within the authority shall thereafter be subject to the revenue-raising powers of the authority. In no way will this section affect or increase property taxes in the affected territory or jurisdiction.

(4) The board, upon the affirmative vote of two-thirds of the members of the board, may determine the location of the alignment of the public highway, subject only to any limitation existing pursuant to paragraph (f) of subsection (1) of this section.

Source: L. 87: Entire part added, p. 1847, § 1, effective August 27. **L. 91:** (2) amended, p. 1134, § 219, effective July 1. **L. 93:** (3) and (4) added, p. 960, § 1, effective June 1. **L. 96:** (1)(l), (1)(m), and (1)(n) repealed, p. 36, § 3, effective March 18. **L. 2000:** (1)(h) amended, p. 1717, § 1, effective June 1; (1)(f) amended, p. 472, § 2, effective August 2. **L. 2002:** (1)(h)(II)(B) amended, p. 952, § 2, effective June 1. **L. 2017:** (1)(k) amended, (HB 17-1107), ch. 101, p. 375, § 32, effective August 9.

Editor's note: Section 2 of chapter 351, Session Laws of Colorado 2000, provides that the act amending subsection (1)(h) applies to any proceeding involving the acquisition or condemnation of property by a public highway authority through the exercise of its eminent domain powers commenced on or after June 1, 2000, and to any proceeding for the acquisition or condemnation of property by a public highway authority commenced before June 1, 2000, for which there has been neither a final adjudication of the parties' rights with respect to such property nor a final settlement of all claims as of June 1, 2000.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(h)(II)(B), see section 1 of chapter 253, Session Laws of Colorado 2002.

43-4-506.5. Traffic laws - toll collection. (1) The traffic laws of this state, and those of any municipality through which passes a public highway constructed, operated, or maintained by an authority, and such an authority's rules and regulations regarding toll collection and enforcement shall pertain to and govern the use of any such public highway. State and local law enforcement authorities are authorized to enter into traffic and toll enforcement agreements with authorities. Any funds received by a state law enforcement authority pursuant to such toll enforcement agreement shall be subject to annual appropriations by the general assembly to such law enforcement authority for the purpose of performing its duties pursuant to such agreement.

(2) Any authority may adopt, by resolution of its board, rules pertaining to the enforcement of toll collection and evasion and providing a civil penalty for toll evasion. The civil penalty established by an authority for any toll evasion shall be not less than ten dollars nor more than two hundred fifty dollars in addition to any costs imposed by a court. An authority may use state of the art technology, including, but not limited to, automatic vehicle identification photography, to aid in the collection of tolls and enforcement of toll violations. The use of state of the art technology to aid in enforcement of toll violations shall be governed solely by this section.

(3) (a) Any person who evades a toll established by an authority shall be subject to the civil penalty established by that authority for toll evasion. Any peace officer as described in section 16-2.5-101, C.R.S., shall have the authority to issue civil penalty assessments, or municipal summons and complaints if authorized pursuant to a municipal ordinance, for such toll evasion.

(b) At any time that a person is cited for toll evasion, the person operating the motor vehicle involved shall be given either a notice in the form of a civil penalty assessment notice or a municipal summons and complaint. If a civil penalty assessment is issued, such notice shall be tendered by a peace officer as described in section 16-2.5-101, C.R.S., and shall contain the name and address of such person, the license number of the motor vehicle involved, the number of such person's driver's license, the nature of the violation, the amount of the penalty prescribed for the violation, the date of the notice, a place for such person to execute a signed acknowledgment of such person's receipt of the civil penalty assessment notice, a place for such person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute such notice as a complaint to appear for adjudication of toll evasion pursuant to this section if the prescribed toll, fee, and civil penalty are not paid within twenty days. Every cited person shall execute the signed acknowledgment of the person's receipt of the civil penalty assessment notice.

(c) The acknowledgment of liability shall be executed at the time the cited person pays the prescribed penalty. The person cited shall pay the toll, fee, and civil penalty authorized by the authority involved at the office of such authority, either in person or by postmarking such payment within twenty days of the citation. If the person cited does not pay the prescribed toll, fee, and civil penalty within twenty days of the notice, the civil penalty assessment notice shall constitute a complaint to appear for adjudication of toll evasion in court or in an administrative toll enforcement proceeding, and the person cited shall, within the time specified in the civil penalty assessment notice, file an answer to this complaint in the manner specified in the notice.

(d) If a municipal summons and complaint is issued, the adjudication of the violation shall be conducted and the format of the summons and complaint shall be determined pursuant to the terms of the municipal ordinance authorizing issuance of such a summons and complaint. In no case shall the penalty upon conviction for violation of a municipal ordinance for toll evasion exceed the limit established in subsection (2) of this section.

(4) (a) The respective courts of the municipalities, counties, and cities and counties are given jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a public highway operated by an authority and arising under the toll evasion civil penalty regulations enacted by authorities. Venue for such cases shall be in the municipality, county, or city and county where the alleged violation of municipal ordinance or state law or of the authority regulation occurred.

(b) At the request of the judicial department, an authority shall consider establishing an administrative toll enforcement process and may, by resolution, adopt rules creating such a process. The rules pertaining to the administrative enforcement of toll evasion shall require notice to the person cited for toll evasion and provide to the person an opportunity to appear at an open hearing conducted by an impartial hearing officer and a right to appeal the final administrative determination of toll evasion to the county court for the county in which the violation occurred.

(c) If an authority establishes an administrative toll enforcement process, no court of a municipality, county, or city and county shall have jurisdiction to hear toll evasion cases arising on a public highway operated by the authority.

(d) A toll evasion case may be adjudicated by an impartial hearing officer in an administrative hearing conducted pursuant to this section and the rules promulgated by an authority. The hearing officer may be an administrative law judge employed by the state or an independent contractor of the authority. The contract for an independent contractor shall grant to the hearing officer the same degree of independence granted to an administrative law judge employed by the state. An authority may enter into contracts pursuant to section 29-1-203, C.R.S., for joint adjudication of toll evasion cases pursuant to this section.

(e) An authority may file a certified copy of an order imposing a toll, fee, and civil penalty that is entered by the hearing officer in an adjudication of a toll evasion with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. The order shall thenceforth have the effect of a judgment of the county court, and execution may issue on the order out of the court as in other cases.

(f) An administrative adjudication of a toll evasion by an authority is subject to judicial review. The administrative adjudication may be appealed as to matters of law and fact to the

county court for the county in which the violation occurred. The appeal shall be a de novo hearing.

(g) Notwithstanding the specific remedies provided by this section, an authority shall have every remedy available under the law to enforce unpaid tolls and fees as debts owed to the authority.

(5) The aggregate amount of penalties, exclusive of court costs, collected as a result of civil penalties imposed pursuant to resolutions adopted as authorized in subsection (2) of this section shall be remitted to the authority in whose name the civil penalty assessment notice was issued, and shall be applied by the authority to defray the costs and expenses of enforcing the laws of the state and the rules and regulations of the authority. If a municipal summons or complaint is issued, the aggregate penalty shall be apportioned pursuant to the terms of any enforcement agreement.

(6) (a) In addition to the penalty assessment procedure provided for in subsection (3) of this section, where an instance of toll evasion is evidenced by automatic vehicle identification photography, or other technology not involving a peace officer, a civil penalty assessment notice may be issued and sent by first-class mail, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, by the public highway authority to the registered owner of the motor vehicle involved. The notice shall contain the name and address of the registered owner of the vehicle involved, the license number of the vehicle involved, the time and location of the violation, the amount of the penalty prescribed for the violation, a place for the registered owner of the vehicle to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear for adjudication of a toll evasion civil penalty assessment. The registered owner of the vehicle involved in a toll evasion shall be liable for the toll, fee, and civil penalty imposed by the authority, except as otherwise provided by paragraph (a.5) of this subsection (6). If the registered owner of the vehicle does not pay the prescribed toll, fee, and civil penalty within thirty days of the date of the civil penalty assessment notice, the notice shall constitute a complaint to appear for adjudication of a toll evasion in court or in an administrative toll enforcement proceeding, and the registered owner of the vehicle shall, within the time specified in the notice, file an answer to the complaint in the manner specified in the notice. If the registered owner of the vehicle fails to pay in full the outstanding toll, fee, and civil penalty as set forth in the notice or to appear and answer the complaint and request a hearing as specified in the notice, a final order of liability shall be entered against the registered owner of the vehicle for the purposes of enabling the registered owner to appeal pursuant to paragraph (f) of subsection (4) of this section and allowing an authority to proceed to judgment pursuant to paragraph (e) of subsection (4) of this section.

(a.5) In addition to any other liability provided for in this section, the owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a toll evasion violation civil penalty; except that, at the discretion of such owner:

(I) The owner may obtain payment for a toll evasion violation civil penalty from the person or company who leased or rented the vehicle at the time of the toll evasion through a credit or debit card payment and forward the payment on to the public highway authority; or

(II) The owner may seek to avoid liability for a toll evasion violation civil penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that, at the time of

the toll evasion violation, the vehicle was leased or rented to another person. To avoid liability for payment, the owner of the motor vehicle shall, within thirty days after receipt of the notification of the toll evasion violation, furnish to the public highway authority an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented such vehicle. As a condition to avoid liability for payment of a toll evasion violation civil penalty, any person or company who leases or rents motor vehicles to a person shall include a notice in the leasing or rental agreement stating that, pursuant to the requirements of this section, the person renting or leasing the vehicle is liable for payment of a toll evasion violation civil penalty incurred on or after the date the person renting or leasing the vehicle takes possession of the motor vehicle. The notice shall inform the person renting or leasing the vehicle that the person's name, address, and state driver's license number shall be furnished to the public highway authority when a toll evasion violation civil penalty is incurred during the term of the lease or rental agreement.

(b) (Deleted by amendment, L. 2010, (SB 10-016), ch. 150, p. 518, § 1, effective April 21, 2010.)

(c) (Deleted by amendment, L. 2005, p. 835, § 1, effective June 1, 2005.)

(7) A court with jurisdiction in a toll evasion case pursuant to paragraph (a) of subsection (4) of this section or an authority with jurisdiction in a toll evasion case pursuant to paragraph (b) of subsection (4) of this section may report to the department of revenue any outstanding judgment or warrant or any failure to pay the toll, fee, and civil penalty for any toll evasion. Upon receipt of a certified report from a court or an authority stating that the owner of a registered vehicle has failed to pay a toll, fee, and civil penalty resulting from a final order entered by the authority, the department shall not renew the vehicle registration of the vehicle until the toll, fee, and civil penalty are paid in full. The authority shall contract with and compensate a vendor approved by the department for the direct costs associated with the nonrenewal of a vehicle registration pursuant to this subsection (7). The department has no authority to assess any points against a license under section 42-2-127, C.R.S., upon entry of a conviction or judgment for any toll evasion.

Source: L. 90: Entire section added, p. 1831, § 1, effective May 31. **L. 94:** (3) and (6) amended, p. 2572, § 101, effective January 1, 1995. **L. 2002:** (7) added, p. 572, § 3, effective May 24. **L. 2003:** (6)(a.5) added, p. 1659, § 1, effective May 14; (3)(a) and (3)(b) amended, p. 1623, § 41, effective August 6; (6)(a), (6)(b), and (7) amended, p. 1388, § 2, effective August 6. **L. 2005:** (2), (3)(b), (3)(c), (4), (6)(a), (6)(b), and (6)(c) amended, p. 835, § 1, effective June 1; (2) amended, p. 605, § 1, effective August 8; (7) amended, p. 838, § 2, effective April 1, 2006. **L. 2010:** (4)(f), (6)(a), and (6)(b) amended, (SB 10-016), ch. 150, p. 518, § 1, effective April 21.

Editor's note: Amendments to subsection (2) by House Bill 05-1104 and Senate Bill 05-097 were harmonized.

43-4-507. Local improvement districts. The board may establish local improvement districts within the boundaries of the authority to facilitate the financing, construction, operation, or maintenance of public highways within or without the boundaries of the authority. Such local improvement districts may be established by the board whenever any area within the boundaries of the authority, in the opinion of the board, will be especially benefited by the financing,

construction, operation, or maintenance of such public highway. No local improvement district shall be established by the board unless it receives a petition signed by the owners of property which will bear a majority of the proposed assessments and by a petition signed by the lesser of a majority of the registered electorate in the proposed district or one thousand registered electors in the proposed district. The method of creating local improvement districts, making the improvements, and assessing the costs thereof shall be as provided in part 6 of article 20 of title 30, C.R.S.; except that the board shall perform the duties of the board of county commissioners thereunder and the improvements shall be public highways as defined by section 43-4-503 (12).

Source: L. 87: Entire part added, p. 1850, § 1, effective August 27.

43-4-508. Value capture areas. (1) The board may establish one or more value capture areas within its boundaries to facilitate the financing and construction, operation, or maintenance of public highways within or without the boundaries of the authority. Such value capture areas may be established by the board whenever the market value of any area within the boundaries of the authority, in the opinion of the board, will increase as a result of the financing, construction, operation, or maintenance of a public highway.

(2) Prior to the creation of a value capture area, the board shall prepare a value capture plan which shall identify the public highway to be financed, constructed, operated, or maintained, the property to be included in the value capture area, the period of time which the value capture area shall be in effect, and the portion of the property taxes or sales taxes levied or collected within the value capture area which will be retained by the authority during the period the value capture area remains in effect. A copy of the value capture plan shall be submitted to the division, the department of revenue, and the governing body of each governmental unit which has the power to levy or impose a property tax or sales tax within the boundaries of the proposed value capture area. Not less than twenty days prior to the hearing on the value capture plan, notice of the time and place of the hearing on the value capture plan shall be published at least one time in a newspaper of general circulation in the proposed value capture area and shall be mailed to the division and the governmental units which receive the value capture plan.

(3) The board shall hold a hearing which shall be open to the public, and a record of the proceedings shall be made. All governmental units who receive notice of the hearing as set forth in subsection (2) of this section and each owner of property within the proposed value capture area shall be interested parties and shall be afforded an opportunity to be heard. Following the hearing, the board may approve or disapprove the value capture plan. After approval, any such value capture plan may be modified in substantially the same manner as the original approval.

(4) Any such value capture plan as originally adopted or later modified may contain a provision that property taxes, if any, levied or imposed by a governmental unit after the effective date of the value capture plan upon taxable property within the value capture area or that any sales taxes collected within said area after the effective date of the value capture plan, or all such taxes, shall be divided for a period set forth in the value capture plan after the effective date of the value capture plan, as follows:

(a) That portion of the property taxes which are produced by the levy at the rate fixed each year by or for each governmental unit upon the valuation for assessment of taxable property within the boundaries of the value capture area last certified prior to the effective date of the value capture plan, or that portion of the sales tax collected within the boundaries of the value

capture area in the twelve-month period ending on the last day of the month prior to the effective date of the value capture plan, or both such portions shall be paid into the funds of each such governmental unit as are all other taxes collected by or for said governmental unit.

(b) Twenty-five percent, or such different amounts as may be agreed to by each affected governmental unit, of the amount of said property taxes or sales taxes, or both, which is in excess of the portion determined in paragraph (a) of this subsection (4) shall be allocated and, when collected, paid into a special fund of the authority for the payment of, or the funding of reserves, sinking, or other funds for the payment of, the principal of, interest on, and any premiums due in connection with the bonds of the authority incurred for the financing of a public highway. The balance, if any, of such excess shall be paid into the funds of each such governmental unit as are all other taxes collected by or for said governmental unit.

(5) In the event that there is a general reassessment of taxable property in any county, including all or part of a value capture area, or a change in the rate of the sales tax collected by a county or municipality in a value capture area, the portions of taxes specified in subsection (4) of this section shall be proportionately adjusted in accordance with such reassessment or change.

(6) When such bonds of the authority, including refunding bonds, have been paid, all taxes in such value capture area shall thereafter be paid into the funds of the respective governmental units.

Source: L. 87: Entire part added, p. 1850, § 1, effective August 27.

43-4-509. Bonds. (1) The authority may, from time to time, issue bonds for any of its corporate purposes. The bonds shall be issued pursuant to resolution of the board and shall be payable solely out of all or a specified portion of the revenues as designated by the board.

(2) Bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be subject to optional or mandatory redemption prior to maturity with or without a premium, may be in fully registered form or bearer form registrable as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state, may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents, without regard to any interest rate limitation appearing in any other law of the state, may be subject to purchase at the option of the holder or the authority, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the authority or of an agent authenticating the same, may be in the form of coupon bonds which have attached interest coupons bearing a manual or facsimile signature of an officer of the authority, and may contain such provisions not inconsistent with this part 5, all as provided in the resolution of the authority under which the bonds are authorized to be issued or as provided in a trust indenture between the authority and any commercial bank or trust company having full trust powers.

(3) The bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the board, and the board may pay all fees, expenses, and commissions which it deems necessary or advantageous in connection with the sale of the

bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the authority. Any outstanding bonds may be refunded by the authority pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or a portion of the revenues of the authority, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the authority deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions which the authority deems appropriate for the security of the holders of the bonds, including but not limited to provisions for letters of credit, insurance, standby credit agreements, or other forms of credit insuring timely payment of the bonds, including the redemption price or the purchase price.

(5) Any pledge of revenues or property made by the authority or by any person or governmental unit with which the authority contracts shall be valid and binding from the time the pledge is made. The revenues or property so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party, irrespective of whether such claiming party has notice of such lien. The instrument by which the pledge is created need not be recorded or filed.

(6) Neither the members of the board, employees of the authority, nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may purchase its bonds out of any available funds and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

Source: L. 87: Entire part added, p. 1851, § 1, effective August 27.

43-4-510. Cooperative powers. (1) The authority has the power to cooperate with any person:

(a) To accept contributions, loans, or advances from any person with respect to the financing, construction, operation, or maintenance of a public highway and in connection with any loan or advance to enter into contracts establishing the repayment terms;

(b) To enter into contracts with respect to and to cooperate in the financing, construction, operation, or maintenance of a specified public highway;

(c) To enter into joint operating contracts concerning a public highway;

(d) To cooperate in acquiring easements or rights-of-way for a public highway;

(e) To transfer dominion over all or any portion of a public highway financed, operated, maintained, or constructed by the authority to the federal government, the state, other governmental units, or any person; and

(f) To designate a public highway as part of the federal highway system, the state highway system, a county highway system, or a municipal highway system if the person with jurisdiction over such highway system consents to such designation.

Source: L. 87: Entire part added, p. 1853, § 1, effective August 27.

43-4-511. Powers of governmental units. (1) A governmental unit, for the purpose of aiding and cooperating in the financing, construction, operation, or maintenance of any public highway, has the power:

(a) To sell, lease, loan, donate, grant, convey, assign, transfer, and otherwise dispose to the authority any real or personal property or interests therein;

(b) To enter into agreements with any person for the joint financing, construction, operation, or maintenance of any public highway. Upon compliance with applicable constitutional or charter limitations, such governmental unit may agree to make payments without limitation as to amount except as set forth in the agreement, from revenues from one or more fiscal years, to the authority or any person to defray the costs of the financing, construction, operation, or maintenance of a public highway.

(c) To transfer or assign to the authority any contracts which may have been awarded by the governmental unit for construction, operation, or maintenance of any public highway.

(2) To assist in the financing, construction, operation, or maintenance of a public highway, any county or municipality which is a member of a combination may, by contract, pledge to the authority all or a portion of the revenues it receives from the highway users tax fund. The authority shall apply revenues which it receives pursuant to such pledge to the financing, construction, operation, or maintenance of public highways.

Source: L. 87: Entire part added, p. 1853, § 1, effective August 27.

43-4-512. Referendum. No action by an authority to establish or increase any annual motor vehicle registration fee authorized by this part 5 shall take effect unless first submitted to a vote of the registered electors of that portion of the combination in which the fee is proposed to be collected at a general election, or a special election to be held on the first Tuesday after the first Monday in February, May, October, or December. Such action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections, and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting such an election. No moneys of the authority may be used to urge or oppose passage of an election to establish or increase any annual motor vehicle registration fee authorized by this part 5.

Source: L. 87: Entire part added, p. 1854, § 1, effective August 27. **L. 96:** Entire section amended, p. 37, § 4, effective March 18.

43-4-513. Notice - opportunity for comment. (1) The board of any authority created pursuant to this part 5, at least forty-five days prior to any meeting at which the board shall consider or take action on a proposal to establish, increase, or decrease any fee authorized by this part 5, shall deliver written notice of the meeting and proposal to any municipality where the proposed fee would be imposed. Prior to the taking of any action on such proposal by the board of any authority, municipalities entitled to receive notice pursuant to this section shall be

afforded a reasonable opportunity for comment, either at a regular meeting of the board of the authority or at a special meeting convened to receive such comment.

(2) The board of any authority created pursuant to this part 5, at least seven business days prior to any regularly scheduled meeting, shall make available to the public written or electronic notice of the time and agenda of such meeting. The board shall designate during each meeting a public comment period that shall be at least one hour in duration and shall offer the public an opportunity to comment during such period. Such period may be abridged when the public is finished offering comments.

Source: L. 87: Entire part added, p. 1854, § 1, effective August 27. **L. 96:** Entire section amended, p. 37, § 5, effective March 18. **L. 2002:** Entire section amended, p. 401, § 1, effective August 7.

43-4-514. Notice - coordination of information - report. (1) (a) At least forty-five days prior to the creation of any authority or value capture area pursuant to this part 5, a notice containing the proposed boundaries of the authority or value capture area and the methods proposed for financing public highways in the authority or a copy of the value capture plan shall be sent to the division and to the department of revenue.

(b) At least forty-five days prior to the imposition of or any increase in any fee or prior to the issuance of any bonds authorized in this part 5, a notice specifying the amount of the fee and its proposed duration or the value and number of bonds to be issued shall be sent to the division. The notice required by this paragraph (b) shall not be necessary if the required information has previously been provided in the notice required by paragraph (a) of this subsection (1).

(c) At the time the notice required in paragraph (a) or (b) of this subsection (1) is sent to the division, a copy shall be filed with the transportation legislation review committee.

(2) The division shall forward copies of any such notice to the department of transportation if it determines that the proposed authority or value capture area or the fee or bonds will have an impact on any operations of that department.

(3) (a) (Deleted by amendment, L. 2017.)

(b) The division shall notify the general assembly by letter, if it deems that immediate notification is warranted, of any situation relating to the creation of an authority or value capture area, the imposition of any fee, or the issuance of any bonds by an authority that the division believes or has reason to believe will adversely affect the tax-raising ability or the credit or bond rating of any governmental unit or any school district.

(4) Notwithstanding the requirements of section 24-1-136 (11)(a)(I), the authority shall report annually in the month of August to the transportation legislation review committee on its activities during the preceding twelve months and on its proposed activities during the succeeding twelve months. The board and staff of the authority shall cooperate with the transportation legislation review committee in carrying out its duties pursuant to section 43-2-145 (1.5).

Source: L. 87: Entire part added, p. 1854, § 1, effective August 27. **L. 91:** (2) amended, p. 1134, § 220, effective July 1. **L. 94:** (1)(a) and (4) amended, p. 622, § 5, effective April 14. **L. 96:** (1)(b), (2), and (3)(b) amended, p. 37, § 6, effective March 18. **L. 2002:** (1)(a), (1)(c), and

(3) amended, p. 874, § 14, effective August 7. **L. 2017:** (3) and (4) amended, (HB 17-1047), ch. 26, p. 79, § 5, effective August 9.

43-4-515. Successor to prior entity - assumption of obligations and liabilities - action for mandamus or injunctive relief. (1) An authority, if the contract establishing it so provides, shall be the successor to any nonprofit corporation, agency, or other entity theretofore organized to provide public highways, shall be entitled to all rights and privileges, and shall assume all obligations and liabilities of such other entity under existing contracts to which such entity is a party. An authority and a county or municipality which is a member of the combination may enter into a contract by which the county or municipality assigns its liabilities and obligations, and the authority assumes such liabilities and obligations, under any contract, resolution, ordinance, or other public act which the county or municipality has entered into or adopted with respect to the financing, construction, operation, or maintenance of a public highway, including bonds which it has issued.

(2) A county or municipality that has issued bonds to finance a public highway prior to the creation of an authority and that has lent all or a portion of the proceeds of such bonds to such authority shall not take any action or fail to take any action that would limit the availability of the proceeds of such bonds to the authority or adversely affect the ability of the authority to finance the public highway unless the authority consents or unless such action or failure to act is required by the agreements with the holders of the bonds. If a county or municipality has assigned to an authority its rights and privileges regarding bonds issued to finance a public highway, such county or municipality shall take any action requested by the authority in connection with such bonds and the documents governing such bonds. A county or municipality which has assigned to an authority all of its rights and privileges regarding bonds issued by the county to finance a public highway shall not have any financial liability with respect to the repayment of such bonds except to the extent expressly provided in the bonds or the assignment. The assumption of obligations and liabilities by an authority pursuant to this section shall not be deemed to be the creation of any new debt or obligation for the purposes of the constitution or laws of the state.

(3) The provisions of subsection (2) of this section may be enforced by the authority filing an action for mandamus or injunctive relief with the district court. The district court shall enter an order within thirty days after the filing of any such action.

Source: L. 87: Entire part added, p. 1855, § 1, effective August 27. **L. 93:** Entire section amended, p. 960, § 2, effective June 1.

43-4-516. Agreement of the state not to limit or alter rights of obligees. The state hereby pledges and agrees with the holders of any bonds issued under this part 5 and with those parties who enter into contracts with the authority or any member of the combination pursuant to this part 5 that the state will not limit, alter, restrict, or impair the rights vested in the authority or the rights or obligations of any person with which it contracts to fulfill the terms of any agreements made pursuant to this part 5. The state further agrees that it will not in any way impair the rights or remedies of the holders of any bonds of the authority until such bonds have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in such bonds.

Source: L. 87: Entire part added, p. 1855, § 1, effective August 27.

43-4-517. Investments. The authority may invest or deposit any funds in the manner provided by part 6 of article 75 of title 24, C.R.S. In addition, the authority may direct a corporate trustee which holds funds of the authority to invest or deposit such funds in investments or deposits other than those specified by said part 6 if the board determines, by resolution, that such investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits specified by said part 6, and such investment will assist the authority in the financing, construction, maintenance, or operation of public highways.

Source: L. 87: Entire part added, p. 1855, § 1, effective August 27. **L. 89:** Entire section amended, p. 1127, § 58, effective July 1.

43-4-518. Bonds eligible for investment. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this part 5. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 87: Entire part added, p. 1856, § 1, effective August 27. **L. 89:** Entire section amended, p. 1134, § 81, effective July 1.

43-4-519. Exemption from taxation - securities laws. The income or other revenues of the authority, all properties at any time owned by the authority, any bonds issued by the authority, and the transfer of and the income from any bonds issued by the authority shall be exempt from all taxation and assessments in the state. In the resolution or indenture authorizing the bonds, the authority may waive the exemption from federal income taxation for interest on the bonds. Bonds issued by the authority shall be exempt from the provisions of article 51 of title 11, C.R.S.

Source: L. 87: Entire part added, p. 1856, § 1, effective August 27.

43-4-520. No action maintainable. An action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity or enjoin the performance of any act or proceedings or the issuance of any bonds, or for any other relief against or from any acts or proceedings done under this part 5, whether based upon irregularities or jurisdictional defects, shall not be maintained, unless commenced within thirty days after the performance of the act or proceedings or the effective date thereof, and shall be thereafter perpetually barred.

Source: L. 87: Entire part added, p. 1856, § 1, effective August 27.

43-4-521. Termination of revenue-raising powers. When all bonds and obligations of an authority have been paid in full and the authority has established a maintenance trust fund

sufficient to meet future needs of the authority, all revenue-raising powers granted pursuant to this part 5, including tolls, shall terminate.

Source: L. 87: Entire part added, p. 1856, § 1, effective August 27.

43-4-522. Judicial examination of powers, acts, proceedings, or contracts of an authority. In its discretion, the board of an authority may file a petition at any time in the district court in and for any county in which the authority is located wholly or in part praying for a judicial examination and determination of any power conferred to the authority, any revenue-raising power exercised or to be exercised by the authority, or any act, proceeding, or contract of the authority, whether or not such contract has been executed. Such judicial examination and determination shall be conducted in substantially the manner set forth in section 32-4-540, C.R.S.; except that the notice required shall be published once a week for three consecutive weeks and the hearing shall be held not less than thirty days nor more than forty days after the filing of the petition.

Source: L. 93: Entire section added, p. 962, § 3, effective June 1.

PART 6

REGIONAL TRANSPORTATION AUTHORITY LAW

43-4-601. Short title. This part 6 shall be known and may be cited as the "Regional Transportation Authority Law".

Source: L. 97: Entire part added, p. 480, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1057, § 2, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-602. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Advertising device" means an outdoor sign, display, poster, or other message used to advertise a product or service or other message.

(1.5) "Authority" means a body corporate and political subdivision of the state created pursuant to this part 6.

(2) "Board" means the board of directors of an authority.

(3) "Bond" means any bond, note, interim certificate, contract, or other obligation of an authority authorized by this part 6.

