

# STATE OF COLORADO

## DEPARTMENT OF TRANSPORTATION

### Office of Policy & Government Relations

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**DATE:** December 1, 2013  
**TO:** Transportation Commission  
**FROM:** Kurtis Morrison, Office of Policy & Government Relations  
**RE:** Legislative Session Preview

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### Action Needed

No action needed. Memorandum is for informational purposes only.

### Summary

On January 8, 2014, the General Assembly will begin the 2014 legislative session. This memorandum provides information and summaries on: (1) General Assembly changes (leadership, committee, and member changes); (2) CDOT's legislative agenda bills; (3) Transportation Legislation Review Committee (TLRC) approved bills; and (4) other bills anticipated to be introduced. Please contact Kurt Morrison at (303) 757-9703 or [kurtis.morrison@state.co.us](mailto:kurtis.morrison@state.co.us) with questions on this memorandum or other legislative matters.

### General Assembly Changes

**Recall Elections.** During the interim, two sitting senators faced recall elections: Senate President John Morse (D-El Paso) and Sen. Angela Giron (D-Pueblo). Both lost their recall elections and are now replaced by Sen. Bernie Herpin (R-El Paso), a former Colorado Springs councilman, and Sen. George Rivera (R-Pueblo), a former law enforcement official with the Pueblo Police Department. As a result of these two races, both the Senate leadership and the Senate Committee on Transportation were altered.

**Senate Leadership.** With the two recall elections concluded, the Senate's party split moves from 20(D)/15(R) to 18(D)/17(R). This narrower majority means that moderate Democrats will be under much greater pressure on party line votes, particularly those facing reelection this year. Although the majority party remains in control, the leadership will change. In 2013, the Senate majority caucus was led by Senate President John Morse and Majority Leader Morgan Carroll (D-Aurora). With Sen. Morse's loss, Sen. Carroll is expected to assume the role of senate president, once the full Senate assembles in January.<sup>1</sup> Sen. Rollie Heath (D-Boulder), current chair of the Senate Transportation Committee, will become the majority leader.

**Senate Committee on Transportation.** With Sen. Rollie Heath (D-Boulder) assuming the post of majority leader, he will no longer chair the Senate Transportation Committee. Vice-chair

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<sup>1</sup> Pursuant to Rule 12(b) of the Colorado General Assembly Senate Rules, the senate president is voted on by the full Senate, both majority and minority members. This will occur at the beginning of the 2014 legislative session.

Nancy Todd (D-Aurora) will assume this role. Sen. Todd, an education policy expert and former teacher, is entering her second year on the committee and has quickly educated herself on transportation policy. Sen. Cheri Jahn (D-Jefferson) and Sen. George Rivera (R-Pueblo) are new additions to the committee, replacing Sen. Heath and Sen. Randy Baumgardner (R-Grand), who has been reassigned to other committees.

State Senator Evie Hudak resigned on November 27th, 2013. The local Democratic Party Vacancy Committee will choose her replacement in the near future.

**House of Representatives.** No changes are anticipated for the House of Representatives leadership, nor the House Committee on Transportation and Energy membership.

### CDOT Legislative Agenda Bills

This year, CDOT has three department bills requested of the General Assembly. During a five-month process, these bills were selected and thoroughly vetted by the CDOT Office of Policy and Government Relations, Senior Management Team, Executive Director, and Governor’s Office. Table 1 summarizes all CDOT bills, capital requests, and decision items for 2014.

