COLORADO
Department of Transportation
Office of the Executive Director

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First of all I would like to thank Chairman Hatch for the invitation to testify, and acknowledge our Colorado Senator on the Committee, Michael Bennet and thank him for his many years of service to the state, including his time as Chief of Staff to then Denver Mayor John Hickenlooper, and as Colorado's Senior Senator. For those of you who do not know, before coming to Colorado I served as the Cabinet Secretary for the Delaware Department of Transportation, served in the Administration at the Federal Highways Administration (FHWA) and also served as a Deputy Director of the Kentucky DOT. My testimony today will be Colorado focused.

I want to begin with a story that illustrates the transportation situation in Colorado. During my first three days as CDOT's Executive Director, I took an 1,100 mile tour around the state. As those of you who are familiar with Colorado know, Interstate 25 (I-25) is the major North/South artery, tying urban communities together along the Front Range. It also is an important freight corridor for the United States, running all the way from Canada to Mexico. The first leg of the journey was on I-25 heading north out of metro Denver. Outside Denver we drove through a pretty rural area on the 4-lane interstate (2 lanes in each direction). It was a Thursday morning, after rush hour, and we were stuck in traffic. I assumed there was an incident ahead but my Region Engineer informed me that was how the corridor travelled. It reminded me of the Washington D.C.'s beltway traffic, and was a striking demonstration of the need to add capacity. When I asked what the plan was for widening, the response I received was based on current funding availability, we expect to be able to add one managed lane (a toll lane) in each direction, from Denver to Fort Collins (45 miles) by 2070. Think about that- eighteen year olds getting their driver's license this year will be seventy-three years old before they will benefit from a capacity increase- most of them will never get to enjoy the benefit.

Like the rest of the nation, funding for transportation in Colorado is at a crossroads. Our primary source of funding, the gas tax, hasn't increased in over 20 years (neither the federal gas tax nor Colorado's gas tax), and the recession eliminated General Fund investment by our Colorado Legislature in transportation in 2009. To update our infrastructure, keep pace with population growth, and improve safety and promote multimodal options, Colorado currently has an almost $1 billion annual shortfall and a budget that is inadequate to avoid a steady decline in the condition of our assets.

It is no surprise that this year during the 2015 Colorado legislative session there was a bill introduced that was promoted by the business community and primarily Republican elected officials along the North I-25 Corridor I mentioned earlier to ask voters to bond against future federal revenues for $3.5 billion in transportation improvements, including over $1 billion to fix the North I-25 Corridor between Denver and Fort Collins. As much as CDOT would love to improve the I-25 Corridor, we had to oppose the bill because expanding capacity by simply bonding against our federal revenue without any additional revenue to pay for bonds would have decimated our ability to maintain existing infrastructure assets. It would have been akin to the example of building an addition on the house while ignoring our leaking roof. Our priority here in Colorado has been to build a strong asset management program to make the very best use of our limited funds in an effort to keep that roof from leaking even more. The North I-25 example illustrates how important the federal revenues are to Colorado, and shows that if Congress were to expand revenue, Colorado could enter into a Public Private Partnership (P3) and quickly seek a bonding solution to accelerate the improvements on this and other critical transportation corridors across Colorado.

About 65% of CDOT's capital budget (dollars CDOT uses for maintenance and capacity improvements) comes from the federal government. We rely on those funds. Other states that have more clearly recognized the critical link between economic health and transportation tend to be less reliant. In our neighbor state to the west, the Chairman's home state of Utah, for example, you can almost flip the Colorado situation around. Utah relies much less on funds from the federal government and therefore is better equipped to handle any ebbs in federal transportation funding.