(4) "Combination" means any two or more municipalities, two or more counties, or one or more municipalities and one or more counties. In addition, "combination" may include:

(a) One or more special districts organized with street improvement, safety protection, or transportation powers under and as defined in article 1 of title 32, C.R.S., and one or more municipalities, counties, or counties and municipalities;

(b) The state to the extent authorized by section 43-4-603 (5).

(5) "Construct" or "construction" means the planning, designing, engineering, acquisition, installation, construction, or reconstruction of regional transportation systems.

(6) "County" means any county organized under the laws of the state, including any city and county.

(7) "Division" means the division of local government in the department of local affairs.

(8) "Governmental unit" means the state or any political subdivision thereof, except school districts or special purpose authorities as defined in section 24-77-102 (15), C.R.S.

(9) (a) "Grant" means a cash payment of public funds made directly to a regional transportation activity enterprise by a governmental unit within the state, which cash payment is not required to be repaid.

(b) "Grant" does not include the following:

(I) Public funds paid or advanced to a regional transportation activity enterprise by a governmental unit in exchange for an agreement by a regional transportation activity enterprise to provide a regional transportation system or for the use of property included in or in connection with a regional transportation system;

(II) Refunds made in the current or next fiscal year;

(III) Gifts;

(IV) Any payments directly or indirectly from federal funds or earnings on federal funds;

(V) Collections for another government;

(VI) Pension contributions by employees and pension fund earnings;

(VII) Reserve transfers or expenditures;

(VIII) Damage awards; or

(IX) Property sales.

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

(11) "Operation and maintenance expenses" means all reasonable and necessary current expenses of the authority, paid or accrued, of operating, maintaining, and repairing any regional transportation system.

(12) "Person" means any natural person, corporation, partnership, association, or joint venture, the United States of America, or any governmental unit.

(12.5) "Region" means all of the territory within the boundaries of, and subject to the jurisdiction of, the governing body of any member of a combination that creates an authority pursuant to section 43-4-603.

(13) and (14) (Deleted by amendment, L. 2005, p. 1058, § 3, effective January 1, 2006.)

(15) "Regional transportation activity enterprise" means any regional transportation activity business owned by an authority, which enterprise receives under ten percent of its annual revenues in grants from all state and local governments within the state combined and is authorized to issue its own revenue bonds pursuant to this part 6.

(16) "Regional transportation system" means any property, improvement, or system designed to be compatible with established state and local transportation plans that transports or conveys people or goods or permits people or goods to be transported or conveyed within a region by any means, including, but not limited to, an automobile, truck, bus, rail, air, or gondola. The term includes any real or personal property or equipment, or interest therein, that is appurtenant or related to any property, improvement, or system that transports or conveys people

or goods or permits people or goods to be transported or conveyed within a region by any means or that is financed, constructed, operated, or maintained in connection with the financing, construction, operation, or maintenance of any such property, improvement, or system. The term may also include, but is not limited to, any highway, road, street, bus system, railroad, airport, gondola system, or mass transit system and any real or personal property or equipment, or interest therein, used in connection therewith; any real or personal property or equipment, or interest therein, that is used to transport or convey gas, electricity, water, sewage, or information or that is used in connection with the transportation, conveyance, or provisions of any other utilities; and paving, grading, landscaping, curbs, gutters, culverts, sidewalks, bikeways, lighting, bridges, overpasses, underpasses, cross-roads, parkways, drainage facilities, mass transit lanes, park-and-ride facilities, toll collection facilities, service areas, and administrative or maintenance facilities. Rights-of-way included in a regional transportation system shall be considered public rights-of-way for purposes of the location of utilities owned by persons other than the authority; except that no right-of-way within the regional transportation district created and existing pursuant to article 9 of title 32, C.R.S., that is not a publicly dedicated right-of-way by a municipality, a county, or the state shall be considered a public right-of-way as a result of its inclusion in the district.

(16.5) "Revenues" means any tolls, fees, rates, charges, assessments, taxes, grants, contributions, or other income and revenues received by the authority.

(16.7) "Special district" has the same meaning as provided in section 32-1-103 (20), C.R.S.

(17) "State" means the state of Colorado or any of its agencies.

(18) "Streetscape enhancement" means an advertising device located on a bus or transit shelter or bench, waste receptacle, kiosk, or other freestanding structure located within an authority.

Source: L. 97: Entire part added, p. 480, § 1, effective August 6. **L. 2005:** (1), (5), (9)(a), (9)(b)(I), (11), (13), (14), (15), and (16) amended and (1.5), (12.5), (16.5), and (18) added, p. 1058, § 3, effective January 1, 2006. **L. 2010:** (4) amended and (16.7) added, (HB 10-1243), ch. 385, p. 1804, § 3, effective August 11.

Cross references: For the legislative declaration contained in the 2005 act amending subsections (1), (5), (9)(a), (9)(b)(I), (11), (13), (14), (15), and (16) and enacting subsections (1.5), (12.5), (16.5), and (18), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-603. Creation of authorities. (1) Any combination may create, by contract, an authority that is authorized to exercise the functions conferred by the provisions of this part 6 upon the issuance by the director of the division of a certificate stating that the authority has been duly organized according to the laws of the state. The combination joining in the creation of the authority shall provide a copy of the contract to the department of transportation for comment and, if the territory of the proposed authority includes or borders any territory of the regional transportation district created in article 9 of title 32, C.R.S., or intersects with or is likely to divert vehicle traffic to or from a toll highway operated by a public highway authority established under part 5 of this article, shall also provide a copy of the contract to the district or the affected public highway authority, as applicable, for comment. The combination shall also

provide a copy of the contract to each county and municipality that is not a member of the combination but that includes territory that borders the territory of the proposed authority for comment. The director shall issue the certificate upon the filing with the director of a copy of the contract by the combination joining in the creation of the authority. The director shall cause the certificate to be recorded in the real estate records in each county having territory included in the boundaries of the authority. Upon issuance of the certificate by the director, the authority shall constitute a separate political subdivision and body corporate of the state and shall have all of the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

(1.5) On and after January 1, 2006, if, after reviewing a contract that creates an authority provided pursuant to subsection (1) of this section, but in no event more than ninety days after a copy of the contract is provided pursuant to subsection (1) of this section, the department of transportation, the regional transportation district created in article 9 of title 32, C.R.S., a bordering county or municipality, or a public highway authority established under part 5 of this article informs the combination that executed the contract that any portions of the regional transportation systems to be provided by the proposed authority that involve road construction or improvement, as specified in the contract pursuant to paragraph (a) of subsection (2) of this section, and that are on, alter the physical structure of, or negatively impact safe operation of any highway, road, or street under its jurisdiction or will provide mass transportation services that impact the district, then, at the request of the affected entity, the combination shall enter into an intergovernmental agreement concerning the identified portions or mass transportation services with the department, the district, the bordering county or municipality, the public highway authority, or any combination thereof, as applicable, within one hundred eighty days after a copy of the contract was provided, or eliminate those portions or services from the list of projects specified in the contract before it submits the contract to a vote of the registered electors residing within the boundaries of the proposed authority as required by subsection (4) of this section. When requesting that an intergovernmental agreement be entered into or that portions of a regional transportation system be eliminated due to a negative impact to safe operation of a highway, road, or street, the requesting entity shall provide, at the time of the request, evidence of the negative impact. The intergovernmental agreement shall specify whatever terms the combination and the affected entity or entities deem necessary to avoid duplication of effort and to ensure coordinated transportation planning, efficient allocation of resources, and equitable sharing of costs. If the department is a party to the intergovernmental agreement, the agreement shall also describe in detail any effect on department funding of any portion of the state highway system within the proposed region that is expected to result from the creation of the proposed authority. Nothing in this subsection (1.5) shall be construed to preclude a combination or any authority from entering into an intergovernmental agreement with the department, the district, a public highway authority, a bordering county or municipality, or any other governmental entity regarding any regional transportation system.

(2) Any contract establishing an authority shall specify:

(a) The name and purpose of the authority and the regional transportation systems to be provided;

(b) The establishment and organization of the board of directors in which all legislative power of the authority is vested, including:

(I) The number of directors, which shall be at least five, all of which, except as provided in subsection (5) of this section, shall be elected officials from the members of the combination and which shall include at least one elected official from each member of the combination;

(II) The manner of the appointment, the qualifications, and the compensation, if any, of the directors and the procedure for filling vacancies;

(III) The officers of the authority, the manner of their appointment, and their duties; and

(IV) The voting requirements for action by the board; except that, unless specifically provided otherwise in the contract, a majority of the directors of the board constitutes a quorum and a majority of the board is necessary for action by the board;

(c) The provisions for the distribution, disposition, or division of the assets of the authority;

(d) The boundaries of the authority, which may not include territory outside of the boundaries of the members of the combination, may not include territory within the boundaries of a municipality that is not a member of the combination as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of such municipality, and may not include territory within the unincorporated boundaries of a county that is not a member of the combination as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of such county;

(e) The term of the contract, which may be for a definite term or until rescinded or terminated, and the method, if any, by which it may be terminated or rescinded; except that the contract may not be terminated or rescinded so long as the authority has bonds outstanding;

(f) The provisions for amendment of the contract;

(g) The limitations, if any, on the powers granted by this part 6 that may be exercised by the authority pursuant to this part 6; and

(h) The conditions required when adding or deleting parties to the contract.

(3) No municipality, county, or special district shall enter into a contract establishing an authority without holding at least two public hearings thereon in addition to other requirements imposed by law for public notice. The municipality, county, or special district shall give notice of the time, place, and purpose of the public hearing by publication in a newspaper of general circulation in the municipality, county, or special district, as the case may be, at least ten days prior to the date of the public hearing.

(4) No contract establishing an authority pursuant to this section shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the proposed authority. However, a contract establishing an authority may subsequently be amended in accordance with any amendment procedures specified in the contract pursuant to paragraph (f) of subsection (2) of this section. The question of establishing the authority shall be submitted to such registered electors at a general election or a special election called for such purpose. Such question may also be proposed to such registered electors at the same time and in the same or a separate question as an election required under section 43-4-612. The authority shall not be established unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections, and the county clerk and recorder of each county in which the election is conducted shall assist the members of the combination of the proposed authority in conducting the election.

(5) The state, acting by and through the transportation commission, created in section 43-1-106, and upon the approval of the governor, may join in the contract creating the authority.

The number of directors of the board to which the state is entitled shall be established in the contract, but in no case shall the state be entitled to less than one director. The governor shall appoint the director or directors representing the state on the board, with the consent of the senate, for such term as established by the governor.

Source: L. 97: Entire part added, p. 482, § 1, effective August 6. **L. 2000:** (4) amended, p. 1174, § 1, effective August 2. **L. 2005:** (1) and (2)(a) amended and (1.5) added, p. 1059, § 4, effective January 1, 2006. **L. 2010:** (3) amended, (HB 10-1243), ch. 385, p. 1804, § 4, effective August 11.

Cross references: For the legislative declaration contained in the 2005 act amending subsections (1) and (2)(a) and enacting subsection (1.5), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-604. Board of directors. (1) (a) All powers, privileges, and duties vested in or imposed upon the authority shall be exercised and performed by and through the board. The board, by resolution, may delegate any of the powers of the board to any of the officers or agents of the board; except that, to ensure public participation in policy decisions, the board shall not delegate the following:

(I) Adoption of board policies and procedures;

(II) Approval of final roadway alignments;

(III) Ratification of acquisition of land by negotiated sale;

(IV) Instituting an eminent domain action, which may be at a public hearing or in executive session;

(V) Initiating or continuing legal action, not including traffic or toll violations; and

(VI) Establishment of fee policies.

(b) The board shall promulgate and adhere to policies and procedures that govern its conduct and provide meaningful opportunities for public input. Such policies shall include standards and procedures for calling an emergency meeting.

(2) Any director of the board shall disqualify himself or herself from voting on any issue with respect to which the director has a conflict of interest, unless the director has disclosed the conflict of interest in compliance with section 18-8-308, C.R.S.

(3) The board, in addition to all other powers conferred by this part 6, has the following powers:

(a) To adopt bylaws;

(b) To fix the time and place of meetings, whether within or without the boundaries of the authority, and the method of providing notice of the meetings;

(c) To make and pass orders and resolutions necessary for the government and management of the affairs of the authority and the execution of the powers vested in the authority;

(d) To adopt and use a seal;

(e) To maintain offices at such place or places as the board may designate;

(f) To appoint, hire, and retain employees, agents, engineers, attorneys, accountants, financial advisors, investment bankers, and other consultants;

(g) To prescribe methods for auditing and allowing or rejecting claims and demands; for the letting of contracts for the construction of improvements, works, or structures; for the acquisition of equipment; or for the performance or furnishing of such labor, materials, or supplies as may be required for carrying out the purposes of this part 6;

(h) To appoint advisory committees and define the duties thereof; and

(i) To amend the contract that created the authority to the extent that any amendment procedures specified in the contract pursuant to section 43-4-603 (2)(f) authorize the board, rather than the members of the combination that are parties to the contract, to amend the contract.

Source: L. 97: Entire part added, p. 484, § 1, effective August 6. **L. 2000:** (3)(i) added, p. 1174, § 2, effective August 2. **L. 2002:** (1) amended, p. 403, § 5, effective August 7.

43-4-605. Powers of the authority - inclusion or exclusion of property - determination of regional transportation system alignment - fund created - repeal. (1) In addition to any other powers granted to the authority pursuant to this part 6, the authority has the following powers:

(a) To have perpetual existence, except as otherwise provided in the contract;

(b) To sue and be sued;

(c) To enter into contracts and agreements affecting the affairs of the authority;

(d) To establish, collect, and, from time to time, increase or decrease fees, tolls, rates, and charges for the privilege of traveling on or using any property included in any regional transportation system financed, constructed, operated, or maintained by the authority, without the fees, tolls, rates, and charges being subject to any supervision or regulation by any board, agency, bureau, commission, or official; except that any fees, tolls, rates, and charges imposed for the use of any regional transportation system shall be fixed and adjusted so that the fees, tolls, rates, and charges collected, along with other revenues, if any, are at least sufficient to pay for any bonds issued pursuant to this part 6 and interest thereon;

(e) To pledge all or any portion of the revenues to the payment of bonds of the authority;

(f) To finance, construct, operate, or maintain regional transportation systems within or without the boundaries of the authority; except that the authority shall not construct regional transportation systems in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality; outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county; or inside or outside the boundaries of the authority if the regional transportation systems would alter the state highway system, as defined in section 43-2-101 (1), or the interstate system, as defined in section 43-2-101 (2), except as authorized by an intergovernmental agreement entered into by the members of the combination that created the authority and the department of transportation as required by section 43-4-603 (1.5);

(g) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, and encumber real or personal property and any interest therein, including easements and rights-of-way;

(h) To accept real or personal property for the use of the authority and to accept gifts and conveyances upon the terms and conditions as the board may approve;

(i) To impose an annual motor vehicle registration fee of not more than ten dollars for each motor vehicle registered with the authorized agent, as defined in section 42-1-102, of the county by persons residing in all or any designated portion of the members of the combination; except that the authority shall not impose a motor registration fee with respect to motor vehicles registered to persons residing outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county. The registration fee is in addition to any fee or tax imposed by the state or any other governmental unit. If a motor vehicle is registered in a county that is a member of more than one authority, the total of all fees imposed pursuant to this subsection (1)(i) for any such motor vehicle shall not exceed ten dollars. The authorized agent of the county in which the registration fee is imposed shall collect the fee and remit the fee to the authority. The authority shall apply the registration fees solely to the financing, construction, operation, or maintenance of regional transportation systems that are consistent with the expenditures specified in section 18 of article X of the state constitution.

(i.5) (I) Subject to the provisions of section 43-4-612, to impose, in all or any designated portion of the members of the combination, a visitor benefit tax on persons who purchase overnight rooms or accommodations in any amount that would not cause the aggregate amount of the visitor benefit tax and any lodging tax imposed on such overnight rooms or accommodations to exceed two percent of the price of such overnight rooms or accommodations; except that the authority shall not impose any such visitor benefit tax on overnight rooms or accommodations that are in any territory:

(A) Outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of such municipality; or

(B) Outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of such county.

(II) The visitor benefit tax is in addition to any fee or tax imposed by the state or any other governmental unit and a minimum of seventy-five percent of the net revenue derived from the tax shall be used by the authority solely to finance, construct, operate, and maintain regional transportation systems and provide incentives to overnight visitors to use public transportation.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (i.5), an authority may derive no more than one third of its total revenues from the visitor benefit tax.

(IV) Any authority that imposes a visitor benefit tax shall give due consideration to the transportation needs of persons who pay the visitor benefit tax on the purchase of overnight rooms or accommodations when constructing, operating, and maintaining regional transportation systems and shall ensure that such visitors have easy access to the regional transportation systems.

(V) Upon the request of the authority, the executive director of the department of revenue shall administer and collect the visitor benefit tax authorized by subparagraph (I) of this

paragraph (i.5). If the authority requests that the executive director administer and collect the tax, the executive director shall make monthly distributions of the tax collections to the authority. The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer who shall credit the same to the regional transportation authority visitor benefit tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this part 6. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(j) (I) Subject to the provisions of section 43-4-612, to levy, in all or any designated portion of the members of the combination, a sales or use tax, or both, at a rate not to exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that, on and after January 1, 2006, if the authority includes territory that is within the regional transportation district created and existing pursuant to article 9 of title 32, C.R.S., a designated portion of the members of the combination in which a new tax is levied shall be composed of entire territories of members of the combination so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination is uniform and except that the authority shall not levy a sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of the county. Subject to the provisions of section 43-4-612, the authority may elect to levy any such sales or use tax at different rates in different designated portions of the members of the combination; except that, on and after January 1, 2006, if the authority includes territory that is within the regional transportation district, a designated portion of the members of the combination in which a new tax is levied shall be composed of entire territories of members of the combination so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination is uniform. If the authority so elects, it shall submit a single ballot question that lists all of the different rates to the registered electors of all designated portions of the members of the combination in which the proposed sales or use tax is to be levied. The tax imposed pursuant to this paragraph (j) is in addition to any other sales or use tax imposed pursuant to law. If a member of the combination is located within more than one authority, the sales or use tax, or both, authorized by this paragraph (j) shall not exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106, C.R.S. The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction, operation, or maintenance of regional transportation systems. The department shall retain an amount not to exceed the net incremental cost of the collection, administration, and enforcement and shall transmit the amount

to the state treasurer, who shall credit the same to the regional transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this part 6. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(II) A sales or use tax, or both, levied pursuant to subparagraph (I) of this paragraph (j) shall not be levied on the sale of tangible personal property:

(A) Delivered by a retailer or a retailer's agent or to a common carrier for delivery to a destination outside the authority;

(B) Upon which specific ownership tax has been paid or is payable if the purchaser resides outside the boundaries of the authority or the purchaser's principal place of business is outside the boundaries of the authority and if the personal property is registered or required to be registered outside the boundaries of the authority; or

(C) Where such tangible personal property is a cigarette.

(j.5) (I) Subject to the provisions of section 43-4-612, to impose a uniform mill levy of up to five mills on all taxable property within the territory of the authority. This subsection (1)(j.5) does not limit or affect the power of an authority to establish local improvement districts and impose special assessments as authorized by section 43-4-608.

(II) This subsection (1)(j.5) is repealed, effective January 1, 2029.

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this part 6. The specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 6.

(2) (a) The board may include property within or exclude property from the boundaries of the authority in the manner provided in this subsection (2). Property may not be included within the boundaries of the authority unless it is within the boundaries of the members of the combination at the time of the inclusion. Property located within the boundaries of a municipality that is not a member of the combination as the boundaries of the municipality exist on the date the property is included may not be included without the consent of the governing body of such municipality, and property within the unincorporated boundaries of a county that is not a member of the combination as the unincorporated boundaries of the county exist on the date the property is included may not be included without the consent of the governing body of such county.

(b) (I) Prior to any inclusion in or exclusion of property from the boundaries of the authority, the board shall cause notice of the proposed inclusion or exclusion to be published in a newspaper of general circulation within the boundaries of the authority and cause the notice to be mailed to the division, to the transportation commission, and to the owners of property to be included or excluded at the last-known address described for the owners in the real estate records of the county in which the property is located. The notice shall describe the property to be included in or excluded from the boundaries of the authority, shall specify the date, time, and place at which the board shall hold a public hearing on the proposed inclusion or exclusion, and shall state that persons having objections to the inclusion or exclusion may appear at the public

hearing to object to the proposed inclusion or exclusion. The date of the public hearing contained in the notice shall be not less than twenty days after the mailing and publication of the notice. The board, at the time and place designated in the notice or at such times and places to which the hearing may be adjourned, shall hear all objections to the proposed inclusion or exclusion.

(II) The board, upon the affirmative vote of two-thirds of the directors of the board, may adopt a resolution including or excluding all or any portion of the property described in the notice. Upon the adoption of the resolution, the property shall be included within or excluded from the boundaries of the authority as set forth in the resolution. The board may adopt the resolution without amending the contract required by section 43-4-603 (2). The board shall file the resolution with the director of the division, who shall cause the resolution to be recorded in the real estate records of each county having territory included in the boundaries of the authority.

(c) All property excluded from the authority shall thereafter be subject to the revenue-raising powers of the authority only to the extent that the powers have been exercised by the authority against the property or activities occurring on the property prior to the exclusion and to the extent required to comply with agreements with the holders of bonds outstanding at the time of the exclusion. All property or activities occurring on the property included within the authority shall thereafter be subject to the revenue-raising powers of the authority. In no way will this section affect or increase property taxes in the affected territory or jurisdiction.

(3) Property included in an authority pursuant to this section is subject to the same mill levies and other taxes levied or to be levied on other similarly situated property at the time the additional property is included. The newly included property is an addition to taxable real property, and the application of such levies and other taxes to the newly included property is not subject to the requirements of section 20 (4) of article X of the state constitution. This subsection (3) is intended to place newly included property and similarly situated existing property within an authority on an equal basis.

(4) The board, upon the affirmative vote of two-thirds of the directors of the board, may determine the location of the regional transportation system.

(5) Any regional transportation system constructed by an authority under this part 6 that is funded, in whole or in part, from the highway users tax fund and that may be reasonably expected to exceed one hundred fifty thousand dollars in the aggregate for any fiscal year shall be subject to the construction bidding provisions in part 7 of article 1 of title 29, C.R.S. If the state is involved in the construction of the regional transportation system, the construction bidding provisions in article 92 of title 24, C.R.S., shall apply. Nothing herein shall be construed to affect the ability of such entities to enter into design-build contracts under applicable state laws.

(6) In exercising any of the powers to impose taxes pursuant to subsection (1) of this section, an authority shall, whenever possible, assess any such tax within the boundaries of existing taxing districts in order to reduce the administrative costs of the department of revenue.

Source: L. 97: Entire part added, p. 485, § 1, effective August 6. **L. 2000:** (1)(i.5) added and (1)(j) and (2)(a) amended, p. 1175, § 3, effective August 2. **L. 2005:** (1)(d), (1)(f), (1)(i), (1)(i.5)(II), (1)(i.5)(IV), (1)(i.5)(V), (1)(j), (4), and (5) amended, p. 1061, § 5, effective January 1, 2006. **L. 2007:** (1)(j)(I) amended, p. 978, § 1, effective January 1, 2008. **L. 2008:** (1)(j)(I) amended, p. 993, § 16, effective August 5. **L. 2009:** (1)(j)(II) amended, (HB 09-1342), ch. 354, p. 1851, § 16, effective July 1; (1)(j.5) added, (HB 09-1034), ch. 127, p. 548, § 1, effective

August 5. **L. 2017:** (1)(i) amended, (HB 17-1107), ch. 101, p. 376, § 33, effective August 9; (1)(j.5) amended, (HB 17-1018), ch. 2, p. 3, § 1, effective August 9.

Cross references: For the legislative declaration contained in the 2005 act amending subsections (1)(d), (1)(f), (1)(i), (1)(i.5)(II), (1)(i.5)(IV), (1)(i.5)(V), (1)(j), (4), and (5), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-605.5. Preservation of state highway funding - legislative declaration. The general assembly hereby finds and declares that moneys made available for regional transportation systems pursuant to this part 6 shall not be used to supplant existing or budgeted department of transportation funding of any portion of the state highway system within the territory of any authority or any transportation planning region, as defined in section 43-1-1102 (8), that includes any portion of the territory of the authority except as described in detail in an intergovernmental agreement entered into pursuant to section 43-4-603 (1.5).

Source: L. 2005: Entire section added, p. 1064, § 6, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act enacting this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-606. Establishment of regional transportation activity enterprises. (1) Any authority may establish regional transportation activity enterprises for the purpose of pursuing or continuing activities authorized by this part 6. Any regional transportation activity enterprise established or maintained pursuant to this part 6 is not subject to the provisions of section 20 of article X of the state constitution.

(2) (a) Each regional transportation activity enterprise shall be wholly owned by a single authority and shall not be combined with any regional transportation activity enterprise owned by another authority; except that each authority may establish more than one regional transportation activity enterprise and each regional transportation activity enterprise may conduct or continue to conduct one or more activities authorized by this part 6 as may be determined by the governing body of the regional transportation activity enterprise.

(b) This subsection (2) does not limit the authority of a regional transportation activity enterprise to contract with any other person or entity, including other authorities, other state or local governments, or other regional transportation activity enterprises.

(3) The governing body of a regional transportation activity enterprise is the board of the authority that owns the enterprise.

(4) The governing body for each regional transportation activity enterprise may exercise the authority's legal authority relating to activities authorized by this part 6, but no regional transportation activity enterprise may levy a tax that is subject to the requirements of section 20 (4) of article X of the state constitution.

(5) Each regional transportation activity enterprise, through its governing body, may issue or reissue revenue bonds in accordance with the provisions of section 43-4-609. Each bond issued under this subsection (5) shall recite in substance that the bond, including the interest thereon, is payable from the revenues and other available funds of the regional transportation activity enterprise pledged for the payment thereof.

(6) The powers provided in this section for regional transportation activity enterprises shall not modify, limit, or affect the powers conferred by any other law, either directly or indirectly.

(7) Loan agreements subject to repayment or contracts to provide regional transportation systems or the use of property included in or in connection with a regional transportation system, which involve the payment of funds for such systems or the use of the property to an authority or its regional transportation activity enterprise by a state or local government or by another authority or regional transportation activity enterprise, are not grants for purposes of the definition of enterprise under section 20 (2)(d) of article X of the state constitution.

(8) An authority or its regional transportation activity enterprise may contract with any other governmental or private source of funding for loans and grants related to regional transportation activity enterprise functions.

(9) Revenues collected or spent by an authority for regional transportation systems or the use of property included in or in connection with a regional transportation system rendered or provided by a regional transportation activity enterprise owned by the authority are not subject to the provisions of section 20 (4) and (7) of article X of the state constitution.

(10) The rates or a change in the rates charged by an authority for regional transportation systems or for the use of property included in or in connection with a regional transportation system rendered or provided by a regional transportation activity enterprise owned by the authority are not taxes subject to the provisions of section 20 (4) and (7) of article X of the state constitution.

(11) The authority granted to a regional transportation activity enterprise under this section is in addition to all other authority provided by law. Nothing contained in this part 6 shall be construed to require the establishment, operation, or continuation of a regional transportation activity enterprise or to limit the authority of any state or local government to utilize other policies and procedures for establishing, operating, or continuing any enterprise for any lawful purpose.

Source: L. 97: Entire part added, p. 489, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1064, § 7, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-607. Traffic laws - toll collection. (1) The traffic laws of this state and of any municipality, in which a regional transportation system is constructed, operated, or maintained by an authority, and the authority's rules regarding toll collection and enforcement shall pertain to and govern the use of any regional transportation system on which vehicles subject to the traffic laws or rules are operated. State and local law enforcement authorities are authorized to enter into traffic and toll enforcement agreements with authorities. Any funds received by a state law enforcement authority pursuant to the toll enforcement agreement are subject to annual appropriation by the general assembly to the law enforcement authority for the purpose of performing its duties pursuant to the agreement.

(2) Any person who fails to pay a required fee, toll, rate, or charge for the privilege of traveling on or using any property included in a regional transportation system pursuant to this part 6 is subject to the penalty specified in sections 42-4-613 and 42-4-1701 (4)(a)(I)(G), C.R.S.

Source: L. 97: Entire part added, p. 491, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1066, § 8, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-607.5. Streetscape enhancements - local and private authority. A local government whose jurisdiction includes territory within an authority may create, permit, or contract streetscape enhancements within that territory.

Source: L. 2005: Entire section added, p. 1064, § 6, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act enacting this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-608. Local improvement districts. The board, or the board of the regional transportation district established under article 9 of title 32, C.R.S., in the case of any authority whose territory is located in whole or in part within the boundaries of the district, may establish local improvement districts within the boundaries of the authority to facilitate the financing, construction, operation, or maintenance of regional transportation systems. The board may establish local improvement districts whenever any area within the boundaries of the authority, in the opinion of the board, will be especially benefited by the financing, construction, operation, or maintenance of a regional transportation system. The board shall not establish a local improvement district unless the board receives a petition signed by the owners of the property that will bear a majority of the proposed assessments and a petition signed by the lesser of a majority of the registered electorate in the proposed district or one thousand registered electors in the proposed district. The method of creating local improvement districts, making the improvements, and assessing the costs thereof shall be as provided in part 6 of article 20 of title 30, C.R.S.; except that the board shall perform the duties of the board of county commissioners thereunder and the improvements shall be regional transportation systems as defined by section 43-4-602 (16).