**Table 1.  
2014 CDOT Legislative Agenda**

| Bill Proposal  | Summary   | Sponsors   |
|--|---|--|
| <b>Bill/Statutory Change Requests</b>                            |   |  |
| Outdoor Advertising Control Program (OACP) Audit Recommendations | The bill would: <ul style="list-style-type: none"> <li>• direct all excess revenue generated through TODS and LOGO Signs to the State Highway Fund; and</li> <li>• direct CDOT to create a cost recovery center to collect and monitor roadside advertising revenue.</li> </ul> | Legislative Audit Committee*   |
| Flagperson Training and Statute Updates                          | The bill would: <ul style="list-style-type: none"> <li>• allow CDOT to provide a uniform system for entities to train and certify flaggers; and</li> <li>• update outdated language in the existing flagperson statute.</li> </ul>  | Rep. Don Coram (R-Montrose)<br>Rep. Angela Williams (D-Denver)<br>Sen. Steve King (R-Grand Junction)<br>Sen. Nancy Todd (D-Aurora) |
| <b>Capital Development Requests</b>                              |   |  |
| Hanging Lakes Tunnel (HLT) Lighting Infrastructure Upgrades      | The request seeks approximately \$1.6 million in funding from the Capital Development Committee to replace obsolete lighting at HLT and support new lighting equipment and installation costs.  | n/a  |
| <b>Budget Requests/Decision Items</b>                            |   |  |
| Restoration of Administration Line FTE and Associated Funding    | The request would restore the 14.5 FTE and associated \$1,590,193 cut from the CDOT Administration Line in 2012.  | n/a  |
| First Time Drunk Driver Account (FTDD) Funding Increase          | The request would increase CDOT FTDD revenues by \$500,000 per year. Currently, CDOT receives \$1.5 million annually from the FTDD account, even though statute specifies that CDOT receives \$2 million annually.  | n/a  |
| Movement of IT Funds to Administration Line                      | The request is for a \$2.4 million increase to the CDOT Administration Line – not a request for new funding, but an adjustment to align portions of the   | n/a  |

|  |  |  |
|--|--|--|
|  | CDOT IT budget with statute by moving funds from the CM&O Line to the Administration Line. |  |
|--|--|--|

\*Bill will be presented to the Legislative Audit Committee (LAC) for support as an “interim bill” in December 2013.

***Implementing State Auditor Recommendations for the Outdoor Advertising Control Program.*** Under the state CDOT Outdoor Advertising Control Program (OACP), which regulates signage on roadways, revenue is collected through two sources: (1) permit and renewal fees collected from outdoor advertising (billboard); and (2) revenue collected from the LOGOS and TODS programs. Currently, LOGOS and TODS are operated by a private vendor. Since switching to a private vendor, TODS and LOGOS have developed into a self-funding program, resulting in a revenue positive cash flow for the state – approximately \$500,000 each year. Each year, CDOT credits these funds to the CDOT general fund, where they are used to support maintenance and construction projects.

In a 2012 audit of the OACP, CDOT committed to the Legislative Audit Committee to make a number of program improvements and changes. This included: (1) establishing a new CDOT cost recovery center for all OACP funds, so as to ensure greater accountability of program revenue and expenses; and (2) specifying in statute that all excess TODS and LOGOS revenue must be dedicated to the State Highway Fund, since TODS and LOGOS have developed into a separate self-funding program. This bill proposal would implement these two recommendations from the State Auditor.

***Flagperson Training and Statute Updates.*** Currently, CDOT has a process for “certifying” private companies and state and local entities to perform flagperson training. This year, the Attorney General’s Office determined that, under existing statutes, CDOT does not have authority to train flaggers except those who work on CDOT projects. Furthermore, existing law gives authority to “local road authorities” to certify flaggers for projects “within their jurisdiction.” This means that those entities may not train flaggers to use their flagger cards outside of a given city or county.

This bill proposal would mirror state statute to existing practice, thereby allowing CDOT to provide a uniform system for entities to train and certify flaggers. The bill proposal would also update outdated language contained in the existing flagperson statute.

### **Transportation Legislation Review Committee (TLRC) Approved Bills**

The Transportation Legislation Review Committee (TLRC) is an interim committee of the General Assembly that meets when the legislature is not in session. The committee is comprised of the 13 members of the House Transportation and Energy Committee and the 5 members of the Senate Transportation Committee. The TLRC has the ability to submit up to eight transportation-related bills for introduction in the following legislation session, and has authority to investigate and examine transportation projects and needs.<sup>2</sup> Table 2 summarizes the five bills approved by the TLRC and impacts to the department.

<sup>2</sup> COLO. REV. STAT. § 43-2-145.

