



# TRANSPORTATION RESEARCH SYNTHESIS

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## State Highway System Classification and Investment: A Survey of State Practice

*The purpose of this TRS is to serve as a synthesis of pertinent completed research to be used for further study and evaluation by MnDOT. This TRS does not represent the conclusions of either CTC & Associates or MnDOT.*

### **Introduction**

MnDOT is interested in learning how other states align ownership with function, set standards and establish investment levels for state highway systems. MnDOT is also interested in how changes in the state highway system over time are reflected in funding priorities and modifications in ownership arrangements.

### **Summary**

To gather information about state highway system ownership, classification and investment practices, we distributed an email survey to the members of the AASHTO Research Advisory Committee. To supplement these survey responses, we made individual requests of representatives from selected states with a similar population, transportation system size and climate as Minnesota.

In **Survey of Current Practice**, we summarize the 12 responses to the survey in the topic areas of ownership, system size and density, highway standards and performance measures, funding allocation practices, operating and maintaining agency assets, and relevant documentation.

Respondents reported a variety of methods to determine ownership of roadways in the state highway system, most commonly through state law and deed ownership. Functional class is also a factor in determining ownership for some states. Respondents most often cited construction of a new bypass, route or alignment as the reason for changing ownership of roadways. Several states have formal programs to effect ownership changes, including Pennsylvania DOT's highway transfer, or turnback, program that provides funding for rehabilitation of roadways before and after transfer, and Missouri DOT's formal change in route status process that is typically initiated at the district level. Legal agreements and deed conveyance are among the methods used to transfer ownership.

For some respondents, state law plays a significant role in the ownership of roadways. The law in five states—Colorado, Georgia, Iowa, Montana and Washington—addresses the jurisdictional authority or responsibility for roads in the state highway system. Laws in two states—Iowa and Kansas—limit the size of the state highway

system. Washington state law limits the number of nonaccess-controlled facilities and addresses the spacing of state highways. Classification is the most common determining factor in establishing performance measures for respondents. The few respondents noting how changes are made to highway standards or performance measures reported that such changes require a staff assessment or are tied to a change in functional classification.

Relatively few respondents provided significant detail in their responses to questions related to funding. Roadway type is a primary or tangential factor in allocating funding for five states—Colorado, Michigan, Missouri, Montana and Washington. Contributing to variations in state highway system investment levels are engineering factors, local input, economic impact, custom prioritization processes, executive policies, condition assessment performance goals and functional classification.

All but two respondents—Arkansas and Pennsylvania—share responsibility for operating and maintaining agency assets. Mechanisms for managing shared responsibilities include intergovernmental agreements (Iowa, Maryland, Missouri and Montana) and funding provided to local agencies to maintain state and U.S. routes that go through cities (Kansas). While all trunklines in the state are operated by Michigan DOT, maintenance of those roadways is the voluntary responsibility of two-thirds of the state’s counties. The significance of shared maintenance responsibility in Michigan is contrasted with Washington State DOT, which contracts out only 2 percent to 3 percent of statewide maintenance of highway assets to private entities or local governments.

To supplement survey responses, respondents provided documentation on a wide range of subjects, including legal citations, performance measures, funding allocation practices, jurisdictional transfers, intergovernmental agreements and classification practices.

The **Survey Results** section of this report presents the full text of all survey responses.

### **Survey of Current Practice**

MnDOT prepared and distributed an email survey to the members of the AASHTO RAC to gather information about how states align ownership with function, set standards and establish investment levels for state highway systems. The survey also addressed the ways in which changes in the state highway system over time are reflected in funding priorities and modifications in ownership arrangements.

To supplement survey responses from RAC members, we provided the survey to representatives from eight states with a similar population, transportation system size and climate as Minnesota: Illinois, Kansas, Maryland, Michigan, Missouri, Ohio, Pennsylvania and Tennessee. The survey consisted of the following questions:

1. Please describe how your state determines ownership of roadways in your state highway system. For example, is ownership dependent on functional class? Other criteria?
  - a. Please describe the circumstances under which changes are made to roadway ownership.
  - b. What processes are in place to execute the ownership change?
2. Please describe how your state varies its highway system density and sets highway standards and performance measures based on highway function or demand.
  - a. Please describe the circumstances under which changes are made to highway system density, standards and performance measures.
  - b. What processes are in place to execute these changes?
3. Does your state law permit or require:
  - a. Ownership of certain roads?
  - b. A certain size for the state highway system?

4. Please describe your state’s funding formula or program that allocates funding for the state highway system across jurisdictions, including:
  - a. How much is spent per mile by roadway type.
  - b. Whether investment levels vary by function, demand or statewide significance.
5. Do you have documentation you can share related to your state’s:
  - a. Classification and determination of ownership of roadways in the state highway system?
  - b. Practices in allocating funding across the state highway system?
  - c. Processes or criteria for making changes to roadway ownership or highway system density, standards and performance measures?
6. Does your state agency operate and maintain all of its own assets? If no, please describe how services are arranged or shared with other jurisdictions.
7. Please provide us with the name, email and phone number of the appropriate contact person in your agency for follow-up questions.

We received survey responses from 12 state transportation agencies:

- |            |            |                |
|------------|------------|----------------|
| • Arkansas | • Kansas   | • Montana      |
| • Colorado | • Maryland | • Pennsylvania |
| • Georgia  | • Michigan | • Washington   |
| • Iowa     | • Missouri | • Wyoming      |

See **Survey Results** beginning on page 14 for the full text of all survey responses.

The survey gathered information in six topic areas related to classification and investment in the state highway system:

- Ownership
- System size and density
- Highway standards and performance measures
- Funding allocation practices
- Operating and maintaining agency assets
- Relevant documentation

Key findings from the survey follow.

## **Ownership**

We asked respondents to identify how ownership is determined for roadways in the state highway system, the circumstances that prompt an ownership change, how that change is processed, and whether state law prescribes or permits ownership of roadways in the system.

### **Determining Ownership**

The table below summarizes the methods employed by respondent states in determining ownership of roadways in state highway systems.

<b>Methods to Determine Ownership of State Highway System Roadways</b>		
<b>Method</b>	<b>State</b>	<b>Description</b>
<b>Law</b>	Colorado	Various state and federal laws determine ownership of roadways.
	Iowa	Ownership of state-owned roads is described in Iowa Code.
	Montana	State law empowers the Montana Transportation Commission with the authority to designate which public roadways will be maintained as part of the state highway system.
	Washington	Additions or deletions made to the state highway system by the state legislature are explicitly provided for in state law.
<b>Deed</b>	Georgia	Roadway ownership is determined by the party holding title to the property at the time of roadway construction, expressed in a land deed or title. Ownership is not dependent on functional classification.
	Maryland	Ownership of state-maintained roadways is determined by deed ownership or by mutual agreements with local (county, municipal) governments or other public or private entities. Ownership is not dependent on functional classification.
<b>Legislative approval</b>	Pennsylvania	Legislative approval is required for the DOT to own a roadway. Otherwise, the roadway is adopted and owned by the local municipality. Ownership is not dependent on functional classification.
<b>Method not specified</b>	Kansas, Michigan, Missouri, Wyoming	N/A
<b>No survey response</b>	Arkansas	N/A

### **Impetus for Ownership Changes**

The table below summarizes the reasons provided by respondents for changing ownership of roadways in state highway systems. Respondents most often cited new construction as the impetus for ownership changes.

<b>Circumstances Leading to Ownership Change</b>		
<b>Reason for Ownership Change</b>	<b>State</b>	<b>Description</b>
<b>Case-by-case basis</b>	Montana, Wyoming	<ul style="list-style-type: none"> <li>For system designation requests initiated by a local entity, the Montana Transportation Commission will require system mileage under that jurisdiction to remain constant; addition of new mileage requires removal of a similar amount of mileage (Montana).</li> <li>Ownership changes typically require a transfer of mileage (Wyoming).</li> </ul>

<b>Circumstances Leading to Ownership Change</b>		
<b>Reason for Ownership Change</b>	<b>State</b>	<b>Description</b>
<b>Construction (new bypass, route or alignment)</b>	Iowa, Kansas, Michigan, Missouri, Washington	<ul style="list-style-type: none"> <li>• Changes in state roadway ownership are infrequent (Iowa).</li> <li>• Some cities have taken over all county roads within their limits to permit local responsibility for road design and maintenance (Michigan).</li> <li>• The state transfers ownership to local governments when the state highway is moved to a new alignment (Washington).</li> </ul>
<b>Highway transfer (turnback) program</b>	Pennsylvania	<ul style="list-style-type: none"> <li>• Transfers are completed on a cooperative and voluntary basis.</li> <li>• The turnback program provides for the rehabilitation, maintenance and transfer of state-owned highways identified as functionally local to the municipalities in which they are located.</li> <li>• Following the legal transfer of the highway to the municipality, Pennsylvania DOT provides the municipality with annual maintenance payments of \$4,000 per mile.</li> <li>• See Pennsylvania DOT Publication 310, State Highway Transfer Policies and Procedures Manual, available at <a href="ftp://ftp.dot.state.pa.us/public/PubsForms/Publications/PUB%20310.pdf">ftp://ftp.dot.state.pa.us/public/PubsForms/Publications/PUB%20310.pdf</a>, for additional information.</li> </ul>
<b>Owner request or need</b>	Arkansas, Colorado	N/A
<b>State law</b>	Iowa, Washington	<ul style="list-style-type: none"> <li>• State code prescribes designations such as the Commercial and Industrial Network, Area Service System, Farm-to-Market roads system and Park and Institutional roadways (Iowa).</li> <li>• Additions or deletions made to the state highway system by the state legislature are explicitly provided for in state law (Washington).</li> </ul>

### **Processes to Make Ownership Changes**

Below we summarize a range of approaches described by respondents to effect ownership changes on the state highway system:

- Formal processes
- Legal agreement or deed conveyance
- State code

#### ***Formal Processes***

- Arkansas DOT makes the ownership changes through Minute Orders, which are official decisions by the Arkansas Highway Commission.
- In Iowa, changes are made to ownership through a formal process known as Transfer of Jurisdiction.
- A 1992 Michigan law facilitates jurisdictional transfer, providing that the “revenue worth per mile” of each class of road is to be awarded to a jurisdiction assuming control of a road.
- Missouri DOT’s “change in route status” is a formal process that facilitates the transfer of a section of road in or out of the state system.

- District offices typically initiate these changes by providing an explanation of the change request and a drawing showing the changes.
- After review by various divisions in the department allowed to recommend changes, the Missouri Highways and Transportation Commission must approve the change in route status.
- If a system designation/change is requested in Montana, Montana DOT will perform a functional class review in accordance with FHWA’s functional classification guidelines.
  - System designation changes are proposed for Montana Transportation Commission consideration.
  - Typically, if the system designation request was initiated by a local entity, the commission will require system mileage under that jurisdiction to remain constant, so if new mileage is added a similar amount of mileage is removed.

### ***Legal Agreement or Deed Conveyance***

- Colorado DOT employs a variety of processes to transfer ownership, including intergovernmental agreement, transfer of deed, land swaps, disposition of excess property and eminent domain.
- Kansas DOT executes an agreement with the local entity that specifies any improvements to the old route before it is turned over to the local entity.
- In Maryland, formal deed conveyance requires approval from the state Board of Public Works, which comprises the governor, the treasurer and the comptroller of the Treasury.
- In Pennsylvania, highways are transferred to the municipalities through State Highway Transfer Agreements.
  - Pennsylvania DOT provides municipalities with funding to rehabilitate a turnback candidate roadway and/or structure into a satisfactory condition.
  - Following the legal transfer of the highway to the municipality, Pennsylvania DOT provides the municipality with annual maintenance payments of \$4,000 per mile.
- In Wyoming, ownership changes are accomplished with title transfer of easement.

### ***State Code***

- Georgia state codes specify the process for abandonment of a highway and disposal of the right of way.
  - If the right of way is to be used for public transportation purposes, such as continued use as a municipal road but off the state route system, Georgia DOT can convey it directly to a county or municipality by a quitclaim deed.
  - If completely abandoned for use as a highway, the right of way must be offered to the original owner or successor in title for purchase.
- State laws from the Revised Code of Washington and regulations from the Washington Administrative Code specify the processing of jurisdictional transfers; the criteria for changes to the state highway system; and route jurisdiction transfer rules, regulations and requirements.

### **State Law Permitting or Requiring Ownership**

The state law of five respondents—Colorado, Georgia, Iowa, Montana and Washington—addresses the jurisdictional authority or responsibility for roads in the state highway system as well as specifying which roads should be part of the system.

- Colorado law specifies the “jurisdiction, control, and duty of the state, cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system . . . .”
- While Georgia state law does allow Georgia DOT to own a state route, the law does not require such ownership. Georgia state codes do define road classifications on the state highway system.
- Iowa code specifies that:
  - The DOT has jurisdiction and control over primary roads.

- Jurisdiction and control over the secondary roads are vested in the county board of supervisors of the respective counties.
- Jurisdiction and control over a farm-to-market extension or road within a city with a population of less than 500 are vested in the county board of supervisors of the respective county.
- Municipal street systems are controlled by the governing bodies of each municipality; the DOT and the municipal governing body exercise concurrent jurisdiction over the municipal extensions of primary roads in all municipalities.
- Montana law addresses maintenance responsibility and jurisdictional authority on state highways.
- The Revised Code of Washington states which roadways *should* be part of the state highway system and which roadways *may* be part of the state highway system.

## **System Size and Density**

- State law in two states—Iowa and Kansas—limits the size of the state highway system.
  - In Iowa, state code establishes a limit for the Commercial and Industrial System. This was originally set at 2,500 miles but increased to 2,600 miles by the 2012 Iowa Legislature.
  - In Kansas, the rural state highway system is limited to no more than 10,000 miles by state law.
- In Washington, state law limits the number of nonaccess-controlled facilities in the same corridor as a freeway or limited access facility to one and addresses the spacing of state highways.
- Other states indicated no formal process to limit or determine the appropriate density of the state highway system.
  - While Montana DOT has no formal process in place for limiting or determining density, functional classification is one consideration the DOT uses in reviews of the state highway system that indirectly relates to system density.
  - In Wyoming, while level of pavement performance is set by functional class, density is not.

## **Highway Standards and Performance Measures**

We asked respondents to describe how highway system standards and performance measures are established and the circumstances under which changes to standards and measures are made.

### **Establishing Highway Standards and Measures**

- Classification plays a role in establishing performance measures for several respondents.
  - The Colorado Transportation Commission has prescribed differing levels of performance for surface treatment for the Interstate, National Highway System Non-Interstate and non-NHS.
  - Kansas DOT classifies its highways according to their priority through the KDOT Route Classification System, which determines standards and sets performance measures for maintenance and operations.
  - The majority of Missouri DOT's performance measures are tied to functional classification.
- Montana's long-range transportation plan—TranPlan21—provides Montana DOT policy direction for standards and performance. TranPlan 21 policy direction feeds into the DOT's asset management system—Performance Programming Process, or P3—which has specific performance targets for each highway system.
- In Georgia, highway standards are based on the AASHTO design standards at the time of addition to the state highway system.
- Iowa DOT's performance measures are dependent on various items including Pavement Condition Index, highway sufficiency rating, level of service and the International Roughness Index.

- The department is revising performance measures due to efforts to utilize asset management and to comply with new MAP-21 provisions.
- While Michigan does not have a statewide performance measure or standard, Michigan law established the cross-jurisdictional Transportation Asset Management Council to provide a means of uniformly measuring and reporting system condition, and encouraging or enabling agencies to use asset management principles to guide expenditure decisions.

### **Changing Standards and Measures**

- In Colorado, processes to execute changes to standards or measures are established by the Colorado Transportation Commission or policy directives.
- Quarterly meetings held by Missouri DOT senior management and others review the progress on all performance measures and consider needed changes to these measures.
- In Montana, changes or additions to performance measures are made based on staff assessment of the effectiveness of the measures. These assessments consider input from a number of sources, including outreach to transportation stakeholders and the public.
- In Wyoming, changes to standards are typically associated with a change in functional classification.

### **Funding Allocation Practices**

Below we summarize the more comprehensive responses to survey questions related to funding.