Source: L. 97: Entire part added, p. 491, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1066, § 9, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-609. Bonds. (1) The authority may, from time to time, issue bonds for any of its corporate purposes. The authority shall issue the bonds pursuant to resolution of the board, and

the bonds shall be payable solely out of all or a specified portion of the revenues as designated by the board.

(2) As provided in the resolution of the board under which the bonds are authorized to be issued or as provided in a trust indenture between the authority and any commercial bank or trust company having full trust powers, the bonds may:

(a) Be executed and delivered by the authority at such times;

(b) Be in such form and denominations and include such terms and maturities;

(c) Be subject to optional or mandatory redemption prior to maturity with or without a premium;

(d) Be in fully registered form or bearer form registrable as to principal or interest or both;

(e) Bear such conversion privileges;

(f) Be payable in such installments and at such times not exceeding forty years from the date thereof;

(g) Be payable at such place or places whether within or without the state;

(h) Bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents, without regard to any interest rate limitation appearing in any other law of the state;

(i) Be subject to purchase at the option of the holder or the authority and be evidenced in such manner;

(j) Be executed by the officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which signatures may be either of an officer of the authority or of an agent authenticating the same;

(k) Be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the authority; and

(l) Contain such provisions not inconsistent with this part 6.

(3) The bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the board, and the board may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the authority. Any outstanding bonds may be refunded by the authority pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or a portion of the revenues of the authority, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the authority deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions that the authority deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(5) Any pledge of revenues or property made by the authority or by any person or governmental unit with which the authority contracts shall be valid and binding from the time the pledge is made. The revenues or property so pledged shall immediately be subject to the lien

of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party, irrespective of whether such claiming party has notice of such lien. The instrument by which the pledge is created need not be recorded or filed.

(6) Neither the directors of the board, employees of the authority, or any person executing the bonds shall be liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may purchase its bonds out of any available funds and may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with the holders thereof.

Source: L. 97: Entire part added, p. 492, § 1, effective August 6.

43-4-610. Cooperative powers. (1) The authority has the power to cooperate with any person:

(a) To accept contributions, loans, advances, or liens securing obligations to or of the authority from any person with respect to the financing, construction, operation, or maintenance of a regional transportation system and, in connection with any loan or advance, to enter into contracts establishing the repayment terms;

(b) To enter into contracts with respect to and to cooperate in the financing, construction, operation, or maintenance of a specified regional transportation system;

(c) To enter into joint operating contracts concerning a regional transportation system;

(d) To acquire easements or rights-of-way for a regional transportation system;

(e) To transfer dominion over all or any portion of a regional transportation system financed, constructed, operated, or maintained by the authority to the federal government, the state government, other governmental units, or any person; and

(f) To designate a regional transportation system as part of the federal highway system, the state highway system, a county highway system, or a municipal highway system if the person with jurisdiction over the applicable highway system consents to the designation.

Source: L. 97: Entire part added, p. 494, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1066, § 10, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-611. Powers of governmental units. (1) A governmental unit, for the purpose of aiding and cooperating in the financing, construction, operation, or maintenance of any regional transportation system, has the power:

(a) To sell, lease, loan, donate, grant, convey, assign, transfer, and otherwise dispose to the authority any real or personal property or interests therein;

(b) To enter into agreements with any person for the joint financing, construction, operation, or maintenance of any regional transportation system. Upon compliance with applicable constitutional or charter limitations, the governmental unit may agree to make payments, without limitation as to amount except as set forth in the agreement, from revenues

received from one or more fiscal years, to the authority or any person to defray the costs of the financing, construction, operation, or maintenance of a regional transportation system.

(c) To transfer or assign to the authority any contracts that may have been awarded by the governmental unit for construction, operation, or maintenance of any regional transportation system.

(2) To assist in the financing, construction, operation, or maintenance of a regional transportation system, any county, municipality, or special district that is a member of a combination may, by contract, pledge to the authority all or a portion of the revenues it receives from the highway users tax fund or from any other legally available funds. The authority shall apply revenues that it receives pursuant to the pledge to the financing, construction, operation, or maintenance of any regional transportation system. The authority may refuse to accept any revenues that would cause a member of the combination to exceed its allowable fiscal year spending under section 20 of article X of the state constitution and that could result in a refund of excess revenues under said section 20.

Source: L. 97: Entire part added, p. 494, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1067, § 11, effective January 1, 2006. **L. 2010:** (2) amended, (HB 10-1243), ch. 385, p. 1805, § 5, effective August 11.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-612. Referendum. (1) No action by an authority to establish or increase any tax authorized by this part 6 shall take effect unless first submitted to a vote of the registered electors of that portion of the combination in which the tax is proposed to be collected.

(2) No action by an authority creating a multiple fiscal year debt or other financial obligation that is subject to section 20 (4)(b) of article X of the state constitution shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the authority; except that no such vote is required for obligations of regional transportation activity enterprises established under section 43-4-606 or for obligations of any other enterprise under section 20 (2)(d) of article X of the state constitution.

(3) The questions proposed to the registered electors under subsections (1) and (2) of this section shall be submitted at a general election or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections, and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting such an election. No moneys of the authority may be used to urge or oppose passage of an election required under this section.

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Source: L. 97: Entire part added, p. 495, § 1, effective August 6. **L. 2005:** (2) amended, p. 1068, § 12, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending subsection (2), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-613. Notice - opportunity for comment. (1) The board of any authority created pursuant to this part 6, at least forty-five days prior to any meeting at which the board shall consider or take action on a proposal to establish, increase, or decrease any tax or fee authorized by this part 6, shall deliver written notice of the meeting and proposal to any county and any municipality where the proposed tax or fee would be imposed. Prior to the taking of any action on any such proposal by the board of any authority, counties, and municipalities entitled to receive notice pursuant to this section shall be afforded a reasonable opportunity for comment, either at a regular meeting of the board or at a special meeting convened to receive such comment.

(2) The board of any authority created pursuant to this part 6, at least seven business days prior to any regularly scheduled meeting, shall make available to the public written or electronic notice of the time and agenda of such meeting. The board shall designate during each meeting a public comment period that shall be at least one hour in duration and shall offer the public an opportunity to comment during such period. Such period may be abridged when the public is finished offering comments.

Source: L. 97: Entire part added, p. 495, § 1, effective August 6. **L. 2002:** Entire section amended, p. 401, § 2, effective August 7.

43-4-614. Notice - coordination of information. (1) (a) At least forty-five days prior to the creation of any authority pursuant to this part 6, a notice containing the proposed boundaries of the authority and the methods proposed for financing regional transportation systems in the authority shall be sent to the division and to the department of revenue.

(b) At least forty-five days prior to the imposition of or any increase in any fee or tax or prior to the issuance of any bonds authorized in this part 6, a notice specifying the amount of the fee or tax and its proposed duration or the value and number of bonds to be issued shall be sent to the division. The notice required by this paragraph (b) is not necessary if the required information has previously been provided in the notice required by paragraph (a) of this subsection (1).

(c) At the time the notice required in paragraph (a) or (b) of this subsection (1) is sent to the division, a copy of the notice shall be filed with the state auditor and the transportation commission.

(2) The division shall forward copies of any such notice to the department of transportation if the division determines that the proposed authority or the tax, fee, or bonds will have an impact on any operations of that department.

(3) (a) The division shall file an annual report with the state auditor and transportation commission concerning the activities of authorities created pursuant to this part 6. The report shall detail how many authorities have been created, describe their boundaries, and specify the regional transportation systems that are being provided and how they are being financed.

(b) The division shall notify the state auditor and the transportation commission either in the report required by paragraph (a) of this subsection (3) or by letter, if it deems that immediate notification is warranted, of any situation relating to the creation of an authority, the imposition

of any fee or tax, or the issuance of any bonds by an authority that the division believes or has reason to believe will adversely affect the tax-raising ability or the credit or bond rating of any governmental unit.

(4) The board and staff of the authority shall cooperate with the transportation legislation review committee in carrying out the committee's duties pursuant to section 43-2-145 (1.9).

Source: L. 97: Entire part added, p. 496, § 1, effective August 6. **L. 2002:** (1)(a) and (4) amended, p. 874, § 15, effective August 7. **L. 2005:** (1)(a) and (3)(a) amended, p. 1068, § 13, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending subsections (1)(a) and (3)(a), see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-615. Agreement of the state not to limit or alter rights of obligees. The state hereby pledges and agrees with the holders of any bonds issued under this part 6 and with those parties who enter into contracts with an authority or any member of the combination pursuant to this part 6 that the state will not impair the rights vested in the authority or the rights or obligations of any person with which the authority contracts to fulfill the terms of any agreements made pursuant to this part 6. The state further agrees that it will not impair the rights or remedies of the holders of any bonds of the authority until the bonds have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in such bonds.

Source: L. 97: Entire part added, p. 497, § 1, effective August 6.

43-4-616. Investments. An authority may invest or deposit any funds in the manner provided by part 6 of article 75 of title 24, C.R.S. In addition, an authority may direct a corporate trustee that holds funds of the authority to invest or deposit the funds in investments or deposits other than those specified by said part 6 if the board determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits specified by said part 6, and the investment will assist the authority in the financing, construction, operation, or maintenance of regional transportation systems.

Source: L. 97: Entire part added, p. 497, § 1, effective August 6. **L. 2005:** Entire section amended, p. 1068, § 14, effective January 1, 2006.

Cross references: For the legislative declaration contained in the 2005 act amending this section, see section 1 of chapter 269, Session Laws of Colorado 2005.

43-4-617. Bonds eligible for investment. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this part 6. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in the

bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 97: Entire part added, p. 497, § 1, effective August 6.

43-4-618. Exemption from taxation - securities laws. The income or other revenues of an authority, all properties at any time owned by an authority, any bonds issued by an authority, and the transfer of and the income from any bonds issued by an authority are exempt from all taxation and assessments in the state. In the resolution or indenture authorizing the bonds, an authority may waive the exemption from federal income taxation for interest on the bonds.

Source: L. 97: Entire part added, p. 497, § 1, effective August 6.

43-4-619. No action maintainable. An action or proceeding at law or in equity to review any acts or proceedings or to question the validity or enjoin the performance of any act or proceedings or the issuance of any bonds or for any other relief against or from any acts or proceedings done under this part 6, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceedings or the effective date thereof, whichever occurs first, and is thereafter perpetually barred.

Source: L. 97: Entire part added, p. 497, § 1, effective August 6.

43-4-620. Judicial examination of powers, acts, proceedings, or contracts of an authority. In its discretion, the board of an authority may file a petition at any time in the district court in and for any county in which the authority is located wholly or in part praying for a judicial examination and determination of any power conferred to the authority, any revenue-raising power exercised or that may be exercised by the authority, or any act, proceeding, or contract of the authority, whether or not the contract has been executed. The judicial examination and determination shall be conducted in substantially the manner set forth in section 32-4-540, C.R.S.; except that the notice required shall be published once a week for three consecutive weeks and the hearing shall be held not less than thirty days or more than forty days after the filing of the petition.

Source: L. 97: Entire part added, p. 498, § 1, effective August 6.

43-4-621. Calculation of fiscal year spending limit - first full fiscal year's spending as base. (1) For the purpose of determining any authority's fiscal year spending limit under section 20 (7)(b) of article X of the state constitution, the initial spending base of the authority shall be the amount of revenues collected by the authority from sources not excluded from fiscal year spending pursuant to section 20 (2)(e) of article X of the state constitution during the first full fiscal year for which the authority collected revenues.

(2) For purposes of this section, "fiscal year" means any year-long period used by an authority for fiscal accounting purposes.

Source: L. 2000: Entire section added, p. 1177, § 4, effective August 2.

PART 7

TRANSPORTATION REVENUE ANTICIPATION NOTES

43-4-701. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The rapid growth of the economy of this state has prompted new and ever-increasing uses of public highways, roads, and other transportation infrastructure, and the existing transportation infrastructure of this state cannot accommodate such greatly increased uses;

(b) One of the major concerns of the citizens of this state is the ability of the state and local governments to address the long-term transportation infrastructure needs of this state that are critical to the continued growth of the state's economy and the maintenance of citizens' quality of life;

(c) In an attempt to address this concern, the state has significantly increased the amount of state revenues available in recent years to fund critical, priority transportation infrastructure needs, but current transportation funding mechanisms do not provide adequate revenues to keep pace with the increasing demands on transportation infrastructure statewide;

(d) By utilizing revenue anticipation notes for the financing of transportation projects that may be financed, in whole or in part, with federal transportation funds, a significant amount of up-front revenues can be generated for such federal aid transportation projects which will enable the state to design and construct such transportation projects without using revenues available for other important transportation projects;

(e) Utilizing revenue anticipation notes to finance federal aid transportation projects also results in significant cost savings to the state, since such transportation projects can be completed at present-day costs and at an accelerated pace, but the state needs to be able to act quickly to issue revenue anticipation notes in order to realize these cost savings; and

(f) It is reasonable and necessary to utilize revenue anticipation notes for the financing of federal aid transportation projects.

(2) The general assembly further finds and declares that:

(a) The current and long-standing process of funding the transportation infrastructure needs of the state, which involves the continuous appropriation of certain state revenues to the department of transportation by the general assembly and the annual allocation of state and federal funds to specific projects and purposes by the transportation commission, is intended to ensure that such funding decisions are based on annual determinations of revenue availability and transportation infrastructure needs statewide;

(b) Making the payment of revenue anticipation notes issued in accordance with this part 7 subject to annual allocation by the transportation commission is equivalent to making such payments subject to annual legislative appropriation, since the annual allocation process requires the transportation commission to make the same annual budgeting decisions that the general assembly makes through the appropriation process;

(c) Revenue anticipation notes issued in accordance with the provisions of this part 7 that evidence the right to receive payments in subsequent fiscal years contingent upon funds for such payments being allocated on an annual basis in the sole discretion of the transportation

commission do not constitute "a debt by loan in any form" under section 3 of article XI of the state constitution based upon the Colorado supreme court's decision in *Submission of Interrogatories on House Bill 99-1325*, Case No. 99SA108 (April 23, 1999), since the notes are not a legally enforceable obligation against the state in future years and the annual allocation of such funds for the payment of such notes is in the sole discretion of the transportation commission; and

(d) In accordance with the Colorado supreme court decision in *Submission of Interrogatories on House Bill 99-1325*, Case No. 99SA108 (April 23, 1999), the proceeds of any transportation revenue anticipation notes issued in accordance with this part 7 are not included in state fiscal year spending for purposes of section 20 of article X of the state constitution and article 77 of title 24, C.R.S.

Source: L. 99: Entire part added, p. 1108, § 1, effective June 2.

43-4-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Commission" means the transportation commission created by section 43-1-106.

(2) "Department" means the department of transportation created by part 1 of article 1 of this title.

(3) "Executive director" means the executive director of the department.

(4) "Federal transportation funds" means:

(a) Funds paid to the department by the United States department of transportation; and

(b) Funds paid to any political subdivision by the United States department of transportation that are subsequently paid to the department by such political subdivision.

(5) "Political subdivision" means any municipality, county, city and county, or other political subdivision of the state.

(6) "Qualified federal aid transportation project" means any project that may be financed, in whole or in part, with federal transportation funds.

(7) "Revenue anticipation notes" or "notes" means revenue anticipation notes authorized by and issued in accordance with this part 7.

(8) "State matching funds" means revenues other than federal transportation funds that are credited to the state highway fund or the state highway supplementary fund in accordance with section 43-1-220 and that may be used by the department to pay the costs of any qualified federal aid transportation projects.

Source: L. 99: Entire part added, p. 1110, § 1, effective June 2. **L. 2001:** (2) amended, p. 1287, § 78, effective June 5.

43-4-703. Submission of ballot question regarding issuance of transportation revenue anticipation notes. (1) The secretary of state shall submit a ballot question to a vote of the registered electors of the state of Colorado at the statewide election to be held in November, 1999, for their approval or rejection. Each elector voting at said November election shall cast a vote as provided by law either "Yes" or "No" on the proposition: "Shall state of Colorado debt be increased up to $1,700,000,000, with a maximum repayment cost of $2,300,000,000, with no increase in any taxes, for the purpose of addressing the critical, priority transportation needs in the state by financing transportation projects that qualify for federal funding through the issuance

of revenue anticipation notes, and shall earnings on the proceeds of such notes constitute a voter-approved revenue change?"

(2) The votes cast for the adoption or rejection of the question submitted pursuant to subsection (1) of this section shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in congress.

Source: L. 99: Entire part added, p. 1110, § 1, effective June 2.

Editor's note: The ballot question specified in subsection (1) was referred to the voters on November 2, 1999, and was approved by the voters with the following vote count:

FOR: 477,982
AGAINST: 296,971

43-4-704. Powers of executive director. The executive director is authorized to enter into contracts with the federal government, the state of Colorado, any state institution or agency, any political subdivision, any department, agency, or instrumentality of a political subdivision, and any political or public corporation of the state, and with any person necessary or incidental to the performance of the duties and the execution of the powers of the executive director under this part 7.

Source: L. 99: Entire part added, p. 1111, § 1, effective June 2.

43-4-705. Revenue anticipation notes. (1) Subject to the provisions of this part 7, the executive director, on behalf of the department, from time to time, may issue revenue anticipation notes for the purpose of financing any qualified federal aid transportation projects.

(2) (a) Subject to the provisions of this subsection (2), the principal of and interest on revenue anticipation notes and any costs associated with the issuance and administration of such notes shall be payable solely from:

(I) Federal transportation funds and state matching funds that are allocated on an annual basis for such purpose by the commission, in its sole discretion, in accordance with section 43-1-113;

(II) Any proceeds of such notes and any earnings from the investment of such note proceeds pledged for such purpose; and

(III) Any other revenues, funds, or other security pledged for such purpose that do not constitute revenues or funds of the state.

(b) The owners or holders of the revenue anticipation notes may not look to any other revenues of the state for the payment of the notes.

(c) (I) (A) The portion of the principal of and interest on revenue anticipation notes and the costs associated with the issuance and administration of such notes that may be paid from federal transportation funds pursuant to federal law and any agreement between the United States department of transportation and the department or the political subdivision that is or is to be the initial recipient of such federal transportation funds, hereinafter referred to in this subsection (2) as "the federal share of principal, interest, and costs", shall be paid from federal transportation funds that the commission, in its sole discretion, has allocated on an annual basis for this purpose in accordance with section 43-1-113.

(B) If federal transportation funds are not sufficient to pay the federal share of principal, interest, and costs when due, the executive director shall request and the commission may grant such request to temporarily pay the federal share of principal, interest, and costs with state matching funds that the commission, in its sole discretion, has allocated on an annual basis for this purpose in accordance with section 43-1-113.

(II) Notwithstanding the provisions of section 43-1-220 (2)(c) and (2)(h), the state highway fund, the state highway supplementary fund, or both, shall be reimbursed for the amount of moneys in said fund or funds used in accordance with subparagraph (I) of this paragraph (c) from federal transportation funds that the commission determines are not needed in the future to pay the federal share of principal, interest, and costs.

(d) No moneys credited to the state highway fund that are required to be expended in accordance with the provisions of section 18 of article X of the state constitution shall be allocated and used to pay revenue anticipation notes financing any qualified federal aid transportation project that is not a state highway project or to pay any costs associated with the issuance and administration of such notes.

(3) (a) The executive director shall issue revenue anticipation notes pursuant to a certificate executed by the executive director, a trust indenture between the executive director and any commercial bank or trust company having full trust powers, or any other instrument issued by the executive director.

(b) As the executive director deems appropriate, the certificate, trust indenture, or other instrument authorizing revenue anticipation notes may contain such provisions setting forth the rights and remedies of the owners or holders of the revenue anticipation notes, may contain such provisions for protecting and enforcing the rights and remedies of the owners or holders of the revenue anticipation notes as the executive director deems appropriate, and may contain such other provisions that the executive director deems appropriate for the security of the owners or holders of the revenue anticipation notes. Such provisions may include, but shall not be limited to, provisions regarding letters of credit, insurance, stand-by credit agreements, or other forms of credit ensuring timely payment of the revenue anticipation notes, including the redemption price or the purchase price, and provisions regarding the reimbursement of providers of such credit out of revenues available for the payment of principal of and interest on the revenue anticipation notes for any amounts paid by such providers with respect to such notes.

(4) (a) Subject to the provisions of paragraph (b) of this subsection (4), revenue anticipation notes may be issued in such aggregate principal amount, may be issued in one or more series, may bear such dates, may be in such denomination or denominations, may mature on any date or dates, may mature in such amount or amounts, may be in such form, may be payable at such place or places, may be subject to such terms of redemption with or without a premium, may contain such provisions as the executive director deems appropriate regarding insurance to ensure the timely payment of the notes, and may contain such other provisions not inconsistent with the provisions of this part 7 as the executive director may determine.

(b) The aggregate amount of annual installments of principal and interest on all revenue anticipation notes issued pursuant to this part 7 that are scheduled to be paid during any given fiscal year, determined as of the date of issuance of each series of notes, shall not exceed an amount equal to fifty percent of the aggregate amount of federal transportation funds paid to the department during the fiscal year immediately preceding the fiscal year in which such series of notes is issued.

(5) The rate or rates of interest borne by the revenue anticipation notes may be fixed, adjustable, or variable or any combination thereof without regard to any interest rate limitation appearing in any other law of this state. If any rate or rates are adjustable or variable, the standard, index, method, or formula shall be determined by the executive director.

(6) Revenue anticipation notes may be sold at public or private sale and may be sold at, above, or below the principal amounts thereof. The sale of such notes shall not be subject to the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(7) Revenue anticipation notes shall be signed on behalf of the department by the executive director and the chief engineer of the department. Pursuant to article 55 of title 11, C.R.S., the signatures of the executive director and the chief engineer of the department may be facsimile signatures imprinted, engraved, stamped, or otherwise placed on the revenue anticipation notes. If all of the signatures on the revenue anticipation notes are facsimile signatures, provision shall be made for a manual authenticating signature on the revenue anticipation notes by or on behalf of a designated authenticating agent.

(8) The power to fix the date of sale of the revenue anticipation notes, to receive bids or proposals, to award and sell revenue anticipation notes, to fix interest rates, and to take all other action necessary to sell and deliver the notes may be delegated to an agent of the executive director.

(9) Any outstanding revenue anticipation notes may be refunded by the executive director pursuant to article 56 of title 11, C.R.S. All revenue anticipation notes are declared to be negotiable instruments.

(10) The executive director is authorized to engage the services of such consultants, financial advisors, underwriters, bond insurers, letter of credit banks, rating agencies, agents, or other persons whose services may be required or deemed advantageous by the executive director in connection with such revenue anticipation notes. The executive director shall contract for such services in accordance with the "Procurement Code", articles 101 to 112 of title 24, C.R.S.; except that contracting for services of bond insurers, letter of credit banks, and rating agencies shall not be subject to the "Procurement Code".

(11) The executive director may, with respect to revenue anticipation notes that have been issued or proposed revenue anticipation notes, enter into interest rate exchange agreements in accordance with article 59.3 of title 11, C.R.S.

(12) (a) The proceeds from the issuance of revenue anticipation notes that are not otherwise pledged for the payment of such notes, state matching funds, or federal transportation funds, any of which have been allocated on an annual basis by the commission, in its sole discretion, in accordance with section 43-1-113 for the payment of revenue anticipation notes or any costs associated with the issuance and administration of such notes, are pledged and shall be used only for the purpose or purposes for which such revenues are allocated. The proceeds from the issuance of revenue anticipation notes that are pledged pursuant to section 43-4-707 (1) shall be used only for the purpose or purposes for which such revenues are pledged. Any such pledge shall be valid and binding from the time the commission makes the allocation; except that any pledge of revenue anticipation note proceeds pursuant to section 43-4-707 (1) shall be valid and binding from the date of issuance of such notes. The pledge shall create a valid security interest, and such revenues shall immediately be subject to the lien of the pledge and security interest without any physical delivery or further act, and the lien of the pledge and security interest shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise

against the pledging party irrespective of whether such claiming party has notice of such lien. The instrument by which the pledge and security interest is created need not be recorded or filed in order to perfect such pledge and security interest.

(b) Notwithstanding any other provision of law to the contrary, including but not limited to section 24-91-103.6, C.R.S., the lien of the pledge and security interest on any revenue anticipation note proceeds shall not affect the authority of the department to enter into contracts for the design and construction of any qualified federal aid transportation project.

(13) Notwithstanding any other provision of this part 7 to the contrary, the executive director shall have the authority to issue revenue anticipation notes pursuant to this part 7 only if voters statewide approve the ballot question submitted at the November, 1999, statewide election pursuant to section 43-4-703 (1) and only then to the extent allowed under the maximum amounts of debt and repayment cost so approved.

Source: L. 99: Entire part added, p. 1111, § 1, effective June 2.

43-4-706. Financial obligations subject to annual budget allocation. (1) Any revenue anticipation notes issued in accordance with this part 7 shall constitute a contract between the department and the owner or holder thereof. In no event shall any decision by the commission not to allocate revenue anticipation note proceeds not otherwise pledged, state matching funds, or federal transportation funds in any given fiscal year for the payment of such notes or any costs associated with the issuance and administration of such notes be construed to constitute an action impairing such contract.

(2) (a) Every contract entered into by the executive director pursuant to the provisions of this part 7 shall provide that all financial obligations of the state under such contracts are subject to allocation on an annual basis by the commission, in its sole discretion, in accordance with section 43-1-113 and that such contracts shall not be deemed or construed as creating an indebtedness of the state within the meaning of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado.

(b) In addition, revenue anticipation notes issued by the executive director pursuant to the provisions of this part 7 and every contract relating to the issuance of such notes shall provide that all financial obligations of the state in regard to the portion of the principal of and interest on such notes and the costs associated with the issuance and administration of such notes that may be paid from federal transportation funds pursuant to federal law and any agreement between the United States department of transportation and the department or the political subdivision that is or is to be the initial recipient of such federal transportation funds are subject to continuing federal appropriations of federal transportation funds at a level equal to or greater than the amount needed to pay the federal share of principal, interest, and costs on the revenue anticipation notes.

(3) The executive director may pay all fees, expenses, and commissions that the executive director deems necessary or advantageous in connection with the sale of notes.

(4) Neither the members of the commission, the executive director, nor any person executing revenue anticipation notes in accordance with the provisions of this part 7 shall be liable personally on the notes or be subject to any personal liability or accountability by reason of the issuance thereof.

Source: L. 99: Entire part added, p. 1115, § 1, effective June 2.

43-4-707. Note proceeds. (1) The certificate, trust indenture, or other instrument authorizing the issuance of revenue anticipation notes in accordance with the provisions of this part 7 may pledge all or any portion of the proceeds from the issuance of such notes to the payment of such notes and any costs associated with the issuance and administration of such notes.

(2) Any proceeds from the issuance of revenue anticipation notes in accordance with the provisions of this part 7 that are not pledged for the payment of such notes and any costs associated with the issuance and administration of such notes shall be credited to the state highway supplementary fund and shall be used to finance qualified federal aid transportation projects, to pay such notes, to pay the costs of issuing and administering such revenue anticipation notes, and to pay any other expense or charge incurred in connection with actions of the executive director authorized by the provisions of this part 7.

(3) Any proceeds from the issuance of such notes and any earnings on such proceeds shall not be included in state fiscal year spending, as defined by section 24-77-102 (17)(a), C.R.S., for any given fiscal year for purposes of section 20 of article X of the state constitution and article 77 of title 24, C.R.S.

Source: L. 99: Entire part added, p. 1116, § 1, effective June 2.

43-4-708. Investments. (1) Any proceeds from the issuance of revenue anticipation notes or any other moneys relating to such notes that are credited to the state highway supplementary fund shall be invested in the same manner as all other moneys credited to said fund as provided by law.

(2) The executive director, in consultation with the state treasurer, may direct a corporate trustee that holds any proceeds from the issuance of revenue anticipation notes or any other moneys paid to such trustee in connection with such notes to invest or deposit such moneys in investments or deposits other than those in which moneys in the state highway supplementary fund may be invested or deposited if the executive director, in consultation with the state treasurer, determines that such investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits of moneys in the state highway supplementary fund, and the investment will assist the department in the financing, construction, operation, or maintenance of qualified federal aid transportation projects.

Source: L. 99: Entire part added, p. 1116, § 1, effective June 2.

