



**Colorado
Legislative
Council
Staff**

HB17-1153

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0387 **Date:** July 10, 2017
Prime Sponsor(s): Rep. Williams D.; McKean **Bill Status:** Postponed Indefinitely
 Sen. Gardner **Fiscal Analyst:** Erin Reynolds (303-866-4146)

BILL TOPIC: HIGHWAY CONGESTION MITIGATION

Fiscal Impact Summary	FY 2016-2017 <i>(current year)</i>	FY 2017-2018	FY 2018-2019
State Revenue	<u>(up to \$133,333)</u>	<u>(up to \$800,000)</u>	<u>(up to \$800,000)</u>
Cash Funds*	(up to 133,333)	(up to 800,000)	(up to 800,000)
State Expenditures	<u>at least \$766,667</u>	<u>at least \$4.6 million</u>	<u>at least \$4.6 million</u>
Cash Funds	at least 766,667	at least 4.6 million	at least 4.6 million
Federal Funds	See State Expenditures and Technical Note sections.		
Appropriation Required: None.			
Future Year Impacts: Ongoing revenue decrease and expenditure increase.			

*These funds are TABOR-exempt.

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

Under current law, the Colorado Department of Transportation (CDOT) is permitted to designate high-occupancy vehicle (HOV) lanes for vehicles that carry a specified number of passengers. This bill sets the specific number of passengers at two or more (HOV2+).

This bill also requires CDOT to prioritize two projects to widen I-25, including the portion of I-25 between the towns of Castle Rock and Monument and the portion of I-25 between the cities of Longmont (at State Highway 66) and Fort Collins (at State Highway 14). CDOT is to prioritize these projects above all other unfunded projects using flexible federal money not previously allocated for any other project. CDOT must also require any environmental or other study to be completed no later than six months after the bill's effective date, and not allow the findings of any study to prevent the projects from being undertaken.

Background

Express Lanes. CDOT, the High-Performance Transportation Enterprise (HPTE), and its partner Plenary Roads Denver (Plenary) manage several high-occupancy vehicle and/or toll (HOV/HOT) lanes in the Denver metropolitan area and on I-70. As of January 1, 2017, pursuant to a Transportation Commission resolution, Express Lanes permit only vehicles carrying three or more passengers (HOV3+) or that pay a toll. Express Lanes are currently in operation on:

- I-25, from downtown Denver to 120th Avenue;
- US 36, from Table Mesa to I-25; and
- I-70, from Empire to Idaho Springs (HOT only).

Express lanes are also under construction on C-470, and are planned for I-25 North and Central I-70.

Express Lane management. Express Lanes are operated by the following entities:

Plenary. The HPTE contracts with Plenary for the operation and maintenance of Express Lanes on US 36 and Central I-25. Currently, US 36 has one HOT lane running in each direction from Table Mesa Drive in Boulder to the junction with I-25 in Denver, while there are two HOT switchable-direction lanes running seven miles from the junction of US 36 and I-25 to 20th Street in downtown Denver.

HPTE. The HPTE operates a single Express Lane running in each direction on I-25 between US 36 and 120th Avenue.

CDOT. CDOT manages the peak-period shoulder Express Lane on I-70 between Empire and Idaho Springs as part of a federal pilot project.

HPTE-Plenary contract. The HPTE contract with Plenary includes revenue projections for Plenary to collect throughout the 50-year life of the contract. Any change in law that affects those revenue projections is treated as an "HPTE change" under the agreement, which makes the HPTE liable to Plenary for annual revenue compensation payments that will put Plenary in a neutral position relative to the assumptions on which it based its bid.

State Revenue

Overall, the bill will reduce toll revenue to HPTE cash funds by up to \$133,000 in the current FY 2016-17, and by up to \$800,000 in FY 2017-18 and each year thereafter. These revenue reductions may be offset by increased toll rates.

HOV2+ — HPTE — I-25 North Express Lanes. HPTE will lose up to \$800,000 per fiscal year from reductions in toll revenue collected on the I-25 North Express Lane as a result of the reversion to the HOV2+ policy. Based on preliminary January 2017 figures, which reflect a revenue increase of 13.3 percent from the new HOV3+ policy, the fiscal note assumes that toll revenue will be reduced by about \$66,667 a month, or \$800,000 per fiscal year. This amount is prorated for one month in FY 2016-17, assuming the bill becomes effective May 1, 2017. These revenue reductions may be offset if the HPTE increases toll rates to offset its loss. Because HPTE is an enterprise, this revenue is not subject to TABOR.

State Expenditures

The bill will increase expenditures for the HPTE from its cash funds by an estimated \$766,667 in the current FY 2016-17, and by an estimated \$4.6 million in FY 2017-18 and each year thereafter. The State Highway Fund in CDOT may also be used to cover these and other expenditures under the bill. Certain discretionary federal funding will be reallocated from asset management programs to the I-25 projects outlined in the bill. Federal funding to CDOT may also be affected by certain provisions of the bill — see the Technical Note section.

HOV2+ — Plenary — US 36 and Central I-25 Express Lanes. Plenary estimates a loss of approximately \$4.6 million per fiscal year on US 36. Similar to the revenue loss described in the State Revenue section, this amount represents the revenue difference between an HOV3+ and an HOV2+ policy, for which HPTE in CDOT is contractually obligated to compensate Plenary. HPTE may increase toll rates to fund this amount or utilize the State Highway Fund to the extent that increased toll rates do not cover what is owed to Plenary. This amount is prorated for two months in FY 2016-17, assuming the bill will become effective May 1, 2017. Plenary and HPTE will also be required to conduct a public outreach campaign on HOV2+, as well as update signage and other materials. This expenditure and workload increase will come from HPTE's cash funds. CDOT will also be required to update its website and materials.

I-25 projects. The fiscal note assumes that the two I-25 expansion projects in the bill will cost at least \$1.0 billion each. In FY 2017-18, CDOT is expected to receive \$371.3 million in federal discretionary funding. At this rate, at least six years of discretionary federal funding will be allocated to the I-25 expansion project instead of to CDOT's asset management program where it is currently allocated. CDOT's asset management program is a required plan by the Federal Highway Administration and is currently 75 percent federally funded; therefore, a reduction in federal funding to asset management programs will increase the amount of State Highway Fund moneys used to fund road maintenance programs and reduce the amount of state money available for other projects.

Local Government Impact

The bill's reprioritization of projects will delay project funding in other areas of the state. The situation with federal funding discussed in the Technical Note may also affect transportation funding for local governments.

Technical Note

The bill may impact existing and future federal funding. The HPTE received initial approval for a federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for projects on C-470 and I-25; this loan agreement may be impacted if the bill changes HPTE's financial liability. In addition, the bill may cause the state to be out of compliance with federal requirements, which may impact future federal funding to the state.

Effective Date

The bill was postponed indefinitely by the House Transportation and Energy Committee on March 8, 2017.

State and Local Government Contacts

Counties
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Law