<u>**Summary of 2021 Transportation Funding Legislation**</u>

4/29/21

The bill creates new sources of dedicated funding and new state enterprises to enable the planning, funding, development, construction, maintenance, supervision, and regulation of a sustainable transportation system by preserving, improving, and expanding existing transportation infrastructure, developing the modern infrastructure needed to support the widespread adoption of electric motor vehicles, and mitigating adverse environmental impacts and health impacts of transportation system use.

- <u>**Section 1**</u> includes legislative findings and declarations explaining purpose of bill and the reasons for dedicated funding and new state enterprises.
- <u>**Sections 2 and 3**</u> clarifies that the clean fleet enterprise operates as a type 1 agency within CDPHE and that the clean transit enterprise and the nonattainment area air pollution mitigation enterprise operate as type 1 agencies within CDOT.
- <u>**Section 4**</u> requires CEO and CDPHE, after consultation with CDOT, to jointly and annually prepare a report for specified legislative committees that details the progress made toward the electric motor vehicle adoption goals set forth in the "Colorado Electric Vehicle Plan 2020" and the transportation sector greenhouse gas pollution reduction goals set forth in the "Colorado Greenhouse Gas Pollution Reduction Roadmap". Section 4 also specifies a methodology to be used by CEO, CDOT, and CDPHE to estimate the social costs of greenhouse gas pollution.
- <u>**Section 5**</u> creates the community access enterprise within the Colorado energy office to support adoption of electric motor vehicles and electric alternatives to motor vehicles in an equitable manner. The community access enterprise is authorized to impose a community access retail delivery fee of up to a specified amount to fund its business purpose. Specifies the governance and powers and duties of the community access enterprise.
- <u>**Sections 8, 29, 39, and 48**</u> effectuates the repeal of a requirement that a ballot question seeking approval for the issuance of transportation revenue anticipation notes be submitted to the voters during the November 2021 election.
- <u>**Section 9**</u> requires CDOT to comply with specified transparency and contractor short-listing requirements when using the integrated project delivery method of contract procurement for a public project.
- <u>**Section 13**</u> clarifies that sales and use tax is not levied on the retail delivery fees imposed by or as authorized by the bill.
- <u>**Sections 15-20**</u> provide legal authority for collection under an existing multistate agreement of the motor fuel road usage and bridge and tunnel impact fees imposed by or as authorized by the bill.

- **Section 6** makes various general fund transfers to the state highway fund, the highway users tax fund (HUTF), and the multimodal transportation and mitigation options fund, including limited contingent transfers of a portion any additional general fund revenue made available due to the restoration of the Referendum C cap by Section 7 of the bill.
- **Section 7** restores the excess state revenues (Referendum C) cap, which the General Assembly reduced in 2017, to its maximum voter-approved level.
- **Section 10** creates the clean fleet enterprise within CDPHE for incentivizing and supporting the use of electric motor vehicles and other clean fleet technologies by businesses and governmental entities that own or operate fleets of motor vehicles. The clean fleet enterprise is authorized to impose a clean fleet retail delivery fee and a clean fleet per ride fee hat is to be paid by a transportation network company (TNC) on each ride offered and accepted by the TNC of up to a specified amount to fund its business purpose. Specifies the governance and powers and duties of the clean fleet enterprise.
- **Section 22** requires the Department of Revenue to collect the per ride fees imposed by the clean fleet enterprise and the non-attainment area air pollution mitigation enterprise as authorized by sections 10 and 47, Both fees are first imposed for rides offered and accepted in state FY 2022-23 and are annually adjusted for consumer price index (CPI) inflation thereafter.
- **Section 23** indexes the existing $50 registration fee imposed on electric motor vehicles to national highway construction cost index (NHCCI) inflation. and imposes additional electric motor vehicle road usage equalization fees on battery electric motor vehicles at a specified level and on plug-in hybrid electric motor vehicles at a lower with both additional fees being phased in on a set schedule from state FYs 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation. Section 23 also imposes a commercial electric motor vehicle fee. The increase and new fee revenue is credited to the HUFF for allocation to the state, counties, and municipalities; except that 40% of the revenue generated by inflation indexing of the existing $50 registration fee is credited to the electric vehicle grant fund and 30% of the revenue generated by the commercial electric motor vehicle fee is credited to the state highway fund for freight related projects. In 2026, specified executive agencies must jointly review the fees and make recommendations to the transportation legislation review committee of the general assembly as to whether the fees should be adjusted to ensure continued equalization of the average aggregate amount of registration fees and motor fuel charges annually paid by owners of electric motor vehicles and owners of motor vehicles powered exclusively by internal combustion engines.
- **Section 24** creates the Office of Freight Mobility within CDOT.

