



TRANSPORTATION NEWSLETTER

DATE: JUNE 2021

Vince Rogalski, Chairman

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The Governor sign SB21-260 on June 17, 2021. This is the most significant piece of legislation for Transportation in decades. For this reason, I dedicated this Newsletter to an Overview of the Bill. Below is the overview of this Bill, presented to the Transportation Commission on June 17, 2021

MEMORANDUM

TO: THE TRANSPORTATION COMMISSION
FROM: JEFF SUDMEIER, CHIEF FINANCIAL OFFICER
REBECCA WHITE, DIRECTOR, DIVISION OF TRANSPORTATION DEVELOPMENT
DATE: JUNE 16, 2021
SUBJECT: SB 21-260 FEE BILL OVERVIEW

Purpose

To provide an overview of the recently passed transportation fee bill, SB 21-260 *Sustainability of the Transportation System*.

Action

No action is requested at this time.

Summary of SB 21-260

SB 21-260 implements several new transportation fees and General Fund transfers, creates or modifies four state enterprises, and adds new planning and environmental study requirements.

American Rescue Plan Act Transfers

On June 30, 2021, transfers \$380.0 million from the federal American Rescue Plan Act of 2021 to transportation, as follows:

- \$182.16 million to the State Highway Fund. Of this amount, \$22.16 million must be used for the Revitalizing Main Streets program and \$0.5 million must be used for Burnham Yard
- \$161.34 million to the Multimodal Transportation and Mitigation Options Fund
- \$36.5 million to the Highway Users Tax Fund, of which 55 percent is distributed to counties and 45 percent is distributed to municipalities.

General Fund Transfers

On July 1, 2021, this bill transfers \$170 million from the General Fund to the State Highway Fund.

Between FY 2024-25 to FY 2031-32, the bill makes the following annual General Fund Transfers:

- \$10.5 million to the Multimodal Transportation and Mitigation Options Fund
- \$7.0 million to the State Highway Fund for the Revitalizing Main Streets and Safer Main Streets programs. This funding may be expended for multimodal projects.

Between FY 2024-25 to FY 2031-32, the bill makes the following annual General Fund Transfers:

- \$100.0 million from FY 2024-25 to FY 2028-29; out of this transfer, \$10 million must be spent to mitigate the environmental and health impacts of increased air pollution
- \$82.5 million from FY 2029-30 to FY 2031-32

Additionally, this bill transfers \$115 million of the revenue that is retained after increasing the excess state revenues cap to transportation. These transfers will occur over multiple fiscal years. Of this funding,

94 percent is transferred to the Multimodal Transportation and Mitigation Options Fund and 6 percent is transferred to the State Highway Fund for the Revitalizing Main Streets and Safer Main Streets programs.

Front Range Passenger Rail

On July 1, 2021, this bill transfers \$12 million from the Multimodal Transportation and Mitigation Options Fund to the Southwest Chief and Front Range Passenger Rail Commission Fund to provide additional funding for the Southwest Chief La Junta Route restoration program. On February 15, 2022, the bill transfers an additional \$2.5 million to the Southwest Chief and Front Range Passenger Rail Commission Fund.

Contingent on the passage of SB 21-238, any unencumbered balance in the Southwest Chief and Front Range Passenger Rail Commission Fund will be transferred to the newly created Front Range Passenger Rail District.

TRANS Ballot Measure

Prior to the passage of this bill, a ballot measure would have gone to the voters in November 2021 asking them to approve the sale of \$1.337 billion in Transportation Revenue Anticipation Notes (TRANS). Additionally, statute directed transfers from the General Fund to the State Highway Fund depending on the outcome of the ballot measure. This bill repeals the November 2021 ballot measure and the related General Fund transfers.

New Transportation Fees

The bill creates new fees for purchases of gasoline and diesel fuel, electric vehicle registrations, retail deliveries, passenger ride services, and short-term vehicle rentals. It phases in many of the new fees over time and indexes new and existing fees to inflation. Revenue collection for the new fees created in the bill begins in FY 2022-23.

Road Usage Fee - Each fuel distributor that pays excise taxes on gasoline and special fuels must also collect a Road Usage Fee. This fee is paid per gallon of gasoline and diesel, and the fees are phased in between FY 2022-23 to FY 2031-32. Beginning in FY 2032-33, this fee will be annually adjusted for inflation based on the NHCCI. Revenue from the Road Usage Fee is credited to the Highway Users Tax Fund.

Bridge and Tunnel Impact Fee - Each fuel distributor that pays excise taxes on special fuels must also collect the Bridge and Tunnel Impact Fee, which is deposited in the Statewide Bridge Enterprise Special Revenue Fund. This fee is paid per gallon of diesel, and is phased in between FY 2022-23 to FY 2031-32. Beginning in FY 2032-33, this fee will be annually adjusted for inflation based on the NHCCI.