### **State Funding Formulas**

- In Colorado, the principal state revenue resource for funding the state highway system is the Highway User Tax Fund. The fund consists of motor fuel tax, vehicle registration fees, surcharges and fees promulgated by Senate Bill 09-108, and other miscellaneous sources of revenue.
  - The fund is split into three classifications: The first stream consists of the first 7 cents of MFT, and the base fees for vehicle registrations and other miscellaneous sources; the second stream consists of the rest of the MFT, vehicle registration fees and other miscellaneous sources; and the third stream consists of surcharges and fees promulgated by Senate Bill 09-108.
  - Colorado DOT receives 65 percent of the first stream revenue after the off-the-top deductions for other state agencies, and 60 percent of the second and third streams.
- Georgia law specifies that at least 80 percent of spending allocations for each of the 13 (soon to be 14) congressional districts must be equal.
  - If additional funding becomes available, the State Transportation Board may authorize a waiver of this requirement to the extent necessary to allow the expenditure of such funding.
- In Kansas, the state transportation program T-WORKS requires that Kansas DOT spend at least \$8 million per county over the 10 years of the program.
- Michigan has a complicated revenue-sharing formula for road-user fees.
  - Results of approximately 10 subformulas award 36 percent for state highways, 35 percent for county roads, 20 percent for city streets and 9 percent for transit.
  - The formulas dividing the county and city shares among 616 local jurisdictions are based heavily on the value of vehicles registered in each county and city population.
- Montana DOT uses an asset management system to direct funds based on system needs for projects on the higher-level highway systems (Interstate, National Highway, State Primary). The DOT must also allocate funding on the State Primary system consistent with the state's financial district law, which ensures distribution of funds across the state.

## **Amount Spent by Roadway Type**

- In Colorado, funding is distributed using the following categories:
  - *Federal system designated type*. Interstate, National Highway System (non-Interstate) and other federal highways.
  - *Facility type*. Freeway, expressway, divided not freeway or expressway and undivided.
  - *Functional type*. Freeway and expressway, other principal arterial, major collector, minor collector, minor arterial and local.
- In Michigan, shares of state road-user fees are allocated to state trunklines (\$66,000 per mile), county roads (\$6,400 per mile), and city and village streets (\$15,800 per mile).
  - Local funds and federal aid are added to these shares, with federal aid divided roughly as 75 percent for state trunklines and 25 percent for local agencies.
- Missouri DOT does not distribute funds by roadway type, with the exception of a statewide Interstate fund that dedicates a specific amount of money to maintaining the system. Remaining funds are used for major projects and regionally significant projects.
- Montana DOT uses an asset management system to direct funds based on system needs for projects on higher-level highway systems. Distribution of funds for lower-level highway systems (State Secondary Roads and State Urban Routes) is based on formulas contained in state law.
- Washington State DOT provided a spreadsheet that identified distribution of funding on the state highway system. (See [Appendix H](#).)

## **How Investment Levels Vary**

- Some respondents described how investment levels vary for projects on the state highway system.
  - In Kansas, selection of capacity projects in the state program is based in part on engineering factors that consider the state classification system, traffic and other factors including fatalities and accidents, local input and economic impact.
    - Engineering factors and local input are used to select modernization projects.
    - Preservation projects are selected based on engineering factors.
  - In Maryland, system preservation projects are developed and programmed using technical criteria and a prioritization process.
  - Pennsylvania DOT investment levels may vary based on executive policies or the state of an existing asset (for example, structurally deficient bridges).
  - Washington State DOT bases investment levels on condition assessment performance goals.
  - In Wyoming, investment levels for pavements are based on functional classification. Risk assessment is used to determine bridge investment, and crash history is used to allocate funds for safety-related projects.
- Respondents from Colorado, Georgia, Michigan and Missouri reported no specific process by which investment levels vary.
  - Georgia DOT does not allocate funding by roadway type or function.
  - Funding formulas used by Michigan DOT do not depend on function, traffic volume or significance. However, investments closely correlate with all these factors at all levels of jurisdiction.
  - In Missouri, with the exception of Interstate roadways, there is not an investment level tied to route function.

## Operating and Maintaining Agency Assets

- Only two states—Arkansas and Pennsylvania—reported operating and maintaining all of the agencies’ own assets.
- The table below summarizes survey responses describing varying degrees of shared responsibility for operating and maintaining state assets.

*Note:* While Colorado DOT reports that it does not operate and maintain all of its own assets, details of the shared responsibilities were not available at the time the survey response was provided.

Responsibility for Operating and Maintaining Agency Assets	
State	Shared Responsibilities
<b>Georgia</b>	<ul style="list-style-type: none"> <li>• The 18,000 miles on the state highway system is mostly maintained by Georgia DOT forces. Roads off the state highway system are maintained through local agreements with counties.</li> <li>• Contract labor is used to maintain some major assets such as I-95, rest areas and welcome centers as well as perform activities such as mowing.</li> <li>• Local governments are responsible for maintaining approximately 7,800 bridges on local roadways.</li> </ul>
<b>Iowa</b>	<ul style="list-style-type: none"> <li>• An intergovernmental agreement is prepared for sharing or taking responsibility of services for other jurisdictions (snowplowing or mowing).</li> <li>• The department has contracts in place for some maintenance activities such as cleaning rest areas on the Interstate system.</li> </ul>
<b>Kansas</b>	<ul style="list-style-type: none"> <li>• Kansas DOT operates and maintains all of the Interstate, state and U.S. routes in Kansas.</li> <li>• For city connecting links or portions of state and U.S. routes that go through cities, Kansas DOT provides the city \$3,000 per mile to maintain the connecting link. In some circumstances, Kansas DOT maintains the connecting link through the city.</li> </ul>
<b>Maryland</b>	<ul style="list-style-type: none"> <li>• Generally, the Maryland State Highway Administration operates and maintains its own assets.</li> <li>• Agreements may be made with local governments for certain aspects of routine maintenance.</li> <li>• Some assets are maintained by the Maryland Transportation Authority, which has tolling rights.</li> </ul>
<b>Michigan</b>	<ul style="list-style-type: none"> <li>• All trunkline miles are operated by Michigan DOT.</li> <li>• Trunklines in about two-thirds of counties are maintained by county road commissions; this is optional, not required.</li> </ul>
<b>Missouri</b>	<ul style="list-style-type: none"> <li>• Maintenance agreements with other entities are in place for other agencies to maintain the state’s roadways or for Missouri DOT to maintain other entities’ roadways.</li> <li>• Maintenance agreements specify the extent of this relationship (for example, roadway only, signals only, snow removal, etc.).</li> </ul>

<b>Responsibility for Operating and Maintaining Agency Assets</b>	
<b>State</b>	<b>Shared Responsibilities</b>
<b>Montana</b>	<ul style="list-style-type: none"> <li>• Some state highways are maintained/operated by local government agencies.</li> <li>• Roles and responsibilities for maintenance and operation are described in maintenance agreements with these entities.</li> <li>• Montana DOT does not contract with private entities for maintenance or operation of its facilities.</li> </ul>
<b>Washington</b>	<ul style="list-style-type: none"> <li>• Washington DOT generally maintains all of its highway assets with state-employed workforces.</li> <li>• Contracting with either private sector companies or local governments to maintain highway assets is estimated at 2 percent to 3 percent of statewide maintenance program expenditures.</li> <li>• There are limited examples where Washington DOT hires contractors for specialized work that state workforces cannot perform.</li> </ul>
<b>Wyoming</b>	<ul style="list-style-type: none"> <li>• Towns with a population greater than 1,500 must do litter control and snow removal, and maintain curb, gutter, sidewalk, lighting and storm sewers.</li> </ul>

## Relevant Documentation

We asked respondents to provide documentation related to their agencies' classification and determination of ownership of roadways in the state highway system; funding allocation practices; and the processes used to make changes to roadway ownership, system density, standards or performance measures.

The table below summarizes the documentation provided by respondents by topic area. Relevant citations to state law, codes or regulations are reflected in the individual survey responses that begin on page 14 of this report and are not included in the table below.

<b>Documentation Provided by Respondents (excluding citations to state law, codes or regulations)</b>	
<b>Changing ownership</b>	
<b>Georgia</b>	<p><a href="#">Appendix C</a>, The State Highway System: Background &amp; Process of Revising the System (Part I)</p> <p><a href="#">Appendix D</a>, The State Highway System-Part II: Department Preconstruction</p>
<b>Missouri</b>	<p>236.14, Change in Route Status Report, Engineering Policy Guide, Missouri Department of Transportation, undated.</p> <p><a href="http://epg.modot.mo.gov/index.php?title=236.14_Change_in_Route_Status_Report">http://epg.modot.mo.gov/index.php?title=236.14_Change_in_Route_Status_Report</a></p>
<b>Pennsylvania</b>	<p>Publication 310, State Highway Transfer Policies and Procedures Manual, Pennsylvania Department of Transportation, June 2010.</p> <p><a href="ftp://ftp.dot.state.pa.us/public/PubsForms/Publications/PUB%20310.pdf">ftp://ftp.dot.state.pa.us/public/PubsForms/Publications/PUB%20310.pdf</a></p>
<b>Washington</b>	<p><a href="#">Appendix G</a>, Route Jurisdictional Transfer (RJT) Process Flow Chart</p>

Classification	
<b>Iowa</b>	FHWA Functional Classification Guidelines, FHWA, 1989. <a href="http://www.fhwa.dot.gov/planning/processes/statewide/related/functional_classification/index.cfm">http://www.fhwa.dot.gov/planning/processes/statewide/related/functional_classification/index.cfm</a>

Documentation Provided by Respondents (excluding citations to state law, codes or regulations)	
Classification	
<b>Kansas</b>	KDOT Route Classification System, Kansas Department of Transportation, June 13, 2008. <a href="http://www.ksdot.org/burtransplan/maps/GISMaps/STP2008.pdf">http://www.ksdot.org/burtransplan/maps/GISMaps/STP2008.pdf</a>
<b>Michigan</b>	Federal-Aid Highways in Michigan, Michigan Department of Transportation, undated. <a href="http://www.michigan.gov/mdot/0,1607,7-151-9622_11033_11155---,00.html">http://www.michigan.gov/mdot/0,1607,7-151-9622_11033_11155---,00.html</a>
<b>Montana</b>	A Guide to Functional Classification, Highway Systems and Other Route Designations in Montana, Montana Department of Transportation, January 2008. <a href="http://www.mdt.mt.gov/publications/docs/manuals/route_designations.pdf">http://www.mdt.mt.gov/publications/docs/manuals/route_designations.pdf</a>
<b>Pennsylvania</b>	Procedures for Revisions to Functional Classification and Federal-Aid Systems, undated. <a href="http://www.dot.state.pa.us/Internet/Bureaus/pdPlanRes.nsf/infoBPRFedFuncClassChange">http://www.dot.state.pa.us/Internet/Bureaus/pdPlanRes.nsf/infoBPRFedFuncClassChange</a>
<b>Washington</b>	<a href="#">Appendix I</a> , Highway Construction Program Functional Classification, Washington State Department of Transportation, undated. <a href="http://www.wsdot.wa.gov/mapsdata/travel/hpms/functionaclass.htm">http://www.wsdot.wa.gov/mapsdata/travel/hpms/functionaclass.htm</a>
Funding allocation practices	
<b>Iowa</b>	2013-2017 Highway Program Summary, Iowa Department of Transportation, June 2012. <a href="http://www.iowadot.gov/program_management/HighwayProgramSummaryBrochure.pdf">http://www.iowadot.gov/program_management/HighwayProgramSummaryBrochure.pdf</a> Investing in Iowa's Future: Development and Management of Iowa's Five-Year Transportation Improvement Program, Iowa Department of Transportation, June 15, 2011. <a href="http://www.iowadot.gov/program_management/investing_in_iowas_future.pdf">http://www.iowadot.gov/program_management/investing_in_iowas_future.pdf</a>
<b>Kansas</b>	About T-WORKS, Kansas Department of Transportation, undated. <a href="http://kdotapp.ksdot.org/TWorks/About">http://kdotapp.ksdot.org/TWorks/About</a> Doing Business with KDOT: How Highway Projects are Selected, Kansas Department of Transportation, undated. <a href="http://kdotapp.ksdot.org/TWorks/docs/doing-biz_project-selection.pdf">http://kdotapp.ksdot.org/TWorks/docs/doing-biz_project-selection.pdf</a>
<b>Michigan</b>	<a href="#">Appendix E</a> , MDOT Pavement Funding Allocation Process <a href="#">Appendix E</a> , MDOT Highway Funding Allocation Process
<b>Missouri</b>	Estimated Financial Summary for the 2013-2017 Highway and Bridge Construction Schedule, Missouri Department of Transportation, undated. <a href="http://www.modot.mo.gov/plansandprojects/construction_program/STIP2013-2017/documents/11_Sec05EstimatedFinancialSummary.pdf">http://www.modot.mo.gov/plansandprojects/construction_program/STIP2013-2017/documents/11_Sec05EstimatedFinancialSummary.pdf</a>

<b>Montana</b>	Performance Programming Process: A Tool for Making Transportation Investment Decisions, Montana Department of Transportation, 2012. <a href="http://www.mdt.mt.gov/publications/docs/brochures/tranplanp3.pdf">http://www.mdt.mt.gov/publications/docs/brochures/tranplanp3.pdf</a>
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<b>Documentation Provided by Respondents (excluding citations to state law, codes or regulations)</b>	
<b>Funding allocation practices</b>	
<b>Pennsylvania</b>	<p>Pennsylvania’s 2013 Transportation Program Financial Guidance, June 9, 2011. <a href="http://www.nepa-alliance.org/Docs/RPO-TIP/2013-16/2013%20Financial%20Guidance%20-%20Final.pdf">http://www.nepa-alliance.org/Docs/RPO-TIP/2013-16/2013%20Financial%20Guidance%20-%20Final.pdf</a></p> <p>Pennsylvania’s 2013 Transportation Program General and Procedural Guidance, undated. See pages 2 through 10 of the PDF available at <a href="http://www.co.berks.pa.us/Dept/Planning/Documents/RATS/FFY2013-2016_TIP/04_FFY2013-2016TIP_APP_A_DRAFT.pdf">http://www.co.berks.pa.us/Dept/Planning/Documents/RATS/FFY2013-2016_TIP/04_FFY2013-2016TIP_APP_A_DRAFT.pdf</a>.</p>
<b>Washington</b>	<p><a href="#">Appendix H</a>, Program Structure Expenditures</p> <p><a href="#">Appendix J</a>, WSDOT Responses to Connecticut Survey of State Best Practices for Infrastructure Capital Programs</p>
<b>Performance measures</b>	
<b>Colorado</b>	<p>2011 Annual Performance Report and 2012 Transportation Deficit Report, Colorado Department of Transportation. <a href="http://www.coloradodot.info/library/AnnualReports">http://www.coloradodot.info/library/AnnualReports</a></p>
<b>Michigan</b>	<p>2012 System Performance Measures Report, Michigan Department of Transportation, October 8, 2012. <a href="http://www.michigan.gov/documents/mdot/MDOT-Performance_Measures_Report_289930_7.pdf">http://www.michigan.gov/documents/mdot/MDOT-Performance_Measures_Report_289930_7.pdf</a></p> <p>Transportation Asset Management Council, State of Michigan, undated. <a href="http://tamc.mcgi.state.mi.us/MITRP/Council/Default_Council.aspx">http://tamc.mcgi.state.mi.us/MITRP/Council/Default_Council.aspx</a></p>

## Survey Results

The full text of each survey response is provided below. For reference, we have included an abbreviated version of each question before the response; for the full question text, please see page 2 of this report.

### Arkansas

Contact: Kassie Bornds, Planning and Research, Arkansas State Highway and Transportation Department, [kassie.bornds@arkansashighways.com](mailto:kassie.bornds@arkansashighways.com), (501) 569-2465.

1. **How state determines ownership of state highway system:** [No response.]
  - 1a. **When ownership changes are made:** At the requirement of the owner.
  - 1b. **Processes to execute these changes:** The department makes the necessary changes through Minute Orders. [Minute Orders are official decisions by the Arkansas Highway Commission; see [http://www.arkansashighways.com/minute\\_orders/minute\\_orders.aspx](http://www.arkansashighways.com/minute_orders/minute_orders.aspx) for additional information.]
2. **How state varies system density and sets standards and performance measures:** [No response.]
  - 2a. **When density, standards and performance measures change:** N/A.
  - 2b. **Processes to execute these changes:** The department is beginning to investigate performance measures.
- 3a. **Permit or require ownership of certain roads?** Based on the wording of this question, the department is unsure of the answer that should be given.
- 3b. **Permit or require certain size for state highway system?** Based on the wording of this question, the department is unsure of the answer that should be given.
4. **State's funding formula for state highway system:** [No response.]
  - 4a. **Amount spent per mile by roadway type:** Spending is not allocated in this manner.
  - 4b. **Investment levels vary by function, demand or statewide significance?** [No response.]
5. **Documentation:** None provided.
6. **State operate and maintain all of its assets?** Yes.
7. **Staff contact information:** Elizabeth Mayfield-Hart, Staff Planning Engineer, Arkansas State Highway and Transportation Department, [elizabeth.mayfieldhart@ahtd.ar.gov](mailto:elizabeth.mayfieldhart@ahtd.ar.gov), (501) 569-2111.