43-4-709. Powers of political subdivisions. (1) A political subdivision, for the purpose of aiding and cooperating in the financing, construction, operation, or maintenance of any qualified federal aid transportation project, has the power:

(a) To sell, lease, loan, donate, grant, convey, assign, or otherwise transfer to the department any real or personal property or interests therein;

(b) To enter into agreements with any person for the joint financing, construction, operation, or maintenance of any qualified federal aid transportation project. Upon compliance

with applicable constitutional or charter limitations, the political subdivision may agree to make payments, without limitation as to amount except as set forth in the agreement, from revenues received in one or more fiscal years to the department or any person to defray the costs of the financing, construction, operation, or maintenance of any qualified federal aid transportation project.

(c) To transfer or assign to the department any contracts that may have been awarded by the political subdivision for construction, operation, or maintenance of any qualified federal aid transportation project.

(2) To assist in the financing, construction, operation, or maintenance of a qualified federal aid transportation project, any political subdivision may, by contract, pledge to the department all or a portion of federal transportation funds paid to the political subdivision, the revenues the political subdivision receives from the highway users tax fund, or the revenues from any other legally available source.

Source: L. 99: Entire part added, p. 1116, § 1, effective June 2.

43-4-710. Notes legal investments. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any revenue anticipation notes issued in accordance with this part 7. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such revenue anticipation notes only if the notes satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 99: Entire part added, p. 1117, § 1, effective June 2.

43-4-711. Exemption from taxation. Except as otherwise provided in this section, the income from revenue anticipation notes is exempt from all taxation and assessments in the state. In the certificate, indenture of trust, or other instrument authorizing the issuance of such notes, the executive director may waive the exemption from federal or state income taxation for interest on the notes.

Source: L. 99: Entire part added, p. 1117, § 1, effective June 2.

43-4-712. No action maintainable. An action or proceeding at law or in equity to review any acts or proceedings or to question the validity or enjoin the performance of any act or proceedings or the issuance of any revenue anticipation notes or for any other relief against or from any acts or proceedings done under this part 7, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceedings or the effective date thereof, whichever occurs first, and is thereafter perpetually barred.

Source: L. 99: Entire part added, p. 1117, § 1, effective June 2.

43-4-713. Annual reports. (1) No later than January 15, 2001, and no later than January 15 of each year thereafter, the executive director shall submit a report to the members of

the joint budget committee of the general assembly, the members of the legislative audit committee of the general assembly, the chair of the transportation and energy committee of the house of representatives, and the chair of the transportation committee of the senate that includes, at a minimum, the following information:

(a) The total amount of revenue anticipation notes issued by the executive director in accordance with this part 7;

(b) The qualified federal aid transportation projects for which the proceeds from such revenue anticipation notes have been expended, the amount of note proceeds expended on each project, the status of each project, and the estimated date of completion for such projects not yet completed;

(c) The total amount of federal transportation funds paid to the department since such revenue anticipation notes have been issued; and

(d) The total amount of proceeds from the issuance of revenue anticipation notes, state matching funds, and federal transportation funds allocated by the commission in each state fiscal year for the payment of such revenue anticipation notes and the costs associated with the issuance and administration of such notes.

Source: L. 99: Entire part added, p. 1118, § 1, effective June 2.

43-4-714. Priority of strategic transportation project investment program. If the executive director issues any revenue anticipation notes in accordance with the provisions of this part 7, the proceeds from the sale of such notes that are not otherwise pledged for the payment of such notes shall be used for the qualified federal aid transportation projects included in the strategic transportation project investment program of the department of transportation.

Source: L. 99: Entire part added, p. 1118, § 1, effective June 2.

43-4-715. Construction of part. The powers conferred by this part 7 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this part 7 shall not directly or indirectly modify, limit, or affect, the powers conferred to the executive director, the commission, or the department by any other law.

Source: L. 99: Entire part added, p. 1118, § 1, effective June 2.

PART 8

FUNDING ADVANCEMENT FOR SURFACE TRANSPORTATION AND ECONOMIC RECOVERY

Editor's note: This part 8 was added in 2002. This part 8 was repealed and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 2009, consult the Colorado statutory research explanatory note beginning on page vii or this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

43-4-801. Short title. This part 8 shall be known and may be cited as the "Funding Advancements for Surface Transportation and Economic Recovery Act of 2009".

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 10, § 1, effective March 2.

43-4-802. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The continued prosperity of the state and its citizens requires a safe, well-maintained, integrated, multimodal, and sustainable surface transportation system that is accessible in all parts of the state and that allows efficient movement of people, goods, and information;

(b) The primary funding sources dedicated for surface transportation, state and federal motor fuel taxes, are flat rate per gallon taxes that have lost and will continue to lose much of their purchasing power because they are not indexed to inflation, have not been increased in nearly two decades, and generate less revenue per vehicle mile traveled as motor vehicles become more fuel efficient;

(c) Due to the decline in the purchasing power of the revenues generated by the state and federal motor fuel taxes, the state and local governments have been unable to maintain, repair, reconstruct, operate, and improve surface transportation infrastructure in a strategic, timely, and efficient manner, which has already caused many bridges in the state to become structurally deficient or functionally obsolete and worsened the condition of road surfaces, delayed capacity expansion projects, and increased traffic congestion and greenhouse gas emissions; and

(d) Because this decline in purchasing power is ongoing and becomes more severe with each passing year, the state and local governments will continue to be unable to maintain, repair, reconstruct, operate, and improve surface transportation infrastructure in a strategic, timely, and efficient manner, and the safety, efficiency, and environmental impact of the state's surface transportation system will worsen more quickly in the future if sufficient and sustainable funding sources for surface transportation cannot be found.

(2) The general assembly further finds and declares that:

(a) The national and state economic recession and attendant rise in unemployment represent additional short- to medium-term challenges for the state and all Coloradans;

(b) There is an urgent present need to repair and replace structurally deficient and functionally obsolete bridges and improve highway safety in the state;

(c) Increasing funding for designated bridge projects and road safety projects in the short- and medium-term through the imposition of bridge and road safety surcharges and other new fees at rates reasonably calculated based on the benefits received by the persons paying the fees will not only provide funding to complete the projects but will also accelerate the state's economic recovery by increasing bridge and road construction, repair, reconstruction, and maintenance activity, as well as related economic activity, and by employing significant numbers of Coloradans;

(d) The creation of a statewide bridge enterprise authorized to complete designated bridge projects, to impose a bridge safety surcharge and issue revenue bonds, and, if required approvals are obtained, to contract with the state to receive one or more loans of moneys received by the state under the terms of one or more lease-purchase agreements authorized by this part 8 and to use the revenues generated by the bridge safety surcharge to repay any such loan or loans, will improve the safety and efficiency of the state transportation system by

allowing the state to accelerate the repair, reconstruction, and replacement of structurally deficient, functionally obsolete, and rated as poor bridges;

(e) The creation of a high-performance transportation enterprise with the authority and mission to seek out opportunities for innovative and efficient means of financing other important surface transportation infrastructure projects will ensure that such projects are also properly prioritized and accelerated; and

(f) Granting the bridge enterprise and the transportation enterprise both responsibility for the completion, respectively, of designated bridge projects and other important surface transportation projects and the flexibility to execute their respective missions in a variety of innovative ways will ensure that available resources for such projects are efficiently and effectively leveraged so that both the projects and the state's economic recovery can be completed as quickly as possible.

(3) The general assembly further finds and declares that:

(a) While it is necessary, appropriate, and in the best interests of the state to fund designated bridge projects and highway safety projects and stimulate economic recovery in the short- and medium-term, the state must also develop a long-term strategy to provide sustainable long-term revenue streams dedicated for the construction of important surface transportation infrastructure projects and the continuing maintenance, repair, and reconstruction of the statewide surface transportation system that will:

(I) Allow both the state and local governments to maintain, repair, reconstruct, and improve their transportation infrastructure in a strategic, timely, and efficient manner; and

(II) Provide the state and local governments with the resources and flexibility to explore and invest in modern multimodal and demand-side transportation solutions that will help reduce traffic congestion and greenhouse gas emissions;

(b) The specification of additional policies to be considered at all stages of the statewide transportation planning process and the establishment of an efficiency and accountability committee within the department of transportation will help to ensure that transportation planning is thorough, integrated, and strategic and that all funding dedicated for surface transportation is expended effectively.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 10, § 1, effective March 2.

Editor's note: This section is similar to former § 43-2-801 as it existed prior to 2009, and the former § 43-4-802 was relocated to § 43-4-803.

43-4-803. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Authorized agent" shall have the same meaning as set forth in section 42-1-102 (5), C.R.S.

(2) "Bond" means any bond, note, interim certificate, commercial paper, contract, or other evidence of indebtedness of either the bridge enterprise or the transportation enterprise authorized by this part 8, including, but not limited to, any obligation to the United States in connection with a loan from or guaranteed by the United States.

(3) "Bond obligations" means the debt service on, and related costs and obligations in connection with, bonds, including, without limitation:

(a) Payments with respect to principal, interest, prepayment premiums, reserve funds, surplus funds, sinking funds, and costs of issuance;

(b) Payments related to any credit enhancement, liquidity support, or interest rate protection for bonds;

(c) Fees and expenses of any trustee, bond registrar, paying agent, authenticating agent, rebate analyst or consultant, calculation agent, remarketing agent, or credit enhancement, liquidity support, or interest rate protection provider;

(d) Coverage requirements; and

(e) Other costs, fees, and expenses related to the foregoing and any other amounts required to be paid pursuant to the provisions of any documents authorizing the issuance of the bonds.

(4) "Bridge enterprise" means the statewide bridge enterprise created in section 43-4-805 (2).

(5) "Bridge enterprise board" means the board of directors of the bridge enterprise.

(6) "Bridge enterprise director" means the director of the bridge enterprise appointed pursuant to section 43-4-805 (2)(a)(I).

(7) "Bridge special fund" means the statewide bridge enterprise special revenue fund created in section 43-4-805 (3)(a).

(8) "Commission" means the transportation commission created in section 43-1-106 (1).

(9) "Department" means the department of transportation created in section 24-1-128.7, C.R.S.

(10) "Designated bridge" means every bridge, including any roadways, sidewalks, or other infrastructure connected or adjacent to or required for the optimal functioning of the bridge, that:

(a) Is part of the state highway system, as described in section 43-2-101; and

(b) Has been identified by the department as structurally deficient or functionally obsolete, and has been rated by the department as poor, as of January 1, 2009, or is subsequently so identified and rated by the department.

(11) "Designated bridge project" means a project that involves the repair, reconstruction, replacement, or ongoing operation or maintenance, or any combination thereof, of a designated bridge by the bridge enterprise pursuant to an agreement between the enterprise and the commission or department authorized by section 43-4-805 (5)(f).

(12) "Executive director" means the executive director of the department.

(13) (a) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in the state to the bridge enterprise or the transportation enterprise that is not required to be repaid.

(b) "Grant" does not include any of the following or any interest or income derived from the deposit and investment of the following:

(I) Any indirect benefit conferred upon the bridge enterprise or the transportation enterprise from the state or any local government in the state;

(II) Any federal funds received by the bridge enterprise or the transportation enterprise, regardless of whether the federal funds pass through the state or any local government in the state prior to receipt by the enterprise;

(III) Any revenues of the bridge enterprise from the bridge safety surcharge imposed by the enterprise pursuant to section 43-4-805 (5)(g) or revenues of the bridge enterprise or the

transportation enterprise from any other authorized rate, fee, assessment, or other charge imposed by either enterprise for the provision of goods or services by the enterprise;

(IV) Any moneys paid or advanced to the bridge enterprise or the transportation enterprise by the state, a local government or group of local governments, an authority, or any other government-owned business or governmental entity in exchange for an agreement by either enterprise to complete a designated bridge project or a surface transportation infrastructure project; or

(V) Any moneys loaned by the commission to the bridge enterprise pursuant to section 43-4-805 (4) or (5)(r) or the transportation enterprise pursuant to section 43-4-806 (4).

(14) "Highway" means a road and related improvements and services. A highway may consist of improvements and services, including, but not limited to, paving, grading, landscaping, curbs, gutters, culverts, sidewalks, bikeways, lighting, bridges, overpasses, underpasses, rail crossings, shoulders, frontage roads, access roads, interchanges, drainage facilities, transit lanes and services, park-and-ride facilities, traffic demand management facilities and services, other multimodal improvements and services, toll collection facilities, service areas, administrative or maintenance facilities, gas, electric, water, sewer, and other utilities located or to be located in the right-of-way of the highway, and other real or personal property, including easements, rights-of-way, open space, and other interests therein, relating to the financing, construction, operation, or maintenance of the highway.

(15) "Issuing enterprise" means, with respect to the issuance of bonds as authorized by this part 8, either the bridge enterprise or the transportation enterprise.

(16) "Local government" means a municipality, county, or city and county.

(17) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act of 1998", 49 U.S.C. sec. 5301 et seq., as amended.

(18) "Public-private partnership" means an agreement, including, but not limited to, an operating concession agreement between the bridge enterprise or the transportation enterprise and one or more private or public entities that provides for:

(a) Acceptance of a private contribution to a surface transportation infrastructure project in exchange for a public benefit concerning the project other than only a money payment;

(b) Sharing of resources and the means of providing surface transportation infrastructure projects; or

(c) Cooperation in researching, developing, and implementing surface transportation infrastructure projects.

(19) "Public transportation vehicle" means a motor vehicle that is part of vehicular service that transports the general public and that is provided by a public transportation district or by a local government.

(20) "Regional planning commission" means a regional planning commission formed under the provisions of section 30-28-105, C.R.S., that prepares and submits a transportation plan pursuant to section 43-1-1103.

(21) "Road safety project" means a construction, reconstruction, or maintenance project that the commission determines is needed to enhance the safety of a state highway, a county determines is needed to enhance the safety of a county road, or a municipality determines is needed to enhance the safety of a city street.

(22) "Surface transportation infrastructure" means a highway, a bridge other than a designated bridge, or any other infrastructure, facility, or equipment used primarily or in large part to transport people on systems that operate on or are affixed to the ground.

(23) "Surface transportation infrastructure project" means the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, or operation of a defined amount of surface transportation infrastructure by:

(a) The transportation enterprise; or

(b) A partner of the transportation enterprise under the terms of a public-private partnership.

(24) "Transportation enterprise" means the high-performance transportation enterprise created in section 43-4-806 (2)(a).

(25) "Transportation enterprise board" means the board of directors of the transportation enterprise.

(26) "Transportation enterprise director" means the director of the transportation enterprise appointed pursuant to section 43-4-806 (2)(b).

(27) "User fee" means compensation to be paid to the transportation enterprise or a partner of the transportation enterprise for the privilege of using surface transportation infrastructure constructed or operated by the transportation enterprise or operated by its partner under the terms of a public-private partnership.

(28) "Vehicle" means a motor vehicle as defined in section 42-1-102 (58), C.R.S.; except that, for purposes of the imposition of any surcharge, fee, or fine imposed pursuant this part 8 in connection with a vehicle required to be registered pursuant to the provisions of article 3 of title 42, C.R.S., "vehicle" also includes any vehicle without motive power that is required to be registered.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 12, § 1, effective March 2.

Editor's note: This section is similar to former § 43-4-802 as it existed prior to 2009, and the former § 43-4-803 was relocated to §§ 43-4-805 and 43-4-806.

43-4-804. Highway safety projects - surcharges and fees - crediting of moneys to highway users tax fund - definition. (1) On and after July 1, 2009, the following surcharges, fees, and fines shall be collected and credited to the highway users tax fund created in section 43-4-201 (1)(a) and allocated to the state highway fund, counties, and municipalities as specified in section 43-4-205 (6.3):

(a) (I) A road safety surcharge, which, except as otherwise provided in subparagraphs (III) and (VI) of this paragraph (a), shall be imposed for any registration period that commences on or after July 1, 2009, upon the registration of any vehicle for which a registration fee must be paid pursuant to the provisions of part 3 of article 3 of title 42, C.R.S. Except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (a), the amount of the surcharge shall be:

(A) Sixteen dollars for any vehicle that is a motorcycle, motorscooter, or motorbicycle, as respectively defined in section 42-1-102 (55) and (59), C.R.S., or that weighs two thousand pounds or less;

(B) Twenty-three dollars for any vehicle that weighs more than two thousand pounds but not more than five thousand pounds;

(C) Twenty-eight dollars for any vehicle that weighs more than five thousand pounds but not more than ten thousand pounds;

(D) Thirty-seven dollars for any vehicle that is a passenger bus or that weighs more than ten thousand pounds but not more than sixteen thousand pounds; and

(E) Thirty-nine dollars for any vehicle that weighs more than sixteen thousand pounds.

(II) The road safety surcharge shall be imposed when a vehicle is registered as required by article 3 of title 42, C.R.S. Each authorized agent shall remit to the department of revenue no less frequently than once a month, but otherwise at the time and in the manner required by the executive director of the department of revenue, all road safety surcharges collected by the authorized agent. The executive director of the department of revenue shall forward all road safety surcharges remitted by authorized agents plus any road safety surcharges collected directly by the department of revenue to the state treasurer, who shall credit the surcharges to the highway users tax fund.

(III) The road safety surcharge shall not be imposed on any rental vehicle on which a daily vehicle rental fee is imposed pursuant to paragraph (b) of this subsection (1).

(IV) The amount of the road safety surcharge imposed on any vehicle that is an item of Class A personal property, as defined in section 42-3-106 (2)(a), C.R.S., shall be the product of the amount of the surcharge imposed based on the weight of the vehicle pursuant to subparagraph (I) of this paragraph (a) and the percentage of the item's total apportioned registration apportioned to Colorado.

(V) The amount of the road safety surcharge imposed pursuant to this paragraph (a) shall be one-half of the amount specified in subparagraph (I) of this paragraph (a) for any vehicle that is a truck or truck tractor that is owned by a farmer or rancher and is used commercially only:

(A) To transport to market or place of storage raw agricultural products actually produced or livestock actually raised by the farmer or rancher in farming or ranching operations; or

(B) To transport commodities or livestock purchased by the farmer or rancher for personal use in the farmer's or rancher's farming or ranching operations.

(VI) The road safety surcharge shall not be imposed on any vehicle for which the department of revenue has issued a horseless carriage special license plate pursuant to section 42-12-301, C.R.S.

(VII) Each vehicle registration fee invoice shall list the road safety surcharge separately from all other vehicle registration fees or surcharges imposed.

(b) (I) (A) Except as otherwise provided in subparagraph (III) of this paragraph (b), a daily vehicle rental fee is imposed on all short-term vehicle rentals at the rate of two dollars per day; except that a subsequent renewal of a short-term vehicle rental is exempt from the fee to the extent that the renewal extends the total rental period beyond thirty days. The rental invoice shall list the daily vehicle rental fee separately as a Colorado road safety program fee.

(B) As used in this section, "short-term vehicle rental" means the rental of any motor vehicle, as defined in section 42-1-102 (58), C.R.S., with a gross vehicle weight rating of twenty-six thousand pounds or less that is rented within Colorado for a period of not more than thirty days.

(II) A person who collects the daily vehicle rental fee imposed by subparagraph (I) of this paragraph (b) and who pays specific ownership tax on the vehicles rented in the manner specified in either section 42-3-107 (11) or (12), C.R.S., or both, shall, no later than the twentieth day of each month, submit to the department of revenue a report, using forms furnished by the department of revenue, of daily vehicle rental fees collected for the preceding month and shall include with the report the remittance of all such fees. A person who collects the daily vehicle rental fee imposed by subparagraph (I) of this paragraph (b) but does not pay specific ownership tax on the vehicles in the manner specified in either section 42-3-107 (11) or (12), C.R.S., or both, shall submit the report and the remittance of fees collected in the same manner or in such other manner as the executive director of the department of revenue may prescribe by rules promulgated in accordance with article 4 of title 24, C.R.S. The executive director of the department of revenue shall forward all daily vehicle rental fees collected to the state treasurer, who shall credit the daily vehicle rental fees to the highway users tax fund.

(III) Because vehicle sharing is an alternative to personal vehicle ownership that reduces the number of vehicle miles traveled on the highways of the state by encouraging the use of transit and reducing the number of trips made in privately owned vehicles and thereby benefits the state by reducing traffic congestion, greenhouse gas emissions, and the amount of wear and tear on the highways, the daily vehicle rental fee imposed pursuant to this paragraph (b) shall not be imposed on any vehicle rented pursuant to a vehicle sharing arrangement if:

(A) Under the terms of the arrangement, an organization provides passenger vehicles for the use of members of the organization who have paid a membership fee to the organization and charges an additional fee for each use of a passenger vehicle;

(B) A member of the organization is not required to enter into a separate written agreement with the organization each time the member reserves and uses a passenger vehicle;

(C) The average paid usage period for all passenger vehicles provided by the organization during the prior calendar year was six hours or less;

(D) At least three-quarters of all passenger vehicle rentals made by the organization during the prior calendar year in each municipality or county in which the organization does business were made to members of the organization who maintain a residence within the city or county;

(E) Fuel and full insurance coverage are included in the member usage rates; and

(F) Passenger vehicles provided by the organization are stationed in self-serve locations throughout the county or municipality in which the organization does business.

(c) (I) A supplemental oversize and overweight vehicle surcharge in an amount equal to the amount of the fee charged pursuant to section 42-4-510 (11)(a), C.R.S., by the department or the Colorado state patrol for the issuance of the single trip permit; except that the surcharge shall not be imposed on a vehicle if the single trip permit fee was imposed pursuant to section 42-4-510 (11)(a)(VI)(B), C.R.S.

(II) The agency issuing an oversize or overweight vehicle single trip permit shall collect the supplemental oversize and overweight vehicle surcharge at the same time as it collects the single trip permit fee. The agency shall forward all supplemental oversize and overweight vehicle surcharges to the department, and the executive director of the department shall forward the supplemental surcharges to the state treasurer, who shall credit the surcharges to the highway users tax fund.

(d) (I) A supplemental unregistered vehicle fine imposed in addition to the fine imposed pursuant to section 42-6-139 (3), C.R.S., upon conviction of a misdemeanor for knowingly failing to register a vehicle within ninety days of becoming a resident of this state as required by section 42-3-103 (4)(a), C.R.S.

(II) The supplemental unregistered vehicle fine shall be collected at the same time as the fine imposed pursuant to section 42-6-139 (3), C.R.S. The amount of the supplemental unregistered vehicle fine shall be twenty-five dollars for each month or portion of a month that the vehicle remained unregistered following the ninety-day period during which initial registration was required; except that the amount of the supplemental unregistered vehicle fine shall not exceed one hundred dollars. All supplemental unregistered vehicle fines shall be forwarded to the state treasurer, who shall credit the fines to the highway users tax fund.

(e) Late registration fees required to be credited to the highway users tax fund pursuant to section 42-3-112 (2), C.R.S.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 16, § 1, effective March 2. **L. 2011:** (1)(a)(VI) amended, (SB 11-031), ch. 86, p. 249, § 20, effective August 10. **L. 2012:** (1)(c)(I) amended, (HB 12-1019), ch. 135, p. 474, § 26, effective July 1. **L. 2014:** (1)(b)(I) amended, (SB 14-055), ch. 88, p. 334, § 1, effective July 1.

Editor's note: Provisions of the former § 43-4-804 were relocated to §§ 43-4-805 and 43-4-806 in 2009.

43-4-805. Statewide bridge enterprise - creation - board - funds - powers and duties - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The completion of designated bridge projects is essential to address increasing traffic congestion and delays, hazards, injuries, and fatalities;

(b) Due to the limited availability of state and federal funding and the need to accomplish the financing, repair, reconstruction, and replacement of designated bridges as promptly and efficiently as possible, it is necessary to create a statewide bridge enterprise and to authorize the enterprise to:

(I) Enter into agreements with the commission or the department to finance, repair, reconstruct, and replace designated bridges in the state; and

(II) Impose a bridge safety surcharge at rates reasonably calculated to defray the costs of completing designated bridge projects and distribute the burden of defraying the costs in a manner based on the benefits received by persons paying the fees and using designated bridges, receive and expend revenues generated by the surcharge and other moneys, issue revenue bonds and other obligations, contract with the state, if required approvals are obtained, to receive one or more loans of moneys received by the state under the terms of one or more lease-purchase agreements authorized by this part 8, expend revenues generated by the surcharge to repay any such loan or loans received, and exercise other powers necessary and appropriate to carry out its purposes; and

(c) The creation of a statewide bridge enterprise is in the public interest and will promote the health, safety, and welfare of all Coloradans and visitors to the state by providing bridges that incorporate the benefits of advanced engineering design, experience, and safety.

(2) (a) (I) The statewide bridge enterprise is hereby created. The bridge enterprise shall be and shall operate as a government-owned business within the department. The commission shall serve as the bridge enterprise board and shall, with the consent of the executive director, appoint a bridge enterprise director who shall possess such qualifications as may be established by the commission and the state personnel board. The bridge enterprise director shall oversee the discharge of all responsibilities of the bridge enterprise and shall serve at the pleasure of the bridge enterprise board.

(II) The bridge enterprise and the bridge enterprise director shall exercise their powers and perform their duties as if the same were transferred to the department by a **type 1** transfer, as defined in section 24-1-105, C.R.S.

(b) The business purpose of the bridge enterprise is to finance, repair, reconstruct, and replace any designated bridge in the state and, as agreed upon by the enterprise and the commission, or the department to the extent authorized by the commission, to maintain the bridges it finances, repairs, reconstructs, and replaces. To allow the bridge enterprise to accomplish this purpose and fully exercise its powers and duties through the bridge enterprise board, the bridge enterprise may:

(I) Impose a bridge safety surcharge as authorized in paragraph (g) of subsection (5) of this section;

(II) Issue revenue bonds payable from the revenues and other available moneys of the bridge enterprise pledged for their payment as authorized in section 43-4-807; and

(III) Contract with any other governmental or nongovernmental source of funding for loans or grants, including, but not limited to, one or more loans from the state of moneys received by the state pursuant to the terms of one or more lease-purchase agreements authorized pursuant to paragraph (r) of subsection (5) of this section, to be used to support bridge enterprise functions.

(c) The bridge enterprise shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this paragraph (c), the bridge enterprise shall not be subject to any provisions of section 20 of article X of the state constitution. Consistent with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with "enterprise" status under section 20 of article X of the state constitution, the general assembly finds and declares that a bridge safety surcharge imposed by the bridge enterprise pursuant to paragraph (g) of subsection (5) of this section is not a tax but is instead a fee imposed by the bridge enterprise to defray the cost of completing designated bridge projects that the enterprise provides as a specific service to the persons upon whom the fee is imposed and at rates reasonably calculated based on the benefits received by such persons.

(3) (a) The statewide bridge enterprise special revenue fund, referred to in this part 8 as the "bridge special fund", is hereby created in the state treasury. All revenues received by the bridge enterprise, including, but not limited to, any revenues from a bridge safety surcharge collected pursuant to paragraph (g) of subsection (5) of this section and any moneys loaned to the enterprise by the state pursuant to paragraph (r) of subsection (5) of this section, shall be deposited into the bridge special fund. The bridge enterprise board may establish separate accounts within the bridge special fund as needed in connection with any specific designated

bridge project. The bridge enterprise also may deposit or permit others to deposit other moneys into the bridge special fund, but in no event may revenues from any tax otherwise available for general purposes be deposited into the bridge special fund. The state treasurer, after consulting with the bridge enterprise board, shall invest any moneys in the bridge special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to section 43-4-807 (2), that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(b) All interest and income derived from the deposit and investment of moneys in the bridge special fund shall be credited to the bridge special fund and, if applicable, to the appropriate designated bridge project account. Moneys in the bridge special fund shall be continuously appropriated to the bridge enterprise for the purposes set forth in this part 8. All moneys deposited in the bridge special fund shall remain in the bridge special fund for the purposes set forth in this part 8, and no part of the bridge special fund shall be used for any other purpose.

(c) The bridge enterprise may expend moneys in the bridge special fund to pay bond or loan obligations, to fund the administration, planning, financing, repair, reconstruction, replacement, or maintenance of designated bridges, and for the acquisition of land to the extent required in connection with any designated bridge project. The bridge enterprise may also expend moneys in the bridge special fund to pay its operating costs and expenses. The bridge enterprise board shall have exclusive authority to budget and approve the expenditure of moneys in the bridge special fund.

(4) The commission may transfer moneys from the state highway fund created in section 43-1-219 to the bridge enterprise for the purpose of defraying expenses incurred by the enterprise prior to the receipt of bond proceeds or revenues by the enterprise. The bridge enterprise may accept and expend any moneys so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer shall constitute a loan from the commission to the bridge enterprise and shall not be considered a grant for purposes of section 20 (2)(d) of article X of the state constitution. As the bridge enterprise receives sufficient revenues in excess of expenses, the enterprise shall reimburse the state highway fund for the principal amount of any loan from the state highway fund made by the commission plus interest at a rate set by the commission. Any moneys loaned from the state highway fund to the bridge enterprise pursuant to this section shall be deposited into a fund to be known as the statewide bridge enterprise operating fund, which fund is hereby created, and shall not be deposited into the bridge special fund. Moneys from the bridge special fund may, however, be used to reimburse the state highway fund for the amount of any loan from the state highway fund or any interest thereon.

