December 16, 2015

To: Colorado General Assembly Leadership

Fr: Colorado Business and Commerce Organizations

Re: The Disentanglement of Hospital Provider Fee Revenues from the State's General Fund in Order to Fund Needed Transportation and Education Initiatives

Thank you for your consideration of this letter urging the Colorado General Assembly to disentangle revenues generated by the Hospital Provider Fee (HPF) from the State's general revenue. This can be achieved by passing legislation designating the HPF as an Enterprise Fund.

Regardless of our differing political views on the HPF, we are all strongly supportive of legislation that places HPF funds in an Enterprise Fund. The original law comingles HPF funds with general State revenue, inaccurately impacting revenue growth and creating significant unintended consequences that limit the state's ability to meet core infrastructure investment priorities.

But there is a solution: Establish a separate enterprise for the HPF by repealing and reauthorizing the fee into an Enterprise Fund.

Because HPF funds did not exist when TABOR caps were established, exempting them through an enterprise results in a more accurate reflection of state revenue growth for TABOR calculations. It also protects the will of voters who supported TABOR, better aligning State revenue with the TABOR cap formula approved by voters.

In the years since the passage of the HPF, unintended consequences have followed that are now impacting the state budget. Because of the significant additional revenue HPF has generated, the mechanism has begun to crowd-out road and bridge funding at an alarming way. Under a law called SB 228, which is the mechanism by which transportation dollars are allocated from the General Fund, road and bridges effectively receive the last dollar of available General Fund spending. Because of the influx of revenue created by the hospital provider fee, and because of limits on state spending under the Taxpayers Bill of Rights, those 228 transportation dollars are being wholesale crowded-out – effectively pushed over the line of allowable state spending.

Additionally, SB 228, as current law, represents one of the most effective ways to fulfill a previous legislature's commitment to designate General Fund revenue for transportation and infrastructure investments for five years. Currently there appear to be limited options to adequately fund transportation from the General Fund.

CDOT right now has more than $3 billion in backlogged road projects. Some of the critical projects that might be addressed if an HPF fix were to be enacted are listed below. To be clear, without HPF and SB 228, right now there is no other General Fund support for these and many other high priority projects across Colorado:

- I-70 improvements across the mountains, including Floyd Hill and interchanges west of the Eisenhower Tunnel
- I-70 widening through Mesa County and Grand Junction
- US 550/US 160 connection near Durango
- US 160 from Alamosa to Durango
- US 50 work in Pueblo
- State Highway 13 from Rifle to Meeker
- I-25 in northern Colorado
- I-25 from Monument to Castle Rock and interchange improvements in Colorado Springs and El Paso County
- I-25 corridor in Denver
- US 287 and State Highway 71 Ports-to-Plains
- North metro rail and State Highway 119 bus-rapid transit projects

Because the TABOR only allows revenue and spending to grow by specified levels year over year, the HPF will effectively force the state of Colorado to rebate road and bridge dollars starting next year. For rural communities, the unintended consequences of allowing the HPF to comingle in General Revenue is particularly ironic, since many of the road and bridge projects that would otherwise be funded under 228 will instead underwrite rebates that will disproportionately flow to citizens in Colorado's large, Front Range population centers.

For taxpayers, the effects are similarly ironic. While the crowd-out of transportation dollars by the HPF will generate a small rebate in the short term, the loss of transportation funding will almost certainly force state policy makers to ask for either a tax increase, new tolling on existing lanes, or other new fees or taxes that would easily outstrip the small rebate they would receive because of the crowd-out.

To be clear, the TABOR and the refund itself aren't up for debate. Our Constitution is clear that when we hit the TABOR cap, a tax rebate is triggered. But let's make sure that cap accurately represents what voters signed on for in 1992 when TABOR passed. By the strict definitions created in the plain language of TABOR, the HPF is an enterprise and it was an error not to designate it as such when it was originally enacted. Indeed, Colorado has almost two dozen enterprises that similarly finance or administer government programs using specific revenues - like a fee assessed only to hospitals - for specific purposes - like health care coverage and provider reimbursements. By re-designating the HPF as an enterprise, this legislature would take the same step that Republican and Democratic legislatures have taken nearly two dozen times since TABOR was originally passed - treating enterprises separate and apart from the general budget as TABOR originally envisioned.

For all these reasons, and to head-off the significant unintended consequences, we urge you to pass an HPF enterprise statute. Even among those who disagreed over the propriety of the HPF, there is broad agreement that this error must be fixed.

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Associated General Contractors

Aurora Chamber of Commerce

Club 20

Colorado Association of Commerce & Industry

Association of Colorado Realtors

Colorado Competitive Council

Colorado Contractors Association

Colorado Springs Regional Business Alliance

Colorado Springs Forward

Colorado Wheat Growers Association

Denver Metro Chamber of Commerce

Denver South Economic Development Partnership

Grand Junction Area Chamber of Commerce

Metro North Chamber of Commerce

Northern Colorado Legislative Alliance

Progressive 15

South Metro Chamber of Commerce