### Colorado

Contact: Roberto DeDios, Research Engineer, Colorado Department of Transportation, [roberto.dedios@dot.state.co.us](mailto:roberto.dedios@dot.state.co.us), (303) 757-9975.

1. **How state determines ownership of state highway system:** Various laws apply to ownership of a road. Answers to this and the below questions can be found in the attached documents.  
Colorado Revised Statutes Citations:
  - Ownership/title specifically noted §43-2-135(1)(j); see [Appendix A](#)
  - Abandonment §43-2-106; see <http://search.jurisearch.com/NLLXML/getcode.asp?userid=GUEST9&interface=NLL&statecd=CO&codesec=43-2-106&sessionyr=2012&Title=43&datatype=S&noheader=1&nojumpmsg=0>
  - Chief engineer's authority to acquire property §43-1-111; see <http://search.jurisearch.com/NLLXML/getcode.asp?userid=GUEST9&interface=NLL&statecd=CO&codesec=43-1-111&sessionyr=2012&Title=43&datatype=S&noheader=1&nojumpmsg=0>

- Colorado Constitution – Section 15, right to acquire private property for public use with just compensation; see page 5 of [Appendix B](#)
- State law that enacts the Colorado Constitution private land acquisition for public use §38-1-101; see <http://search.jurisearch.com/NLLXML/getcode.asp?userid=GUEST9&interface=NLL&statecd=CO&codesec=38-1-101&sessionyr=2012&Title=38&datatype=S&noheader=1&nojumpmsg=0>
- Acquisition and disposal of state highways §43-1-210; see <http://search.jurisearch.com/NLLXML/getcode.asp?userid=GUEST9&interface=NLL&statecd=CO&codesec=43-1-210&sessionyr=2012&Title=43&datatype=S&noheader=1&nojumpmsg=0>
- Freeway law §43-3-101; see <http://search.jurisearch.com/NLLXML/getcode.asp?userid=GUEST9&interface=NLL&statecd=CO&codesec=43-3-101&sessionyr=2012&Title=43&datatype=S&noheader=1&nojumpmsg=0>

Also, federal law is very important on the state ownership topic. [See 23 CFR Part 710, Right-of-Way and Real Estate, available at [http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr710\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr710_main_02.tpl), for the references below.]

*Note:* “STD” is the acronym for state transportation department.

In Subpart B, Program Administration:

§710.201 State Responsibilities:

(b) Program oversight. The STD shall have overall responsibility for the acquisition, management, and disposal of real property on Federal-aid projects.

(h) Use of other public land acquisition organizations or private consultants. The STD may enter into written agreements with other State, county, municipal, or local public land acquisition organizations or with private consultants to carry out its authorities under paragraph (b) of this section. Such organizations, firms, or individuals must comply with the policies and practices of the STD.

In Subpart D, Real Property Management:

§710.401 General

This subpart describes the acquiring agency’s responsibilities to control the use of real property required for a project in which Federal funds participated in any phase of the project. . . . The State shall assure that local agencies follow the State’s approved procedures, or the local agencies own procedures if approved for use by the STD.

§710.403 Management

- a. The STD must assure that all real property within the boundaries of a federally-aided facility is devoted exclusively to the purpose of that facility and is preserved free of all other public or private alternative uses, . . .

- 1a. **When ownership changes are made:** Need dictates when/if a roadway ownership change occurs.
- 1b. **Processes to execute these changes:** Transfer of deed, land swaps, Intergovernmental Agreement, disposition of excess property, and eminent domain.
2. **How state varies system density and sets standards and performance measures:** [No response.]
- 2a. **When density, standards and performance measures change:** The Colorado Transportation Commission has prescribed differing levels of performance for surface treatment for the Interstate (85% good/fair), National Highway System [NHS] Non-Interstate (70%), and non-NHS (55%). Snow and ice removal is not performed on low-volume rural state highways during certain nighttime hours.
- 2b. **Processes to execute these changes:** These are established either by Colorado Transportation Commission or by policy directives that have established certain policies such as these.
- 3a. **Permit or require ownership of certain roads?** Yes; see documents cited in 1. above.

- 3b. **Permit or require certain size for state highway system?** No.
4. **State's funding formula for state highway system:** The principal state revenue resource for funding the state highway system is the Highway User Tax Fund (HUTF). The fund consists of motor fuel tax (MFT), vehicle registration fees, surcharges and fees promulgated by Senate Bill 09-108, and other miscellaneous sources of revenue. The fund is split into three classifications: first stream, consisting of the first seven cents of MFT, and the base fees for vehicle registrations and other miscellaneous sources; second stream, consisting of the rest of the MFT, vehicle registration fees and other miscellaneous sources; and third stream, consisting of surcharges and fees promulgated by Senate Bill 09-108. The Colorado Department of Transportation (CDOT) receives 65 percent of the first stream revenue after the off-the-top deductions for other state agencies, and 60 percent of the second and third streams.
- 4a. **Amount spent per mile by roadway type:** The following figures are based on FY 2012 projects with expenditures and based on total project budget [for] all phases [and] all years.
- Total Lane Miles 15,941.09  
 Total Cost \$3,442,948,419.12  
 Cost/Lane Mile \$215,979.51
- Federal System Designated Type:*
- I = Interstate \$177,716.45  
 N = National Highway System Non-Interstate \$307,440.77  
 O = Other Federal Highway \$185,332.48
- Facility Type:*
- F = Freeway \$215,028.63  
 E = Expressway \$160,740.91  
 D = Divided Not Freeway or Expressway \$299,066.42  
 U = Undivided \$213,785.77
- Functional Type:*
- F = Freeway and Expressway \$207,579.45  
 P = Other Principle Arterial \$225,763.71  
 C = Major Collector \$226,067.42  
 R = Minor Collector \$249,317.43  
 M = Minor Arterial \$247,364.45  
 L = Local \$243,180.99
- 4b. **Investment levels vary by function, demand or statewide significance?** Our investment levels will probably vary by function, demand or statewide significance. However, we do not have an official process in place to define these variances.
5. **Documentation:** Related to performance measures, please see the 2011 Annual Performance Report and the 2012 Transportation Deficit Report at this location:  
<http://www.coloradodot.info/library/AnnualReports>.
6. **State operate and maintain all of its assets?** No; details need to be researched.
7. **Staff contact information:** Christine Rees, [christine.rees@dot.state.co.us](mailto:christine.rees@dot.state.co.us), (303) 757-9836 (survey questions 1, 3 and 5a); Laurie Freedle, [laurie.freedle@dot.state.co.us](mailto:laurie.freedle@dot.state.co.us), (303) 757-9171 (survey question 4); and Scott Richrath, [scott.richrath@dot.state.co.us](mailto:scott.richrath@dot.state.co.us), (303) 757-9793 (survey questions 2 and 5c).

## Georgia

Contact: Tim Christian, Branch Chief, Data Reporting, Office of Transportation Data, Georgia Department of Transportation, [tchristian@dot.ga.gov](mailto:tchristian@dot.ga.gov), (770) 986-1434.

1. **How state determines ownership of state highway system:** Ownership of roadway is expressed in a land deed or title. It is independent of functional classification. Ownership is determined by who initially held title to the property at the time of roadway construction, and if it were ever deeded over from one entity (public or private) to another.
  - 1a. **When ownership changes are made:** When a road is removed from the state highway system, notification is made to the GDOT Office of Right of Way's Property Management Section of the need to research property ownership of the old State Route to ensure no deeds are held by the state transportation agency. If property is owned by the state, then an abandonment process is followed to quitclaim the property to the appropriate local government.
  - 1b. **Processes to execute these changes:** O.C.G.A. § 32-7-2, 3 and 4 (see citations below) specifically set the process for abandonment of a highway and disposal of the right of way. If the right of way is to be used for public transportation purposes such as continued use as a municipal road but off the state route system, GDOT can convey it directly to a county or municipality by a quitclaim deed. If completely abandoned for use as a highway, the right of way must be offered to the original owner or successor in title for purchase at the current market value which is determined by an appraisal. If the offer is not accepted, the property can be placed for public bid with the highest acceptable bid purchasing the property. According to the O.C.G.A. the transfer must be made using the quitclaim deed. We also abide by the Code of Federal Regulations (CFR) Section 710 to follow the regulations governing the disposition of property purchased with federal funds and/or located on a U.S. route or Interstate.

Relevant citations:

*Note:* To access the full text of the three Georgia codes listed below, go to <http://www.lexisnexis.com/hottopics/gacode/>; click "OK – Close" and enter the code number in the "Search" box that appears at the top of the screen. Click the link for the code number to display the full text of the code.

O.C.G.A. § 32-7-2 Procedure for abandonment

O.C.G.A. § 32-7-3 Authority of department, counties, and municipalities to dispose of property no longer needed for public road purposes

O.C.G.A. § 32-7-4 Procedure for disposition of property

23 CFR Part 710, Right-of-Way and Real Estate

[http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr710\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr710_main_02.tpl)

2. **How state varies system density and sets standards and performance measures:** Georgia's state highway system is established, modified and updated in order to support:
  - 1) Interregional traffic movement through a community.
  - 2) Key access between major population centers such as county seats.
  - 3) Provide for safe and efficient commercial truck traffic, both heavyweight and oversize tractors.

Highway standards are based on the AASHTO design standards at the time of addition to the state highway system.

- 2a. **When density, standards and performance measures change:** Construction of new roadways causes revisions to the state highway system. Also, during a project's preconstruction and construction activities, local roadways are placed on the system in order to secure state or federal funds for the purchase of rights of way.

- 2b. **Processes to execute these changes:** See [Appendix C](#), The State Highway System: Background & Process of Revising the System (Part I), and [Appendix D](#), The State Highway System-Part II: Department Preconstruction.
- 3a. **Permit or require ownership of certain roads?** No requirement that GDOT owns a State Route, but it is permitted. Also this:  
 Georgia State Codes 32-4-20 and 32-4-21 (see references) define what road classifications should be on the State Highway. There is no requirement for the department to actually own a roadway on the state highway system: it becomes a state-controlled route and state-maintained route when the State Transportation Board, or GDOT Commissioner, approves an Order of the Commissioner.
- 3b. **Permit or require certain size for state highway system?** No.
4. **State's funding formula for state highway system:** By law, about 80% of spending allocations for each of the 13 (soon to be 14) Congressional districts must be equal; this is referred to as Congressional District Balancing. GDOT doesn't allocate by roadway type or function.
- TITLE 32. HIGHWAYS, BRIDGES, AND FERRIES; CHAPTER 5. FUNDS FOR PUBLIC ROADS  
 ARTICLE 3. ALLOCATION OF FUNDS  
 O.C.G.A. § 32-5-30 (2012)  
 § 32-5-30. Allocation of state and federal funds; budgeting periods; authorization of reduction of funds allocated
- (a) (1) The total of expenditures from the State Public Transportation Fund under paragraphs (4), (5), and (6) of Code Section 32-5-21 plus expenditures of federal funds appropriated to the department, not including any federal funds specifically designated for projects that have been earmarked by a member of Congress in excess of appropriated funds, shall be budgeted by the department over two successive budgeting periods every decade.
- (2) The first budgeting period shall commence immediately following redistricting of congressional districts and shall be for a duration of five years. The second budgeting period shall continue until the beginning of the budgeting period following the next redistricting of congressional districts after each decennial census; provided, however, if the congressional districts have been redrawn prior to a new decennial census, but after the approval of an existing map based on the last decennial census, the budgeting period shall include two successive budgeting periods. The first budgeting period shall end upon approval of the new redistricting and the second budgeting period shall commence from the date such redrawn congressional districts have been approved and shall continue until the next budgeting period following the next redistricting of congressional districts. The department shall budget such expenditures such that at the end of such budgeting period funding obligations equivalent to at least 80 percent of such total for such budgeting period shall have been divided equally among the congressional districts in this state, as those districts existed at the commencement of such budgeting period, for public road and other public transportation purposes in such districts.
- (b) (1) The board may upon approval by two-thirds of its membership authorize a reduction in the share of funds allocated pursuant to this Code section to any such congressional district if such supermajority of the board determines that such district does not have sufficient projects available for expenditure of funds within that district to avoid lapsing of appropriated funds.
- (2) In the event that funding becomes available to the department which could not otherwise be allocated among congressional districts due to the allocation requirements of this Code section, the board may upon approval by a majority of its membership authorize a waiver of such allocation requirements to the extent necessary to allow the expenditure of such funding, and any project, projects, or portion thereof undertaken with such additional funding shall be in addition to those projects funded in accordance with the allocation requirements of this Code section in the fiscal year in which the additional funds became available or any subsequent year; provided, however, that any such waiver shall be valid only for the fiscal

year in which it is granted, and any funds budgeted pursuant to a waiver granted by this paragraph which were not obligated by the end of such fiscal year shall not be obligated in violation of the allocation requirements of this Code section in a subsequent fiscal year unless a majority of the board again authorizes a waiver of the allocation requirements in such subsequent fiscal year.

(c) Provisions of this Code section may be waived pursuant to subsection (b) of Code Section 32-5-1 only upon approval by two-thirds of the membership of the board.

- 4a. **Amount spent per mile by roadway type:** [See response to 4. above, including this: “By law, about 80% of spending allocations for each of the 13 (soon to be 14) Congressional districts must be equal; this is referred to as Congressional District Balancing.”]
- 4b. **Investment levels vary by function, demand or statewide significance?** [See response to 4. above, including this: “GDOT doesn’t allocate by roadway type or function.”]
5. **Documentation:** O.C.G.A. § 32-4-20 and § 32-4-21 (see citations below) define what road classifications should be on the state highway system. There is no requirement for the department to actually own a roadway on the state highway system; it becomes a state-controlled route and state-maintained route when the State Transportation Board, or GDOT Commissioner, approves an Order of the Commissioner. Relevant citations:

*Note:* To access the full text of the Georgia codes listed below, go to <http://www.lexisnexis.com/hottopics/gacode/>; click “OK – Close” and enter the code number in the “Search” box that appears at the top of the screen. Click the link for the code number to display the full text of the code.

O.C.G.A. § 32-4-20 Composition of state highway system

O.C.G.A. § 32-4-21 Designation of roads as part of state highway system

Please see the business process summarized in [Appendices C](#) and [D](#).

6. **State operate and maintain all of its assets?** No. Georgia’s highway system consists of approximately 122,000 miles of roadway. Of this amount, about 18,000 miles is on the state highway system and is mostly maintained by GDOT forces. The remaining roads are maintained through local agreements with counties throughout the state. As our employee numbers have dropped, GDOT has also used contract labor to maintain some of its major assets such as I-95, rest areas and welcome centers as well as activities such as mowing.
- Georgia also has more than 14,700 bridges. GDOT is responsible for maintaining about 6,600 state and federal bridges. Local governments are responsible for maintaining approximately 7,800 bridges on local roadways.
7. **Staff contact information:** Tim Christian, Branch Chief, Data Reporting, Office of Transportation Data, Georgia Department of Transportation, [tchristian@dot.ga.gov](mailto:tchristian@dot.ga.gov), (770) 986-1434. *Note:* These questions were answered by several different people and compiled by Tim Christian.

## **Iowa**

Contact: Craig Markley, Office of Systems Planning, Iowa Department of Transportation, [craig.markley@dot.iowa.gov](mailto:craig.markley@dot.iowa.gov), (515) 239-1027.

1. **How state determines ownership of state highway system:** Ownership of state-owned roads is fully described in Iowa Code, Chapter 306.4 Highways and Waterways; see <http://coolice.legis.iowa.gov/coolice/default.asp?category=billinfo&service=iowacode&ga=83&input=306#306.4>.
- 1a. **When ownership changes are made:** A change in ownership may occur for any of several different reasons. An example may be through an agreement with a local jurisdiction when a bypass route is constructed and the previous State Route designation moves to the newly constructed facility. The agreement may then be for the original route ownership to be transferred to the local jurisdiction. Changes

in state roadway ownership do take place but not frequently. The Code of Iowa also identifies the ways some roadways have designations such as the Commercial and Industrial Network, Area Service System, Farm-to-Market roads system and Park and Institutional roadways (located in Iowa Code, Chapter 306 Highways and Waterways).