(5) In addition to any other powers and duties specified in this section, the bridge enterprise board has the following powers and duties:

(a) To supervise and advise the bridge enterprise director;

(b) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(c) To issue revenue bonds, payable solely from the bridge special fund, for the purpose of paying the cost of financing, repairing, reconstructing, replacing, and maintaining designated bridges;

(d) To acquire, hold title to, and dispose of real and personal property as necessary in the exercise of its powers and performance of its duties;

(e) To acquire, by purchase, gift, or grant, or, subject to the requirements of articles 1 to 7 of title 38, C.R.S., by condemnation, any and all rights-of-way, lands, buildings, moneys, or grounds necessary or convenient for its authorized purposes;

(f) To enter into agreements with the commission, or the department to the extent authorized by the commission, under which the bridge enterprise agrees to finance, repair, reconstruct, replace, and, if any given agreement so specifies, maintain designated bridges as specified in the agreements;

(g) (I) As necessary for the achievement of its business purpose, to impose a bridge safety surcharge, which, except as otherwise provided in subparagraphs (III) and (VII) of this paragraph (g), shall be imposed, on and after July 1, 2009, for any registration period that commences on or after July 1, 2009, or on and after such later date as may be determined by the bridge enterprise, for any registration period that commences on or after the later date, upon the registration of any vehicle for which a registration fee must be paid pursuant to the provisions of part 3 of article 3 of title 42, C.R.S. Except as otherwise provided in subparagraphs (IV), (V), and (VI) of this paragraph (g), the amount of the surcharge shall not exceed:

(A) Thirteen dollars for any vehicle that is a motorcycle, motorscooter, or motorbicycle, as respectively defined in section 42-1-102 (55) and (59), C.R.S., or that weighs two thousand pounds or less;

(B) Eighteen dollars for any vehicle that weighs more than two thousand pounds but not more than five thousand pounds;

(C) Twenty-three dollars for any vehicle that weighs more than five thousand pounds but not more than ten thousand pounds;

(D) Twenty-nine dollars for any vehicle that is a passenger bus or that weighs more than ten thousand pounds but not more than sixteen thousand pounds; and

(E) Thirty-two dollars for any vehicle that weighs more than sixteen thousand pounds.

(II) The bridge safety surcharge shall be imposed when a vehicle is registered as required by article 3 of title 42, C.R.S. Each authorized agent shall remit to the department of revenue no less frequently than once a month, but otherwise at the time and in the manner required by the executive director of the department of revenue, all bridge safety surcharges collected by the authorized agent. The executive director of the department of revenue shall forward all bridge safety surcharges remitted by authorized agents plus any bridge safety surcharges collected directly by the department of revenue to the state treasurer, who shall credit the surcharges to the bridge special fund.

(III) The bridge safety surcharge shall not be imposed on any rental vehicle on which a daily vehicle rental fee is imposed pursuant to section 43-4-804 (1)(b).

(IV) The amount of the bridge safety surcharge imposed on any vehicle that is an item of Class A personal property, as defined in section 42-3-106 (2)(a), C.R.S., shall be the product of the amount of the surcharge imposed based on the weight of the vehicle pursuant to subparagraph (I) of this paragraph (g) and the percentage of the item's total apportioned registration apportioned to Colorado.

(V) The maximum amount of the bridge safety surcharge that the bridge enterprise may impose pursuant to subparagraph (I) of this paragraph (g) for any annual vehicle registration period commencing during the 2009-10 fiscal year shall be one-half of the maximum amount of

the surcharge specified in said subparagraph (I), and the maximum amount of the bridge safety surcharge that the bridge enterprise may impose pursuant to subparagraph (I) of this paragraph (g) for any vehicle registration period commencing during the 2010-11 fiscal year shall be seventy-five percent of the maximum amount of the surcharge specified in said subparagraph (I).

(VI) The amount of any bridge safety surcharge imposed pursuant to this paragraph (g) shall be one-half of the amount of the surcharge imposed pursuant to subparagraph (I) of this paragraph (g) for any vehicle that is a truck or truck tractor that is owned by a farmer or rancher and is used commercially only:

(A) To transport to market or place of storage raw agricultural products actually produced or livestock actually raised by the farmer or rancher in farming or ranching operations; or

(B) To transport commodities or livestock purchased by the farmer or rancher for personal use in the farmer's or rancher's farming or ranching operations.

(VII) The bridge safety surcharge is not imposed on any vehicle for which the department of revenue has issued a horseless carriage special license plate pursuant to section 42-12-301, C.R.S.

(VIII) Each vehicle registration fee invoice shall list the bridge safety surcharge separately from all other vehicle registration fees or surcharges imposed.

(h) To make and enter into contracts or agreements with a private entity, to facilitate a public-private initiative pursuant to sections 43-1-1203 and 43-1-1204, including, but not limited to:

(I) An agreement pursuant to which the bridge enterprise or the enterprise on behalf of the department operates, maintains, or provides services or property in connection with a designated bridge project; and

(II) An agreement pursuant to which a private entity designs, develops, constructs, reconstructs, repairs, operates, or maintains all or any portion of a designated bridge project on behalf of the bridge enterprise;

(i) To make and to enter into all other contracts or agreements, including, but not limited to, design-build contracts, as defined in section 43-1-1402 (3), and intergovernmental agreements pursuant to section 29-1-203, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

(j) To employ or contract for the services of consulting engineers or other experts as are necessary in its judgment to carry out its powers and duties;

(k) To prepare, or cause to be prepared, detailed plans, specifications, or estimates for any designated bridge project within the state;

(l) In connection with any designated bridge project, to acquire, finance, repair, reconstruct, replace, operate, and maintain any designated bridge within the state;

(m) To set and adopt, on an annual basis, a budget for the bridge enterprise;

(n) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, or encumber real or personal property or any interest therein, including easements and rights-of-way, without restriction or limitation;

(o) To enter into interest rate exchange agreements for bonds that have been issued in accordance with article 59.3 of title 11, C.R.S.;

(p) Pursuant to section 24-1-107.5, C.R.S., to establish, create, and approve nonprofit entities and bonds issued by or on behalf of such nonprofit entities for the purpose of completing

a designated bridge project, to accept the assets of any such nonprofit entity, to obtain an option to acquire the assets of any such nonprofit entity by paying its bonds, to appoint or approve the appointment of members of the governing board of any such nonprofit entity, and to remove the members of the governing board of any such nonprofit entity for cause;

(q) To transfer money, property, or other assets of the bridge enterprise to the department to the extent necessary to implement the financing of any designated bridge project or for any other purpose authorized in this part 8;

(r) (I) To contract with the state to borrow moneys under the terms of one or more loan contracts entered into by the state and the bridge enterprise pursuant to subparagraph (III) of this paragraph (r), to expend any moneys borrowed from the state for the purpose of completing designated bridge projects and for any other authorized purpose that constitutes the construction, supervision, and maintenance of the public highways of this state for purposes of section 18 of article X of the state constitution, and to use revenues generated by any bridge safety surcharge imposed pursuant to paragraph (g) of this subsection (5) and any other legally available moneys of the bridge enterprise to repay the moneys borrowed and any other amounts payable under the terms of the loan contract.

(II) If the bridge enterprise board seeks to enter into a contract to borrow moneys from the state as authorized by subparagraph (I) of this paragraph (r), the board shall provide the governor with a list of designated bridge projects to be financed with the borrowed moneys and a statement of both the total amount of the loan requested and the estimated amount of the loan that will be used to fund each project on the list. If the governor determines, in the governor's sole discretion, that lending moneys to the bridge enterprise as requested by the enterprise, or lending a lesser amount of moneys to the enterprise, is in the best interest of the state, the governor, after consultation with the executive director of the department of personnel and the state treasurer, shall prepare and provide to the state treasurer a list of state buildings or other state capital facilities that the state, acting by and through the state treasurer, may sell or lease and lease back pursuant to the terms of one or more lease-purchase agreements that the state, acting by and through the state treasurer, may enter into pursuant to subparagraph (III) of this paragraph (r). When providing the list, the governor shall also specify to the state treasurer the maximum permitted principal amount of any loan that may be made to the bridge enterprise under the terms of any loan contract that the state, acting by and through the state treasurer, may enter into pursuant to sub-subparagraph (A) of subparagraph (III) of this paragraph (r).

(III) (A) If the state treasurer receives a list from the governor pursuant to subparagraph (II) of this paragraph (r), the state, acting by and through the state treasurer, may enter into a loan contract with the bridge enterprise and may raise the money needed to make a loan pursuant to the terms of the loan contract by selling or leasing one or more of the state buildings or other state capital facilities on the list. The state treasurer shall have sole discretion to enter into a loan contract on behalf of the state and to determine the amount of a loan; except that the principal amount of a loan shall not exceed the maximum amount specified by the governor pursuant to subparagraph (II) of this paragraph (r). The state treasurer shall also have sole discretion to determine the timing of the entry of the state into any loan contract or the sale or lease of one or more state buildings or other state capital facilities. The loan contract shall require the bridge enterprise to pledge to the state all or a portion of the revenues of any bridge safety surcharge imposed pursuant to paragraph (g) of this subsection (5) for the repayment of the loan and may also require the enterprise to pledge to the state any other legally available revenues of the

enterprise. Any loan contract entered into by the state, acting by and through the state treasurer, and the bridge enterprise pursuant to this sub-subparagraph (A) and any pledge of revenues by the enterprise pursuant to such a loan contract shall be only for the benefit of, and enforceable only by, the state and the enterprise. Specifically, but without limiting the generality of said limitation, no such loan contract or pledge shall be for the benefit of, or enforceable by, a lessor under a lease-purchase agreement entered into pursuant to this subparagraph (III), an owner of any instrument evidencing rights to receive rentals or other payments made and to be made under such a lease-purchase agreement as authorized by sub-subparagraph (B) of subparagraph (IV) of this paragraph (r), a party to any ancillary agreement or instrument entered into pursuant to subparagraph (V) of this paragraph (r), or a party to any interest rate exchange agreement entered into pursuant to sub-subparagraph (A) of subparagraph (VII) of this paragraph (r).

(B) The state, acting by and through the state treasurer, may enter into one or more lease-purchase agreements with respect to the state buildings or other capital facilities sold or leased pursuant to sub-subparagraph (A) of this subparagraph (III) with any for-profit or nonprofit corporation, trust, or commercial bank acting as a trustee, as the lessor.

(C) Any lease-purchase agreement authorized pursuant to sub-subparagraph (B) of this subparagraph (III) shall provide that all of the obligations of the state under the agreement shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder.

(D) Any lease-purchase agreement authorized pursuant to sub-subparagraph (B) of this subparagraph (III) shall also provide that the obligations of the state under the agreement shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of this state concerning or limiting the creation of indebtedness by the state, and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4)(a) of article X of the state constitution. If the state does not renew a lease-purchase agreement authorized pursuant to sub-subparagraph (B) of this subparagraph (III), the sole security available to the lessor shall be the property that is the subject of the nonrenewed lease-purchase agreement.

(IV) (A) Any lease-purchase agreement authorized pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r) may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state, may deem appropriate, including all optional terms; except that each lease-purchase agreement shall specifically authorize the state to receive fee title to all real and personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the lease-purchase agreement upon payment of all amounts payable under the terms of the lease-purchase agreement and any amount required to be paid to remove liens or encumbrances on or claims with respect to the property that is the subject of the lease-purchase agreement, including, but not limited to, liens, encumbrances, or claims relating to any ancillary agreement or instrument entered into pursuant to sub-subparagraph (A) of subparagraph (VII) of this paragraph (r). Any title to such property received by the state on or prior to the expiration of the terms of the lease-purchase agreement shall be held for the benefit and use of the state.

(B) Any lease-purchase agreement authorized pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r) may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the lease-purchase agreement. The instruments may be issued, distributed, or sold only by the

lessor or any person designated by the lessor and not by the state. The instruments shall not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4)(a) of article X of the state constitution.

(C) Interest paid under a lease-purchase agreement authorized pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r), including interest represented by the instruments, shall be exempt from state income tax.

(V) The state, acting by and through the state treasurer, may enter into ancillary agreements and instruments deemed necessary or appropriate in connection with a lease-purchase agreement authorized pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r), including but not limited to deeds, leases, sub-leases, easements, or other instruments relating to the real property on which the facilities are located or an agreement entered into pursuant to subparagraph (VII) of this paragraph (r).

(VI) The provisions of section 24-30-202 (5)(b), C.R.S., shall not apply to a lease-purchase agreement authorized pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r) or any ancillary agreement or instrument or interest rate exchange agreement entered into pursuant to subparagraph (V) or sub-subparagraph (A) of subparagraph (VII) of this paragraph (r). Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), C.R.S., that the state controller deems to be incompatible or inapplicable with respect to such a lease-purchase agreement, ancillary agreement or instrument, or interest rate exchange agreement may be waived by the controller or his or her designee.

(VII) (A) Prior to executing a lease-purchase agreement pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r), in order to protect against future interest rate increases, the lessor under any lease-purchase agreement or the state, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into an interest rate exchange agreement in accordance with article 59.3 of title 11, C.R.S. A lease-purchase agreement entered into pursuant to sub-subparagraph (B) of subparagraph (III) of this paragraph (r) shall be a proposed public security for the purposes of article 59.3 of title 11, C.R.S.

(B) Any agreement entered into pursuant to this subparagraph (VII) shall also provide that the obligations of the state shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of this state concerning or limiting the creation of indebtedness by the state and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4)(a) of article X of the state constitution.

(C) Any moneys received by the state under an agreement entered into pursuant to this subparagraph (VII) shall be used to make payments on lease-purchase agreements entered into pursuant to sub-subparagraph (A) of subparagraph (III) of this paragraph (r).

(s) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted in this section.

(6) Repealed.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 20, § 1, effective March 2. **L. 2011:** (5)(g)(VII) amended, (SB 11-031), ch. 86, p. 249, § 21, effective August 10. **L. 2017:** (6) repealed, (SB 17-231), ch. 174, p. 634, § 5, effective August 9.

Editor's note: This section is similar to former §§ 43-4-803, 43-4-804, 43-4-805, and 43-4-806 as they existed prior to 2009, and the former § 43-4-805 was also relocated to § 43-4-806.

43-4-806. High-performance transportation enterprise - creation - board - funds - powers and duties - limitations - reporting requirements - legislative declaration - definition. (1) The general assembly hereby finds and declares that:

(a) It is necessary, appropriate, and in the best interests of the state for the state to aggressively pursue innovative means of more efficiently financing important surface transportation infrastructure projects that will improve the safety, capacity, and accessibility of the surface transportation system, can feasibly be commenced in a reasonable amount of time, will allow more efficient movement of people, goods, and information throughout the state, and will accelerate the economic recovery of the state;

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

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

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

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

(B) Three members of the commission appointed by resolution of the commission.

(II) Initial appointments to the transportation enterprise board shall be made no later than July 1, 2009. Members of the board shall serve at the pleasure of the appointing authority and without compensation. Vacancies in the membership of the transportation enterprise board shall be filled in the same manner as regular appointments.

(III) (A) The transportation enterprise and the transportation enterprise director shall exercise their powers and perform their duties as if the same were transferred to the department by a **type 1** transfer, as defined in section 24-1-105, C.R.S.

(B) The statewide tolling enterprise, created by the commission pursuant to section 43-4-803 (1), prior to the repeal and reenactment of said section by Senate Bill 09-108, enacted in 2009, and its powers, duties, and functions are transferred by a **type 3** transfer, as defined in section 24-1-105, C.R.S., to the transportation enterprise, and the statewide tolling enterprise is abolished.

(b) The transportation enterprise board shall, with the consent of the executive director, appoint a director of the enterprise who shall possess such qualifications as may be established by the board and the state personnel board. The director shall oversee the discharge of all responsibilities of the transportation enterprise and shall serve at the pleasure of the board.

(c) The business purpose of the transportation enterprise is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects. To allow the transportation enterprise to accomplish this purpose and fully exercise its powers and duties through the transportation enterprise board, the transportation enterprise may:

(I) Subject to the limitations specified in section 43-4-808 (3), impose user fees for the privilege of using surface transportation infrastructure;

(II) Issue or reissue revenue bonds payable from the revenues and other available moneys of the transportation enterprise pledged for their payment as authorized in section 43-4-807;

(III) Contract with any other governmental or nongovernmental source of funding for loans or grants to be used to support transportation enterprise functions; and

(IV) Seek out and enter into public-private partnerships.

(d) The transportation enterprise shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this paragraph (d), the transportation enterprise shall not be subject to any provisions of section 20 of article X of the state constitution.

(3) (a) The statewide transportation enterprise special revenue fund, referred to in this part 8 as the "transportation special fund", is hereby created in the state treasury. All revenues received by the transportation enterprise, including any revenues from user fees collected pursuant to subparagraph (I) of paragraph (c) of subsection (2) of this section, shall be deposited into the transportation special fund. The transportation enterprise board may establish separate accounts within the transportation special fund as needed in connection with any specific surface transportation infrastructure project. The transportation enterprise also may deposit or permit others to deposit other moneys into the transportation special fund, but in no event may revenues from any tax otherwise available for general purposes be deposited into the transportation special fund. The state treasurer, after consulting with the transportation enterprise board, shall invest any moneys in the transportation special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant section 43-4-807 (2), that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(b) All interest and income derived from the deposit and investment of moneys in the transportation special fund shall be credited to the transportation special fund and, if applicable, to the appropriate surface transportation infrastructure project account. Moneys in the transportation special fund shall be continuously appropriated to the transportation enterprise for the purposes set forth in this part 8. All moneys deposited in the transportation special fund shall remain in the fund for the purposes set forth in this part 8, and no part of the fund shall be used for any other purpose.

(c) The transportation enterprise shall prepare a separate annual accounting of the user fees collected from any surface transportation infrastructure project upon which any user fee is imposed; except that a partner of the enterprise may prepare the annual accounting for a project upon which it imposes a user fee pursuant to the terms of a public-private partnership.

(d) The transportation enterprise may expend moneys in the transportation special fund to pay bond obligations, to fund surface transportation infrastructure projects, and for the acquisition of land to the extent required in connection with any surface transportation infrastructure project. The transportation enterprise may also expend moneys in the transportation special fund to pay its operating costs and expenses. The transportation enterprise board shall have exclusive authority to budget and approve the expenditure of moneys in the transportation special fund.

(4) The commission may transfer moneys from the state highway fund created in section 43-1-219 to the transportation enterprise for the purpose of defraying expenses incurred by the transportation enterprise prior to the receipt of bond proceeds or revenues by the enterprise. The transportation enterprise may accept and expend any moneys so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer shall constitute a loan from the commission to the transportation enterprise and shall not be considered a grant for purposes of section 20 (2)(d) of article X of the state constitution. As the transportation enterprise receives sufficient revenues in excess of expenditures, the enterprise shall reimburse the state highway fund for the principal amount of any loan made by the commission plus interest at a rate set by the commission. Any moneys loaned to the transportation enterprise pursuant to this section shall be deposited into a fund to be known as the statewide transportation enterprise operating fund, which fund is hereby created, or an account within the transportation special fund. All loaned money deposited into the transportation special fund shall be accounted for separately from other transportation special fund money.

(5) Notwithstanding any other provision of this section, user fee revenues shall be expended only for purposes authorized by subsection (3) of this section and only for the surface transportation infrastructure project for which they were collected, to address ongoing congestion management needs related to the project, or as a portion of the expenditures made for another surface transportation infrastructure project that is integrated with the project as part of a surface transportation system; except that the transportation enterprise board may use user fee revenues from each surface transportation infrastructure project in proportion to the total amount of such revenues generated by the project to pay overhead of the transportation enterprise.

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

(a) To supervise and advise the transportation enterprise director;

(b) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(c) To issue revenue bonds, payable solely from the transportation special fund, for the purpose of completing surface transportation infrastructure projects;

(d) To acquire, hold title to, and dispose of real and personal property as necessary in the exercise of its powers and performance of its duties;

(e) To acquire, by purchase, gift, or grant, or, subject to the requirements of articles 1 to 7 of title 38, C.R.S., by condemnation, any and all rights-of-way, lands, buildings, moneys, or grounds necessary or convenient for its authorized purposes;

(f) To enter into agreements with the commission, or the department to the extent authorized by the commission, under which the transportation enterprise agrees to complete surface transportation infrastructure projects as specified in the agreements;

(g) To make and enter into contracts or agreements with any private or public entity to facilitate a public-private partnership, including, but not limited to:

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

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

(h) To make and to enter into all other contracts or agreements, including, but not limited to, design-build contracts, as defined in section 43-1-1402 (3), and intergovernmental agreements pursuant to section 29-1-203, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

(i) To employ or contract for the services of consulting engineers or other experts as are necessary in its judgment to carry out its powers and duties;

(j) To prepare, or cause to be prepared, detailed plans, specifications, or estimates for any surface transportation infrastructure project within the state;

(k) In connection with any surface transportation infrastructure project, to acquire, finance, repair, reconstruct, replace, operate, or maintain any surface transportation infrastructure within the state;

(l) To set and adopt, on an annual basis, a budget for the transportation enterprise;

(m) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, or encumber real or personal property or any interest therein, including easements and rights-of-way, without restriction or limitation;

(n) To enter into interest rate exchange agreements for bonds that have been issued in accordance with article 59.3 of title 11, C.R.S.;

(o) Pursuant to section 24-1-107.5, C.R.S., to establish, create, and approve nonprofit entities and bonds issued by or on behalf of such nonprofit entities for the purpose of completing a surface transportation infrastructure project, to accept the assets of any such nonprofit entity, to obtain an option to acquire the assets of any such nonprofit entity by paying its bonds, to appoint or approve the appointment of members of the governing board of any such nonprofit entity, and to remove the members of the governing board of any such nonprofit entity for cause;

(p) To transfer money, property, or other assets of the transportation enterprise to the department to the extent necessary to implement the financing of any surface transportation infrastructure project or for any other purpose authorized in this part 8; and

(q) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted in this section.

(7) (a) In addition to the powers and duties specified in subsection (6) of this section, the transportation enterprise board has the duty to evaluate any toll highway in the state that is owned and offered for sale or for lease and an operating concession by an entity other than the state in order to determine whether it is in the best interests of the state for the transportation enterprise to purchase or lease the toll highway or a partial interest in the toll highway that is being offered for sale, lease, or concession or enter into a public-private partnership in connection with the toll highway. In evaluating a toll highway, the transportation enterprise board shall consider the financial costs and benefits to the state and users of the toll highway of purchasing or leasing the toll highway or a partial interest in the toll highway or entering into a public-private partnership in connection with the toll highway; the effect of such a purchase, lease, or public-private partnership on statewide, regional, or local transportation plans previously adopted and on future transportation planning; and any other factors deemed significant by the board. In considering the effect on regional or local transportation plans, the transportation enterprise board shall consult with the appropriate regional or local transportation planning agency. Subject to criteria, procedures, processes, and rules established by the entity other than the state offering the toll highway for sale or for lease and an operating concession including, without limitation, provisions for rejecting all bids or proposals and short-listing bidders and proposers, and without any special consideration for either public or private sector interests that may bid on or propose to purchase or lease a toll highway, the transportation enterprise board may bid on or propose to purchase or lease a toll highway or a partial interest in a toll highway so offered without change or delay of such criteria, procedures, processes, and rules or may enter into a public-private partnership in connection with a toll highway and may finance all or a portion of the purchase or lease of a toll highway or a public-private partnership entered into in connection with a toll highway by issuing bonds as authorized by section 43-4-807 if the board determines that the purchase, lease, or public-private partnership is in the best interests of the state. Funding to perform a toll highway evaluation shall be provided by the department and managed by the transportation enterprise board. An entity other than the state shall consider and represent the interests of its constituency at all times during and after the evaluation process conducted by the transportation enterprise board pursuant to this subsection (7).

(b) For purposes of this subsection (7), "entity other than the state" means a public highway authority created pursuant to section 43-4-504, a regional transportation authority created pursuant to section 43-4-603, a toll road or toll highway company formed pursuant to section 7-45-101, C.R.S., or any other natural person or entity other than the state or a department or agency of the state that may own a toll highway.

(c) This subsection (7) shall not be construed to require the transportation enterprise board to purchase or lease any toll highway or partial interest in a toll highway or to enter into any public-private partnership in connection with any toll highway.

(7.5) In addition to any other powers and duties specified in this section, the transportation enterprise may enter into a transportation demand management contract with the department under which the department compensates the transportation enterprise for relieving traffic congestion during peak travel times, as determined by the department and the transportation enterprise, in the portion of the interstate 70 mountain corridor that includes and lies between Floyd hill and the Eisenhower-Johnson tunnels by providing and operating reversible highway lanes within that portion of the corridor. If a feasibility study of a moveable

barrier system on interstate 70 is completed and demonstrates that such a system is viable and that life safety issues can be addressed, a transportation demand management contract may establish, consistent with planning provisions in section 43-1-1103, the interstate 70 collaborative effort, context sensitive solutions, and the processes required by the federal "National Environmental Policy Act of 1969", 42 U.S.C. 4321 et seq., the goal of beginning the provision and operation of reversible highway lanes and reporting to the general assembly no later than January 1, 2011. A transportation demand management contract may authorize the transportation enterprise to enter into single-fiscal year or multiple-fiscal year operating lease agreements or capital lease or lease-purchase agreements with a private contractor as needed to provide and operate the reversible highway lanes.

(8) (a) When the transportation enterprise board decides to study the feasibility or desirability of completing a surface transportation infrastructure project that adds substantial transportation capacity or significantly alters travel patterns, the board shall invite every metropolitan planning organization or other transportation planning region with planning responsibility for any area in which the project will be located and every affected public mass transit operator, as defined in section 43-1-102 (5), public highway authority created pursuant to part 5 of this article, and regional transportation authority created pursuant to part 6 of this article to collaborate with the board in its study and review and comment regarding the project. The transportation enterprise board and a metropolitan planning organization, transportation planning region, public mass transit operator, public highway authority, or regional transportation authority may enter into an intergovernmental agreement to define the degree of collaboration and any sharing of costs and revenues. The transportation enterprise board, in collaboration with those metropolitan planning organizations, transportation planning regions, public mass transit operators, and authorities that are entitled to and wish to collaborate with the board, may develop a plan for the completion of the surface transportation infrastructure project that addresses the feasibility of the project, the technology to be utilized, project financing, and any other federally required information.

(b) In order to ensure that the limited resources available for the completion of major surface transportation infrastructure projects are allocated only to projects deemed essential by all impacted metropolitan planning organizations and other transportation planning regions, every metropolitan planning organization or other transportation planning region that includes territory in which all or any portion of a proposed surface transportation infrastructure project that will add substantial transportation capacity or significantly alter traffic patterns is to be completed shall have the right to participate in the planning and development, and approve the completion, of the project. The right of participation shall extend, without limitation, to decisions regarding the scope of the project, the type of surface transportation infrastructure to be provided, project financing, allocation of project revenues, and the manner in which any user fees are to be imposed. A surface transportation infrastructure project shall not proceed past the planning stage until all metropolitan planning organizations entitled to participate in the planning, development, and approval process, including the transportation enterprise and any partner of the enterprise under the terms of a public-private partnership, have approved the project.

(9) (a) The transportation enterprise shall not supplant or duplicate the services provided by any public mass transit operator, as defined in section 43-1-102 (5), railroad, public highway authority created pursuant to part 5 of this article, or regional transportation authority created

pursuant to part 6 of this article except as described in detail in an intergovernmental agreement or other contractual agreement entered into by the transportation enterprise and the operator, railroad, or authority. The creation of and undertaking of surface transportation infrastructure projects by the transportation enterprise pursuant to this part 8 is not intended to discourage any combination of local governments from forming a public highway authority or a regional transportation authority.

(b) Moneys made available for any surface transportation infrastructure project pursuant to this part 8 shall not be used to supplant existing or budgeted department funding for any portion of the state highway system within the territory of any transportation planning region, as defined in section 43-1-1102 (8), that includes any portion of the project.

(10) Notwithstanding section 24-1-136 (11)(a)(I), no later than February 15, 2010, and no later than February 15 of each year thereafter, the transportation enterprise shall present a report to the committees of the house of representatives and the senate that have jurisdiction over transportation. The report shall include a summary of the transportation enterprise's activities for the previous year, a summary of the status of any current surface transportation infrastructure projects, a statement of the enterprise's revenues and expenses, and any recommendations for statutory changes that the enterprise deems necessary or desirable. The committees shall review the report and may recommend legislation. The report shall be public and shall be available on the website of the department on or before January 15 of the year in which the report is presented.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 30, § 1, effective March 2. **L. 2010:** (7.5) added, (SB 10-184), ch. 334, p. 1536, § 1, effective May 27. **L. 2015:** (4) amended, (SB 15-187), ch. 102, p. 296, § 1, effective April 16. **L. 2017:** (10) amended, (SB 17-231), ch. 174, p. 635, § 6, effective August 9.

Editor's note: This section is similar to former §§ 43-4-803, 43-4-804, 43-4-805, and 43-4-806 as they existed prior to 2009.