As Senator Bennet has expressed to the Committee, Colorado is a rapidly growing state. Currently, our population is 5.3 million people and is expected to increase by almost 50% by 2040. As mandated by federal regulations, CDOT just adopted our 2040 Statewide Transportation Plan and the results are stunning- CDOT expects to have over that time $21 billion in revenue and a need of $46 billion. That leaves an unfunded gap of $25 billion over the next 25 years. These are numbers that reflect real, quantified need. If we can't fill the gap, CDOT will not have the money to maintain the system in its current condition, and will have increasing travel times and decreasing traveler convenience with ripple effects on the economic vitality of the state. Mr. Chairman and Members of this Committee, in Colorado we have a funding problem and we need your help- not to solve our problem for us, but to partner with Colorado to address these critical needs.

The bottom line and most important thing I want to leave you with today is that similar to Colorado's proposed bonding bill I talked about earlier, Congress can't fix a funding problem through financing. I cannot emphasize enough that critical point: financing mechanisms cannot correct what is essentially a funding problem due to revenue shortfalls. We in Colorado would love to bond and accelerate our most important projects, but we need a revenue stream to pay for it- our nation's highways need a stable funding source first and foremost if we want to move ahead in transportation. I believe it is critical we address these infrastructure improvements not only in Colorado but nationally. As Senator Bennet has repeatedly said back in Colorado while touring CDOT infrastructure projects- we should have the courtesy to maintain the infrastructure our parents and grandparents provided for us so that our children and grandchildren can enjoy the same quality of life that was given to us. In that spirit, I implore you to find a way to secure a stable, long-term revenue base for a robust, six-year surface transportation bill this year.

Mr. Chairman, these times have also led CDOT (by necessity) to enter into an innovative era of how we meet the transportation needs of our state. In the past, we built more general purpose lanes to meet capacity needs. Now, we increase choice in travel, promote walking and biking, work to increase mobility through the use of operational improvements, and use pricing on new express lanes to manage travel reliability and growth. We have no "planned for" funds for capacity improvements and please remember that in Colorado any taxes must be approved by a vote of the people in accordance with our Taxpayer Bill of Rights (TABOR). That difficulty has made us very focused on squeezing the most out of the dollars we do have. The department has many successful “LEAN” process improvements that have allowed us to stretch our dollars and become a better, more efficient, customer-focused agency.

By necessity and as this hearing is focused on, our use of partnerships has changed as well. In the past we delivered a project through the federal and state gas tax and we would design, bid and then build the project. Today our toolbox includes working with the private sector on a wider variety of project delivery options, such as Design Build or Construction Manager General Contractor (CMGC). Of course, these and other project delivery options are only available if you have the funds to deliver the project.

Colorado has turned to a variety of options, including creative financing methods, in an effort to fill the investment gap and move critical projects forward. In 2009 Colorado created the High Performance Transportation Enterprise (HPTE), a Division within CDOT whose mission is to pursue innovative financing partnerships to move forward badly needed projects.

I’m sure the committee has already heard about the Denver area’s transit agency- Regional Transportation District (RTD)- and its successful use of partnerships with the private sector with the Eagle P3 light rail line and the rehabilitation of Denver Union Station. The state has joined RTD with our first P3 by entering into a 50 year agreement with a concessionaire to design, build, operate, finance and maintain the second phase of our U.S. 36 improvement project. Just this Monday, we had the ribbon cutting on the first phase of U.S. 36, which connects the urban centers of Denver and Boulder. It is amazing to think this project started with a $10 million TIGER “Challenge Grant” from the first round of the U.S. Department of Transportation’s TIGER grants in 2009 which we leveraged into two TIFIA loans totaling $114 million for the project. But even with state funds, and funds from RTD and the Denver area Metropolitan Planning Organization (DRCOG), the full $450 million multimodal project wouldn’t have been possible without the state entering into a P3.

I believe Colorado has an interesting perspective to offer on this subject, because we are utilizing so many options to deliver transportation improvements in this new environment. U.S. 36 is one example of a P3, and it is one where our private partner is taking on the toll risk for the project, but that is not the only option for delivering managed lane projects in our state.