Additional information can be found in the Iowa Code, Chapter 306 Highways and Waterways; see <http://coolice.legis.iowa.gov/coolice/default.asp?category=billinfo&service=iowacode&ga=83&input=306>.

- 1b. **Processes to execute these changes:** Changes are made to ownership through a formal process known as Transfer of Jurisdiction.
2. **How state varies system density and sets standards and performance measures:** Performance measures are dependent upon various items including but not limited to Pavement Condition Index, Highway Sufficiency, Level of Service, and the International Roughness Index. The department is currently embarking on revising performance measures due to efforts to utilize asset management and to comply with new MAP-21 provisions.
  - 2a. **When density, standards and performance measures change:** The Code of Iowa specifies the Commercial and Industrial Network, which has specific parameters for inclusion of highway network.
  - 2b. **Processes to execute these changes:** [No response.]
  - 3a. **Permit or require ownership of certain roads?** Yes. Iowa Code, Chapter 306.4, establishes these requirements; see <http://coolice.legis.iowa.gov/coolice/default.asp?category=billinfo&service=iowacode&ga=83&input=306#306.4>.
  - 3b. **Permit or require certain size for state highway system?** There is a limit established by the Code of Iowa for the Commercial and Industrial System (2,500 miles originally but increased to 2,600 miles by the 2012 Iowa Legislature).
4. **State's funding formula for state highway system:** The state's funding process is quite complex and extensive. The department has prepared various documents to help explain the funding process and is well summarized in the following documents:
  - 2013-2017 Highway Program Summary**, Iowa Department of Transportation, June 2012.  
[http://www.iowadot.gov/program\\_management/HighwayProgramSummaryBrochure.pdf](http://www.iowadot.gov/program_management/HighwayProgramSummaryBrochure.pdf)
  - Investing in Iowa's Future: Development and Management of Iowa's Five-Year Transportation Improvement Program**, Iowa Department of Transportation, June 15, 2011.  
[http://www.iowadot.gov/program\\_management/investing\\_in\\_iowas\\_future.pdf](http://www.iowadot.gov/program_management/investing_in_iowas_future.pdf)
- 4a. **Amount spent per mile by roadway type:** See funding brochures above.
- 4b. **Investment levels vary by function, demand or statewide significance?** See funding brochures above.
5. **Documentation:** The department's process for *classification of roadways* is identical to the federal classification process and is explained in the following document:
  - FHWA Functional Classification Guidelines**, FHWA, 1989.  
[http://www.fhwa.dot.gov/planning/processes/statewide/related/functional\\_classification/index.cfm](http://www.fhwa.dot.gov/planning/processes/statewide/related/functional_classification/index.cfm)

*Funding allocation practices* across the state highway system can be found in the following documents:
  - 2013-2017 Highway Program Summary**, Iowa Department of Transportation, June 2012.  
[http://www.iowadot.gov/program\\_management/HighwayProgramSummaryBrochure.pdf](http://www.iowadot.gov/program_management/HighwayProgramSummaryBrochure.pdf)
  - Investing in Iowa's Future: Development and Management of Iowa's Five-Year Transportation Improvement Program**, Iowa Department of Transportation, June 15, 2011.  
[http://www.iowadot.gov/program\\_management/investing\\_in\\_iowas\\_future.pdf](http://www.iowadot.gov/program_management/investing_in_iowas_future.pdf)

*Performance measures.* See answers to question 1. Performance measures are dependent upon various items including but not limited to Pavement Condition Index, Highway Sufficiency, Level of Service, and the International Roughness Index.

6. **State operate and maintain all of its assets?** No. Typically, a 28E agreement is arranged for sharing or taking responsibility of services for other jurisdictions. Examples of these may be snow plowing or summer mowing activities. The department also has contracts in place for some maintenance activities such as for cleaning of rest areas on the Interstate system.

*Note:* See <http://inrc.continuetolearn.uiowa.edu/IPA3/agreements.html> for information about intergovernmental agreements executed to comply with Iowa Code, Chapter 28E.

7. **Staff contact information:** Craig Markley, Office of Systems Planning, Iowa Department of Transportation, [craig.markley@dot.iowa.gov](mailto:craig.markley@dot.iowa.gov), (515) 239-1027.

## **Kansas**

Contact: Chris Herrick, Director of Planning & Development, Kansas Department of Transportation, [chrish@ksdot.org](mailto:chrish@ksdot.org), (785) 296-2252.

1. **How state determines ownership of state highway system:** The KDOT maintains and operates all Kansas, U.S. and Interstate routes in Kansas. All other roads are the responsibility of the local governments. KDOT does provide federal formula funds to the locals for local roads and bridges. These funds can only be spent on eligible activities based on federal rules.
  - 1a. **When ownership changes are made:** Change in ownership most often occurs when KDOT builds a new alignment and turns the old alignment over to the local entity.
  - 1b. **Processes to execute these changes:** KDOT executes an agreement with the local entity that specifies any improvements to the old route before it is turned over to the local entity.
2. **How state varies system density and sets standards and performance measures:** KDOT has classified its highways according to their priority. The system is called the KDOT Route Classification System. It can be viewed at <http://www.ksdot.org/burtransplan/maps/GISMaps/STP2008.pdf>. This classification system is used to determine standards to be used and to set performance measures for maintenance and operations.
  - 2a. **When density, standards and performance measures change:** None have been made since the system was put in place.
  - 2b. **Processes to execute these changes:** None exist.
- 3a. **Permit or require ownership of certain roads?** Not aware of any requirements.
- 3b. **Permit or require certain size for state highway system?** The rural state highway system is limited to no more than 10,000 miles by state law.
4. **State's funding formula for state highway system:** [See responses to 4a. and 4b. below.]
  - 4a. **Amount spent per mile by roadway type:** No such requirement. The state transportation program called TWORKS requires that KDOT spend at least \$8 million per county over the 10 years of the program. In our current 10-year transportation program called TWORKS, we have three project categories: preservation, modernization and expansion. Projects were chosen from each category based on a selection process that involves some combination of engineering factors, local input and economic impact of the project. Spending ranges were set for each region of the state based on many variables decided on by KDOT for the expansion and modernization projects only.
  - 4b. **Investment levels vary by function, demand or statewide significance?** Capacity projects in the state program are selected based partly on engineering factors that consider the state classification system, traffic, and other factors including fatalities and accidents, local input and economic impact. Modernization projects in the state program are selected partly on engineering factors and local input. Preservation projects are selected based on engineering factors.

5. **Documentation:**

*Classification and determination of ownership.* See KDOT Route Classification System available at <http://www.ksdot.org/burtransplan/maps/GISMaps/STP2008.pdf>.

*Funding allocation practices.* See information available at:

**About TWorks**, Kansas Department of Transportation, undated.  
<http://kdotapp.ksdot.org/TWorks/About>

**Doing Business with KDOT: How Highway Projects are Selected**, Kansas Department of Transportation, undated.  
[http://kdotapp.ksdot.org/TWorks/docs/doing-biz\\_project-selection.pdf](http://kdotapp.ksdot.org/TWorks/docs/doing-biz_project-selection.pdf)

6. **State operate and maintain all of its assets?** No. KDOT operates and maintains all of the Interstate, Kansas and U.S. routes in Kansas. For city connecting links or portions of K and U.S. routes that go through cities, we give the city \$3,000 per mile to maintain the connecting link. In some circumstances, KDOT maintains the connecting link through the city.

For fiber, cameras and dynamic message boards, we have a contract with private vendors to maintain this equipment. We (KDOT and MoDOT) have a contract to maintain and operate the KC-Scout operations center in the Kansas City Metropolitan area.

7. **Staff contact information:** Chris Herrick, Director of Planning & Development, Kansas Department of Transportation, [chrish@ksdot.org](mailto:chrish@ksdot.org), (785) 296-2252.

## **Maryland**

Contact: L'Kiesha M. Markley, Assistant Division Chief, Regional and Intermodal Planning Division, Maryland State Highway Administration, [lmarkley@sha.state.md.us](mailto:lmarkley@sha.state.md.us), (410) 545-5565.

1. **How state determines ownership of state highway system:** Ownership of state-maintained roadways is determined by deed ownership or by mutual agreements with local (county, municipal) governments or other public or private entities. Ownership is not dependent on functional classification.
  - 1a. **When ownership changes are made:** Maintenance and ownership of functioning roadways may be made by mutual agreement between the Maryland State Highway Administration and local governments or other state agencies.
  - 1b. **Processes to execute these changes:** Formal deed conveyance (requiring approval from the state Board of Public Works, comprised of the Governor, the Treasurer and the Comptroller of the Treasury).
2. **How state varies system density and sets standards and performance measures:** [No response.]
  - 2a. **When density, standards and performance measures change:** [No response.]
  - 2b. **Processes to execute these changes:** [No response.]
- 3a. **Permit or require ownership of certain roads?** SHA maintains roads and highways it builds or maintains. They may also own and maintain roads acquired through agreements.
- 3b. **Permit or require certain size for state highway system?** MD law does not permit or require a certain size for the state highway system. However, the state roadway system is planned based on the Constrained Long Range Plan (CLRP), which is maintained and updated through our metropolitan planning organizations (MPOs). The CLRP is also based on the Maryland Transportation Plan (MTP), which is Maryland Department of Transportation's (MDOT's) long-range vision for transportation in Maryland. The MDOT and modal agencies work with the MPOs, county and local governments to identify priorities for capital improvements to the highway system which become candidates for funding and inclusion in the Consolidated Transportation Program (CTP). The CTP is the state's detailed listing with descriptions of the capital projects that are proposed for construction or development and evaluation along with system

preservation projects that are programmed during the next six-year period.

4. **State's funding formula for state highway system:** [See responses to 4a. and 4b. below.]
- 4a. **Amount spent per mile by roadway type:** In addition to our Capital Program or federal funding allocation, the state of Maryland shares state revenues received from state gasoline taxes with the local counties and the municipalities, including the city of Baltimore. The calculation is based on vehicle registration and mileages within each jurisdiction to arrive at an annual percentage to be used on their monthly allocation.
- 4b. **Investment levels vary by function, demand or statewide significance?** The CTP contains major capital projects as well as system preservation projects. Major projects are typically large in cost and scope and include projects such as new highway construction, major construction, interchanges and major bridges. These projects are must be  $\pm$ \$10M, with the exception of bridges which can be  $\pm$  \$5M to be a major project.

System preservation projects include many categories to preserve or enhance the highway system, such as resurfacing, minor safety improvements, intersection improvements, installation of traffic signals, environmental mitigation, landscaping and noise barriers. The system preservation projects are developed and programmed using technical criteria and a prioritization process.

5. **Documentation:** The SHA Highway Location Reference (HLR) lists all of the state-maintained roadways, derived from the Highway Management Information System database. [See <http://www.roads.maryland.gov/pages/hlr.aspx?Pageid=832> for more information about the HLR.]

The Office of Real Estate (ORE) categorizes land by three types of categories:

Right of Way – Land used for road and support of road.

Extra Land – Land currently not being used for road or support of road.

Excess Land – Land currently available for sale.

MD SHA's ORE determines ownership through a process called records and research. The process starts with locating plats for the project or study area. On each plat, there should be [an] item number identifying all land purchased by SHA from others. Along with these item numbers may be a liber [book] folio [page] which will correspond with a deed that should be recorded onto MDlandrec.net. If there is no liber folio there may be a secretary's number which corresponds with a local room that holds deeds. Item numbers each have an item file that will have more detailed information on the purchase.

The Consolidated Transportation Program identified practices in allocating funding across the state highway system.

If SHA transfers a roadway to a county or local municipality or vice versa, the roadway must be built to state standards then acquired through an agreement. The agreement also identifies the roles and responsibilities for each party in maintaining the roadway.

6. **State operate and maintain all of its assets?** Generally, the SHA operates and maintains its own assets. Agreements may be made with local governments for certain aspects of routine maintenance. Depending on the roadways, bridges and other assets are maintained by the Maryland Transportation Authority, which has tolling rights.
7. **Staff contact information:** Vaughn Lewis, Functional Classification Coordinator, Maryland State Highway Administration, [vlewis@sha.state.md.us](mailto:vlewis@sha.state.md.us), (410) 545-5673.

## Michigan

Contact: Christian Ovalle, Michigan Department of Transportation, [ovallec@michigan.gov](mailto:ovallec@michigan.gov), (517) 241-1244.

1. **How state determines ownership of state highway system:** Roads in Michigan are under state, county road commission, or city and village jurisdiction. The 9,600 most important miles are state highways, although there is no particular system to establishing state trunklines. All non-trunkline roads outside city limits are county roads. Within city limits, most streets are under city jurisdiction, although county roads or state trunklines may also be present.  
  
Annually, counties and cities must certify their mileage to the state, as funds are distributed among counties and cities using road mileage as one of the factors. This is referred to as our Act 51 Mileage Certification process.
- 1a. **When ownership changes are made:** If two agencies decide that it is logical to transfer jurisdiction, they may agree to make the change. There are no requirements that this ever be done. Historically, state trunklines were turned back to counties when supplanted by a new route, but this has become rare. Some cities have taken over all county roads within their limits, so as to be in charge of road design and maintenance.
- 1b. **Processes to execute these changes:** To facilitate jurisdictional transfer, a law was passed in 1992 providing that the “revenue worth per mile” of each class of road be awarded to a jurisdiction assuming control of a road. Michigan’s road-aid distribution formula is heavily population-based, and state funds do not attach to each route-mile.
2. **How state varies system density and sets standards and performance measures:** [See responses to 2a. and 2b. below.]
- 2a. **When density, standards and performance measures change:** *Highway System Density:* Other than freeway interchanges and occasional city bypass routes, system density has remained very stable for many years in Michigan with the exception of new subdivisions, and industrial/office/business developments which MDOT has little influence over. Our current funding levels are almost totally devoted to our attempt to maintain our highest level systems in good condition. The high-level systems are based upon the National Highway System (NHS) and National Functional Classification (NFC) designations.  
*Standards and Performance Measures:* Please refer to 5. below.
- 2b. **Processes to execute these changes:** *Standards and Performance Measures:* Michigan law established a cross-jurisdictional Transportation Asset Management Council (TAMC) for the purpose of providing a means of uniformly measuring and reporting system condition and encouraging/enabling agencies to utilize asset management principles to guide expenditure decisions. So far, the Council has established a common pavement condition measure (PASER) for the federal aid system. This has not been extended to all public roads in the state. There is also no statewide performance measure or standard.
- 3a. **Permit or require ownership of certain roads?** In the 1920s, the state trunkline system was authorized incrementally by legislation. Most of these routes remain under state jurisdiction, but since the 1930s, relocations and new routes are established administratively by Michigan DOT. All other roads are county roads or city streets. Township roads were consolidated into county roads after 1931. The state requires that each road agency ‘certify’ its ownership of roads under their jurisdiction. If they fail to certify, they will not receive their distribution of state funds.
- 3b. **Permit or require certain size for state highway system?** No.
4. **State’s funding formula for state highway system:** Michigan has a complicated revenue-sharing formula for road-user fees, which when the results of about 10 subformulas are summed, awards 36% for state highways, 35% for county roads, 20% for city streets, and 9% for transit. The formulas dividing the county and city shares among 616 local jurisdictions are based heavily on the value of vehicles registered in each county and city population. For more information, call Aarne Frobom, Bureau of Transportation Planning, (517) 335-2908.

4a. **Amount spent per mile by roadway type:** Shares of state road-user fees:

State trunklines	\$635 million	9,617 miles	\$66,000/mile
County roads	\$568 million	89,174 miles	\$6,400/mile
City and village streets	\$325 million	20,500 miles	\$15,800/mile

To these shares are added local funds and federal aid. Federal aid is divided roughly 75% for state trunklines, 25% for local agencies.

4b. **Investment levels vary by function, demand or statewide significance?** Funding formulas do not depend on function, traffic volume or significance. However, investments closely correlate with all these factors, at all levels of jurisdiction.