43-4-807. Bonds - investments - bonds eligible for investment and exempt from taxation. (1) (a) Both the bridge enterprise and the transportation enterprise may, from time to time, issue bonds for any of their corporate purposes. The bonds shall be issued pursuant to resolution of the bridge enterprise board or the transportation enterprise board and shall be payable solely out of all or a specified portion of the moneys in the bridge special fund or the transportation special fund as the case may be.

(b) Bonds may be executed and delivered by the issuing enterprise at such times; may be in such form and denominations and include such terms and maturities; may be subject to optional or mandatory redemption prior to maturity with or without a premium; may be in fully registered form or bearer form registrable as to principal or interest or both; may bear such conversion privileges; may be payable in such installments and at such times not exceeding forty-five years from the date thereof; may be payable at such place or places whether within or without the state; may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the issuing enterprise or its agents, without regard to any interest rate limitation appearing in any other law of the state; may be subject to purchase at the option of the holder or the issuing enterprise; may be evidenced in

such manner; may be executed by such officers of the issuing enterprise, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the issuing enterprise or of an agent authenticating the same; may be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the issuing enterprise; and may contain such provisions not inconsistent with this part 8, all as provided in the resolution of the issuing enterprise under which the bonds are authorized to be issued or as provided in a trust indenture between the issuing enterprise and any commercial bank or trust company having full trust powers.

(c) Bonds of the issuing enterprise may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the board of the issuing enterprise, and the board may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the issuing enterprise. Any outstanding bonds may be refunded by the issuing enterprise pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(d) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or a portion of the bridge special fund or the transportation special fund, as the case may be; may, respectively, pledge all or a portion of the rights of the bridge enterprise to impose, and receive the revenues generated by, a bridge safety surcharge authorized by section 43-4-805 (5)(g) or all or a portion of the rights of the transportation enterprise to impose, and receive the revenues generated by, any user fee or other charge authorized by section 43-4-806; may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the issuing enterprise deems appropriate; may set forth the rights and remedies of the holders of any of the bonds; and may contain provisions that the issuing enterprise deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(e) Any pledge of the bridge special fund, the transportation special fund, or other property made by an issuing enterprise or by any person or governmental unit with which an issuing enterprise contracts shall be valid and binding from the time the pledge is made. The pledged special fund or other pledged property shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party regardless of whether the claiming party has notice of the lien. The instrument by which the pledge is created need not be recorded or filed.

(f) Neither the members of the board of an issuing enterprise, employees of the issuing enterprise, nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability by reason of the issuance thereof.

(g) An issuing enterprise may purchase its bonds out of any available moneys and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

(2) An issuing enterprise may invest or deposit any proceeds and any interest from the sale of bonds in the manner provided by part 6 of article 75 of title 24, C.R.S. In addition, an

issuing enterprise may direct a corporate trustee that holds such proceeds and any interest to invest or deposit such proceeds and any interest in investments or deposits other than those specified by said part 6 if the board of the issuing enterprise determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits specified by said part 6, and the investment will assist the issuing enterprise in the completion of a designated bridge project or other authorized surface transportation infrastructure project.

(3) All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this part 8. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public moneys in such bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(4) The income or other revenues of the bridge enterprise and the transportation enterprise, all properties at any time owned by either enterprise, bonds issued by either enterprise, and the transfer of and the income from any bonds issued by either enterprise shall be exempt from all taxation and assessments in the state. In the resolution or indenture authorizing the bonds, the issuing enterprise may waive the exemption from federal income taxation for interest on the bonds. Bonds issued by an issuing enterprise shall be exempt from the provisions of article 51 of title 11, C.R.S.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 38, § 1, effective March 2.

Editor's note: This section is similar to former §§ 43-4-807, 43-4-808, 43-4-809, and 43-4-810 as they existed prior to 2009.

43-4-808. Toll highways - special provisions - limitations. (1) The transportation enterprise or any partner of the enterprise operating surface transportation infrastructure that is a toll highway under the terms of a public-private partnership shall, in operating the toll highway:

(a) Ensure unrestricted access by all vehicles to the toll highway and shall not require that a particular class of vehicles travel upon the toll highway; except that the enterprise or its partner may designate one or more highway lanes for high-occupancy vehicle use only and may restrict access to vehicles carrying hazardous materials or other vehicles to the extent necessary to protect the health and safety of the public; and

(b) Allow any public transportation vehicle to travel on the toll highway without paying a user fee.

(2) (a) The traffic laws of this state, and those of any municipality through which a toll highway passes, and the transportation enterprise's regulations regarding toll collection and enforcement shall pertain to and govern the use of the toll highway. State and local law enforcement authorities are authorized to enter into traffic and toll enforcement agreements with the transportation enterprise. Any moneys received by a state law enforcement authority pursuant to a toll enforcement agreement shall be subject to annual appropriations by the general assembly to the law enforcement authority for the purpose of performing its duties pursuant to the agreement.

(b) The transportation enterprise may adopt, by resolution of the transportation enterprise board, rules pertaining to the enforcement of toll collection and providing a civil

penalty for toll evasion. The civil penalty established by the transportation enterprise for any toll evasion shall be not less than ten dollars nor more than two hundred fifty dollars in addition to any costs imposed by a court. The transportation enterprise may use state-of-the-art technology, including, but not limited to, automatic vehicle identification photography, to aid in the collection of tolls and enforcement of toll violations. The use of state-of-the-art technology to aid in enforcement of toll violations shall be governed solely by this section.

(c) (I) Any person who evades a toll established by the transportation enterprise shall be subject to the civil penalty established by the enterprise for toll evasion. Any peace officer as described in section 16-2.5-101, C.R.S., shall have the authority to issue civil penalty assessments, or municipal summons and complaints if authorized pursuant to a municipal ordinance, for toll evasion.

(II) At any time that a person is cited for toll evasion, the person operating the motor vehicle involved shall be given either a notice in the form of a civil penalty assessment notice or a municipal summons and complaint.

(III) If a civil penalty assessment notice is issued, the notice shall be tendered by a peace officer as described in section 16-2.5-101, C.R.S., and shall contain the name and address of the person operating the motor vehicle involved, the license number of the motor vehicle, the person's driver's license number, the nature of the violation, the amount of the penalty prescribed for the violation, the date of the notice, a place for the person to execute a signed acknowledgment of the person's receipt of the civil penalty assessment notice, a place for the person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear for adjudication of a toll evasion pursuant to this section if the prescribed toll, fee, or civil penalty are not paid within twenty days. Every cited person shall execute the signed acknowledgment of the person's receipt of the civil penalty assessment notice.

(IV) The acknowledgment of liability shall be executed at the time the person cited pays the prescribed penalty. The person cited shall pay the toll, fee, or civil penalty authorized by the transportation enterprise at the office of the enterprise or the enterprise's collection designee either in person or by postmarking the payment within twenty days of the notice. If the person cited does not pay the prescribed toll, fee, or civil penalty within twenty days of the notice, the civil penalty assessment notice shall constitute a complaint to appear for adjudication of a toll evasion pursuant to this section, and the person cited shall, within the time specified in the civil penalty assessment notice, file an answer to this complaint in the manner specified in the notice.

(V) If a municipal summons and complaint is issued, the adjudication of the violation shall be conducted and the format of the summons and complaint shall be determined pursuant to the terms of the municipal ordinance authorizing issuance of the summons and complaint. In no case shall the penalty upon conviction for violation of a municipal ordinance for toll evasion exceed the limit established in paragraph (b) of this subsection (2).

(d) (I) The respective courts of the municipalities, counties, and cities and counties shall have jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a toll highway and arising under the toll evasion civil penalty rules enacted by the transportation enterprise. Venue for any such case shall be in the municipality, county, or city and county where the alleged violation of a municipal ordinance, state law, or rule of the transportation enterprise occurred.

(II) At the request of the judicial department, the transportation enterprise shall consider establishing an administrative toll enforcement process and may, by resolution, adopt rules creating such a process. The rules pertaining to the administrative enforcement of toll evasion shall require notice to the person cited for toll evasion and provide to the person an opportunity to appear at an open hearing conducted by an impartial hearing officer and a right to appeal the final administrative determination of toll evasion to the county court for the county in which the violation occurred.

(III) If the transportation enterprise establishes an administrative toll enforcement process, no court of a municipality, county, or city and county shall have jurisdiction to hear toll evasion cases arising on a toll highway operated by the enterprise.

(IV) A toll evasion case may be adjudicated by an impartial hearing officer in an administrative hearing conducted pursuant to this section and the rules promulgated by the transportation enterprise. The hearing officer may be an administrative law judge employed by the state or an independent contractor of the transportation enterprise. The contract for an independent contractor shall grant to the hearing officer the same degree of independence granted to an administrative law judge employed by the state. The transportation enterprise may enter into contracts pursuant to section 29-1-203, C.R.S., for joint adjudication of toll evasion cases pursuant to this section.

(V) The transportation enterprise may file a certified copy of an order imposing a toll, fee, and civil penalty that is entered by the hearing officer in an adjudication of a toll evasion with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. The order shall thenceforth have the effect of a judgment of the county court, and execution may issue on the order out of the court as in other cases.

(VI) An administrative adjudication of a toll evasion by the transportation enterprise is subject to judicial review. The administrative adjudication may be appealed as to matters of law and fact to the county court for the county in which the violation occurred. The appeal shall be a de novo hearing.

(VII) Notwithstanding the specific remedies provided by this section, the transportation enterprise shall have every legal remedy available to enforce unpaid tolls and fees as debts owed to the enterprise.

(e) The aggregate amount of penalties, exclusive of court costs, collected as a result of civil penalties imposed pursuant to rules adopted as authorized in paragraph (b) of this subsection (2) shall be remitted to the transportation enterprise and shall be applied by the enterprise to defray the costs and expenses of enforcing the laws of the state and the regulations of the enterprise. If a municipal summons or complaint is issued, the aggregate penalty shall be apportioned pursuant to the terms of any enforcement agreement.

(f) (I) In addition to the penalty assessment procedure provided for in paragraph (c) of this subsection (2), where an instance of toll evasion is evidenced by automatic vehicle identification photography or other technology not involving a peace officer, a civil penalty assessment notice may be issued and sent by first-class mail, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, by the transportation enterprise to the registered owner of the motor vehicle involved. The notice shall contain the name and address of the registered owner of the vehicle involved, the license number of the

vehicle involved, the date of the notice, the date, time, and location of the violation, the amount of the penalty prescribed for the violation, a place for such person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear for adjudication of a toll evasion civil penalty assessment. Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (f), the registered owner of the vehicle involved in a toll evasion shall be presumed liable for the toll, fee, or civil penalty imposed by the transportation enterprise. If the registered owner of the vehicle does not pay the prescribed toll, fee, or civil penalty within thirty days of the date of the civil penalty assessment notice, the notice shall constitute a complaint to appear for adjudication of a toll evasion in court or in an administrative toll enforcement proceeding, and the registered owner of the vehicle shall, within the time specified in the notice, file an answer to the complaint in the manner specified in the notice. If the registered owner of the vehicle fails to pay in full the outstanding toll, fee, or civil penalty as set forth in the notice or to appear and answer the complaint and request a hearing as specified in the notice, a final order of liability shall be entered against the registered owner of the vehicle for the purposes of enabling the registered owner to appeal pursuant to subparagraph (VI) of paragraph (d) of this subsection (2) and allowing the transportation enterprise to proceed to judgment pursuant to subparagraph (V) of paragraph (d) of this subsection (2).

(II) In addition to any other liability provided for in this section, the owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a toll evasion violation civil penalty; except that, at the discretion of such owner:

(A) The owner may obtain payment for a toll evasion violation civil penalty from the person or company who leased or rented the vehicle at the time of the toll evasion through a credit or debit card payment and forward the payment to the transportation enterprise; or

(B) The owner may seek to avoid liability for a toll evasion violation civil penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that, at the time of the toll evasion violation, the vehicle was leased or rented to another person. To avoid liability for payment, the owner of the motor vehicle shall, within thirty days after receipt of the notification of the toll evasion violation, furnish to the transportation enterprise an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented the vehicle. As a condition to avoid liability for payment of a toll evasion violation civil penalty, any person or company who leases or rents motor vehicles to a person shall include a notice in the leasing or rental agreement stating that, pursuant to the requirements of this section, the person renting or leasing the vehicle is liable for payment of a toll evasion violation civil penalty incurred on or after the date the person renting or leasing the vehicle takes possession of the motor vehicle. The notice shall inform the person renting or leasing the vehicle that the person's name, address, and state driver's license number shall be furnished to the transportation enterprise when a toll evasion violation civil penalty is incurred during the term of the lease or rental agreement.

(III) The registered owner of a vehicle involved in a toll evasion violation may rebut the presumption of liability for the violation by proving by a preponderance of the evidence that:

(A) The owner sold or otherwise transferred ownership of the vehicle to another person before the date of the violation as evidenced by a bill of sale or similar document; or

(B) The owner did not have custody and control of the vehicle at the time of the violation due to theft as evidenced by a report to a law enforcement agency.

(IV) (Deleted by amendment, L. 2010, (SB 10-016), ch. 150, p. 519, § 2, effective April 21, 2010.)

(g) A court with jurisdiction in a toll evasion case pursuant to subparagraph (I) of paragraph (d) of this subsection (2) or the transportation enterprise, if it has jurisdiction in a toll evasion case pursuant to subparagraph (II) of paragraph (d) of this subsection (2), may report to the department of revenue any outstanding judgment or warrant or any failure to pay the toll, fee, or civil penalty for any toll evasion. Upon receipt of a certified report from a court or the transportation enterprise stating that the owner of a registered vehicle has failed to pay a toll, fee, or civil penalty resulting from a final order entered by the enterprise, the department shall not renew the registration of the vehicle until the toll, fee, and civil penalty are paid in full. The transportation enterprise shall contract with and compensate a vendor approved by the department for the direct costs associated with the nonrenewal of a vehicle registration pursuant to this paragraph (g). The department has no authority to assess any points against a license under section 42-2-127, C.R.S., upon entry of a conviction or judgment for any toll evasion.

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

(a) Impose user fees on a highway segment or highway lanes that have previously served vehicular traffic on a user fee-free basis if:

(I) It has obtained any required federal approval for the user fees; and

(II) It has obtained the approval of every local government that includes territory in which all or any portion of the highway segment or highway lanes upon which the user fee is to be imposed pass or that will otherwise be substantially impacted by the imposition of the user fees on the highway segment or highway lanes;

(b) Incorporate congestion management and congestion pricing into its schedule of user fees for any highway or highway system; and

(c) Authorize the investment of highway-derived user fee revenues for cost-effective multimodal transportation projects that promote mobility, reductions in emissions of greenhouse gases, and energy efficiency.

(4) When determining whether to undertake and complete a surface transportation infrastructure project to be funded, in whole or in part, through the imposition of any user fee, the transportation enterprise shall consider whether the completion of the project will help to reconnect or reintegrate any local government or other community that has been disconnected or divided by existing transportation infrastructure.

(5) Before imposing a user fee on a highway segment or highway lanes that have previously served vehicular traffic on a toll-free basis, the transportation enterprise shall prepare or cause to be prepared a local air quality impact statement and a local community traffic safety assessment that specifically take into account any diversion of vehicular traffic from the highway segment or highway lanes onto other highways, roads, or streets that is expected to result from the imposition of the user fee.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 40, § 1, effective March 2. **L. 2010:** (2)(d)(VI), (2)(f)(I), and (2)(f)(IV) amended, (SB 10-016), ch. 150, p. 519, § 2, effective April 21.

Editor's note: This section is similar to former § 43-4-811 as it existed prior to 2009, and the former § 43-4-808 was relocated to § 43-4-807.

43-4-809. Enterprises - applicability of other laws. (1) Notwithstanding any law to the contrary, neither the bridge enterprise nor the transportation enterprise shall be subject to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(2) (a) The bridge enterprise and the transportation enterprise shall be subject to the open meetings provisions of the Colorado sunshine law contained in part 4 of article 6 of title 24, C.R.S., and the "Colorado Open Records Act", article 72 of title 24, C.R.S.

(b) For purposes of part 2 of the "Colorado Open Records Act", article 72 of title 24, C.R.S., the records of the bridge enterprise and the transportation enterprise shall be public records, as defined in section 24-72-202 (6), C.R.S., regardless of whether the bridge enterprise or the transportation enterprise receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined.

(3) Revenues of the bridge enterprise and the transportation enterprise shall not be subject to the provisions of section 43-1-1205.

(4) The bridge enterprise and the transportation enterprise shall each constitute a public entity for purposes of part 2 of article 57 of title 11, C.R.S.

(5) Labor standards specified in law that apply to the department shall apply with equal force to the bridge enterprise and the transportation enterprise.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 46, § 1, effective March 2.

Editor's note: This section is similar to former § 43-4-812 as it existed prior to 2009, and the former § 43-4-809 was relocated to § 43-4-807.

43-4-810. Fees and surcharges - limitations on use. As required by section 18 of article X of the state constitution, the proceeds of any fee or surcharge imposed pursuant to the provisions of this part 8 that is a license fee, registration fee, or other charge with respect to the operation of any vehicle upon any public highway in this state shall be used exclusively for the construction, maintenance, and supervision of the public highways of this state as specified in this part 8.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 46, § 1, effective March 2.

Editor's note: Provisions of the former § 43-4-810 were relocated to § 43-4-807 in 2009.

43-4-811. Transit and rail division - funding for local transit grants. (1) Notwithstanding any other provision of law, for state fiscal year 2009-10 and for each succeeding state fiscal year the allocation of the surcharges, fees, and fines imposed and credited to the highway users tax fund created in section 43-4-201 (1)(a) pursuant to section 43-4-804 (1) and allocated to the state highway fund, counties, and municipalities as specified in section 43-4-205 (6.3) shall be modified as follows:

(a) The allocation to the state highway fund shall be increased by five million dollars.

(b) The allocation to counties shall be reduced by two million seven hundred fifty thousand dollars.

(c) The allocation to municipalities shall be reduced by two million two hundred fifty thousand dollars.

(2) For state fiscal year 2009-10 and for each succeeding state fiscal year, five million dollars of the moneys allocated to the state highway fund pursuant to section 43-4-205 (6.3) shall be credited to the state transit and rail fund, which is hereby created in the state treasury, and used by the state transit and rail division created in section 43-1-117.5 (1), enacted by Senate Bill 09-094, enacted in 2009, to provide grants to local governments for local transit projects; except that no funds shall be used for the condemnation of land for the purpose of relocating a rail corridor or rail line.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 47, § 1, effective March 2.

Editor's note: Provisions of the former § 43-4-811 were relocated to § 43-4-808 in 2009.

43-4-812. Use of user fees for transit - legislative declaration. (1) Notwithstanding any other provision of law, the transportation enterprise, a public highway authority created and existing pursuant to part 5 of this article, a regional transportation authority created and existing pursuant to part 6 of this article, or any other entity that, as of March 2, 2009, is imposing a user fee or toll for the privilege of traveling on any highway segment or highway lanes may use revenues generated by the user fee or toll for transit-related projects that relate to the maintenance or supervision of the highway segment or highway lanes on which the user fee or toll is imposed.

(2) The general assembly hereby finds and declares that the funding of transit-related projects authorized by subsection (1) of this section constitutes maintenance and supervision of state highways because it will help to reduce traffic on state highways and thereby reduce wear and tear on state highways and bridges and increase their reliability, safety, and expected useful life.

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 47, § 1, effective March 2.

Editor's note: Provisions of the former § 43-4-812 were relocated to § 43-4-809 in 2009.

43-4-813. Transportation deficit report - annual reporting requirement. (Repealed)

Source: L. 2009: Entire part R&RE, (SB 09-108), ch. 5, p. 47, § 1, effective March 2. **L. 2017:** Entire section repealed, (SB 17-231), ch. 174, p. 635, § 7, effective August 9.

43-4-814. Military deployment. (1) **Motor vehicle fees exempted.** If the owner is a member of the United States armed forces and has orders to serve outside the United States, the owner may exempt the Class C personal property or Class B personal property under sixteen thousand pounds empty weight from the registration fees imposed under this part 8 during the time the owner is serving. If the owner serves less than one year outside the United States, the

fees are exempt for the portion of the year that the owner served outside the United States, prorated according to the number of months the owner was in the United States.

(2) **Qualifications.** In order to qualify for the exemption from registration fees under this section, the owner must:

(a) Show the department military orders to serve outside the United States or any evidence acceptable to the department that the owner served outside the United States; and

(b) File a signed affidavit that the motor vehicle will not be operated on a highway during the exemption period.

(3) If a person has already paid the normal fees under this part 8 for a motor vehicle that is eligible for an exemption under this section, the department shall credit the person the exempted portion of the fee amount towards the person's fees for succeeding years.

(4) **Violations.** A person shall not operate the motor vehicle during the time covered by the affidavit filed under subsection (2) of this section. A violation of this section is a class B traffic infraction.

Source: L. 2014: Entire section added, (SB 14-075), ch. 264, p. 1061, § 3, effective August 6.

PART 9

HIGH-VISIBILITY DRUNK DRIVING LAW ENFORCEMENT

Cross references: For the legislative declaration contained in the 2008 act enacting this part 9, see section 1 of chapter 221, Session Laws of Colorado 2008.

43-4-901. High-visibility drunk driving law enforcement. The department of transportation, in implementing the strategic transportation project investment program, shall, as a priority, increase to twelve episodes annually the number of high-visibility drunk driving law enforcement episodes that the department oversees. The high-visibility drunk driving law enforcement episodes required by this section shall be independent of, and in addition to, the drunk driving prevention and law enforcement program described in part 4 of this article.

Source: L. 2008: Entire part added, p. 838, § 8, effective September 1.

PART 10

INTERSTATE RAIL

43-4-1001. Southwest chief and front range passenger rail service in Colorado - commission - membership and powers - definitions. (1) As used in this part 10, unless the context otherwise requires:

(a) "Commission" means the southwest chief and front range passenger rail commission created in subsection (2)(a) of this section.

(b) "Front range passenger rail system" means a rail system that transports passengers along the front range and that may include stops at the cities of Fort Collins, Loveland, Longmont, Boulder, Denver, Castle Rock, Colorado Springs, and Pueblo, and includes any appurtenant equipment, buildings, or facilities.

(c) "Fund" means the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund created in section 43-4-1002.

(2) (a) The southwest chief and front range passenger rail commission is created in the department of transportation. The commission shall exercise its powers and perform its duties as if the same were transferred to the department by a **type 1** transfer, as defined in section 24-1-105. The commission consists of the following eleven commissioners:

(I) Five commissioners appointed by the governor as follows:

(A) Two public rail transportation advocates;

(B) Two representatives of class I freight railroads that serve Colorado; and

(C) One resident of Huerfano, Las Animas, Otero, Prowers, or Pueblo county who has publicly advocated for public rail;

(II) One commissioner from each of the following metropolitan planning organizations, as defined in section 43-1-1102 (4), and regional planning commissions, as defined in section 43-1-1102 (5), appointed by the governing body of each organization or commission:

(A) The north front range metropolitan planning organization;

(B) The Denver regional council of governments;

(C) The Pikes Peak area council of governments;

(D) The Pueblo area council of governments; and

(E) The south central council of governments; and

(III) One commissioner who is a representative of the regional transportation district created and existing pursuant to article 9 of title 32, appointed by the board of the district.

(b) In addition to the eleven commissioners, the commission includes the following two appointed advisors, who shall attend commission meetings and advise the commission but are not voting members of the commission:

(I) An employee of the department of transportation, appointed by the executive director of the department; and

(II) An employee of Amtrak, appointed by the president of Amtrak.

(c) (I) Except as otherwise provided in subsection (2)(c)(II) of this section, appointing authorities shall appoint the initial commissioners and appointed advisors of the commission no later than July 1, 2017, for terms commencing on that date. Commissioners appointed pursuant to subsection (2)(a) of this section shall serve for terms of four years; except that the initial terms of one of the commissioners appointed pursuant to subsection (2)(a)(I)(A) of this section, one of the commissioners appointed pursuant to subsection (2)(a)(I)(B) of this section, and the commissioners appointed pursuant to subsections (2)(a)(II)(A), (2)(a)(II)(C), and (2)(a)(II)(E) of this section are two years. The commission shall elect a chair from its members at its first meeting.

(II) Commissioners appointed pursuant to subsection (2)(a)(II) of this section shall be appointed no later than May 15, 2017, for terms commencing on July 1, 2017.

(d) Commissioners serve without compensation but receive reimbursement for expenses.

(3) (a) The mission of the commission is:

(I) To assume and complete the mission of the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance commission, as it existed prior to July 1, 2017, by continuing to coordinate and oversee efforts by the state and local governments and cooperate with the states of Kansas and New Mexico, Amtrak, and the BNSF railway to ensure that the track repairs and upgrades required for the continuation of existing southwest chief rail service in Colorado are completed, that such service is extended to Pueblo, and that the benefits of extending such service to Walsenburg are fully explored; and

(II) To facilitate the future of front range passenger rail and, in so doing, to specifically develop draft legislation to facilitate the development of a front range passenger rail system that provides passenger rail service in and along the interstate 25 corridor and that is a well-integrated component of a modern, efficient, and cost-effective multimodal transportation system.

(b) In furtherance of its mission, and in addition to its specific obligation to prepare draft legislation as set forth in subsection (3)(c) of this section and its authority to exercise any other powers and perform any other duties specified in this part 10, the commission has the following powers:

(I) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(II) To accept contributions to and expend money from the fund as authorized by section 43-4-1002;

(III) To enter into memorandums of understanding and intergovernmental agreements with agencies and political subdivisions of the state;

(IV) To contract for necessary services;

(V) To enter into multistage agreements;

(VI) To facilitate the future of front range passenger rail; and

(VII) To have and exercise all powers necessary or incidental to or implied from the specific powers and duties granted in this part 10.

(c) The commission shall prepare draft legislation to facilitate the development of a front range passenger rail system that provides passenger rail service in and along the interstate 25 corridor and that is a well-integrated component of a modern, efficient, and cost-effective multimodal transportation system. The commission shall present the draft legislation to the local government committees of the house of representatives and the senate no later than December 1, 2017. The draft legislation may include any provisions that the commission deems necessary to facilitate the development of a front range passenger rail system.

Source: L. 2014: Entire part added, (HB 14-1161), ch. 185, p. 685, § 1, effective August 6. **L. 2017:** Entire section R&RE, (SB 17-153), ch. 225, p. 865, § 2, effective July 1 (see editor's note); IP(2)(a)(II) amended, (SB 17-294), ch. 264, p. 1417, § 118, effective July 1.

Editor's note: (1) This section takes effect July 1, 2017; however, section 5(2) of SB 17-153 provides that subsection (2)(c) takes effect upon passage, May 22, 2017.

(2) Section 122 of chapter 264, Session Laws of Coloracdo 2017, provides that the act changing this section takes effect only if SB 17-153 becomes law and takes effect upon the effective date of SB 17-153. SB 17-153 became law and took effect July 1, 2017.

43-4-1002. Southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund - creation - use of fund. (1) The southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund is created in the state treasury. The fund consists of any moneys, including but not limited to any gifts, grants, or donations, received by the state from the federal government, local governments, public-private partnerships, or any other person, or as a result of any voter-approved ballot measure, that are dedicated for the purposes of ensuring that the Amtrak southwest chief rail line continues to pass through Colorado and that an additional stop in Pueblo is added to the line, and any other moneys that the general assembly may appropriate or transfer to the fund. Interest and income earned on the deposit and investment of moneys in the fund and all unencumbered and unexpended moneys in the fund at the end of any fiscal year remain in the fund. Subject to annual appropriation by the general assembly, the commission may expend moneys from the fund for its administrative, staffing, and any other operating expenses and for the costs of any necessary studies. Subject to annual appropriation, the commission may also expend moneys from the fund for rail replacement or other improvements to the portion of the BNSF railway line used to provide existing Amtrak southwest chief rail line service in Colorado and to pay costs associated with the expansion of southwest chief rail line service to include a stop in Pueblo.

(2) Repealed.

Source: L. 2014: Entire part added, (HB 14-1161), ch. 185, p. 689, § 1, effective August 6. **L. 2017:** (1) amended and (2) repealed, (SB 17-153), ch. 225, p. 868, § 3, effective May 22.

43-4-1003. Repeal of part. (Repealed)

Source: L. 2014: Entire part added, (HB 14-1161), ch. 185, p. 690, § 1, effective August 6. **L. 2015:** Entire section amended, (SB 15-264), ch. 259, p. 969, § 98, effective August 5. **L. 2017:** Entire section repealed, (SB 17-153), ch. 225, p. 869, § 4, effective May 22.

HIGHWAY SAFETY

ARTICLE 5

Highway Safety

PART 1

COLORADO STATE PATROL

43-5-101 to 43-5-128. (Repealed)

Source: L. 83: Entire part repealed, p. 971, § 28, effective July 1, 1984.

Editor's note: This part 1 was numbered as article 10 of chapter 120, C.R.S. 1963. For amendments prior to its repeal in 1984, consult the Colorado statutory research explanatory note

and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For the transfer of the powers, duties, and functions of the Colorado state patrol from the state department of highways to the department of public safety on July 1, 1984, see § 24-1-128.6; for the substantive provisions relating to the Colorado state patrol, see part 2 of article 33.5 of title 24.