Electric Vehicle Fees - The bill requires the existing \$50 electric vehicle registration fee to be annually adjusted for inflation. It also imposes additional road usage equalization registration fees on regular and commercial electric vehicles. These fees are phased in through FY 2031-32, and then adjusted annually using the NHCCI. Revenue from the new fees are deposited in the Highway Users Tax Fund, with a portion going to the State Highway Fund for freight related projects.

Retail Delivery Fees - This bill imposes new fees on retail deliveries that are subject to the state sales tax, which are collected from the purchaser by the retailer. These fees are assessed by the state, the Statewide Bridge and Tunnel Enterprise, and four new enterprises created in the bill. The initial fee rates are shown in the table below. In subsequent years, these fees will be adjusted for inflation based on the Denver-Aurora-Lakewood Consumer Price Index. The fees will only be adjusted for inflation in future years if the sum of the adjustments to all the fees results in an increase of at least one whole cent. This revenue is distributed to the HUTF and the MMOF.

<u>Retail Delivery Fees</u>	<u>FY 2022-23 Fee Rate</u>
State (Highway Users Tax Fund and Multimodal Options Fund)	8.4 cents / delivery
Bridge and Tunnel Enterprise	2.7 cents / delivery
Community Access Enterprise	6.9 cents / delivery
Clean Fleet Enterprise	5.3 cents / delivery
Clean Transit Enterprise	3.0 cents / delivery
Air Pollution Mitigation Enterprise	0.7 cents / delivery
Total of Retail Delivery Fees	27.0 cents / delivery

Passenger Ride Fees - This bill creates new passenger ride fees on passenger rides provided by transportation network companies. These fees are discounted for rides that are pooled or in an electric vehicle. The passenger ride fees will be collected by the new Clean Fleet Enterprise and the new Nonattainment Area Air Pollution Mitigation Enterprise. The initial fee rates are shown in the table below. In subsequent years, this fee will be adjusted for inflation based on the Denver-Aurora-Lakewood Consumer Price Index in years where the sum of the inflation adjustments for the Clean Fleet Per Ride Fee and the Air Pollution Mitigation Per Ride Fee results in an increase of one whole cent.

<u>Ride Fees (Full Price)</u>	<u>FY 2022-23 Fee Rate</u>
Clean Fleet Enterprise	7.5 cents / ride
Air Pollution Mitigation Enterprise	22.5 cents / ride
Total of Ride Fees (Full Price)	30.0 cents / ride

<u>Ride Fees (Discounted)</u>	<u>FY 2022-23 Fee Rate</u>
Clean Fleet Enterprise	3.75 cents / ride
Air Pollution Mitigation Enterprise	11.25 cents / ride
Total of Ride Fees (Discounted)	15.0 cents / ride

Road Safety Surcharge - This bill reduces the amount of the road safety surcharge imposed on motor vehicle registrations by \$11.10 for registrations in 2022 and \$5.55 for registrations in 2023.

Daily Vehicle Rental Fee - Beginning in FY 2022-23, the Department of Revenue must annually adjust the daily rental fee for inflation based on the Denver-Aurora-Lakewood Consumer Price Index. The bill clarifies that car sharing programs must collect the daily rental fee for any short-term vehicle rentals of 24 hours or longer.

New State Enterprises

This bill creates four new state enterprises: The Community Access Enterprise, the Clean Fleet Enterprise, the Clean Transit Enterprise, and the Nonattainment Area Air Pollution Mitigation Enterprise. It also changes the name of the Colorado Bridge Enterprise to the Colorado Bridge and Tunnel Enterprise, and creates new fees to support it. These enterprises are funded through various new fees, as described below.

Community Access Enterprise - This bill creates the Community Access Enterprise in the Colorado Energy Office to support the widespread and equitable adoption of electric vehicles by investing in transportation

infrastructure, providing grants or other financing options to fund the construction of electric vehicle charging infrastructure, and incentivizing the acquisition of electric vehicles. Revenue from the Community Access Retail Delivery Fee is deposited in the Community Access Enterprise Fund, which is continuously appropriated to the Enterprise.

Clean Fleet Enterprise - This bill creates the Clean Fleet Enterprise in the Colorado Department of Public Health and Environment to incentivize and support the use of electric and alternative fuel vehicles by business and governmental entities that own or operate motor vehicle fleets. Revenue from the Clean Fleet Retail Delivery Fee and the Clean Fleet Per Ride fee are deposited in the Clean Fleet Enterprise Fund, which is continuously appropriated to the Enterprise.

Clean Transit Enterprise - This bill creates the Clean Transit Enterprise in CDOT to reduce and mitigate the adverse environmental impacts and health impacts of air pollution and greenhouse gas emissions by supporting the replacement of existing gasoline and diesel transit vehicles with electric motor vehicles. Revenue from the Clean Transit Retail Delivery Fee is deposited in the Clean Transit Enterprise Fund, which is continuously appropriated to the Enterprise. The Transportation Commission is authorized to loan money to the Clean Fleet Enterprise to defray expenses incurred by the enterprise before it receives fee revenue or bond proceeds.