5. **Documentation:**

*Classification.* We rely heavily upon the NHS/NFC designations. Detailed information regarding Michigan's process for conducting statewide decennial reviews, as well as maps of our current classifications, can be found at the following website: [http://www.michigan.gov/mdot/0,1607,7-151-9622\\_11033\\_11155---,00.html](http://www.michigan.gov/mdot/0,1607,7-151-9622_11033_11155---,00.html).

*Determination of highway jurisdiction.* As specified in the answer to question 1, roads in Michigan are under MDOT, county road commission, or city and village jurisdiction. This is kept current through our Act 51 Mileage Certification process, mentioned above.

*State trunkline highways.* Roads under MDOT jurisdiction are also referred to as state trunkline highways. MDOT Bureau of Transportation Planning Asset Management Division maintains state trunkline highway historic jurisdiction records in microfilm and paper format. When questions arise regarding state jurisdiction, MDOT Planning staff researches these records to confirm the MDOT jurisdiction limits.

*Local roads.* Local roads can be under county or city and village jurisdiction. MDOT Bureau of Transportation Planning Asset Management Division administers the Act 51 local road certification process and maintains records and maps in microfilm and paper format of roads under each county, city, and village jurisdiction. When questions arise regarding local road jurisdiction, MDOT Planning Act 51 staff review the Act 51 records.

Changes in jurisdiction occur only when all involved agencies concur and provide documented evidence of the concurrence, together with detailed descriptions.

*Allocation of funding.* See the files below that provide documentation on how MDOT allocates capital program funding across the state highway system:

[Appendix E](#), MDOT Pavement Funding Allocation Process

[Appendix F](#), MDOT Highway Funding Allocation Process

*Roadway ownership.* Please refer back to question 1a. Changes in roadway ownership occur only upon request and all affected agencies must concur, providing written documentation verifying that concurrence.

*Highway system density.* Please refer back to 2a.

*Standards and performance measures.* We could not locate much written information relating to standards and performance measures except for the following two websites:

**2012 System Performance Measures Report**, Michigan Department of Transportation, October 8, 2012.

[http://www.michigan.gov/documents/mdot/MDOT-Performance\\_Measures\\_Report\\_289930\\_7.pdf](http://www.michigan.gov/documents/mdot/MDOT-Performance_Measures_Report_289930_7.pdf)

**Transportation Asset Management Council**, State of Michigan, undated.

[http://tamc.mcgi.state.mi.us/MITRP/Council/Default\\_Council.aspx](http://tamc.mcgi.state.mi.us/MITRP/Council/Default_Council.aspx)

6. **State operate and maintain all of its assets?** All trunkline miles are operated by MDOT. Trunklines in about two-thirds of counties are maintained by county road commissions, but this is optional. Capital construction projects are by private contractors.
7. **Staff contact information:** Joyce Newell, Asset Management Division, Michigan Department of Transportation, [newellj@michigan.gov](mailto:newellj@michigan.gov), (517) 373-2237.

## Missouri

Contact: Brian F. Reagan, Transportation Planning, Missouri Department of Transportation, [brian.reagan@modot.mo.gov](mailto:brian.reagan@modot.mo.gov), (573) 526-2675.

1. **How state determines ownership of state highway system:** I am not aware of any specific criteria of why MoDOT owns a road. In general, we own and maintain roads that are necessary to provide a continuous transportation system to the public.
  - 1a. **When ownership changes are made:** Changes in ownership are almost always a result of a construction project (A good example would be the construction of a bypass where the original road is transferred to the city.) In general, MoDOT does not want the size of the state system to grow, so when doing expansion work we negotiate with local entities to take over existing roads.
  - 1b. **Processes to execute these changes:** We have a process that is called “change in route status.” This is the formal process where a section of road can be transferred in or out of the state system. This process is usually initiated from our district offices. A letter is attached that explains why this change needs to be done. Also, a drawing showing the changes is included. These documents are reviewed by various divisions in the department who are allowed to recommend changes. After this review process, the [Missouri Highways and Transportation] Commission must approve the change in route status. Once approval has been granted by the Commission, the right of way division may proceed with transferring the deeds.
2. **How state varies system density and sets standards and performance measures:** The majority of our performance measures are tied to functional classification. In Missouri, we identify all principal arterials and above as major roads. The remaining system is referred to as minor roads.
  - 2a. **When density, standards and performance measures change:** Performance measures are changed when they are not providing any useful data or when standards must be increased to continue progress.
  - 2b. **Processes to execute these changes:** In Missouri we have quarterly meetings that review the progress on all performance measures. These meetings include senior management. Changes to performance measures can be addressed at this meeting.
- 3a. **Permit or require ownership of certain roads?** No. We do have a state law that categorized roads into state primary and state supplementary. However, these routes may change “classification” or ownership based on the change in route status process identified in question 1.
- 3b. **Permit or require certain size for state highway system?** No.
4. **State’s funding formula for state highway system:** [See responses to 4a. and 4b. below.]
  - 4a. **Amount spent per mile by roadway type:** Money is not distributed by roadway type, with the exception of a statewide Interstate fund. Then a specific amount of money is dedicated to taking care of the system. The remaining funds are used for major projects and regionally significant projects.
  - 4b. **Investment levels vary by function, demand or statewide significance?** Excluding Interstate, there is not an investment level tied to route function. However, our performance measures stress the importance of major roads.

5. **Documentation:**

*Classification and determination of ownership.* See 236.14, Change in Route Status Report, available at [http://epg.modot.mo.gov/index.php?title=236.14\\_Change\\_in\\_Route\\_Status\\_Report](http://epg.modot.mo.gov/index.php?title=236.14_Change_in_Route_Status_Report).

*Funding allocation practices.* Funding distribution information can be found on pages 5-15 thru 5-17 of the following document:

**Estimated Financial Summary for the 2013-2017 Highway and Bridge Construction Schedule,** Missouri Department of Transportation, undated.

[http://www.modot.mo.gov/plansandprojects/construction\\_program/STIP2013-2017/documents/11\\_Sec05EstimatedFinancialSummary.pdf](http://www.modot.mo.gov/plansandprojects/construction_program/STIP2013-2017/documents/11_Sec05EstimatedFinancialSummary.pdf)

6. **State operate and maintain all of its assets?** No. We can have maintenance agreements with other entities for them to maintain our roadways or us to maintain theirs. The maintenance agreements spell out the extent of this relationship. For example, roadway only, signals only, snow removal, etc.
7. **Staff contact information:** Brian F. Reagan, Transportation Planning, Missouri Department of Transportation, [Brian.Reagan@modot.mo.gov](mailto:Brian.Reagan@modot.mo.gov), (573) 526-2675.

## **Montana**

Contact: Jim Skinner, Chief, Planning & Policy Analysis Bureau, Rail, Transit & Planning Division, Montana Department of Transportation, [jskinner@mt.gov](mailto:jskinner@mt.gov), (406) 444-9233.

1. **How state determines ownership of state highway system:** Ownership is a very general term when referring to the highway system. In Montana, ownership could describe legal ownership of the right of way, jurisdictional authority for permitting and maintenance, or if the roadway is eligible to receive state/federal funding.

State law empowers the Montana Transportation Commission with the authority to designate which public roadways will be maintained as part of the state highway system and eligible to receive state and federal funding. Right-of-way ownership varies based on how the roadway was originally developed, and came to be part of the state highway system. Changes in system designation are initiated on a case-by-case basis through the Transportation Commission.

In general terms, functional classification is a measure used to determine which highways may be considered to be placed on a designated system eligible for federal funding. If a system designation/change is requested, MDT will perform a functional class review in accordance with FHWA's functional classification guidelines and, depending on the outcome, propose a system designation change for the Transportation Commission consideration. Typically, if the system designation request was initiated by a local entity, the Commission will require system mileage under that jurisdiction to remain constant, so if new mileage is added a similar amount of mileage would be removed.

- 1a. **When ownership changes are made:** [See response to question 1. above.]
- 1b. **Processes to execute these changes:** [See response to question 1. above.]
2. **How state varies system density and sets standards and performance measures:** There is no formal process in place for limiting or determining appropriate density of the state highway system. Functional classification is one consideration MDT uses in these reviews that indirectly relates to system density. Changes to the system are assessed on a case-by-case basis and are subject to Montana Transportation Commission approval.

Montana's long-range transportation plan, called TranPlan21, provides MDT policy direction for standards and performance. TranPlan 21 policy direction feeds into MDT's asset management system (called the Performance Programming Process, or P3) which has specific performance targets for each highway system. The result of the asset management process is a prioritization of improvement type by system based on needs and optimization of resources available. Changes to or additions to measures are

made based on staff assessment of the effectiveness of the measures. These assessments consider input from a number of sources, including outreach to transportation stakeholders and the public.

- 2a. **When density, standards and performance measures change:** [See response to question 2. above.]
- 2b. **Processes to execute these changes:** [See response to question 2. above.]
- 3a. **Permit or require ownership of certain roads?** This depends on the definition of “ownership.” Montana state law does not define a requirement regarding ownership of highway right of way or place limits on the size of the state highway system. However, Montana law does address maintenance responsibility and jurisdictional authority on state highways. A link to Montana Code Annotated Title 60, Highways and Transportation, follows: [http://data.opi.mt.gov/bills/mca\\_toc/60.htm](http://data.opi.mt.gov/bills/mca_toc/60.htm).
- 3b. **Permit or require certain size for state highway system?** [See response to 3a. above.]
4. **State’s funding formula for state highway system:** MDT uses an asset management system to direct funds based on system needs for projects on the higher-level highway systems (Interstate, National Highway, State Primary). Along with this asset management process, MDT also must allocate funding on the State Primary system consistent with what we call the financial district law, which ensures distribution of funds across the state. A link to this law follows: <http://data.opi.mt.gov/bills/mca/60/3/60-3-205.htm>.  
For the lower-level highway systems (State Secondary Roads and State Urban Routes) funds are distributed based on formulas contained in state law. Links to those sections of state law follow:  
Secondary Roads: <http://data.opi.mt.gov/bills/mca/60/3/60-3-206.htm>  
Urban Routes: <http://data.opi.mt.gov/bills/mca/60/3/60-3-211.htm>
- 4a. **Amount spent per mile by roadway type:** [See response to question 4. above.]
- 4b. **Investment levels vary by function, demand or statewide significance?** [See response to question 4. above.]
5. **Documentation:** MDT has a booklet describing the Performance Programming Process at the following link: <http://www.mdt.mt.gov/publications/docs/brochures/tranplanp3.pdf>. Please note that we are in the process of updating this booklet so a new version will be available in the near future.  
The following Web link will take you to a brochure that describes functional classification and system designation in Montana. We don’t have a publication describing the process for changing system designation. However, all functional classification changes must be approved by the Montana Transportation Commission and FHWA must also approve any changes on the Interstate and NHS.  
**A Guide to Functional Classification, Highway Systems and Other Route Designations in Montana**, Montana Department of Transportation, January 2008.  
[http://www.mdt.mt.gov/publications/docs/manuals/route\\_designations.pdf](http://www.mdt.mt.gov/publications/docs/manuals/route_designations.pdf)
6. **State operate and maintain all of its assets?** No. Some state highways are maintained/operated by local government agencies. Roles and responsibilities for maintenance and operation are described in maintenance agreements with these entities. MDT does not contract with private entities for maintenance or operation of our facilities.
7. **Staff contact information:** Paul Johnson, Project Analysis, Montana Department of Transportation, [paujohnson@mt.gov](mailto:paujohnson@mt.gov), (406) 444-7259.

## Pennsylvania

Contact: Larry S. Shifflet, Director, Center for Program Development and Management, Pennsylvania Department of Transportation, [lashifflet@pa.gov](mailto:lashifflet@pa.gov), (717) 787-2744.

1. **How state determines ownership of state highway system:** In order for the Department of Transportation to own a roadway, it requires legislative approval. Otherwise, the roadway is adopted and owned by the local municipality. If the roadway is not owned by the DOT or the municipality, it could be owned by the Turnpike Commission, another state agency or a federal agency. The DOT ownership of roads is not functional class-dependent.
  - 1a. **When ownership changes are made:** The Highway Transfer (Turnback) program provides for the rehabilitation, maintenance and transfer of state-owned highways identified as functionally local to the municipalities in which they are located. Transfer of these state highways is done on a cooperative and voluntary basis. Taking ownership of these highways provides municipalities an opportunity to improve their local transportation system, further develop their community, and positively impact the economic development of their municipality.
  - 1b. **Processes to execute these changes:** Municipalities are provided rehabilitation funding from the DOT to rehabilitate a turnback candidate roadway and/or structure into a satisfactory condition. Highways are transferred to the municipalities through State Highway Transfer Legal Agreements. Following the legal transfer of the highway to the municipality, PennDOT provides the municipality with annual maintenance payments of \$4,000 per mile. [See PennDOT Publication 310, State Highway Transfer Policies and Procedures Manual, available at <ftp://ftp.dot.state.pa.us/public/PubsForms/Publications/PUB%20310.pdf>, for additional information.]
2. **How state varies system density and sets standards and performance measures:** Do not have anything in place to date related to highway system density.
  - 2a. **When density, standards and performance measures change:** N/A
  - 2b. **Processes to execute these changes:** N/A
  - 3a. **Permit or require ownership of certain roads?** No.
  - 3b. **Permit or require certain size for state highway system?** No.
4. **State's funding formula for state highway system:** Please see attached financial guidance document [see 5. below] for detailed information in regards to funding formulas and distribution of funds. We work collaboratively with our metropolitan and rural planning organizations to establish formulas for distribution to our MPOs/RPOs.
  - 4a. **Amount spent per mile by roadway type:** Data not currently available. However, the department does now have an Asset Management Division that will focus on data collection and establishment of performance measures related to sound asset management.
  - 4b. **Investment levels vary by function, demand or statewide significance?** Investment levels may vary based on executive policies and/or state of an existing asset (i.e., we had been one of the worst states in regards to SD [structurally deficient] bridges and a policy change was made to heavily invest in fixing our bridge problems.) Again, we work collaboratively with our MPOs/RPOs to establish general and procedural guidance that provides the overall policies for development of our capital program. See attached "General and Procedural Guidance" document attached [see 5. below] for more detailed information.

5. **Documentation:**

**Pennsylvania's 2013 Transportation Program Financial Guidance**, June 9, 2011.

<http://www.nepa-alliance.org/Docs/RPO-TIP/2013-16/2013%20Financial%20Guidance%20-%20Final.pdf>

**Pennsylvania's 2013 Transportation Program General and Procedural Guidance**, undated.

See pages 2 through 10 of the PDF available at

[http://www.co.berks.pa.us/Dept/Planning/Documents/RATS/FFY2013-2016\\_TIP/04\\_FFY2013-2016TIP\\_APP\\_A\\_DRAFT.pdf](http://www.co.berks.pa.us/Dept/Planning/Documents/RATS/FFY2013-2016_TIP/04_FFY2013-2016TIP_APP_A_DRAFT.pdf).

**Procedures for Revisions to Functional Classification and Federal-Aid Systems**, undated.

<http://www.dot.state.pa.us/Internet/Bureaus/pdPlanRes.nsf/infoBPRFedFuncClassChange>

*Note:* The following are additions to the legend appearing in the document above:

When preparing a map with *proposed urban functional classification revisions or additions*, use the following colors to mark the road(s):

- Blue:** Proposed Interstate (Federal-aid system)
- Yellow:** Proposed Other Freeway/Expressway (Federal-aid system)
- Orange:** Proposed Other Principal Arterial (Federal-aid system)
- Green:** Proposed Minor Arterial (Federal-aid system)
- Brown:** Proposed Collector (Federal-aid system)
- Red:** Delete from System

6. **State operate and maintain all of its assets?** Yes, the DOT operates and maintains all of its own assets.
7. **Staff contact information:** Larry S. Shifflet, Director, Center for Program Development and Management, Pennsylvania Department of Transportation, [lashifflet@pa.gov](mailto:lashifflet@pa.gov), (717) 787-2744.

### **Washington**

Contact: Faris Al-Memar, Systems Analysis and Planning Manager, Washington State Department of Transportation, [almemaf@wsdot.wa.gov](mailto:almemaf@wsdot.wa.gov), (360) 705-7956.

