FOR IMMEDIATE RELEASE
Office of Gov. John Hickenlooper

Eric Brown, 303-547-5308 c, eric.brown@state.co.us

Gov. Hickenlooper vetoes "Transportation Enterprise Transparency Act," signs Executive Order

DENVER — Wednesday, June 4, 2014 — Gov. John Hickenlooper today vetoed SB 14-197 "Transportation Enterprise Transparency Act" and signed an Executive Order that will improve transparency, accountability and openness relating to the Colorado Department of Transportation (CDOT) High-performance Transportation Enterprise (HPTE).

"We firmly believe that government should always strive to be transparent and accountable," Hickenlooper wrote in a letter to the Colorado Senate. "We support SB 14-197's provisions that improve transparency, accountability, and openness in public-private partnerships. … Unfortunately, SB 14-197 is not just a transparency bill — it also inappropriately constrains the business terms of future P3 agreements."

The General Assembly in 2009 directed the Executive Branch to aggressively pursue public-private partnerships (P3s) for transportation infrastructure to address the state's ongoing inability to adequately fund transportation needs. "While CDOT and HPTE have made great strides recently in this area, continued success depends on being able to access all of the tools in our transportation financing toolbox," the governor wrote.

SB14-197 departs from the state's policy of enabling P3s as a financing alternative. In so doing, it restricts future P3 opportunities by discouraging investment in Colorado, eliminating cost-saving alternatives for delivering core infrastructure, and curbing economic development opportunities.

The bill further requires any future P3 with certain features (contract terms more than 35 years, procurement disruptions, inappropriate linkage to municipal debt terms, abstract non-compete provisions, and compensation events) be pre-approved by the General Assembly. These constraints on business terms would create a chilling component on future transactions, making investors unlikely or unwilling to bid on Colorado projects due to the increased risks this process would generate.

"These risks will translate into more expensive transportation infrastructure for Colorado and its residents," the governor wrote.

Further concern involves how private sector and local government stakeholders were not adequately involved in SB 14-197's development. Legislation this complex – especially when introduced in the final weeks of session –

deserves thorough scrutiny and input from all impacted parties.

"In committee, private sector representatives warned that the bill's rushed process and lack of business community input could result in unintended consequences," the governor's letter says. "Those worries were shared by city and county officials concerned about limiting future P3s. We share those concerns. With legislation of this complexity, it is critical that all stakeholders and partners be actively engaged in a robust and thorough process to ensure good outcomes and good law; we fear that was not the case with SB 14-197."

Despite SB 14-197's unworkable provisions, the governor believes in its efforts to improve transparency and accountability. As the State Auditor reviews the existing U.S. 36 transaction, future P3s should also undergo an open and transparent review process. For this reason, the Executive Order signed today by the governor that instructs HPTE, for all future P3 agreements, to implement SB 14-197's provisions that are focused on injecting transparency and openness into the HPTE process.

"Colorado's transportation needs remain underfunded, and we must do more with less," the executive order says. "P3s are a necessary tool the state can leverage to deliver important transportation projects."

The order also calls for discussions between the Governor's Office and General Assembly members to create a "Center of Excellence," which would establish P3 best practices, including programs for ensuring transparency and openness. "This will help all of us be more deliberate about P3s moving forward, without sacrificing opportunities for economic development and investment," the governor's order says. "We stand ready to work with you toward the goal of finding a solution that will maximize the potential usefulness of P3s, while ensuring transparency and openness."

Copies of the governor's veto letter to the Colorado Senate and his Executive Order are attached to this press release.

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Kelly J. Brough, president and CEO of the Denver Metro Chamber of Commerce:
"We applaud Governor Hickenlooper for his veto of SB14-197, a bill that would have hampered Colorado's ability to negotiate and execute smart public-private partnerships to help fund key public projects. These partnerships leverage private investment to maximize public dollars and are a critical means for funding much-needed improvements to our infrastructure. Our economy depends on our ability to quickly move employees, suppliers and customers between Colorado communities. To do that effectively requires significant investment in transportation infrastructure, which can be made possible through these strategic partnerships."

Mizraim S. Cordero, director at the Colorado Competitive Council:
"We applaud Governor Hickenlooper for his veto of SB14-197, a bill that placed constraints on how our state negotiates public-private partnerships. The only way Colorado will be able to build significant infrastructure projects for the foreseeable future will be through the use of these partnerships. This bill would have had a chilling effect on successfully attracting investors to partner in this region. These partnerships are an innovative and cost-effective approach to infrastructure investment and we appreciate the Governor's action on this bill to ensure our state can continue to explore the potential of these partnerships."