PART 2

AUTO AND TOURIST CAMPS, HOTELS, AND MOTELS

Cross references: For penalty for false advertising of accommodations and rates of hotel facilities, see article 14 of title 18.

43-5-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Auto camp" means any auto or tourist camp, park or campsite, tourist court, auto court, auto hotel, or trailer coach court owned, operated, controlled, or leased by any person, firm, association, or corporation for the purpose of renting, leasing, or otherwise providing parking sites or spaces for any motor vehicle, trailer, semitrailer, or trailer coach, irrespective of the number of parking sites or spaces provided. The term does not include mobile home parks with respect to spaces rented for the parking and hooking up of trailer coaches or mobile homes for use as residences.

(2) "Hotel" or "hotel facility" means an establishment engaged in the business of furnishing overnight room accommodations primarily for transient persons and which maintains or makes available, as a part of its services to its patrons, facilities for the parking or storage of motor vehicles.

(3) "Motor vehicle" includes all motor vehicles propelled by power other than muscular power, except road rollers, fire wagons, fire engines, police patrol wagons, police ambulances, and such vehicles as run only upon rails or tracks or travel through the air.

(4) "Owner" includes any person, firm, association, or corporation renting a motor vehicle or having the exclusive use thereof under a lease or otherwise for a period greater than thirty days.

Source: L. 29: p. 466, § 1. **L. 31:** p. 458, § 1. **CSA:** C. 16, § 372. **CRS 53:** § 13-14-1. **L. 55:** p. 207, § 1. **L. 59:** p. 227, § 9. **C.R.S. 1963:** § 13-14-1. **L. 71:** p. 259, § 1. **L. 73:** p. 235, § 11. **L. 75:** (1) amended, p. 1473, § 29, effective July 18.

43-5-202. Licenses - fee - penalty. (Repealed)

Source: L. 29: p. 467, § 2. **CSA:** C. 16, § 373. **CRS 53:** § 13-14-2. **L. 55:** p. 207, § 2. **C.R.S. 1963:** § 13-14-2. **L. 71:** p. 259, § 2. **L. 77:** Entire section repealed, p. 1941, § 3, effective May 20.

43-5-203. Required records. (1) It is the duty of every person, firm, association, or corporation owning, operating, controlling, or leasing an auto camp or hotel to keep and maintain in the auto camp or hotel an easily accessible and permanent daily record of all automobiles stored, kept, parked, or maintained in said auto camp and all automobiles of patrons of such hotel which are parked in facilities maintained or made available exclusively for such patrons by such hotel. The record shall be kept in a book or on cards, consecutively numbered, in a uniform manner approved by the Colorado state patrol. The record shall include the name and address of the owner of the automobile stored, parked, kept, or maintained in said auto camp or hotel facility, together with the make, body style, and year of said automobile and the license number, if any. All such records shall be preserved for a period of three years.

(2) Repealed.

Source: L. 29: p. 468, § 3. **CSA:** C. 16, § 374. **L. 51:** p. 159, § 1. **CRS 53:** § 13-14-3. **L. 59:** p. 227, § 10. **C.R.S. 1963:** § 13-14-3. **L. 71:** p. 260, § 3. **L. 72:** pp. 555, 588, §§ 6, 46. **L. 73:** p. 243, § 29. **L. 77:** (1) amended and (2) repealed, pp. 1940, 1941, §§ 1, 3, effective May 20.

43-5-204. Record open for inspection by officers. The books and records of every auto camp and hotel shall be open for inspection to members of the Colorado state patrol and all peace officers of the state.

Source: L. 29: p. 468, § 4. **CSA:** C. 16, § 375. **CRS 53:** § 13-14-4. **C.R.S. 1963:** § 13-14-4. **L. 71:** p. 260, § 4.

43-5-205. Allowing stolen motor vehicle to be stored - penalty. Any person who knowingly allows or permits any stolen motor vehicle to be stored, kept, parked, or maintained in any licensed auto camp or hotel facility within the state of Colorado is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars. This provision shall not be exclusive of any other penalties prescribed by any existing or future laws for the theft or unauthorized taking of a motor vehicle.

Source: L. 29: p. 468, § 5. **CSA:** C. 16, § 376. **CRS 53:** § 13-14-5. **C.R.S. 1963:** § 13-14-5. **L. 71:** p. 260, § 5.

43-5-206. Revocation of license. (Repealed)

Source: L. 29: p. 468, § 6. **CSA:** C. 16, § 377. **CRS 53:** § 13-14-6. **C.R.S. 1963:** § 13-14-6. **L. 71:** p. 260, § 6. **L. 77:** Entire section repealed, p. 1941, § 3, effective May 20.

43-5-207. Penalty. Any person violating any of the provisions of this part 2, except as set forth in section 43-5-205, is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

Source: L. 29: p. 470, § 9. **CSA:** C. 16, § 380. **CRS 53:** § 13-14-7. **C.R.S. 1963:** § 13-14-7. **L. 72:** p. 588, § 47. **L. 77:** Entire section amended, p. 1940, § 2, effective May 20.

43-5-208. Effective date - applicability. (Repealed)

Source: L. 71: p. 261, § 7. **C.R.S. 1963:** § 13-14-8. **L. 77:** Entire section repealed, p. 1941, § 3, effective May 20.

PART 3

OFFENSES

Cross references: For penalty for dumping trash on highway, see § 18-4-511; for regulation of vehicles and traffic generally, see article 4 of title 42.

43-5-301. Obstructing highway - penalty. No person or corporation shall erect any fence, house, or other structure, or dig pits or holes in or upon any highway, or place thereon or cause or allow to be placed thereon any stones, timber, or trees or any obstruction whatsoever. No person or corporation shall tear down, burn, or otherwise damage any bridge of any highway, or cause wastewater or the water from any ditch, road, drain, flume, agricultural crop sprinkler system, or other source to flow or fall upon any road or highway so as to damage the same or to cause a hazard to vehicular traffic. Any person or corporation so offending is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than three hundred dollars and shall also be liable to any person, unit of government, or corporation in a civil action for any damages resulting therefrom. Upon a third conviction therefor, the offender shall be punished by a fine of not less than ten dollars nor more than three hundred dollars or by imprisonment in the county jail for not more than three days and shall also be liable to any person, unit of government, or corporation in a civil action for any damages resulting therefrom. Each day such condition is allowed to continue upon any highway shall be deemed a separate offense.

Source: L. 1883: p. 261, § 36. **G.S.** § 2988. **L. 1885:** p. 325, § 1. **R.S. 08:** § 5826. **C.L.** § 1280. **CSA:** C. 143, § 34. **CRS 53:** § 120-4-1. **C.R.S. 1963:** § 120-4-1. **L. 81:** Entire section amended, p. 1775, § 2, effective July 1.

Cross references: For damaging road, ditch, or flume, see § 7-42-109; for penalty for cutting or breaking ditch or flume, see § 37-89-101; for obstructing highway or other passageway, see § 18-9-107.

43-5-302. Not to dam stream - penalty. No person or corporation shall dam the waters of any stream so as to cause the same to overflow any road or damage or weaken the abutments, walls, or embankments of any bridge of any highway. Any person or corporation violating any of the provisions of this section shall forfeit the sum of fifty dollars to the county and shall be liable to any person or corporation in a civil action for any damages resulting therefrom.

Source: L. 1883: p. 261, § 37. **G.S.** § 2989. **R.S. 08:** § 5828. **C.L.** § 1282. **CSA:** C. 143, § 36. **CRS 53:** § 120-4-2. **C.R.S. 1963:** § 120-4-2.

43-5-303. Overflowing highways - penalty. No person or corporation shall repeatedly, willfully or negligently cause or allow water to flow, fall, or sprinkle from any ditch, lateral, canal, waste ditch, reservoir, pond, drain, flume, or agricultural crop sprinkler system upon any public road or highway so as to damage the same or to cause a hazard to vehicular traffic. Any person or corporation so offending is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than three hundred dollars. Upon a third conviction therefor, the offender shall be punished by a fine of not less than ten dollars nor more than three hundred dollars or by imprisonment in the county jail for not more than three days. Each day that water is so allowed to flow upon any public road or highway shall be deemed a separate offense. Agricultural crop sprinkler systems upon which generally accepted devices are installed or preventive practices are carried out and when due diligence has been exercised to prevent the end gun from discharging water upon the highway shall not be deemed to be in violation of this section, nor shall acts of God, including but not limited to wind, be deemed a violation of this section.

Source: L. 15: p. 405, § 1. **C.L.** § 1283. **CSA:** C. 143, § 37. **CRS 53:** §120-4-3. **C.R.S. 1963:** § 120-4-3. **L. 81:** Entire section amended, p. 1776, § 3, effective July 1.

Cross references: For civil liability for damages, see § 43-5-302.

43-5-304. Jurisdiction. The county court of the county wherein any of the offenses described in sections 43-5-301 and 43-5-303 may be committed shall have jurisdiction of complaints coming within the provisions of sections 43-5-301 and 43-5-303.

Source: L. 15: p. 405, § 2. **C.L.** § 1284. **CSA:** C. 143, § 38. **CRS 53:** § 120-4-4. **C.R.S. 1963:** § 120-4-4. **L. 64:** p. 309, § 273. **L. 81:** Entire section amended, p. 1776, § 4, effective July 1.

43-5-305. Owners construct culverts - penalty. (1) Any person or corporation owning or constructing any ditch, race, drain, or flume in, upon, or across any highway shall keep the highway open for safe and convenient travel by constructing culverts, bridges, or similar structures over such ditch, race, drain, or flume. When any ditch is constructed across, in, or upon any highway, the person owning or constructing such ditch shall construct a culvert, bridge, or similar structure long enough to conduct the water from shoulder to shoulder from such road or highway or of such greater length as the board of county commissioners having jurisdiction thereover may require, plans for said culvert, bridge, or similar structure having been approved in advance by said board of county commissioners. The board of county commissioners shall maintain said culvert, bridge, or similar structure after construction, in accordance with the provisions of section 37-84-106, C.R.S.

(2) Any person or corporation who fails to construct a culvert, bridge, or similar structure across any ditch, race, drain, or flume, within a time limit to be specified by the board of county commissioners when the plans therefor are approved by said board as provided in subsection (1) of this section, shall forfeit the sum of twenty-five dollars to the county for each day of failure to construct such bridge, culvert, or similar structure together with the cost of construction thereof. Proceeds from such penalty shall be paid into the road fund of the district.

It is the duty of the road supervisor of the district to construct such culvert, bridge, or similar structure if the owner of such ditch, race, drain, or flume fails to comply.

Source: L. 1883: p. 261, § 38. **G.S.** § 2990. **L. 1885:** p. 324, § 1. **R.S. 08:** § 5829. **C.L.** § 1285. **CSA:** C. 143, § 39. **L. 47:** p. 747, § 1. **CRS 53:** § 120-4-5. **C.R.S. 1963:** § 120-4-5.

43-5-306. Transporting heavy machines. It is the duty of all persons, associations, and corporations operating threshing machines or vehicles or using the public roads for transporting such machines or other heavy machinery to use a sufficient number of heavy planks, wherever necessary, to protect all sidewalks, bridges, culverts, and causeways from being broken by said threshing machines or other heavy machinery in passing over the same.

Source: L. 03: p. 410, § 1. **R.S. 08:** § 5831. **C.L.** § 1287. **CSA:** C. 143, § 41. **CRS 53:** § 120-4-6. **C.R.S. 1963:** § 120-4-6. **L. 79:** Entire section amended, p. 1642, § 60, effective July 1.

43-5-307. Injury to highway - penalty. If any person, association, or corporation purposely destroys or injures any sidewalk, bridge, culvert, or causeway, or removes any of the timber or plank thereof, or obstructs the same, he shall forfeit a sum of not less than one hundred dollars nor more than three hundred dollars and shall be liable for all damages occasioned thereby and for all necessary cost for rebuilding or repairing the same. All forfeitures and sums of money recovered under this section and section 43-5-306 shall be turned into the county road fund.

Source: L. 03: p. 410, § 2. **R.S. 08:** § 5832. **C.L.** § 1288. **CSA:** C. 143, § 42. **CRS 53:** § 120-4-7. **C.R.S. 1963:** § 120-4-7.

43-5-308. Flagpersons - definition - penalty. (1) (a) A person shall not fail or refuse to obey the visible instructions, signals, or direction displayed or given by a flagperson. A person who violates this paragraph (a) commits a class A traffic infraction.

(b) If a driver fails to comply with the flagperson's instructions, the flagperson or any other person with information as to the identity of the driver or the license plate number of the driver's vehicle may, and if practicable shall, promptly relay the information to the appropriate law enforcement agency.

(2) (a) Only a trained person may provide temporary traffic control or direction within any highway, road, or street maintenance or construction work area as a flagperson.

(b) The department shall authorize public and private entities to conduct flagperson certification training and shall develop and provide, at cost, examination and training materials that authorized entities must use in conducting flagperson certification.

(c) While directing traffic, a flagperson shall wear high-visibility garments and display an official hand signal device prescribed in the state traffic control manual adopted by the department pursuant to section 42-4-104, C.R.S., or its supplement.

(d) A flagperson shall abide by the Colorado manual of uniform traffic control devices and shall not use any device that might distract the flagperson's vision, hearing, or attention while directing traffic.

(3) As used in this section, "flagperson" means a person:

(a) Eighteen years of age or older;

(b) Trained by an entity authorized by the department;

(c) Employed by the department, a department contractor, a political subdivision of the state, or a contractor of a political subdivision; and

(d) Acting in his or her official capacity while performing work within a temporary traffic control zone.

(4) This section does not apply to law enforcement personnel while performing official law enforcement duties.

Source: L. 2014: Entire section added, (SB 14-060), ch. 70, p. 298, § 2, effective July 1.

PART 4

IMPLEMENTATION OF FEDERAL
"HIGHWAY SAFETY ACT OF 1966"

43-5-401. Duties and responsibility of governor. The governor is hereby designated as the official of the state of Colorado having the ultimate responsibility for dealing with the federal government with respect to programs and activities pursuant to the federal "Highway Safety Act of 1966", and subsequent amendments thereto. To that end, he shall coordinate the activities of all departments and agencies of this state and its political subdivisions relating thereto.

Source: L. 67: p. 125, § 1. **C.R.S. 1963:** § 120-17-1.

Cross references: For the federal "Highway Safety Act of 1966", see 80 Stat. 731, codified at 23 U.S.C. sec. 401 et seq.

PART 5

MOTORCYCLE OPERATOR SAFETY TRAINING

Editor's note: This part 5 was added with relocations in 1994, effective January 1, 1995, containing relocated provisions of some sections formerly located in article 4 of title 42. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the short title of this part 5 ("Uniform Safety Code of 1935"), see § 42-4-101.

43-5-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Board" means the motorcycle operator safety advisory board created in section 43-5-505.

(1.5) **[*Editor's note: This version of subsection (1.5) is effective until January 1, 2018.*]** "Director" means the director of the office.

(1.5) **[*Editor's note: This version of subsection (1.5) is effective January 1, 2018.*]** "Chief" means the chief of the state patrol, created in section 24-33.5-201.

(2) "Fund" means the motorcycle operator safety training fund created in section 43-5-504.

(3) "Instructor training specialist" means a licensed motorcycle operator who meets the standards promulgated by the office to train and oversee instructors for the program.

(3.5) "MOST" or "program" means the motorcycle operator safety training program created by this part 5.

(3.6) "MOST vendor" means a person that offers a motorcycle operator safety training program that meets standards promulgated by the department of transportation.

(4) **[*Editor's note: This version of subsection (4) is effective until January 1, 2018.*]** "Office" means the office of transportation safety in the department of transportation.

(4) **[*Editor's note: This version of subsection (4) is effective January 1, 2018.*]** "Office" means the office of the chief of the state patrol in the department of public safety.

(5) Repealed.

(6) **[*Editor's note: This version of subsection (6) is effective until January 1, 2018.*]** "Program coordinator" means a person designated by the director to ensure compliance with program rules, program operation, and motorcycle safety coordination.

(6) **[*Editor's note: This version of subsection (6) is effective January 1, 2018.*]** "Program coordinator" means a person designated by the chief to ensure compliance with program rules, program operation, and motorcycle safety coordination.

Source: L. 94: Entire part added with relocations, p. 2539, § 4, effective January 1, 1995. **L. 2013:** (1) amended, (1.5), (3.5), (3.6), and (6) added, and (5) repealed, (HB 13-1083), ch. 86, p. 273, § 1, effective August 7. **L. 2017:** (1.5), (4), and (6) amended, (SB 17-243), ch. 256, p. 1071, § 1, effective January 1, 2018.

Editor's note: This section is similar to former § 42-4-1701 as it existed prior to 1994.

43-5-502. Motorcycle operator safety training program - rules. (1) (a) (I) The office shall establish a motorcycle operator safety training program that promotes motorcycle safety awareness and supports courses to teach students to safely operate a motorcycle and train instructors. To be eligible under the program, a course must include instruction on the effects of alcohol and drugs on the operation of motorcycles. The office shall set standards for the certification of courses in the program, ensure that program training follows these standards, and ensure that courses are offered safely, consistent with best practices. The office shall contract with MOST vendors for the purpose of providing the program.

(I.5) To qualify under the program, a basic training course provided by a MOST vendor must teach the requirements for issuing a driver's license motorcycle endorsement.

(II) The following individuals may enroll in a certified motorcycle operator safety training course:

(A) A resident of the state who holds a valid Colorado driver's license, minor driver's license, or instruction permit authorized by section 42-2-106, C.R.S.;

(B) A member of the armed forces who has moved to Colorado on a permanent change-of-station basis and who holds a valid driver's license issued by another state; and

(C) An adult who holds a valid driver's license from another state and who is eligible for a motorcycle license in the same state.

(III) (Deleted by amendment, L. 2013.)

(b) The office shall promulgate rules establishing standards for MOST vendors to provide training services. The office shall promulgate rules establishing a system to record program performance data, including information on motorcycle accidents, injuries, and fatalities among persons who have completed the program.

(c) **[*Editor's note: This version of paragraph (c) is effective until January 1, 2018.*]** The director shall designate a program coordinator to implement and administer the program. The program coordinator may certify instructor training specialists who meet the applicable standards. The department of transportation shall establish standards for recertification training and monitoring of MOST instructors.

(c) **[*Editor's note: This version of paragraph (c) is effective January 1, 2018.*]** The chief shall designate a program coordinator to implement and administer the program. The program coordinator may certify instructor training specialists who meet the applicable standards. The department of public safety shall establish standards for recertification training and monitoring of MOST instructors.

(d) The office shall adopt such rules as are necessary to carry out the program pursuant to article 4 of title 24, C.R.S.

(e) The office shall not expend more than fifteen percent of the total cost of the program for administrative costs.

(2) (Deleted by amendment, L. 2013.)

Source: L. 94: Entire part added with relocations, p. 2540, § 4, effective January 1, 1995. **L. 2000:** (1)(a)(II) amended, p. 1360, § 44, effective July 1. **L. 2007:** (1)(a)(II) amended and (1)(a)(III) added, p. 855, § 1, effective August 3. **L. 2013:** Entire section amended, (HB 13-1083), ch. 86, p. 274, § 2, effective August 7. **L. 2017:** (1)(c) amended, (SB 17-243), ch. 256, p. 1071, § 2, effective January 1, 2018.

Editor's note: This section is similar to former § 42-4-1702 as it existed prior to 1994.

43-5-502.5. Transfer of functions - transitional provisions - repeal. [*Editor's note: This section is effective January 1, 2018.*] (1) The chief and the office of the chief, respectively, shall, on and after January 1, 2018, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to January 1, 2018, in the director and the office of transportation safety within the department of transportation concerning the program.

(2) All rules and orders of the department of transportation or the director of the office of transportation safety adopted prior to January 1, 2018, in connection with the powers, duties, and functions transferred to the chief, continue to be effective until revised, amended, repealed, or nullified pursuant to law. On and after January 1, 2018, the chief or the office of the chief, whichever is appropriate, shall adopt rules necessary for the administration of the program.

(3) No suit, action, or other judicial or administrative proceeding lawfully commenced before January 1, 2018, or that could have been commenced before that date, by or against the department of transportation or the director of the office of transportation safety abates by reason of the transfer of duties and functions from them to the chief.

(4) This section is repealed, effective September 1, 2023.

Source: L. 2017: Entire section added, (SB 17-243), ch. 256, p. 1072, § 3, effective January 1, 2018.

43-5-503. MOST instructor requirements and training. (1) The office shall establish standards for an approved MOST instructor training course. To successfully complete the course, a student must demonstrate knowledge of course material, knowledge of safe motorcycle operating practices, and the necessary aptitude for instructing students.

(2) To be eligible, each applicant for an instructor certificate must be at least twenty-one years of age and hold a valid Colorado driver's license that is endorsed for motorcycles and that has not been revoked or suspended within the three years before the date the application is filed.

(3) No applicant shall be certified as a MOST instructor if, within the three years before the date the application is filed:

(a) The applicant was convicted for an offense that is assigned eight or more points in the schedule, as specified in section 42-2-127 (5), C.R.S., or its equivalent in another state; or

(b) The applicant's driver's license from any other state was revoked or suspended.

(4) The office shall prescribe the form for an approved MOST instructor certificate and shall provide for verification that a certified MOST instructor is currently active in the program. To be eligible for the program, a MOST instructor must have a current certificate.

Source: L. 94: Entire part added with relocations, p. 2540, § 4, effective January 1, 1995. **L. 2013:** Entire section amended, (HB 13-1083), ch. 86, p. 275, § 3, effective August 7.

Editor's note: This section is similar to former § 42-4-1703 as it existed prior to 1994.

43-5-504. Motorcycle operator safety training fund. [*Editor's note: This version of this section is effective until January 1, 2018.*] (1) The motorcycle operator safety training fund is hereby created in the state treasury. The fund consists of moneys collected under sections 42-2-114 (2)(d) and (4)(b), 42-2-118 (1)(b)(II), and 42-3-304 (4), C.R.S. The moneys in the fund are available immediately, without further appropriation, for allocation by the transportation commission to the office to be used for the implementation and administration of the program. Moneys credited to the fund remain in the fund at the end of each fiscal year and are not transferred to any other fund.

(2) The director, the program coordinator, or a MOST vendor shall not expend or credit moneys for MOST vendor operating expenses or reimburse motorcycles, helmets, textbooks, and other capital expenses incurred by MOST vendors, excluding the travel costs of mobile training.

43-5-504. Motorcycle operator safety training fund. [*Editor's note: This version of this section is effective January 1, 2018.*] (1) The motorcycle operator safety training fund is hereby created in the state treasury. The fund consists of money collected under sections 42-2-114 (2)(d), 42-2-118 (1)(b)(II), and 42-3-304 (4). The money in the fund is available immediately, without further appropriation, for allocation by the chief to the office to be used for the implementation and administration of the program. Money credited to the fund remains in the fund at the end of each fiscal year and is not transferred to any other fund.

(2) The chief, the program coordinator, or a MOST vendor shall not expend or credit moneys for MOST vendor operating expenses or reimburse motorcycles, helmets, textbooks, and other capital expenses incurred by MOST vendors, excluding the travel costs of mobile training.

(3) The chief or his or her designee may accept, on behalf of and in the name of the state, gifts, donations, and grants for any purpose connected with the program. Any property so given shall be held by the state treasurer, but the chief or his or her designee may direct the disposition of any property so given for any purpose consistent with the terms and conditions under which the gift was made.

Source: L. 94: Entire part added with relocations, p. 2541, § 4, effective January 1, 1995. **L. 2000:** Entire section amended, p. 262, § 5, effective July 1. **L. 2005:** Entire section amended, p. 1185, § 39, effective August 8. **L. 2013:** Entire section amended, (HB 13-1083), ch. 86, p. 275, § 4, effective August 7. **L. 2014:** (1) amended, (HB 14-1066), ch. 290, p. 1189, § 3, effective July 1. **L. 2017:** Entire section amended, (SB 17-243), ch. 256, p. 1072, § 4, effective January 1, 2018.

Editor's note: This section is similar to former § 42-4-1704 as it existed prior to 1994.

43-5-505. Advisory board. (1) The motorcycle operator safety advisory board is hereby created. The board consists of:

(a) **[*Editor's note: This version of paragraph (a) is effective until January 1, 2018.*]** The director or the director's designee;

(a) **[*Editor's note: This version of paragraph (a) is effective January 1, 2018.*]** The director of the Colorado department of transportation or his or her designee;

(b) The executive director of the department of revenue or the executive director's designee;

(c) The chief of the Colorado state patrol or the chief's designee; and

(d) **[*Editor's note: This version of the introductory portion to paragraph (d) is effective until January 1, 2018.*]** Nine members appointed by the executive director of the department of transportation:

(d) **[*Editor's note: This version of the introductory portion to paragraph (d) is effective January 1, 2018.*]** Nine members appointed by the chief of the Colorado state patrol:

(I) Two members who represent MOST vendors;

(II) One member who represents retail motorcycle dealers;

(III) One member who represents third-party testers;

(IV) One member who represents instructor training specialists;

(V) One member who represents the motorcycle riding community;

(VI) One member who represents motorcycle training providers not affiliated with the program;

(VII) One member who represents law enforcement agencies; and

(VIII) One member who represents motorcycle insurance providers.

(2) The board shall meet to:

(a) Recommend training methods to increase safety and reduce motorcycle crashes and injuries;

(b) Recommend training methods to increase program effectiveness;

(c) Recommend improvements to the program and training; and

(d) Make recommendations on expenditures of fund moneys.

(3) Each board member appointed under paragraph (d) of subsection (1) of this section serves a two-year term; except that, of the board members appointed initially, one-half serve for a one-year term and the remaining members serve a two-year term.

(4) The board shall elect from among the board members listed in paragraphs (a) to (c) of subsection (1) of this section a chair and vice-chair, both of whom serve two-year terms. The chair presides over all board meetings. The vice-chair presides in the absence of the chair.

(5) The board shall develop a vision and mission consistent with the program.

(6) The board shall meet at least quarterly.

Source: L. 94: Entire part added with relocations, p. 2541, § 4, effective January 1, 1995. **L. 2013:** Entire section RC&RE, (HB 13-1083), ch. 86, p. 276, § 5, effective August 7. **L. 2017:** (1)(a) and IP(1)(d) amended, (SB 17-243), ch. 256, p. 1073, § 5, effective January 1, 2018.

Editor's note: (1) Prior to the recreation of this section in 2013, subsection (2) provided for the repeal of this section, effective July 1, 1996. (See L. 94, p. 2541.)

(2) This section is similar to former § 43-5-505 as it existed prior to 1996.

43-5-506. Report. [*Editor's note: This version of this section is effective until January 1, 2018.*]No later than September 1 of each year, the department of transportation shall report to the legislative audit committee and the house and senate transportation committees, or their successor committees. The report must comment on the effectiveness of the program, annual motorcycle accidents or fatalities, availability of training throughout the state, historic and current training costs, and other performance measures.

43-5-506. Report. [*Editor's note: This version of this section is effective January 1, 2018.*] No later than September 1 of each year, the department of public safety shall report to the legislative audit committee and the house and senate transportation committees, or their successor committees. The report must comment on the effectiveness of the program, annual motorcycle accidents or fatalities, availability of training throughout the state, historic and current training costs, and other performance measures.

Source: L. 2013: Entire section added, (HB 13-1083), ch. 86, p. 277, § 6, effective August 7. **L. 2017:** Entire section amended, (SB 17-243), ch. 256, p. 1073, § 6, effective January 1, 2018.

43-5-507. Repeal. This part 5 is repealed, effective September 1, 2020. Before its repeal, this part 5 is scheduled for review in accordance with section 24-34-104.

Source: L. 2013: Entire section added, (HB 13-1083), ch. 86, p. 277, § 6, effective August 7. **L. 2017:** Entire section amended, (SB 17-243), ch. 256, p. 1073, § 7, effective July 1.

ARTICLE 6

43-6-101 to 43-6-511. (Repealed)

Source: L. 94: Entire article repealed, p. 2541, § 5, effective January 1, 1995.

Editor's note: This article was originally added in 1987. For amendments prior to its repeal in 1995, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. For a detailed comparison of this article prior to its repeal in 1994, see the comparative table located at the back of the index.

Cross references: For current provisions concerning transportation of hazardous and nuclear materials, see article 20 of title 42; for criminal provisions relating to hazardous waste violations, see § 18-13-112; for provisions relating to hazardous waste disposal and management, see article 15 of title 25; for provisions relating to hazardous substance incidents, see article 22 of title 29.

AVIATION SAFETY AND ACCESSIBILITY

ARTICLE 10

Aeronautics Division

43-10-101. Legislative declaration. The general assembly hereby declares that there exists a need to promote the safe operation and accessibility of general aviation and intrastate commercial aviation in this state; that improvement of general aviation and intrastate commercial aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency.

Source: L. 91: Entire article added, p. 1045, § 3, effective July 1. **L. 97:** Entire section amended, p. 786, § 5, effective May 8.

