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For Presentation at TRAC Meeting July 14, 2017

DATE:	July 19, 2017
TO:	Transportation Commission
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SUBJECT:	Senate Bill (SB) 267 Repayment and Project Selection Approach

Purpose
To discuss approach to repayment and project selection for implementation of Senate Bill (SB) 17-267.

Action
No action. Requesting input and direction on approach.

Background
SB 267 "Concerning the Sustainability of Rural Colorado" authorizes the execution of lease-purchase agreements on state facilities totaling $2 billion, to be issued in equal amounts over four years, beginning in Fiscal Year (FY) 2018-19. CDOT will be the recipient of $1.88 billion of those proceeds, with the remainder dedicated to controlled maintenance and capital projects on state buildings. Proceeds to CDOT may be used for projects that are identified as Tier 1 in the 10-Year Development Program Plan, and at least 10% of proceeds must be used for transit projects. The bill further requires at least 25% of CDOT's proceeds be applied to projects in counties with a population of 50,000 or less, as of July, 2015.

After the state covers payments for the capital construction proceeds, CDOT is responsible for the first $50 million in lease payments related to state highway projects, with the remainder being paid by the General Fund or "any other legally available source." After four years of lease-purchase agreements are executed, the repayment is expected to reach approximately $150 million per year. Each lease-purchase agreement would have a term of twenty years. While CDOT's minimum commitment is $50 million per year, the potential exists for a maximum repayment amount of closer to $150 million, if the legislature were to subsequently choose to transfer additional repayment liability to the department.

The Transportation Commission discussed SB 267 at a June workshop. Key points of discussion for which there was consensus, and which provide direction on the approach to SB 267 included:

- Need to manage expectations and convey to the legislature and the public that there is still a significant transportation funding need that is not met by SB 267.
- Need to identify impacts of repayment to projects or programs, especially additional repayment above $50 million, and communicate those impacts.
- Should be a statewide project selection process, not subdivided by urban and rural, and focused on identifying the best projects that support the overall system.
- Projects should be identified initially for just the first one to two years of funding, rather than the full four years, to allow for uncertainty and retain flexibility.
- CDOT goal areas of safety, mobility, maintaining the system, and economic vitality provide a good framework for considering projects for funding.
- Should consider how SB 267 proceeds can position us to be ready for the possibility of other new funding sources.
- Should consider how SB 267 can be used to leverage other funding (i.e. discretionary grant programs)

Details

Repayment
Transit Repayment

It is likely that the portion of repayment associated with transit proceeds will need to be repaid from a source for which transit is eligible. Transit projects are generally not eligible under the State Highway User Trust Fund (HUTF), or under federal highway programs. One exception could be for park and rides, which are eligible uses under the state HUTF, and under some federal highway programs. FASTER Transit or FTA funding may be sources of repayment, but reductions to these already small programs will have substantial negative implications for local transit agencies receiving grants, as well as for statewide/regional transit efforts such as Bustang. Some flexible sources of federal highway funding can be transferred to FTA and used for transit projects, a possible option for repayment.

Potential Repayment Sources

Options may exist to mitigate the extent to which CDOT's repayment liability will require cuts to existing "base budget" programs, although the ability of these options to mitigate the repayment liability will diminish significantly if CDOT's liability increases beyond the current $50 million. These options include toll revenue and additional revenue sources, which are described below.

Toll Revenue

If tolled projects are funded through SB 267, future toll revenue could potentially be committed to repayment. Under such an approach, SB 267 funds could be used as a financing vehicle, similar to a TIFIA loan, with proceeds provided upfront and then repaid over time using toll revenue.

Additional Revenue

If additional revenue is available at the start of a budget cycle, or becomes available during the course of the year, flexible revenue sources could be applied to repayment. There are several sources of additional revenue, which could include:

- Revenue Growth in Flexible Funds – In years where there is an increase in available flexible revenue over the previous year, there will be unallocated flexible funds at the beginning of the budget planning cycle, which the Transportation Commission then decides how to allocate to new or existing programs. If SB 267 repayment is added as a line item in the draft annual budget, growth in flexible funds can be applied to this (and other budget items, if applicable), either reducing the available surplus or creating a deficit. If unallocated funds remain, no cuts to other programs would be necessary.
- Other Sources of Additional Revenue – Additional revenue, such as federal redistribution, often becomes available during the course of the year. Typically these additional revenues are swept into the TC Program Reserve (formerly the TC Contingency) for eventual allocation to projects, programs, or other funding needs. If available, these funds could be used to backfill cuts previously made to programs in order to fund repayment, or potentially carried forward to help meet the next year's repayment liability.