Nonattainment Area Air Pollution Mitigation Enterprise - This bill creates the Nonattainment Area Air Pollution Mitigation Enterprise in CDOT to mitigate the environmental and health impacts of increased air pollution for motor vehicle emissions in nonattainment areas resulting from the growth in TNC rides and retail deliveries. Revenue from the Air Pollution Mitigation Retail Delivery Fee and the Air Pollution Mitigation Per Ride Fee are deposited in the Nonattainment Area Air Pollution Mitigation Enterprise Fund, which is continuously appropriated to the Enterprise. The Transportation Commission is authorized to loan money to the Nonattainment Area Air Pollution Mitigation Enterprise to defray expenses incurred by the enterprise before it receives fee revenue or bond proceeds.

Statewide Bridge and Tunnel Enterprise - This bill changes the name and scope of the Statewide Bridge Enterprise to the Statewide Bridge and Tunnel Enterprise and authorizes it to impose a Bridge and Tunnel Impact Fee on diesel fuel and a Bridge and Tunnel Retail Delivery Fee. Revenue from the Bridge and Tunnel Retail Delivery Fee and the Bridge and Tunnel Impact fee are deposited in the existing Statewide Bridge Enterprise Special Revenue Fund.

New CDOT Branches

Freight Mobility and Safety Branch - This bill creates the Freight Mobility and Safety Branch in the Division of Transportation Development, which is designed to plan, design, and implement programs and projects that enhance freight mobility and safety within the state. This branch is funded through a portion of the new electric vehicle fees.

Environmental Justice and Equity Branch - The bill creates a new branch in the CDOT Engineering, Design, and Construction Division to work directly with disproportionately impacted communities and other CDOT programs on the planning, study, and delivery of transportation capacity projects. The new branch will also identify barriers that may prevent these communities from participating in transportation decisions that affect their health, quality of life, and access for disadvantaged and minority businesses in project delivery.

Guidelines for Regionally Significant Projects

The bill establishes new requirements for transportation planning and environmental studies. For planning, SB 21-260 requires CDOT and the Transportation Commission to implement new procedures and guidelines that account for the impacts these projects will have on statewide greenhouse gas emissions and vehicle

miles traveled. The new procedures and guidelines must evaluate the environmental and health impacts of significant projects on disproportionately impacted communities, and be incorporated into future ten-year plans. CDOT is required to update its 10-Year Plan by October 1, 2022 to comply with these new procedures and guidelines. If this date is not met, future expenditures from the multimodal transportation and mitigation options fund may only be spent on projects that will help bring the plan into compliance. The same requirements apply to DRCOG and NFRMPO.

For environmental studies, CDOT must conduct a higher level of air quality analysis and monitoring, specifically focused on particulate matter. Additionally, the Department must develop and implement mitigation plans focused both on the construction period and the long term (again focused on particulate matter). Lastly, CDOT must review and update its public engagement program to ensure diverse and impactful ways to engage impacted communities.

Integrated Project Delivery Requirements

The bill requires CDOT to comply with specific transparency and contractor short-listing requirements when using the integrated project delivery method of contract procurement for a public project involving infrastructure that is part of the state highway system.

Annual Reporting to the General Assembly

Electric Vehicle Reporting - The bill requires the Colorado Energy Office and the Colorado Department of Public Health and Environment, in consultation with the Colorado Department of Transportation, must prepare an annual report detailing the progress made toward the electric motor vehicle adoption goals set in the 2020 Colorado Electric Vehicle Plan and the transportation sector greenhouse gas pollution reduction goals set in the Colorado Greenhouse Gas Pollution Reduction Roadmap.

Road Usage Study and Autonomous Motor Vehicle Study - This bill requires CDOT to conduct a road usage vehicle mileage tracking study and an autonomous motor vehicles study, and present results of these studies to the General Assembly.

Taxi Parity Study - The bill requires the Public Utilities Commission (PUC) to report on whether there is parity between authorized taxi carriers and TNCs and their contributions to funding the transportation system, taking into account their respective business models, regulatory burdens, and impacts on the sustainability of the transportation system. The PUC must report to the Transportation Legislative Review Committee during the 2023 legislative interim.

Transportation Planning Organizations

The bill authorizes transportation planning organizations to exercise the powers of a regional transportation authority (RTA). The Transportation Commission and CDOT are prohibited from taking any revenue generated by a planning organization exercising the power of an RTA into account when determining the amount of state and federal funding to be allocated within its boundaries, and CDOT must provide evidence that it is abiding by this requirement when submitting its annual proposed budget allocation plan.

Anticipated Timeline

- The bill was passed by the legislature and sent to the Governor for signature on 6/2/2021. The bill will be effective upon signature from the Governor.

Transportation TPR Meeting
NEXT MEETING NOTICE TPR meeting July 1, 2021
Region 10 at 10am to Noon
Possible Video Conference Only