Lone Tree Mayor Jim Gunning (and chair of the Metro Mayors Caucus):
"Although SB 197 contained laudable public transparency measures, it unfortunately also held highly concerning language directing the legislature to vote on terms of future P3 deals. The transportation planning process, and the development of P3s, works best when local officials and transportation professionals have the flexibility to negotiate and develop the best deal for our communities. Allowing the legislature to vote on these projects, or even just a single term, injects significant uncertainty into that process, thereby resulting in reluctant bidders, uncertainty, and potential politicization of projects."

Tony Milo, executive director of the Colorado Contractors Association:
"While SB 197 contained many laudable transparency provisions to ensure public knowledge of future funding for projects, unfortunately the bill also contained three provisions that limited the state's flexibility to negotiate transportation financing deals, and could open the door to politicization of future transportation projects. The Governor made the right decision – his veto and executive order ensures that the public will have a significantly more transparent process, but not at the cost of restricting future negotiations and creating jobs for Coloradans."

The Governor's Office received veto requests from:

1. Douglas County Board of Commissioners
2. Adams County Board of Commissioners
3. Mayor Doug Tisdale, Cherry Hills Village
4. Mayor Michael B. Hancock, City and County of Denver
5. Mayor Bob Murphy, City of Lakewood
6. Mayor James Gunning, Mayor, City of Lone Tree
7. Mayor Steve Hogan, City of Aurora
8. Mayor Marc Williams, City of Arvada
9. Mayor Cathy Noon, City of Centennial
10. Mayor Joyce Downing, City of Northglenn
11. Mayor Randy Ahrens, City of Broomfield
12. Mayor Ron Rakowsky, City of Greenwood Village
13. Mayor Phil Cernanec, City of Littleton
14. Mayor Heidi Williams, City of Thornton
15. Mayor Rick Pilgrim, Town of Bow Mar
16. Stephen Sandherr, CEO, AGC of America
17. Nancy Doty, Chair, Arapahoe County Board of County Commissioners
18. Helga Grunerud, Executive Director, Hispanic Contractors of Colorado
19. Michael Gifford, CEO, Associated General Contractors of Colorado
20. Spencer Villwock, CEO, Independent Electrical Contractors Rocky Mountain
21. Marilen Reimer, Executive Director, American Council of Engineering Companies
22. Mizraim Cordero, Executive Director, Colorado Competitive Council
23. Steve Klausing, Executive Director, Denver South Economic Development Partnership
24. Don Clem, Executive Director, Portland Cement Association – Rocky Mountain Region
25. Mark Latimer, President and CEO, Associated Builders and Contractors, Inc.
26. Todd Ohlheiser, Executive Director, Colorado Ready Mixed Concrete Association
27. Tony Milo, Executive Director, Colorado Contractors Association
28. Tom Tobiassen, RTD Board Member and Trustee, DRCOG Regional Transportation Committee, E-470 Board Member

29. Claudia L. Folska, RTD District E Board Member
30. Barry Shioshita, Action 22 Board Member
31. Dale Lyons, Huerfano County Local Government Designee
32. Shawn Bolton, President, Colorado Counties Inc.
33. Erik Hansen, Adams County Commissioner/Chair of NATA
34. William Marino and Richard Fierce, Chairman and President of the Association for the Improvement of American Infrastructure
35. Melissa Osse, Executive Director, Move Colorado
36. Jenn Penn, Building Jobs4Colorado
37. Gregory Kelly, Global Chief Operating Officer, Parsons Brinckerhoff
38. Kelly J. Brough, President and CEO Denver Metro Chamber of Commerce
39. Michael Gifford, President and CEO, Associated General Contractors of Colorado
40. Tamra J. Ward, President and CEO, Colorado Concern
41. Diedra A. Garcia, President and CEO, Hispanic Chamber of Commerce of Metro Denver
42. Tom Clark, President and CEO, Metro Denver Economic Corporation
43. Dave Davia, Executive Vice President and CEO, Colorado Association of Mechanical & Plumbing Contractors
44. Kathie A. Barstnar, Executive Director, NAIOP Colorado
45. Jefferson County Board of Commissioners
46. Colorado Association of Transit Agencies
47. City of Rifle
48. Vail Resorts
49. Action 22, Inc.
50. American Road & Transportation Builders Association (ARTBA)