If these sources of funds are not available or are insufficient to satisfy the full amount of repayment, cuts to existing TC directed programs will be necessary. These programs include:

- Asset Management – Funding to asset management programs could be reduced, either by targeting specific programs such as Surface Treatment, or by spreading across programs. Since asset management projects are generally identified and programmed four years out, a reduction to asset management could mean either cutting or delaying projects.
- Maintenance Levels of Service (MLOS) – Funding to MLOS could be reduced, either by targeting specific Maintenance Program Areas (MPAs) or by spreading across MPAs.
- Regional Priority Program (RPP) – The $50 million currently committed annually to RPP could be reduced. Since RPP projects are generally identified and programmed several years out, a reduction to RPP could mean either cutting or delaying projects.
- Other TC Directed Programs – Although much smaller in size than the above mentioned programs, other TC directed programs could be considered for reduction. Examples include: Hot Spots, TSMO, RoadX, Safe Routes to School, and Bridge Off-System.

If cuts are needed they could be applied to a specific program or programs, or spread proportionally across multiple TC directed programs.

Questions for Consideration

- How should the question of transit repayment be addressed?
- Does the Commission agree with using additional revenue to mitigate the need for cuts from existing programs?
- Should toll revenue (if tolled projects are selected) be considered as a repayment source?

- If cuts to existing programs prove necessary, should specific programs be targeted or should cuts be spread across programs? If specific programs, does the Commission want to identify which program(s) should be considered first?
- Would the strategy be different than discussed above if CDOT were responsible for the full ($150 million) repayment?

Highway Project Selection

As noted previously, SB 267 requires that projects funded with proceeds must be identified as a Tier 1 project in the 10-Year Development Plan. Staff are currently working to update the Development Plan to incorporate updated scope, schedule, and cost information, remove projects that have since been completed or funded, and incorporate additional projects that should be included.

Project Selection Process

At the June Transportation Commission workshop, the Commission provided direction to focus current SB 267 efforts on the identification of projects for the first one to two years of funding, rather than the full four years. Also, the project selection process should be on a statewide basis, but adhere to the legislative intent to provide a minimum of 25% to projects in rural counties.

Project Selection Criteria

Based on discussion at the last Transportation Commission workshop, some key criteria that should be considered in identifying priorities for the first years of funding from the updated 10-Year Development Plan include:

- Statewide Plan (SWP) Goal Areas: The extent to which a project addresses the SWP goal areas of Safety, Mobility, Maintaining the System, and Economic Vitality.
- Strategic Nature: Project is of regional or statewide significance serving regional or statewide travel needs, recognized as a high priority at the regional or statewide level, and represents a significant cost or long-term investment.
- Other Funding: Ability to leverage other funding opportunities (i.e. discretionary grants).

Some additional criteria that staff would like to discuss and get Commission input on include the following:

- Stakeholder Support: Project (or corridor) is identified as a high priority in a Regional Transportation Plan.
- Project Readiness: Project can be ready to begin construction within a specified period of time after funds become available.
- Builds on or Leverages Past Investment: Project builds on recent prior phases or corridor investments.
- Resiliency/Redundancy: Project improves the resiliency or redundancy of the system.

Questions for Consideration

- How should the identification of projects for SB 267 funding relate to the need for matching funds for discretionary grant programs, such as the new Infrastructure for Rebuilding America (INFRA) discretionary grant program (See Attachment A)?
- Is there an advantage to funding toll projects relating to either the potential for repayment contribution or in addressing ahead of future ballot initiatives?
- How important is project readiness? How quickly should a project be ready to go to construction from the time funds are available?
- Should local match be required or a consideration?

Transit Project Selection

A Tier 1 designation was not made for transit projects, so the eligible projects could be more open-ended. Similar selection criteria (strategic, supported, readiness, etc.) are expected to be adapted for transit projects and tied to the Statewide Transit Plan.

Questions for Consideration

- Should local projects be considered for transit funding? If so, should match be required and how much? How would repayment responsibility be handled for local projects?
- Should bus procurement be considered, given a 10-15 year useful life and a 20-year repayment schedule? Could the repayment schedule be structured to coincide with useful life?
- Should we consider a higher allocation of annual FASTER funds to supplement local and regional operating needs, and rely on short term funding (SB 228, SB 267, etc.) for local capital needs (largely bus replacement)?

Advisory Committee Input
The Statewide Transportation Advisory Committee (STAC) was held on June 23 and included significant discussion on the implications of repayment on existing CDOT programs. Several STAC members expressed concern about cutting asset management or maintenance. It was noted that in rural areas of the state, there are few large capacity projects and needs are more often asset management, maintenance, or improvements such as passing lanes. A suggestion was made that if cuts to existing programs are needed, they be spread to limit the impact to any one program. A suggestion was also put forward that if cuts are necessary they be tied to the projects selected for SB 267. So, for example, allocations for applicable programs in a Region are reduced based on the SB 267 proceeds allocated to projects in that Region. Several STAC members noted the need to communicate to the legislature the importance of living up to its responsibility for repayment. One STAC member questioned the use of SB 267 transit funds for Park and Rides, while some other STAC members noted that in their area Park and Rides were seen as a significant need and a valuable investment in encouraging transit use.

Next Steps
- August – Transportation Commission Workshop on Project Selection

Attachments
- Attachment A: INFRA Notice of Funding Opportunity (NOFO) Summary
- Attachment B: Tentative Schedule