**Table 2**  
**2013 TLRC Bills Approved**  
**for Introduction in the 2014 Legislative Session**

| Short Title   | Summary   | CDOT Impact/Analysis   |
|---|---|--|
| <b>Bill A –</b><br>Disabled<br>Parking<br>License Plates<br>Placards  | The bill updates and clarifies the disabled parking statutes, including: establishing requirements for the display of a disabled parking placard; requiring that parking signs conform to requirements of the Americans with Disabilities Act; and imposes requirements for securing a placard.   | <i>No CDOT impact.</i>   |
| <b>Bill B –</b><br>Divisible Load<br>Overweight<br>Vehicle<br>Permits | The bill: <ul style="list-style-type: none"> <li>• authorizes an overweight permit for vehicles that haul sludge for wastewater purposes that CDOT deems a hazard; and</li> <li>• authorizes CDOT to issue an annual fleet permit for 2- or 3-axle group vehicles with divisible loads, available at \$2,000 per permit plus \$35 per vehicle.</li> </ul>                       | This bill would establish a new permit for a very narrow category of haulers (likely nine vehicles per year). However, further amendments are needed (i.e. clarifying the proper authority to determine hazards) |
| <b>Bill C –</b><br>Plug-in Electric<br>Motor Vehicle<br>Definition    | The bill updates legislation passed in 2013 that imposes new vehicle registration fees for electric vehicles, specifically by defining the term “plug-in electric motor vehicle.”   | <i>No CDOT impact.</i>   |
| <b>Bill D –</b><br>Highway<br>Restriction<br>Violation<br>Penalties   | The bill: <ul style="list-style-type: none"> <li>• raises the fine from \$500 to \$2,000 and imposes two license suspension points for a commercial vehicle driver who violates road closures and restrictions on Independence Pass; and</li> <li>• imposes a \$2,500 fine and two license suspension points for violating road restrictions (i.e. required chains).</li> </ul> | The bill will increase fine revenue received by CDOT and address law enforcement’s concerns that motor carriers continue to violate the year-round restriction of trucks on Independence Pass.                   |
| <b>Bill E –</b><br>Nonconsensual<br>Tow Vehicle                       | The bill creates a new Towing Advisory Committee to advise the Public Utilities Commission on rates and investigations of tow companies.  | <i>No CDOT impact.</i>   |

**Other Anticipated Bills**

During the November and December months, legislators are in the process of crafting their bills with the legislative staff to be introduced during the session. Prior to introduction, bills are kept confidential unless released by the bill sponsor. At this point, the following bills are expected to be introduced in January. CDOT has worked with sponsors and stakeholder groups in advance of the legislative session to be included in possible legislation and to address any potential issues before reaching bill draft form. The following concepts are likely to become bills in 2014.

**High Performance Transportation Enterprise.** A bill is expected to be introduced to provide additional controls and transparency requirements over the High Performance Transportation Enterprise (HPTE). This bill would update the HPTE statute to require legislative approval before entering into new public-private partnerships, establish greater public comment requirements, and institute certain transit and mobility requirements. Originally, this bill was slated for consideration as a TLRC interim bill. However, after multiple meetings with CDOT to express concerns and request changes, the sponsor opted to take additional time to draft the legislation and, instead, run the bill in January. CDOT is engaged in ongoing meetings with the sponsor.

***Idaho Stops for Bicycles.*** Legislation may be introduced to relax state traffic laws for bicyclists, specifically, by allowing bicyclists to yield, rather than stop, when approaching a marked stop sign. Other states have seen similar legislation in recent years, prompting larger debates on traffic safety and automobile/bicycle interactions on the road.

***Daily Vehicle Rental Fee Overcharging.*** Under Senate Bill 09-108, also known as the Funding Advancements for Surface Transportation and Economic Recovery Act (FASTER), five funding enhancements were established. This included an annual Road Safety Surcharge of approximately \$30 for each vehicle registration, and a \$2 per day Daily Vehicle Rental Fee for vehicle rentals. FASTER included language stating that no vehicle shall be charged both the Road Safety Surcharge and the Daily Vehicle Rental Fee. However, several rental companies demonstrated that they still paid both fees for certain vehicles. Rental companies are anticipated to run a bill to clarify FASTER's application to rented vehicles.

***Off-highway Vehicles.*** In 2011 and 2012, legislation was introduced to permit off-highway vehicles (OHVs) to be operated on public highways subject to certain registration, licensing, speed, equipment, and other requirements. Both of these bills were postponed indefinitely. The concept of allowing OHVs on public roads is expected to return again in 2014 as a bill. CDOT has already voiced concerns that any new road users ought to pay their fair share of road use fees, be restricted from use on state highways, and be allowed only on roads below a certain speed limit threshold.

***Long Bill: Cost of Living Adjustment.*** This year, the Governor's budget request includes a 1.5 percent salary increase for state employees, along with a 1.5 percent salary increase available under the state's merit pay program. If adopted by the Joint Budget Committee and approved by the General Assembly in April, this salary increase will take effect at the beginning of the next fiscal year.