Another example is Colorado's major East/West corridor, Interstate 70. In Denver I-70 includes a viaduct that is over one mile long and is in critical need of replacement. It was constructed in 1964 as a four-lane bridge, and today carries more than 115,000 vehicles per day. The viaduct made news this month as repairs made to the bridge in 1997 are beginning to fail. Several tension rods that were installed to stop additional cracking in have broken. The bridge remains safe for travel, but we are increasing our inspection frequency and developing repair plans should further components deteriorate before we reach a Record of Decision (ROD) and move forward with the permanent improvements for this project.

The improvements needed to replace the existing viaduct and improve mobility on the corridor are estimated to cost $1.2 billion, and CDOT anticipates the replacement will include managed lanes in each direction (again, we have not completed a ROD and therefore these elements are not final at this time). If all goes well, we hope to have a P3 for that project as well. We don't expect the private partner to take on the toll risk. In fact, the tolls expected to be collected will not help pay for the cost of construction but instead will help defray a portion of the costs for maintenance and operations. Colorado would make what is known as availability payments to the private partner in exchange for arranging the financing for the project up front and covering all capital and annual maintenance of this critical Interstate section for the next 35 years.

As we assess our project delivery and financing options, we are considering many variables, but the one that seems to rise above the others is risk. What risks does the state want to transfer or optimize between the public and private sectors? What is the value of transferring the risk of the toll collection? What is the value of transferring the risk of long-term capital costs? What is the value of transferring ongoing maintenance operations versus maintaining those operations ourselves? When we assess those risks, sometimes we determine a P3 is not the way to go and other times a P3 provides the taxpayers with the best option in going forward.

Colorado's highway 470 (C-470) is another managed lane example, where we will be building an express toll lane in each direction. We have determined that a P3 would not be the best option for the state on that $200 million project, but we hope to secure a federal TIFIA loan and utilize toll revenue to cover about half the construction costs of that project.

On a different section of I-70 west of Denver we are converting the shoulder for 13 miles eastbound which carries traffic into Denver into a weekend travel lane during the peak periods. While we can't afford new lanes, travelers will have the option to travel in the shoulder lane for a toll. CDOT is financing the project in part with the expected toll revenue from the corridor, but without any private sector or federal financing assistance. To put in perspective the benefit states could see from creative ideas from Congress, Colorado's own Senator Michael Bennet introduced bi-partisan legislation last year to create a National Infrastructure Bank that proposed to provide loans at a 1% interest rate. The I-70 mountain corridor project I just referenced is a $72 million project. The financing included a ten year, $25 million commercial loan at what we consider to be very favorable rates and terms given the infancy of the project and the speculative nature of the pledged revenues. Had Senator Bennet's proposal been enacted and if Colorado could have made use of that financing for this relatively small but important project, the taxpayers of Colorado would have saved the state over $6 million during the ten-year life of the loan.

Mr. Chairman and Members of the Committee, in conclusion it is important that states have different financing tools in the toolbox- driven by a constrained funding reality- to meet transportation investment needs of the state and the nation. From a project delivery perspective, since January 2008, CDOT has advertised 29 Design Build Projects worth about $953 million in total project budget. Since January 2010, we have advertised 11 CMGC projects worth about $418 million in total project budget. From a financing perspective we now have one public private partnership on a $450 million project and one on the way for an additional $1.2 billion.

Not to be forgotten is what we have learned about the importance of public engagement in the discussion of project delivery and project financing. A financing partnership with the private sector is not only new to us but new to the taxpayers and not only can a P3 change how we finance and deliver a project, but it has changed how we discuss a project publically. In the past, project financing and project delivery was a much more internal discussion. Now, we recognize the need to engage the public and stakeholders at different milestones, from project visioning during the environmental review process, to how we plan to build it, how it will operate once complete, and who will maintain the new facility.

Our funding crisis only increases the importance of engaging the public, stakeholders, local governments and more into a broader conversation regarding the needs of the transportation system. Colorado certainly needs to step up and do our part, and we are, but our transportation system has federal interests, including interstate commerce and quality of life of all citizens, and we need to continue to have a strong federal partner in transportation.

I appreciate the Committee's time and attention to the important topic of transportation funding and financing, and I am happy to answer any questions you may have.