43-10-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Aircraft" means any FAA-certificated vehicle used or designed for aviation or flight in the air.

(2) "Airport" means any area of land or water which is used or intended for the landing and takeoff of aircraft, any appurtenant areas which are used or intended for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities.

(3) (a) "Aviation purposes" means any objective that provides direct and indirect benefits to the state aviation system and includes, but is not limited to:

(I) Any work involved in constructing, planning, or repairing a public airport or portion thereof and may include any work involved in constructing or maintaining access roads;

(II) The removal, lowering, relocation, and marking and lighting of any hazard to the safe operation of aircraft utilizing federal rules and regulations as guidelines for determining such hazards;

(III) The acquisition of navigational aids used by aircraft landing at or taking off from such airport;

(IV) The acquisition of safety equipment necessary for the enhancement of the state aviation system;

(V) Any research study, proposal, or plan for the expansion, location, or distribution of aviation facilities or resources that are directly related to the state aviation system;

(VI) The promotion of economic development which is related to the promotion, development, operation, or maintenance of the state aviation system;

(VII) Any acquisition of land, of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove, mitigate, prevent, or limit the establishment of any hazard to the safe operation of aircraft; and

(VIII) Any informal education or training made available to the public concerning aviation in the state or any informational materials for dissemination to the public concerning aviation.

(b) Subsidization of airlines is expressly prohibited as an aviation purpose except for the promotion and marketing of air service at airport facilities.

(4) "Board" means the Colorado aeronautical board.

(5) "Director" means the director of the aeronautics division.

(6) "Division" means the aeronautics division in the department of transportation.

(7) "FAA" means the federal aviation administration or its successor.

(8) "Regional aviation plan" means an aviation plan developed by a regional planning commission pursuant to section 30-28-110, C.R.S.

(8.5) "State aviation system" means the network of facilities which includes airports, navigational aids, and safety-related facilities.

(9) "State aviation systems plan" means a plan produced and maintained by the state which: Addresses the aviation needs within the state, including those needs relating to airports, navigational aids, and flight safety; identifies and evaluates alternatives to meet those needs; and recommends preferred solutions for the aviation needs of the state.

Source: L. 91: Entire article added, p. 1045, § 3, effective July 1; (3) amended and (8.5) added, p. 2392, § 13, effective July 1. **L. 91, 1st Ex. Sess.:** (3) amended and (8.5) added, p. 1, § 1, effective July 1. **L. 96:** (3)(h) added, p. 634, § 1, effective May 1. **L. 2000:** (3) amended, p. 1331, § 2, effective May 26.

Editor's note: The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 1, section 1, supersede the amendments made by chapter 330, L. 91, page 2392, section 13. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

43-10-103. Division of aeronautics created - duties. (1) There is hereby created, in the department of transportation, the aeronautics division.

(2) The division shall provide support for the Colorado aeronautical board in fulfilling its duties. The duties of the division shall also include, but not be limited to, the following:

(a) Providing administrative support to the board in the distribution of moneys credited to the aviation fund for aviation purposes;

(b) Promoting aviation safety;

(c) (Deleted by amendment, L. 2009, (HB 09-1066), ch. 82, p. 300, § 1, effective August 5, 2009.)

(d) Providing advisory assistance to airports providing access to the public, including technical and planning assistance;

(e) Developing and maintaining the state aviation systems plan utilizing regional aviation plans;

(f) Assisting the FAA and local governments in the identification and control of potentially hazardous obstructions to navigable airspace utilizing the standards described in federal rules and regulations for identifying such hazardous obstructions;

(g) Administering the state aviation system grant program established by the general assembly pursuant to section 43-10-108.5;

(h) Developing annual projections of revenue and expenses for review by the board;

(i) Collecting and analyzing data relating to the use of aircraft in the state;

(j) Advising the FAA in regard to federal programs in the state;

(k) Publishing information relating to aeronautics in the state; and

(l) (Deleted by amendment, L. 2009, (HB 09-1066), ch. 82, p. 300, § 1, effective August 5, 2009.)

(m) Directing the state treasurer to transfer moneys from the aviation fund created by section 43-10-109 to the aviation account of the transportation infrastructure revolving fund created by section 43-1-113.5, but only if such transfer is approved by the board. The division may direct the state treasurer to transfer moneys from the aviation account back to the aviation fund in an amount not exceeding the amounts previously transferred from the aviation fund, but only if such transfer is approved by the board and by the transportation commission.

(3) The division is authorized to enter into contracts with the FAA for the collection of airport data.

(4) The authority of the division shall be limited to public airports, commercial service airports, and reliever airports as defined in 49 U.S.C. sec. 47102.

(5) Except as otherwise provided in section 43-10-105 (2), the division is authorized to assist only those airports that request assistance by means of a resolution passed by the governing board of the airport and forwarded to the division.

(6) The division is authorized, under the supervision of the board, to contract with a public or private entity for any of the following purposes:

(a) To provide the division with any work, services, or equipment needed for aviation purposes;

(b) To carry out the express duties of the division under this section; or

(c) To otherwise implement the intent of this article.

Source: L. 91: Entire article added, p. 1046, § 3, effective July 1; (2)(a) and (2)(g) amended, p. 2393, § 14, effective July 1. **L. 91, 1st Ex. Sess.:** (2)(a) and (2)(g) amended, p. 2, § 2, effective July 1. **L. 96:** (5) amended and (6) added, p. 634, § 2, effective May 1. **L. 2000:** (2)(l) added and (4) amended, pp. 673, 674, §§ 4, 5, effective May 22. **L. 2001:** (4) amended, p. 1287, § 79, effective June 5. **L. 2009:** (2)(c), (2)(l), and (4) amended and (2)(m) added, (HB 09-1066), ch. 82, p. 300, § 1, effective August 5.

Editor's note: The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 2, section 2, supersede the amendments made by chapter 330, L. 91, page 2393, section 14. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

Cross references: For the legislative declaration contained in the 2000 act enacting subsection (2)(l) and amending subsection (4), see section 1 of chapter 166, Session Laws of Colorado 2000.

43-10-104. Colorado aeronautical board - created. (1) The division shall be under the jurisdiction of the Colorado aeronautical board, which board is hereby created. The board shall consist of seven members. The initial members of the board shall be the members of the Colorado aeronautical board as such existed in the department of military and veterans affairs prior to July 1, 1991, and the terms of such members shall expire as the original terms of such members were scheduled to expire. Thereafter, the governor shall appoint their successors for terms of three years each. If any such member vacates his or her office during the term for which appointed to the board, a vacancy on the board shall exist and shall be filled by the governor for the unexpired term. All such appointments shall be with the consent of the senate. The board shall annually elect from its members a chairman, a vice-chairman, and a secretary. The members of the board shall receive fifty dollars per diem while the board is in session and shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties. The board shall not conduct any business unless there are at least four members of the board present.

(2) The members of the board shall be chosen as follows: Four members, two from the eastern slope and two from the western slope of the state, representing local governments which operate airports, which members shall be selected by the governor from a list of nominees supplied by local governments; one member representing a statewide association of airport managers; one member representing a statewide association of pilots; and one member familiar with and supportive of the state's aviation issues, interests, and concerns. Appointments shall be made so as to insure a balance broadly representative of the activity level of airports throughout the state.

Source: L. 91: Entire article added, p. 1047, § 3, effective July 1. **L. 2002:** (1) amended, p. 363, § 29, effective July 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 121, Session Laws of Colorado 2002.

43-10-105. Duties of the board. (1) The board has the following duties:

(a) To advise the director on aviation matters;

(b) To establish procedures for the administration and distribution of moneys credited to the aviation fund created in section 43-10-109, for aviation purposes at public airports, commercial service airports, and reliever airports, as defined in 49 U.S.C. sec. 47102, in this state;

(c) To seek recommendations of the director for the distribution of moneys credited to the aviation fund created in section 43-10-109;

(d) To establish policies for the growth and development of aviation in the state;

(e) To provide statewide aviation needs to be included in the department of transportation's statewide transportation plan; and

(f) To set and adopt on an annual basis, a budget for the division, including recommendations to the transportation commission for the amount to be allocated for administrative costs;

(g) (Deleted by amendment, L. 2009, (HB 09-1066), ch. 82, p. 301, § 2, effective August 5, 2009.)

(2) (a) The board shall have no control over federal funds for public airports, except as provided in paragraph (b) of this subsection (2). The board may accept federal funds to carry out its powers and duties pursuant to this article.

(b) Pursuant to section 47105 (a)(1)(B) of the federal "Revision of Title 49, Transportation", 49 U.S.C. sec. 40101 et seq., "Subtitle VII - Aviation Programs", Federal Public Law 103-272, 108 Stat. 1093, the board may also accept and distribute by contract to local airports federal funds available to the state for airport development projects benefitting one or more airports or for airport planning projects for one or more airports if the following requirements are met:

(I) The sponsor of a local airport gives written consent that the state apply for a project grant under the federal act cited in this paragraph (b);

(II) The federal secretary of transportation is satisfied that there is administrative merit and aeronautical benefit for the state being the sponsor of an airport development or planning project; and

(III) An acceptable agreement exists ensuring that the state will comply with appropriate grant conditions and other assurances the federal secretary of transportation requires.

Source: L. 91: Entire article added, p. 1048, § 3, effective July 1; (1)(b) amended, p. 2393, § 15, effective July 1. **L. 91, 1st Ex. Sess.:** (1)(b) amended, p. 2, § 3, effective July 1. **L. 96:** (2) amended, p. 635, § 3, effective May 1. **L. 97:** (1)(g) added, p. 785, § 4, effective May 8. **L. 2001:** (1)(b) amended, p. 1287, § 80, effective June 5. **L. 2006:** (1)(f) amended, p. 540, § 2, effective July 1. **L. 2009:** (1)(e) and (1)(g) amended, (HB 09-1066), ch. 82, p. 301, § 2, effective August 5.

Editor's note: The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 2, section 3, supersede the amendments made by chapter 330, L. 91,

page 2398, section 15. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

43-10-106. Powers of the board. (1) (a) The board has power to: Acquire by gift, transfer, devise, or eminent domain such land which, in the opinion of the board, poses or may pose a potential hazard to navigable airspace. In determining whether land or any structure thereon poses a hazard to navigable airspace, the board shall use as a guide any applicable federal rules and regulations relating to identification of navigable airspace hazards.

(b) Any acquisition of land by the board pursuant to the provisions of paragraph (a) of this subsection (1) shall be on behalf of the airport affected by such hazard. Upon acquisition of the land, the board shall transfer title to such land to the governmental entity operating such airport.

(2) The division, at the request of the board, shall consult with local governments so that decisions relating to local land use planning may be made in a manner which does not interfere with the state aviation systems plan, a regional system plan, or the provisions of article 65.1 of title 24, C.R.S., relating to areas and activities of state interest.

Source: L. 91: Entire article added, p. 1048, § 3, effective July 1.

43-10-107. Office of director of division created - transfer. (1) The office of director of the division is hereby created. Any other provision of the law to the contrary notwithstanding, the board, with the consent of the executive director, shall appoint the director, who shall possess such qualifications as may be established by the board and the state personnel board. The director shall oversee the discharge of all responsibilities of the division. The director shall devote his entire time to the service of the state in the discharge of his official duties and shall not hold any other public office. The appointment or removal of the director shall be subject to the provisions of section 13 of article XII of the state constitution.

(2) The division, the office of director thereof, and the board shall exercise their powers and perform their duties and functions specified in this article under the department of transportation as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

Source: L. 91: Entire article added, p. 1049, § 3, effective July 1.

43-10-108. Annual report. (Repealed)

Source: L. 91: Entire article added, p. 1049, § 3, effective July 1; entire section amended, p. 2393, § 16, effective July 1. **L. 91, 1st Ex. Sess.:** Entire section amended, p. 2, § 4, effective July 1. **L. 96:** Entire section repealed, p. 1273, § 207, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

43-10-108.5. State aviation system grant program. (1) In order to support and improve the state aviation system, there is hereby established the state aviation system grant program. The grant program shall be implemented and administered by the division and the board in accordance with the provisions of this section.

(2) Any entity operating an FAA-designated public-use airport may apply to the division for a state aviation system grant to be used solely for aviation purposes. Applications shall contain such information as may be required by the division and shall be filed in accordance with procedures established by the division. In order to be eligible for a grant, the applicant must demonstrate, to the satisfaction of the division, that the grant shall be used solely for aviation purposes as defined in section 43-10-102 (3). The division shall evaluate grant applications based upon criteria established by the division and make recommendations to the board on the awarding of grants. Any grant proposed by the board shall be submitted to the governor's office for review and recommendation prior to a final decision. The governor shall accomplish his review and recommendation within thirty days of submittal of the grant proposal by the board. The board shall make final decisions on the awarding of grants subject to the availability of moneys in the aviation fund created in section 43-10-109. The board shall establish procedures to ensure that grants awarded pursuant to the provisions of this section are used solely for aviation purposes as required by this subsection (2).

(3) (Deleted by amendment, L. 2009, (HB 09-1066), ch. 82, p. 302, § 3, effective August 5, 2009.)

(4) Repealed.

(5) In addition to grants authorized pursuant to subsection (2) of this section, the division itself may be a recipient of a state aviation system grant, but only for purposes of implementing a statewide aviation project that would not otherwise be implemented by an entity operating an FAA-designated public-use airport. Any application for such a grant shall be submitted to the governor's office for review and recommendation prior to a final decision. The governor shall accomplish his review and recommendation within thirty days of submittal of the proposal by the board. The board shall make final decisions on the awarding of grants to the division for a statewide aviation project subject to the availability of moneys in the statewide aviation fund created in section 43-10-109.

Source: L. 91: Entire section added, p. 2394, § 17, effective July 1. **L. 91, 1st Ex. Sess.:** Entire section added, p. 3, § 5, effective July 1. **L. 2001:** (4) repealed, p. 1287, § 81, effective June 5. **L. 2009:** (2) and (3) amended and (5) added, (HB 09-1066), ch. 82, p. 302, § 3, effective August 5.

Editor's note: The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 3, section 5, supersede the amendments made by chapter 330, L. 91, page 2394, section 17. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814, P.2d 875 (Colo. 1991).)

43-10-109. Aviation fund created. (1) There is hereby created in the state treasury a fund to be known as the aviation fund, referred to in this article as the "fund", which shall consist of all revenues credited thereto pursuant to sections 24-46.6-103 (1)(b) and 39-27-112 (2)(b), C.R.S., and all revenues credited thereto in accordance with subsection (2) of this section within the total revenues prescribed by the general assembly pursuant to section 43-1-112.5. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund, except as directed by the general assembly acting by bill and subject to the provisions of section 18 of article X of the Colorado constitution.

(2) (a) In accordance with section 18 of article X of the Colorado constitution, for the 1991-92 fiscal year, and each fiscal year thereafter, one hundred percent of the sales and use taxes collected during that fiscal year by the state pursuant to sections 39-26-104 and 39-26-202, C.R.S., on aviation fuels used in turbo-propeller or jet engine aircraft shall be credited to the aviation fund.

(b) Such credit shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such sales and use taxes.

(c) It is not the intent of the general assembly that the moneys available for expenditure pursuant to the provisions of this subsection (2) be used to supplant any federal moneys which may be available to airports, governmental entities operating FAA-designated public-use airports, or the division pursuant to federal law.

(3) The moneys in the fund are hereby continuously appropriated to the division for the purposes authorized by law. In each fiscal year, the transportation commission shall budget and allocate an amount not to exceed five percent of the total amount of revenues credited to the fund pursuant to section 39-27-112 (2)(b), C.R.S., and subsection (2) of this section during the preceding fiscal year to be used to defray any administrative costs incurred by the division and the board in implementing and administering the provisions of this article. The board shall recommend to the commission an amount to be allocated by the commission for administrative costs. Any monetary penalties collected pursuant to section 24-46.6-103 (1)(b), C.R.S., are continuously appropriated to the division to defray any administrative expenses incurred by the division and the board in enforcing the provisions of section 24-46.6-103 (1), C.R.S. The general assembly shall appropriate from the fund an amount to the department of revenue for the reasonable expenses incurred in administering section 39-26-715 (1)(a)(I) and (2)(a), C.R.S., and as provided in section 39-27-112 (2)(b), C.R.S.

(4) Repealed.

Source: L. 91: Entire article added, p. 1050, § 3, effective July 1; entire section amended, p. 2395, § 18, effective July 1. **L. 91, 1st Ex. Sess.:** Entire section amended, p. 4, § 6, effective July 1. **L. 93:** (1) and (3) amended, p. 1514, § 17, effective June 6. **L. 97:** (1) and (3) amended, p. 786, § 6, effective May 8. **L. 2000:** (3) amended, p. 673, § 3, effective May 22. **L. 2003:** (3) amended and (4) added, p. 2605, § 1, effective July 1. **L. 2004:** (3) amended, p. 1047, § 22, effective July 1. **L. 2006:** (3) amended, p. 541, § 3, effective July 1. **L. 2009:** (2)(c), (4)(a)(I), and (4)(a)(II) amended, (HB 09-1066), ch. 82, p. 302, § 4, effective August 5. **L. 2017:** (4) repealed, (SB 17-231), ch. 174, p. 635, § 8, effective August 9.

Editor's note: The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 4, section 6, supersede the amendments made by chapter 330, L. 91, page 2395, section 18. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

Cross references: For the legislative declaration contained in the 2000 act amending subsection (3), see section 1 of chapter 166, Session Laws of Colorado 2000.

43-10-110. Revenues in aviation fund - disbursements. (1) (a) In accordance with section 18 of article X of the Colorado constitution, moneys in the fund shall be used exclusively for aviation purposes.

(b) Repealed.

(2) (a) (I) The board shall transfer from the fund, on a monthly basis, to the airport operating fund of the governmental or airport entity operating the FAA-designated public-use airport an amount equal to four cents per gallon of gasoline, as defined in section 39-27-101 (12), C.R.S., sold at such airport and an amount equal to sixty-five percent of any sales and use taxes collected by the state on aviation fuel sold for use at such airport by turbo-propeller or jet engine aircraft and credited to the fund pursuant to section 43-10-109 (2).

(II) If an intergovernmental agreement is entered into pursuant to the provisions of article 46.5 of title 24, C.R.S., the portion of the sales and use tax revenues that would otherwise be transferred to the governmental entity operating an airport in the state at which commercial passenger service is provided and that has entered into an intergovernmental agreement under article 46.5 of title 24, C.R.S., shall be transferred to the Colorado business incentive fund created in section 24-46.5-102, C.R.S. If such an intergovernmental agreement is entered into, moneys shall be transferred by the state treasurer for the length of the intergovernmental agreement, and, following the conclusion of the agreement, or if no agreement is entered into, the moneys shall be transferred to such governmental entity in accordance with the provisions of this section.

(b) The transfer of moneys pursuant to this subsection (2) shall be based upon monthly reports made by the department of revenue, pursuant to the provisions of sections 39-26-715 (1)(a)(I) and (2)(a) and 39-27-102 (1)(a)(IV)(C), C.R.S., and transmitted to the division. Such moneys shall only be used for aviation purposes. Moneys in the fund derived from the sale of gasoline and aviation fuel at airports not qualified to receive revenue pursuant to the provisions of this subsection (2) shall remain in the fund.

(3) Moneys in the fund not transferred to a governmental or airport entity operating an FAA-designated public-use airport as provided in subsection (2) of this section and not allocated for administrative expenses shall be used by the board exclusively for aviation purposes, including the awarding of grants pursuant to the state aviation system grant program established by the general assembly pursuant to section 43-10-108.5 and including the awarding of contracts as authorized in this article.

Source: L. 91: Entire article added, p. 1050, § 3, effective July 1; entire section amended, p. 2396, § 19, effective July 1. **L. 91, 1st Ex. Sess.:** Entire section amended, p. 5, § 7, effective July 1. **L. 96:** (3) amended, p. 635, § 4, effective May 1; (2) amended, p. 964, § 2, effective May 23. **L. 97:** (2)(a)(II) amended, p. 787, § 7, effective May 8. **L. 2000:** (1) amended, p. 674, § 6, effective May 22; (2)(a) amended, p. 1330, § 1, effective May 26. **L. 2003:** (2)(a)(I) amended, p. 1819, § 8, effective August 6. **L. 2004:** (2)(b) amended, p. 1048, § 23, effective July 1. **L. 2006:** (3) amended, p. 541, § 4, effective July 1. **L. 2009:** (2)(a)(I), (2)(b), and (3) amended, (HB 09-1066), ch. 82, p. 303, § 5, effective August 5.

Editor's note: (1) The amendments to this section made by chapter 1, L. 91, First Extraordinary Session, page 3, section 7, supersede the amendments made by chapter 330, L. 91, page 2396, section 19. Although both acts contained a July 1, 1991, effective date, the Governor did not sign the act enacted at the First Extraordinary Session until July 5. The act contained in chapter 1 from the First Extraordinary Session was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

(2) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective July 1, 2003. (See L. 2000, p. 674.)

Cross references: For the legislative declaration contained in the 2000 act amending subsection (1), see section 1 of chapter 166, Session Laws of Colorado 2000; for the legislative declaration contained in the 2003 act amending subsection (2)(a)(I), see section 1 of chapter 278, Session Laws of Colorado 2003.

43-10-110.7. Conveyance of airport-related equipment to division. The city and county of Denver shall convey at a reasonable cost unneeded airport-related equipment to the division for equitable distribution to other governmental entities operating airports in this state.

Source: L. 91, 1st Ex. Sess.: Entire section added, p. 6, § 8, effective July 1. **L. 2009:** Entire section amended, (HB 09-1066), ch. 82, p. 304, § 6, effective August 5.

Editor's note: The act enacting this section, as contained in chapter 1 of L. 91, First Extraordinary Session, was subject to an interrogatory submitted to the Supreme Court by the Governor. The court held the act constitutional on its face. (See In re House Bill 91S-1005, 814 P.2d 875 (Colo. 1991).)

43-10-111. Gasoline tax in lieu of personal property tax. The gasoline tax imposed pursuant to section 39-27-102 (1)(a)(IV)(A), C.R.S., is imposed in lieu of personal property tax on the aircraft, except as otherwise provided in article 4 of title 39, C.R.S.

Source: L. 91: Entire article added, p. 1050, § 3, effective July 1.

43-10-112. Fuel flowage fee - authorized. Any governmental entity which operates an airport providing access to the public is authorized to impose a fuel flowage fee at such airport.

Source: L. 91: Entire article added, p. 1051, § 3, effective July 1.

43-10-113. Safe operating areas around airports - establishment. (1) The general assembly hereby declares commercial service airports, public airports, reliever airports, as defined in 49 U.S.C. sec. 47102, and the land areas surrounding such airports, as defined in 14 CFR part 77, to be a matter of state interest as provided in article 65.1 of title 24, C.R.S.

(2) Governmental entities with zoning and building permit authority shall adopt and enforce, at a minimum, rules and regulations to protect the land areas defined in 14 CFR part 77.

Source: L. 91: Entire article added, p. 1051, § 3, effective July 1. **L. 2001:** (1) amended, p. 1287, § 82, effective June 5. **L. 2007:** (1) amended, p. 2051, § 108, effective June 1.

43-10-114. Violation of federal registration provisions - aircraft identification - fuel tanks. (1) It is unlawful for any person, firm, association, or corporation in this state to knowingly possess an aircraft that is not registered in accordance with the regulations of the federal aviation administration contained in Title 14, chapter 1, parts 47-49 of the Code of Federal Regulations in effect on July 1, 1988.

(2) (a) It is unlawful for any person, firm, association, or corporation to knowingly buy, sell, offer for sale, receive, dispose of, conceal, or possess, or to endeavor to buy, sell, offer for sale, receive, dispose of, conceal, or possess, any aircraft or part thereof on which the assigned aircraft identification numbers do not meet the requirements of the federal aviation regulations specified in subsection (1) of this section.

(b) The failure to have the assigned aircraft identification numbers clearly displayed on the aircraft and in compliance with federal aviation regulations is probable cause for any law enforcement officer in this state to make further inspection of the aircraft in question to ascertain its true identity. A law enforcement officer is authorized to inspect an aircraft for identification numbers:

(I) When it is located on public property; or

(II) Upon consent of the owner of the private property on which the aircraft is stored.

(3) It is unlawful for any person, firm, association, or corporation to knowingly possess any aircraft in or operated in this state that is found to be registered to a nonexistent person, firm, association, or corporation or to a firm, association, or corporation which is no longer a legal entity. Any firm, association, or corporation that has no physical location or corporate officers or that has lapsed into an inactive state or been dissolved for a period of at least ninety days with no documented attempt to reinstate the firm, association, or corporation or to register its aircraft in the name of a real person or legal entity in accordance with federal aviation administration regulations specified in subsection (1) of this section is in violation of this section.

(4) It is unlawful for any person, firm, association, or corporation to knowingly supply false information to a governmental entity with respect to the name, address, business name, or business address of the owner of an aircraft in or operated in this state.

(5) It is unlawful for any person, firm, association, or corporation to knowingly supply false information to any governmental entity with respect to ownership by it or another person, firm, association, or corporation of an aircraft in or operated in this state if it is determined that such person, firm, association, or corporation:

(a) Is not, or has never been, a legal entity in this state;

(b) Is not, or has never been, a legal entity in any other state; or

(c) Has lapsed into a state of no longer being a legal entity in this state and no documented attempt has been made to correct such information with the governmental entity for a period of ninety days after the date on which such lapse took effect.

(6) It is unlawful for any person, firm, association, or corporation to install, maintain, or possess any aircraft which has been equipped with, or had installed in its wings or fuselage, fuel tanks, bladders, drums, or other containers which will hold fuel if such fuel tanks, bladders, drums, or other containers do not conform to federal aviation administration regulations or have not been approved by the federal aviation administration by inspection or special permit. This subsection (6) applies to any pipes, hoses, or auxiliary pumps which when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers.

(7) This section does not apply to any aircraft registration or information supplied by a governmental entity in the course and scope of performing its lawful duties.

(8) Any aircraft knowingly used in violation of this section shall be deemed a class 1 public nuisance as provided in section 16-13-303 (1)(h.6), C.R.S., and shall be subject to the provisions relating thereto.

Source: L. 91: Entire article added, p. 1051, § 3, effective July 1.

43-10-115. Submittal of budget for recommendations. The board shall submit annually the proposed budget for the division to the transportation commission for the commission's review and, with respect to moneys that are to be allocated for administrative costs, the commission's approval and allocation. The commission shall examine the division's proposed budget and make recommendations based on the comprehensive statewide transportation plan formed by the commission pursuant to the provisions of section 43-1-1103 (5). Except for the portion of the budget that pertains to administrative costs that are allocated by the commission, the commission shall have no authority to reject or to alter any portion of the division's proposed budget.

Source: L. 91: Entire article added, p. 1053, § 3, effective July 1. **L. 2006:** Entire section amended, p. 541, § 5, effective July 1.

43-10-116. Transfer of functions, employees, and property. (Repealed)

Source: L. 91: Entire article added, p. 1053, § 3, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1066), ch. 82, p. 304, § 7, effective August 5.

43-10-117. Towers - marking - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Height" means the distance from the original grade at the base of a tower to the highest point of the tower.

(b) "Tower" means a structure that is either self-standing or supported by guy wires and ground anchors, is smaller than six feet in diameter at the base, and has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted.

"Tower" does not include a structure that is located adjacent to a building, house, barn, or electric utility substation or in the curtilage of a farmstead.

(2) Where the appearance of a tower is not otherwise governed by state or federal law, rule, or regulation, any tower over fifty feet in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes must be marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand feet. Towers must also comply with the following additional requirements:

(a) A tower must be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower;

(b) One marker ball must be attached to the top third of each outside guy wire; and

(c) Guy wires must have a seven-foot-long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point.

(3) Any tower that was erected prior to August 6, 2014, must be marked as required by the provisions of this section within one year of August 6, 2014. Any tower that is erected on or after August 6, 2014, must be marked as required by this section at the time it is erected.

(4) (a) This section does not apply to:

(I) Towers or poles that support electric utility transmission lines or distribution lines;

(II) Facilities licensed by the federal communications commission or any structure with the primary purpose of supporting telecommunications equipment, including microwave relay facilities and towers erected for the purpose of providing commercial mobile radio service or commercial mobile data service as defined in 47 CFR 20.3;

(III) Towers within a ski area boundary;

(IV) Wind-powered electrical generators with a rotor blade radius greater than six feet; or

(V) Street lights erected or maintained by the department of transportation.

(b) Notwithstanding paragraph (a) of this subsection (4), this section applies to towers or poles with a primary purpose of providing private mobile radio services other than commercial mobile data service as defined in 47 CFR 20.3.

(5) Any person who violates a provision of this section and a collision with the tower at issue results in the injury or death of another person is guilty of a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Any person who violates a provision of this section and the violation does not result in the injury or death of another person is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars.

Source: L. 2014: Entire section added, (HB 14-1216), ch. 228, p. 848, § 2, effective August 6.

Cross references: For the legislative declaration in HB 14-1216, see section 1 of chapter 228, Session Laws of Colorado 2014.