1. **How state determines ownership of state highway system:** [See responses to 1a. and 1b. below.]
  - 1a. **When ownership changes are made:** Additions or deletions made to state highway system by state legislature explicitly spelled out in state law; transfer of ownership to local governments when state highway is moved to a new alignment, e.g., when state replaces conventional highway with freeway or expressway.
  - 1b. **Processes to execute these changes:** State laws from the Revised Code of Washington and regulations from the Washington Administrative Code:
    - RCW 47.01.425, Jurisdictional transfers  
<http://apps.leg.wa.gov/rcw/default.aspx?cite=47.01.425>
    - RCW 47.17.001, Criteria for Changes to [State Highway] System  
<http://apps.leg.wa.gov/rcw/default.aspx?cite=47.17.001>
    - WAC 468-710, Route jurisdiction transfer rules, regulations and requirements  
<http://apps.leg.wa.gov/wac/default.aspx?cite=468-710>
2. **How state varies system density and sets standards and performance measures:** [See responses to 2a. and 2b. below.]

- 2a. **When density, standards and performance measures change:** RCW 47.17.001 item (4)(e)(ii) limits the number of non-access controlled facilities in the same corridor as a freeway or limited access facility to one.  
RCW 47.17.001 item (4)(f) also talks about the spacing of state highways. [See 1b. above for links to these codes.]
- 2b. **Processes to execute these changes:** See [Appendix G](#), Route Jurisdictional Transfer (RJT) Process Flow Chart.
- 3a. **Permit or require ownership of certain roads?** RCW 47.17.001 states which roadways *should* be part of the state highway system and which roadways *may* be part of the state highway system.
- 3b. **Permit or require certain size for state highway system?** We are not aware of any size requirement for state highways.
4. **State's funding formula for state highway system:** [See responses to 4a. and 4b. below.]
- 4a. **Amount spent per mile by roadway type:** See [Appendix H](#), Program Structure Expenditures, for a spreadsheet regarding distribution of funding on the state highway system.
- 4b. **Investment levels vary by function, demand or statewide significance?** Investment level is based on condition assessment performance goals.
5. **Documentation:**  
*Classification and determination of ownership.* Information and links related to functional classification from WSDOT Internet site: <http://www.wsdot.wa.gov/mapsdata/travel/hpms/functionalclass.htm>.  
*Highway classification description table.* See [Appendix I](#), Highway Construction Program.  
*Funding allocation practices.* See [Appendix J](#), WSDOT Responses to Connecticut Survey of State Best Practices for Infrastructure Capital Programs.  
*Performance measures.* For roadway ownership changes, see links under 1b. above.
6. **State operate and maintain all of its assets?** WSDOT generally maintains all of its highway assets with state-employed workforces. There are limited examples where we hire contractors for specialized work that our state workforces cannot perform. Additionally, there are some instances where we contract with local governments to maintain some highway assets. Examples include contracts with the city of Seattle and the city of Mercer Island for these cities to maintain the landscaped areas beside and above I-90. These instances of contracting either private sector companies or local governments to maintain highway assets will amount to an estimated 2 to 3 percent of our statewide maintenance program expenditures.
7. **Staff contact information:** Faris Al-Memar, [almemaf@wsdot.wa.gov](mailto:almemaf@wsdot.wa.gov), (360) 705-7956; Pat Morin, [morinp@wsdot.wa.gov](mailto:morinp@wsdot.wa.gov), (360) 705-7141.

## **Wyoming**

Contact: Martin Kidner, State Planning Engineer, Wyoming Department of Transportation, [martin.kidner@wyo.gov](mailto:martin.kidner@wyo.gov), (307) 777-4412.

1. **How state determines ownership of state highway system:** This is historical-based. For example, some roads were picked up by the state because there was a town and a school servicing an oil field. The oil field dries up, town goes away, but the state still owns the road.
  - 1a. **When ownership changes are made:** Case by case, and normally only with a swap of mileage.
  - 1b. **Processes to execute these changes:** Title transfer of easement.

2. **How state varies system density and sets standards and performance measures:** While level of pavement performance is set for functional class, density is not set. Node connection would be a closer description.
- 2a. **When density, standards and performance measures change:** Normally standards only change with functional classification change.
- 2b. **Processes to execute these changes:** Again, in Wyoming it is primarily a functional classification change which normally proceeds with concurrence of FHWA.
- 3a. **Permit or require ownership of certain roads?** No.
- 3b. **Permit or require certain size for state highway system?** No.
4. **State's funding formula for state highway system:** [No response.]
- 4a. **Amount spent per mile by roadway type:** Not tracked.
- 4b. **Investment levels vary by function, demand or statewide significance?** Functional classification for pavement, risk-based for bridges, crash history for safety.
5. **Documentation:** None.
6. **State operate and maintain all of its assets?** No. Towns greater than 1,500 must do litter control and snow removal, and maintain curb, gutter sidewalk, lighting and storm sewers.
7. **Staff contact information:** Martin Kidner, [martin.kidner@wyo.gov](mailto:martin.kidner@wyo.gov), (307) 777-4412.

# APPENDIX A

## 43-2-135. Division of authority over streets.

(1) The jurisdiction, control, and duty of the state, cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system is as follows:

(a) The city, city and county, and incorporated town shall exercise full responsibility for and control over any such street beyond and including the curbs and, if no curb is installed, beyond the traveled way, its contiguous shoulders, and appurtenances; except that the regulation and control of driveways shall be subject to the provisions of section [43-2-147](#).

(b) The department of transportation has authority to prohibit the suspension of signs, banners, or decorations above the portion of such streets between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway.

(c) The city, city and county, or incorporated town at its own expense shall maintain all underground facilities in such streets and has the right to construct such underground facilities as may be necessary in such streets.

(d) The city, city and county, or incorporated town has the right to grant the privilege to open the surface of any such street, but all damages occasioned thereby shall promptly be repaired either by the city, city and county, or incorporated town itself or at its direction.

(e) The city, city and county, or incorporated town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins.

(f) The department of transportation has the right to utilize all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of streets by the department of transportation, the cost of such facilities shall be borne by the state and municipality as may be mutually agreed upon between the department of transportation and the local governing body of the city, city and county, or incorporated town.

(g) Cities, cities and counties, and incorporated towns shall regulate and enforce all traffic and parking restrictions on streets which are state highways, but all regulations adopted after December 31, 1979, shall be approved in writing by the department of transportation before becoming effective on such streets; except that such regulations shall become effective on such streets sixty days after receipt for review by the department of transportation if not disapproved in writing by said department during that sixty-day period.

(h) The department of transportation shall erect, control, and maintain at state expense all route markers and directional signs, except street signs on those streets.

(i) The department of transportation shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices on state highways in cities, the city and county of Denver, the city and county of Broomfield, and incorporated towns. No local authority shall erect or maintain any stop sign or traffic control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting

highway unless approval in writing has first been obtained from the department of transportation. For the purpose of this paragraph (i), striping, lane-marking, and channelization are considered traffic control devices.

(j) Rights-of-way for such street shall be acquired by either the city, city and county, or incorporated town or by the state as is mutually agreed upon. Costs of acquiring such rights-of-way may be at the sole expense of the state or the city, city and county, or incorporated town, or both, as may be mutually agreed. Title to all rights-of-way so acquired shall vest in the city, city and county, or incorporated town, or the state, according to the agreement under which said rights-of-way were secured.

(k) The department of transportation is authorized to acquire rights-of-way by purchase, gift, or condemnation for any such streets, highways, and bridges. Any such condemnation proceeding shall be exercised in the manner provided by law for condemnation proceedings to acquire lands required for state highways. Nothing in this section shall be construed as abrogating the rights of home rule cities to acquire lands for state purposes in the manner set forth in the charter of said cities.

**Source:** L. 53: p. 526, § 35. **CRS 53:** § 120-13-35. **C.R.S. 1963:** § 120-13-35. **L. 71:** p. 202, § 10. **L. 74:** (1)(i) amended, p. 358, § 1, effective July 1. **L. 79:** (1)(g) amended, p. 1598, § 2, effective May 18. **L. 80:** (1)(a) amended, p. 798, § 66, effective June 5. **L. 91:** (1)(b), (1)(f) to (1)(i), and (1) (k) amended, p. 1105, § 147, effective July 1. **L. 2001:** (1)(i) amended, p. 273, § 27, effective November 15.

#### ANNOTATION

**Municipal regulations relating to traffic and parking on highway-streets subject to approval by highway department.** This section declares that cities, cities and counties, and incorporated towns shall regulate and enforce traffic and parking restrictions on all highway-streets within the municipal boundaries, but provides that all regulations shall be subject to approval of the department of highways before becoming effective. This section also purports to divide authority over streets which are part of the state highway system. It defines in detail the obligations of cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system. *City & County of Denver v. Pike*, 140 Colo. 17, 342 P.2d 688 (1959).

**Where state has recognized right to regulate, no prior approval required.** Where the right of a city to regulate speed on a freeway bisecting a city has been recognized by the state, allowing the city to post the highway and enforce its ordinances, it is not necessary for the city to obtain prior approval of its regulations before they could become effective. *City & County of Denver v. Pike*, 140 Colo. 17, 342 P.2d 688 (1959).

**This section authorizes resort to agreement concerning the acquisition of property;** however, it is only an optional method and is permissible as a substitute for proceedings in condemnation. *Town of Greenwood Village v. District Court*, 138 Colo. 283, 332 P.2d 210 (1958).

**Considering paragraphs (j) and (k) of subsection (1) together, paragraph (j) is permissive only** and does not make consent of a town a prerequisite to condemnation of private property within its corporate limits, or to condemnation of public property already in use for street purposes, the fee title to which lies in a town. *Town of Greenwood Village v. District Court*, 138 Colo. 283, 332 P.2d 210 (1958).

**The department of highways can lawfully condemn public or private property within a municipality** for the purpose of continuing state highways into or through cities or towns. The principle is identical as far as acquisition of park lands by the state is concerned. *Welch v. City & County of Denver*, 141 Colo. 587, 349 P.2d 352 (1960).

**State not compelled to condemn where city and state have agreement.** Where agreement was reached between the state and the city where the city granted the state the right to construct a highway on park land, the state was not compelled to institute condemnation proceedings. By enacting the ordinances authorizing the use of park lands for highway purposes, all was accomplished by agreement that would otherwise have had to be accomplished by condemnation proceedings. *Welch v. City & County of Denver*, 141 Colo. 587, 349 P.2d 352 (1960).

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APPENDIX B

THE  
CONSTITUTION  
OF THE  
STATE OF COLORADO,  
ADOPTED IN  
CONVENTION, MARCH 14, 1876;  
ALSO THE  
*Address of the Convention*  
TO THE  
PEOPLE OF COLORADO.

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ELECTION, SATURDAY, JULY 1, 1876.

DENVER, COL.  
TRIBUNE BOOK AND JOB PRINTING HOUSE.  
1876.

DIVISION OF STATE ARCHIVES  
AND PUBLIC RECORDS

Morgan  
7-23-07

6951

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## PREAMBLE.

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We, the people of Colorado, with profound reverence for the Supreme Ruler of the Universe, in order to form a more independent and perfect government; establish justice; insure tranquility; provide for the common defense; promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the "State of Colorado."

# CONSTITUTION.

## ARTICLE I.

### BOUNDARIES.

The boundaries of the State of Colorado shall be as follows: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on said meridian to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

## ARTICLE II.

### BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare :

SECTION 1. That all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 2. That the people of this State have the sole and exclusive right of governing themselves, as a free, sovereign and independent State; and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

SEC. 3. That all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

## CONSTITUTION OF THE

SEC. 4. That the free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the good order, peace, or safety of the State. No person shall be required to attend or support any ministry or place of worship, religious sect, or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 5. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. That courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property, or character; and that right and justice should be administered without sale, denial, or delay.

SEC. 7. That the people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures; and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, as near as may be, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases offenses shall be prosecuted criminally by indictment or information.

SEC. 9. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. That no law shall be passed impairing the freedom of speech; that every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that all suits and prosecutions for libel, the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

SEC. 11. That no *ex post facto* law, nor law impairing the obliga-

tion of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the General Assembly.

SEC. 12. That no person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases of tort or where there is a strong presumption of fraud.

SEC. 13. That the right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

SEC. 14. That private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes or ditches on or across the lands of others, for agricultural, mining, milling, domestic or sanitary purposes.

SEC. 15. That private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner. the property shall not be needlessly disturbed, or the proprietary rights of the owner therein divested; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public, shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

SEC. 16. That in criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 17. That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition, If he can give security he shall be discharged; if he cannot give security, his deposition shall be taken by some Judge of the Supreme, District, or County Court, at the earliest time he can attend, at some convenient place by him appointed for that purpose, of which time and place the accused and the attorney prosecuting for the people, shall have reasonable notice. The accused shall have the right to appear in person and by counsel. If he have no counsel, the Judge shall assign him one

in that behalf only. On the completion of such examination the witness shall be discharged on his own recognizance, entered in before said Judge, but such deposition shall not be used if, in the opinion of the Court, the personal attendance of the witness might be procured by the prosecution, or is procured by the accused. No exception shall be taken to such deposition as to matters of form.

SEC. 18. That no person shall be compelled to testify against himself in a criminal case, nor shall any person be twice put in jeopardy for the same offense. If the jury disagree, or if the judgment be arrested after verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

SEC. 19. That all persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 20. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 21. That the privilege of the writ of *habeas corpus* shall never be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 22. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall remain inviolate in criminal cases; but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a Grand Jury shall consist of twelve men, any nine of whom concurring may find an indictment; *provided*, the General Assembly may change, regulate or abolish the grand jury system.

SEC. 24. That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

SEC. 25. That no person shall be deprived of life, liberty, or property, without due process of law.

SEC. 26. That there shall never be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 27. Aliens, who are or who may hereafter become *bona fide* residents of this State, may acquire, inherit, possess, enjoy and dispose of property, real and personal, as native born citizens.

SEC. 28. The enumeration in this Constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

## ARTICLE III.

## DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments—the Legislative, Executive and Judicial—and no person, or collection of persons, charged with the exercise of powers properly belonging to one of these departments, shall exercise any power properly belonging to either of the others, except as in this Constitution expressly directed or permitted.

## ARTICLE IV.

## EXECUTIVE DEPARTMENT.

SEC. 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor of State, State Treasurer, Attorney General, and Superintendent of Public Instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election; *provided*, that the terms of office of those chosen at the first election held under this Constitution, shall begin on the day appointed for the first meeting of the General Assembly. The officers of the Executive Department, excepting the Lieutenant Governor, shall, during their term of offices, reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this Constitution or by law.

SEC. 2. The supreme executive power of the State shall be vested in the Governor, who shall take care that the laws be faithfully executed.

SEC. 3. The officers named in section one of this article, shall be chosen on the day of the general election, by the qualified electors of the State. The returns of every election for said officers shall be sealed up and transmitted to the Secretary of State, directed to the Speaker of the House of Representatives, who shall immediately, upon the organization of the House, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both Houses of the General Assembly, who shall for that purpose assemble in the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two Houses, on joint ballot. Contested elections for the said offices shall be determined by the two Houses, on joint ballot, in such manner as may be prescribed by law.

SEC. 4. No person shall be eligible to the office of Governor, Lieutenant Governor or Superintendent of Public Instruction, unless he should have attained the age of thirty years, nor to the office of Auditor of State, Secretary of State, or State Treasurer, unless he shall have attained the age of twenty-five years, nor to the office of Attorney General unless he shall have attained the age of twenty-five years, and be a licensed attorney of the Supreme Court of the State, or of the Territory of Colorado, in good standing. At the first election under this Constitution, any person being a qualified elector at the time of the adoption of this Constitution, and having the qualifications above herein prescribed for any one of said officers, shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices, unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the State two years next preceding his election.

SEC. 5. The Governor shall be commander-in-chief of the military forces of the State, except when they shall be called into actual service of the United States. He shall have power to call out the militia to execute the laws, suppress insurrection, or repel invasion.

SEC. 6. The Governor shall nominate, and by and with the consent of the Senate, appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for, and may remove any such officer for incompetency, neglect of duty or malfeasance in office. If during the recess of the Senate a vacancy occur in any such office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of Auditor of State, State Treasurer, Secretary of State, Attorney General, or Superintendent of Public Instruction, shall be vacated by death, resignation, or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. The Senate in deliberating upon Executive nominations may sit with closed doors, but in acting upon nominations they shall sit with open doors, and the vote shall be taken by ayes and noes, which shall be entered upon the journal.

SEC. 7. The Governor shall have power to grant reprieves, commutations and pardons after conviction, for all offenses except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case where he may exercise this power, send to the General Assembly, as its first session thereafter, a transcript of the petition, all proceedings, and the reasons for his action.