- **Section 25** requires CDOT to engage in an enhanced level of planning, analysis, community engagement, and monitoring with respect to transportation capacity projects and requires CDOT to conduct a certificated taxi carrier parity study.
- **Section 26** allows General Fund money transferred to the state highway fund pursuant to section 6 to be used for multimodal transportation projects.
- **Section 28** specifies how revenue credited to the HUTF required by the bill is to be allocated and expended.
- **Sections 31 through 38** authorize a transportation planning organization (TPO), subject to territorial restrictions and TPO member jurisdiction approval requirements, to exercise the powers of a regional transportation authority (RTA). Among other powers, the powers of a RTA include the power to impose various charges, fees, and, with voter approval, visitor benefit, sales, and use taxes to generate transportation funding for the purpose of financing, constructing, operating, and maintaining regional transportation systems. Any additional transportation funding obtained by a TPO exercising the power of a RTA is intended to supplement and not supplant state and federal transportation funding allocated within the boundaries of the TPO. Therefore, the transportation commission and the department of transportation (CDOT) are prohibited from taking such additional transportation funding into account when determining the amount of state and federal transportation funding to be allocated within the boundaries of a TPO, and CDOT, when submitting its annual proposed budget allocation plan, is required to provide evidence that the proposed allocation of state and federal transportation funding within the boundaries of any TPO that has obtained such additional transportation funding has not been reduced in any way on account of the additional transportation funding.
- **Section 33** imposes road usage fees on gasoline and diesel purchases that are phased in from state F'S 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation, with the road usage fees also being adjusted beginning in state FY 2032-33 in a manner calculated to generate the same amount of additional revenue as would be generated by indexing the existing state excise taxes imposed on gasoline and diesel to construction cost inflation. The fee revenue is credited to the HUFF for allocation to the state, counties, and municipalities.
- **Section 33** imposes a retail delivery fee on retail deliveries by motor vehicle that include tangible personal property subject to the state sales tax, requires the fee to be collected from the purchaser by the retailer, and requires simultaneous collection of community access, clean fleet, clean transit, and nonattainment area enterprise retail delivery fees imposed, respectively, by the community access, clean fleet, clean transit, and non-attainment area air pollution mitigation enterprises. The fees are first collected in state FY 2022-23 and are annually

adjusted for CPI inflation thereafter. Retail delivery fee revenue is credited to the HUFF for allocation to the state, counties, and municipalities and to the multimodal transportation and mitigation options fund and each enterprise's retail delivery fee revenue is collected by the department of revenue (DOR) on behalf of and credited to the cash fund controlled by the enterprise.

- **Sections 40, 41, and 43** change the name of the statewide bridge enterprise to the Statewide Bridge and Tunnel Enterprise, authorizes the enterprise to complete tunnel projects, and authorizes the enterprise to impose a bridge and tunnel impact fee on diesel fuel and a bridge and tunnel retail delivery fee. The bridge and tunnel impact fee is phased in from state F'S 2022-23 through 2031-32 and thereafter indexed to NHCCI inflation
- **Section 42** indexes the existing $2 short-term daily vehicle rental fee to CPI inflation and, on or after July 1, 2022, requires a car sharing program to collect the daily vehicle rental fee for any short-term vehicle rental of 24 hours or longer that is enabled by the car sharing program.
- **Sections 44 through 46** change the name of the multimodal transportation options fund to the multimodal transportation and mitigation options fund and make greenhouse gas mitigation projects eligible for funding from the fund.
- **Section 42** reduces the amount of each road safety surcharge imposed on motor vehicle registration for registration periods beginning on or after January 1 2022, but before January 1, 2024, by $5.55.
- **Section 47** creates the Clean Transit Enterprise within the department of transportation (CDOT) for the purpose of supporting clean public transit through electrification planning efforts, facility upgrades, fleet motor vehicle replacement, and construction and development of associated electric motor vehicle charging and fueling infrastructure. The Clean Transit Enterprise is authorized to impose a clean transit retail delivery fee of up to a specified amount to fund its business purpose. Section 47 also creates the nonattainment area air pollution mitigation enterprise for the purpose of mitigating transportation related emissions in ozone non-attainment areas. The non-attainment area air pollution mitigation enterprise is authorized to impose air pollution mitigation per ride and retail delivery fees to fund its business purpose.