SEC. 8. The Governor may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. The Governor shall, at the commencement of each session, and from time to time, by message, give to the General Assembly information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall also send to the General Assembly a statement, with vouchers, of the expenditures of all moneys belonging to the State, and paid out by him. He shall, also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the State.

SEC. 9. The Governor may, on extraordinary occasions, convene the General Assembly, by proclamation, stating therein the purpose for which it is assembled; but at such special session no business shall be transacted other than that specially named in the proclamation. He may, by proclamation, convene the Senate in extraordinary session for the transaction of executive business.

SEC. 10. The Governor, in case of a disagreement between the two Houses as to the time of adjournment, may, upon the same being certified to him by the House last moving adjournment, adjourn the General Assembly to a day not later than the first day of the next regular session.

SEC. 11. Every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that House, it shall become a law, notwithstanding the objections of the Governor. In all such cases the vote of each House shall be determined by ayes and noes, to be entered upon the journal. If any bill shall not be returned by the Governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall, by their adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the Secretary of State, within thirty days after such adjournment, or else become a law.

SEC. 12. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the General Assembly be in session, he shall transmit to the House in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the Executive veto.

LIEUTENANT GOVERNOR.

SEC. 13. In case of the death, impeachment, or conviction of felony or infamous misdemeanor, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office, for the residue of the term, or until the disability be removed, shall devolve upon the Lieutenant Governor.

SEC. 14. The Lieutenant Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. In case of the absence, impeachment or disqualification from any cause of the Lieutenant Governor, or when he shall hold the office of Governor, then the President *pro tem.* of the Senate shall perform the duties of the Lieutenant Governor, until the vacancy is filled or the disability removed.

SEC. 15. In case of the failure to qualify in his office, death, resignation, absence from the State, impeachment, conviction of felony or infamous misdemeanor, or disqualification from any cause, of both the Governor and Lieutenant Governor, the duties of the Governor shall devolve on the President of the Senate *pro tem.*, until such disqualification of either the Governor or Lieutenant Governor be removed, or the vacancy be filled; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House.

SEC. 16. An account shall be kept by the officers of the Executive Department and of all public institutions of the State, of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the Governor, under oath.

SEC. 17. The officers of the Executive Department, and of all public institutions of the State, shall, at least twenty days preceding each regular session of the General Assembly, make full and complete report of their actions to the Governor, who shall transmit the same to the General Assembly.

SEC. 18. There shall be a seal of the State, which shall be kept by the Secretary of State, and shall be called the "Great Seal of the State of Colorado." The seal of the Territory of Colorado, as now used, shall be the seal of the State until otherwise provided by law.

SEC. 19. The officers named in section one of this Article, shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the State treasury.

SEC. 20. The Superintendent of Public Instruction shall be *ex officio* State Librarian.

SEC. 21. Neither the State Treasurer nor State Auditor shall be eligible for re-election as his own immediate successor.

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## ARTICLE V.

### LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in the General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

SEC. 2. An election for members of the General Assembly shall be held on the first Tuesday in October, in the years of our Lord 1876 and 1878, and in each alternate year thereafter, on such day, at such places in each county as now are or hereafter may be provided by law. The first election for members of the General Assembly under the State organization shall be conducted in the manner prescribed by the laws of Colorado Territory regulating elections for members of the Legislative Assembly thereof. When vacancies occur in either House, the Governor, or person exercising the powers of Governor, shall issue writs of election to fill such vacancies.

SEC. 3. Senators shall be elected for the term of four years, except as hereinafter provided, and Representatives for the term of two years.

SEC. 4. No person shall be a Representative or Senator who shall not have attained the age of twenty-five years, who shall not be a citizen of the United States, who shall not for at least twelve months next preceding his election have resided within the Territory included in the limits of the county or district in which he shall be chosen; *provided*, that any person who at the time of the adoption of this Constitution was a qualified elector under the Territorial laws, shall be eligible to the first General Assembly.

SEC. 5. The Senators, at their first session, shall be divided into two classes. Those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class, except that Senators elected in each of the districts having more than one Senator shall be equally divided between the two classes. The Senators of one class shall hold for two years; those of the other class shall hold for four years—to be decided by lot between the two classes, so that one-half of the Senators, as near as practicable, may be biennially chosen forever thereafter.

SEC. 6. Each member for the first General Assembly, as a compensation for his services, shall receive four dollars for each day's attendance, and fifteen cents for each mile necessarily traveled in going to and returning from the seat of government; and shall receive no other compensation, perquisite or allowance whatsoever. No session of the General Assembly, after the first, shall exceed forty days. After the first session, the compensation of the members of the General Assembly shall be as provided by law; provided, that no General Assembly shall fix its own compensation.

SEC. 7. The General Assembly shall meet at 12 o'clock, noon, on the first Wednesday in November, A. D. 1876; and at 12 o'clock, noon, on the first Wednesday in January, A. D. 1879, and at 12 o'clock, noon, on the first Wednesday in January of each alternate year forever thereafter, and at other times when convened by the Governor. The term of service of the members thereof shall begin on the first Wednesday of November next after their election, until otherwise provided by law.

SEC. 8. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State; and no member of Congress, or other person holding any office (except of attorney-at-law, notary public, or in the militia) under the United States, or this State, shall be a member of either House during his continuance in office.

SEC. 9. No member of either House shall, during the term for which he may have been elected, receive any increase of salary or mileage, under any law passed during such term.

SEC. 10. The Senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members President *pro tempore*. The House of Representatives shall elect one of its members as Speaker. Each House shall choose its other officers, and shall judge of the election and qualification of its members.

SEC. 11. A majority of each House shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 12. Each House shall have power to determine the rules

of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes, or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the Legislature of a free State. A member, expelled for corruption, shall not thereafter be eligible to either House of the same General Assembly, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

SEC. 13. Each House shall keep a journal of its proceedings, and may in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the desire of any two members, be entered on the journal.

SEC. 14. The sessions of each House, and of the committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 16. The members of the General Assembly shall, in all cases except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

SEC. 17. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either House as to change its original purpose.

SEC. 18. The style of the laws of this State shall be: "*Be it enacted by the General Assembly of the State of Colorado.*"

SEC. 19. No act of the General Assembly shall take effect until ninety days after its passage, unless in case of emergency (which shall be expressed in the preamble or body of the act) the General Assembly shall, by a vote of two-thirds of all the members elected to each House, otherwise direct. No bill except the general appropriation for the expenses of the government only, introduced in either House of the General Assembly after the first twenty-five days of the session, shall become a law.

SEC. 20. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

SEC. 21. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any

act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 22. Every bill shall be read at length, on three different days, in each House; all substantial amendments made thereto shall be printed for the use of the members, before the final vote is taken on the bill; and no bill shall become a law except by vote of a majority of all the members elected to each House, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 23. No amendment to any bill by one House shall be concurred in by the other, nor shall the report of any committee of conference be adopted in either House, except by a vote of a majority of the members elected thereto, taken by ayes and noes, and the names of those voting recorded upon the journal thereof.

SEC. 24. No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended or conferred, shall be re-enacted and published at length.

SEC. 25. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys and public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates and constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age: for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, per centage or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever. In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 26. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles shall have been publicly read, immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 27. The General Assembly shall prescribe by law the number, duties and compensation of the officers and employes of each House; and no payment shall be made from the State Treasury, or be in any way authorized to any person, except to an acting officer or employe elected or appointed in pursuance of law.

SEC. 28. No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the State without previous authority of law.

SEC. 29. All stationery printing, paper and fuel used in the legislative and other departments of government, shall be furnished; and the printing and binding and distributing of the laws, journals, department reports, and other printing and binding; and the repairing and furnishing the halls and rooms used for the meeting of the General Assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the Governor and State Treasurer.

SEC. 30. Except as otherwise provided in this Constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment; *provided*, this shall not be construed to forbid the General Assembly to fix the salary or emoluments of those first elected or appointed under this Constitution.

SEC. 31. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose amendments, as in case of other bills.

SEC. 32. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the Executive, Legislative and Judicial Departments of the State; interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

SEC. 34. No appropriation shall be made for charitable, industrial, educational or benevolent purposes, to any person, corpora-

tion or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

SEC. 35. The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal function whatever.

SEC. 36. No act of the General Assembly shall authorize the investment of trust funds by executors, administrators, guardians, or other trustees, in the bonds or stock of any private corporation.

SEC. 37. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such a manner as shall be provided by law.

SEC. 38. No obligation or liability of any person, association or corporation, held or owned by the State, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the General Assembly, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury.

SEC. 39. Every order, resolution or vote to which the concurrence of both Houses may be necessary, except on the question of adjournment, or relating solely to the transaction of business of the two Houses, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be re-passed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

SEC. 40. If any person elected to either House of the General Assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the General Assembly, in consideration or upon condition that any other person elected to the same General Assembly will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced in such General Assembly, the person making such offer or promise, shall be deemed guilty of solicitation of bribery. If any member of the General Assembly shall give his vote or influence for or against any measure or proposition pending in such General Assembly, or offer, promise or assent so to do, upon condition that any other member will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such General Assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such General Assembly, he shall be deemed guilty of bribery, and any member of the General

Assembly, or person elected thereto; who shall be guilty of either of such offenses shall be expelled, and shall not be thereafter eligible to the same General Assembly; and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage to any executive or judicial officer or member of the General Assembly to influence him in the performance of any of his public or official duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 42. The offense of corrupt solicitation of members of the General Assembly, or of public officers of the State, or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment.

SEC. 43. A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon.

#### CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 44. One Representative in the Congress of the United States shall be elected from the State at large at the first election under this Constitution, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the General Assembly shall divide the State into Congressional Districts accordingly.

SEC. 45. The General Assembly shall provide by law for an enumeration of the inhabitants of the State in the year of our Lord 1885, and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for Senators and Representatives on the basis of such enumeration, according to ratios to be fixed by law.

SEC. 46. The Senate shall consist of twenty-six, and the House of Representatives forty-nine members, which number shall not be increased until the year of our Lord one thousand eight hundred and ninety, after which time the General Assembly may increase the number of Senators and Representatives, preserving, as near as may be, the present proportion as to the number in each House; provided, that the aggregate number of Senators and Representatives shall never exceed one hundred.

SEC. 47. Senatorial and Representative Districts may be altered from time to time, as public convenience may require. When a Senatorial or Representative District shall be composed of two or more counties, they shall be contiguous, and the district as compact as may be. No county shall be divided in the formation of a Senatorial or Representative District.

SEC. 48. Until the State shall be divided into Senatorial Districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The county of Weld shall constitute the first district, and be entitled to one Senator.

The county of Larimer shall constitute the second district, and be entitled to one Senator.

The county of Boulder shall constitute the third district, and be entitled to two Senators.

The county of Gilpin shall constitute the fourth district, and be entitled to one Senator.

The counties of Gilpin, Summit and Grand shall constitute the fifth district, and be entitled to one Senator.

The county of Clear Creek shall constitute the sixth district, and be entitled to two Senators.

The county of Jefferson shall constitute the seventh district, and be entitled to one Senator.

The county of Arapahoe shall constitute the eighth district and be entitled to four Senators.

The counties of Elbert and Bent shall constitute the ninth district, and be entitled to one Senator.

The county of El Paso shall constitute the tenth district, and be entitled to one Senator.

The county of Douglas shall constitute the eleventh district, and be entitled to one Senator.

The county of Park shall constitute the twelfth district, and be entitled to one Senator.

The counties of Lake and Saguache shall constitute the thirteenth district, and be entitled to one Senator.

The county of Fremont shall constitute the fourteenth district, and be entitled to one Senator.

The county of Pueblo shall constitute the fifteenth district, and be entitled to one Senator.

The county of Huerfano shall constitute the sixteenth district, and be entitled to one Senator.

The county of Las Animas shall constitute the seventeenth district, and be entitled to two Senators.

The county of Costilla shall constitute the eighteenth district, and be entitled to one Senator.

The county of Conejos shall constitute the nineteenth district, and be entitled to one Senator.

The counties of Rio Grande, Hinsdale, La Plata and San Juan shall constitute the twentieth district, and be entitled to one Senator.

SEC. 49. Until an apportionment of Representatives be made, in accordance with the provisions of this Article, they shall be divided among the several counties of the State in the following manner: The county of Arapahoe shall have seven; the counties of Boulder and Clear Creek, each, four; the counties of Gilpin and Las Animas, each, three; the counties of El Paso, Fremont, Huerfano, Jefferson, Pueblo and Weld, each, two; the counties of Bent, Costilla, Conejos, Douglas, Elbert, Grand, Hinsdale, Larimer, La Plata, Lake, Park, Rio Grande, Summit, Saguache and San Juan, each, one; and the counties of Costilla and Conejos, jointly, one.

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## ARTICLE VI.

### JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, District Courts, County Courts, Justices of the Peace, and such other courts as may be created by law for cities and incorporated towns.

### SUPREME COURT.

SEC. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and other original and remedial writs, with authority to hear and determine the same.

SEC. 4. At least two terms of the Supreme Court shall be held each year, at the seat of government.

SEC. 5. The Supreme Court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision.

SEC. 6. The Judges of the Supreme Court shall be elected by electors of the State at large, as hereinafter provided.

SEC. 7. The term of office of the Judges of the Supreme Court, except as in this Article otherwise provided, shall be nine years.

SEC. 8. The Judges of the Supreme Court shall, immediately after the first election under this Constitution, be classified by lot, so that one shall hold his office for the term of three years, one for

the term of six years, and one for the term of nine years. The lot shall be drawn by the Judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the Territory, and filed in his office. The Judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and shall preside at all terms of the Supreme Court, and, in case of his absence, the Judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 9. There shall be a Clerk of the Supreme Court, who shall be appointed by the Judges thereof, and shall hold his office during the pleasure of said Judges, and whose duties and emoluments shall be as prescribed by law and by the rules of the Supreme Court.

SEC. 10. No person shall be eligible to the office of Judge of the Supreme Court unless he be learned in the law; be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election.

#### DISTRICT COURTS.

SEC. 11. The District Courts shall have original jurisdiction of all causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law. They shall have original jurisdiction to determine all controversies upon relation of any person on behalf of the people, concerning the rights, duties and liabilities of railroad, telegraph or toll-road companies or corporations.

SEC. 12. The State shall be divided into judicial districts, in each of which there shall be elected by the electors thereof, one Judge of the District Court therein, whose term of office shall be six years. The Judges of the District Courts may hold courts for each other, and shall do so when required by law.

SEC. 13. Until otherwise provided by law, said districts shall be four in number, and constituted as follows, viz.:

*First District*—The counties of Boulder, Jefferson, Gilpin, Clear Creek, Summit and Grand.

*Second District*—The counties of Arapahoe, Douglas, Elbert, Weld and Larimer.

*Third District*—The counties of Park, El Paso, Fremont, Pueblo, Bent, Las Animas and Huerfano.

*Fourth District*—The counties of Costilla, Conejos, Rio Grande, San Juan, La Plata, Hinsdale, Saguache and Lake.

SEC. 14. The General Assembly may, after the year 1880 (when ever two-thirds of the members of each House shall concur therein), but not oftener than once in six years, increase the number of the judicial districts and the judges thereof; such districts shall be

formed of compact territory, and bounded by county lines, but such increase or change in the boundaries of a district shall not work the removal of any Judge from his office during the term for which he shall have been elected or appointed.

SEC. 15. The Judges of the District Court first elected shall be chosen at the first general election. The General Assembly may provide that after the year 1878, the election of the Judges of the Supreme, District and County Courts, and the District Attorneys, or any of them, shall be on a different day from that on which an election is held for any other purpose, and for that purpose may extend or abridge the term of office of any such officers then holding, but not in any case more than six months. Until otherwise provided by law, such officers shall be elected at the time of holding the general elections. The terms of office of all Judges of the District Court elected in the several districts throughout the State, shall expire on the same day; and the terms of office of the District Attorneys elected in the several districts throughout the State shall, in like manner, expire on the same day.

SEC. 16. No person shall be eligible to the office of District Judge unless he be learned in the law, be at least thirty years old, and a citizen of the United States, nor unless he shall have resided in the State or Territory at least two years next preceding his election, nor unless he shall, at the time of his election, be an elector within the judicial district for which he is elected: *provided*, that at the first election, any person of the requisite age and learning, and who is an elector of the Territory of Colorado, under the laws thereof, at the time of the adoption of this Constitution, shall be eligible to the office of Judge of the District Court of the judicial district within which he is an elector.

SEC. 17. The time of holding courts within the said districts shall be as provided by law, but at least one term of the District Court shall be held annually in each county, except in such counties as may be attached, for judicial purposes, to another county, wherein such courts are so held. This shall not be construed to prevent the holding of special terms, under such regulations as may be provided by law.

SEC. 18. The Judges of the Supreme and District Courts shall each receive such salary as may be provided by law, and no such Judge shall receive any other compensation, perquisite or emolument for or on account of his office, in any form whatever, nor act as attorney or counselor at law.

SEC. 19. There shall be a Clerk of the District Court in each county wherein a term is held, who shall be appointed by the Judge of the district, to hold his office during the pleasure of the Judge. His duties and compensation shall be as provided by law, and regulated by the rules of the court.

SEC. 20. Until the General Assembly shall provide by law for fixing the terms of the courts aforesaid, the Judges of the Supreme and District Courts, respectively, shall fix the terms thereof.

DISTRICT ATTORNEYS.

SEC. 21. There shall be elected by the qualified electors of each judicial district at each regular election for Judges of the Supreme Court, a District Attorney for such district, whose term of office shall be three years, and whose duties and compensations shall be as provided by law. No person shall be eligible to the office of District Attorney, who shall not, at the time of his election, be at least twenty-five years of age, and possess all the other qualifications for Judges of District Courts, as prescribed in this article.

COUNTY COURTS.

SEC. 22. There shall be elected, at the general election in each organized county in the year 1877, and every three years thereafter, except as otherwise provided in this article, a County Judge, who shall be Judge of the County Court of said county, whose term of office shall be three years, and whose compensation shall be as may be provided by law.

SEC. 23. County Courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators and administrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law; *provided* such courts shall not have jurisdiction in any case where the debt, damage, or claim or value of property involved shall exceed two thousand dollars, except in cases relating to the estates of deceased persons. Appeals may be taken from County to District Courts, or to the Supreme Court, in such cases and in such manner as may be prescribed by law. Writs of error shall lie from the Supreme Court to every final judgment of the County Court. No appeal shall lie to the District Court from any judgment given upon an appeal from a Justice of the Peace.

CRIMINAL COURT.

SEC. 24. The General Assembly shall have power to create and establish a Criminal Court in each county having a population exceeding fifteen thousand, which court may have concurrent jurisdiction with the District Courts in all criminal cases not capital; the terms of such courts to be as provided by law.

JUSTICES OF THE PEACE.

SEC. 25. Justices of the Peace shall have such jurisdiction as

may be conferred by law; but they shall not have jurisdiction of any case wherein the value of the property, or the amount in controversy, exceeds the sum of three hundred dollars, nor where the boundaries or title to real property shall be called in question.

## POLICE MAGISTRATES.

SEC. 26. The General Assembly shall have power to provide for creating such police magistrates for cities and towns, as may be deemed from time to time necessary or expedient, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively.

## MISCELLANEOUS.

SEC. 27. The judges of courts of record, inferior to the Supreme Court, shall, on or before the first day in July in each year, report in writing to the Judges of the Supreme Court such defects and omissions in the laws as their knowledge and experience may suggest, and the Judges of the Supreme Court shall, on or before the first day of December of each year, report in writing to the Governor, to be by him transmitted to the General Assembly, together with his message, such defects and omissions in the Constitution and laws as they may find to exist, together with appropriate bills for curing the same.

SEC. 28. All laws relating to courts shall be general and of uniform operation throughout the State; and the organization, jurisdiction, powers, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally, shall be uniform.

SEC. 29. All officers provided for in this Article, excepting Judges of the Supreme Court, shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in elective offices shall be filled by election, but when the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of Judges of the Supreme and District Courts, by the Governor; of District Attorneys, by the Judge of the Court of which the office appertains, and of all other judicial officers by the Board of County Commissioners of the county where the vacancy occurs.

SEC. 30. All process shall run in the name of "The People of the State of Colorado;" all prosecutions shall be carried on in the name and by the authority of "The People of the State of Colorado," and conclude, "against the peace and dignity of the same."

## ARTICLE VII.

## SUFFRAGE AND ELECTIONS.

SECTION 1. Every male person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

*First*—He shall be a citizen of the United States, or, not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

*Second*—He shall have resided in the State six months immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct, such time as may be prescribed by law; *provided*, that no person shall be denied the right to vote at any school district election, nor to hold any school district office, on account of sex.

SEC. 2. The General Assembly shall, at the first session thereof, and may at any subsequent session, enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified according to the provisions of this Article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

SEC. 3. The General Assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety, and no qualified elector shall be thereby disqualified.

SEC. 4. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the State, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poor-house or other asylum, nor while confined in public prison.

SEC. 5. Voters shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 6. No person except a qualified elector shall be elected or appointed to any civil or military office in the State.

SEC. 7. The general election shall be held on the first Tuesday of October, in the years of our Lord eighteen hundred and seventy-six, eighteen hundred and seventy-seven and eighteen hundred and seventy-eight, and annually thereafter on such day as may be prescribed by law.

SEC. 8. All elections by the people shall be by ballot; every

ballot voted shall be numbered in the order in which it shall be received, and the number be recorded by the election officers on the list of voters opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to enquire or disclose how any elector shall have voted. In all cases of contested elections, the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

SEC. 9. In trials of contested elections, and for offenses arising under the election law, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceedings, except for perjury in giving such testimony.

SEC. 10. No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this Constitution.

SEC. 11. The General Assembly shall pass laws to secure the purity of elections, and guard against abuses of the elective franchise.

SEC. 12. The General Assembly shall, by general law, designate the courts and judges by whom the several classes of election contests, not herein provided for, shall be tried, and regulate the manner of trial, and all matters incident thereto; but no such law shall apply to any contest arising out of an election held before its passage.

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## ARTICLE VIII.

### STATE INSTITUTIONS.

SECTION 1. Educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the State, in such manner as may be prescribed by law.

SEC. 2. The General Assembly shall have no power to change or to locate the seat of government of the State, but shall at its first session subsequent to the year of our Lord one thousand eight hundred and eighty, provide by law for submitting the question of the permanent location of the seat of government

to the qualified electors of the State, at the general election then next ensuing, and a majority of all the votes upon said question cast at said election, shall be necessary to determine the location thereof. Said General Assembly shall also provide that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the State, at the next general election; *provided*, that until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at the city of Denver.

SEC. 3. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the State voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the General Assembly.

SEC. 4. The General Assembly shall make no appropriation or expenditures for capitol buildings or grounds, until the seat of government shall have been permanently located as herein provided.

SEC. 5. The following Territorial institutions, to-wit: The University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, the Institute for the Education of Mutes at Colorado Springs, shall, upon the adoption of this Constitution, become institutions of the State of Colorado, and the management thereof subject to the control of the State, under such laws and regulations as the General Assembly shall provide; and the location of said institutions, as well as all gifts, grants and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively; *provided*, this section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees thereof, until such property be transferred by proper conveyance, together with the control thereof, to the officers provided for the management of said institution by this Constitution or by law.

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## ARTICLE IX.

### EDUCATION.

SECTION 1. The general supervision of the public schools of the State shall be vested in a Board of Education, whose powers and duties shall be prescribed by law; the Superintendent of Public In-

struction, the Secretary of State and Attorney General, shall constitute the Board, of which the Superintendent of Public Instruction shall be President.

SEC. 2. The General Assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the State, wherein all residents of the State between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school district within the State, at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.

SEC. 3. The public school fund of the State shall forever remain inviolate and intact; the interest thereon, only, shall be expended in the maintenance of the schools of the State, and shall be distributed amongst the several counties and school districts of the State, in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The State Treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

SEC. 4. Each County Treasurer shall collect all school funds belonging to his county, and the several school districts therein, and disburse the same to the proper districts upon warrants drawn by the County Superintendent, or by the proper district authorities as may be provided by law.

SEC. 5. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been, or may hereafter be granted to the State by the General Government for educational purposes; all estates that may escheat to the State; also all other grants, gifts or devises that may be made to this State for educational purpose.

SEC. 6. There shall be a County Superintendent of Schools in each county, whose term of office shall be two years, and whose duties, qualifications and compensation shall be prescribed by law. He shall be *ex-officio* Commissioner of Lands within his county, and shall discharge the duties of said office under the direction of the State Board of Land Commissioners, as directed by law.

SEC. 7. Neither the General Assembly, nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomi-

nation whatsoever; nor shall any grant or donation of land, money, or other personal property, ever be made by the State, or any such public corporation, to any church or for any sectarian purpose.

SEC. 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend, or participate in, any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

SEC. 9. The Governor, Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute the State Board of Land Commissioners, who shall have the direction, control and disposition of the public lands of the State, under such regulations as may be prescribed by law.

SEC. 10. It shall be the duty of the State Board of Land Commissioners to provide for the location, protection, sale or other disposition of all the lands heretofore or which may hereafter be granted to the State by the general government, under such regulations as may be prescribed by law; and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the General Assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The General Assembly shall, at the earliest practicable period, provide by law that the several grants of land made by Congress to the State shall be judiciously located and carefully preserved and held in trust subject to disposal, for the use and benefit of the respective objects for which said grants of land were made, and the General Assembly shall provide for the sale of said lands from time to time; and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

SEC. 11. The General Assembly may require, by law, that every child of sufficient mental and physical ability, shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

SEC. 12. There shall be elected by the qualified electors of the State, at the first general election under this Constitution, six Regents of the University, who shall immediately after their election be so classified, by lot, that two shall hold their office for the term of two years, two for four years and two for six years; and every two years after the first election there shall be elected two Regents of

the University, whose term of office shall be six years. The Regents thus elected, and their successors, shall constitute a body corporate, to be known by the name and style of "The Regents of the University of Colorado."

SEC. 13. The Regents of the University shall, at their first meeting, or as soon thereafter as practicable, elect a President of the University, who shall hold his office until removed by the Board of Regents for cause; he shall be *ex officio* a member of the Board, with the privilege of speaking, but not of voting, except in cases of a tie, he shall preside at the meetings of the Board, and be the principal executive officer of the University, and a member of the faculty thereof.

SEC. 14. The Board of Regents shall have the general supervision of the University, and the exclusive control and direction of all funds of, and appropriations to, the University.

SEC. 15. The General Assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a Board of Education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

SEC. 16. Neither the General Assembly nor the State Board of Education shall have power to prescribe text books to be used in the public schools.

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## ARTICLE X.

### REVENUE.

SECTION 1. The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

SEC. 2. The General Assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the State government for each fiscal year.

SEC. 3. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal; *provided*, that mines and mining claims bearing gold, silver, and other precious metals, (except the net proceeds and surface improvements thereof,) shall be exempt from taxation for the period of ten years from the date of the adoption of this Constitution, and thereafter may be taxed as provided by law. Ditches, canals, and flumes owned and used by individuals or corporations for irrigating lands owned by such

individuals or corporations, or the individual members thereof, shall not be separately taxed, so long as they shall be owned and used exclusively for such purpose.

SEC. 4. The property, real and personal, of the State, counties, cities, towns and other municipal corporations, and public libraries shall be exempt from taxation.

SEC. 5. Lots, with the buildings thereon, if said buildings are used solely and exclusively for religious worship, for schools, or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

SEC. 6. All laws exempting from taxation property other than that hereinbefore mentioned, shall be void.

SEC. 7. The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may, by law, vest in the corporate authorities thereof respectively the power to assess and collect taxes for all purposes of such corporation.

SEC. 8. No county, city, town or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes.

SEC. 9. The power to tax corporations and corporate property, real and personal, shall never be relinquished or suspended.

SEC. 10. All corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

SEC. 11. The rate of taxation on property, for State purposes, shall never exceed six mills on each dollar of valuation; and whenever the taxable property within the State shall amount to one hundred million dollars, the rate shall not exceed four mills on each dollar of valuation; and whenever the taxable property within the State shall amount to three hundred million dollars, the rate shall never thereafter exceed two mills on each dollar of valuation, unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as in the year next preceding such election, shall have paid a property tax assessed to them within the State, and a majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

SEC. 12. The Treasurer shall keep a separate account of each fund in his hands; and shall, at the end of each quarter of the fiscal year, report to the Governor in writing, under oath, the amount of

all moneys in his hands to the credit of every such fund, and the place where the same are kept or deposited, and the number and amount of every warrant received, and the number and amount of every warrant paid therefrom during the quarter. Swearing falsely to any such report shall be deemed perjury. The Governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the General Assembly may require. The General Assembly may provide by law further regulations for the safe-keeping and management of the public funds in the hands of the Treasurer, but, notwithstanding any such regulation, the Treasurer and his sureties shall in all cases be held responsible therefor.

SEC. 13. The making of profit, directly or indirectly, out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 14. Private property shall not be taken or sold for the payment of the corporate debt of municipal corporations.

SEC. 15. There shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State, and Attorney General; also, in each county of this State, a County Board of Equalization, consisting of the Board of County Commissioners of said county. The duty of the State Board of Equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the State. The duty of the County Board of Equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each Board shall also perform such other duties as may be prescribed by law.

SEC. 16. No appropriation shall be made, nor any expenditure authorized by the General Assembly, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the General Assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the State, or assist in defending the United States in time of war.

## ARTICLE XI.

## PUBLIC INDEBTEDNESS.

SECTION 1. Neither the State, nor any county, city, town, township or school district, shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to, or in aid of, any person, company or corporation, public or private, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the State.

SEC. 2. Neither the State nor any county, city, town, township or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in, any corporation or company, or a joint owner with any person, company or corporation, public or private, in or out of the State, except as to such ownership as may accrue to the State by escheat, or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the State, or to any county, city, town, township or school district, or to either or any of them, jointly with any person, company or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fines, penalties or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

SEC. 3. The State shall not contract any debt by loan, in any form, except to provide for casual deficiencies of revenue, erect public buildings for use of the State, suppress insurrection, defend the State, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of the revenue shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the State, and the aggregate amount of such debt shall not at any time exceed three-fourths of a mill on each dollar of said valuation until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars, and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation, and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars (except as provided in section 5 of this article), and in all cases the valuation in this section mentioned shall be that of the assessment last preceding the creation of said debt.

SEC. 4. In no case shall any debt above mentioned in this article be created except by a law which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purposes to which the funds so raised shall be applied, and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of, such debt, within the time limited by such law for the payment thereof, which in the case of debts contracted for the erection of public buildings and supplying deficiencies of revenue, shall not be less than ten nor more than fifteen years, and the funds arising from the collection of any such tax shall not be applied to any other purpose than that provided in the law levying the same; and when the debt thereby created shall be paid or discharged, such tax shall cease, and the balance, if any, to the credit of the fund, shall immediately be placed to the credit of the general fund of the State.

SEC. 5. A debt for the purpose of erecting public buildings may be created by law, as provided for in section 4 of this article, not exceeding in the aggregate three mills on each dollar of said valuation; *provided*, that before going into effect, such law shall be ratified by the vote of a majority of such qualified electors of the State as shall vote thereon at a general election, under such regulations as the General Assembly may prescribe.

SEC. 6. No county shall contract any debt by loan in any form, except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges; and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county, following, to-wit: Counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof. Counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof. And the aggregate amount of indebtedness of any county for all purposes, exclusive of debts contracted before the adoption of this Constitution, shall not at any time exceed twice the amount above herein limited, unless when in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt, but the bonds, if any be issued therefor, shall not run less than ten years, and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned; *provided*, that this section shall not apply to counties having a valuation of less than one million of dollars.

SEC. 7. No debt by loan in any form shall be contracted by any

school district for the purpose of erecting and furnishing school buildings, or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the districts as shall have paid a school tax therein, in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

SEC. 8. No city or town shall contract any debt by loan in any form, except by means of an ordinance, which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged; specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax, not exceeding twelve mills on each dollar of valuation of taxable property within such city or town, sufficient to pay the annual interest, and extinguish the principal of such debt within fifteen, but not less than ten years from the creation thereof; and such tax when collected shall be applied only to the purposes in such ordinance specified, until the indebtedness shall be paid or discharged. But no such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen or officers of such city or town, be submitted to a vote of such qualified electors thereof as shall, in the year next preceding, have paid a property tax therein, and a majority of those voting on the question, by ballot deposited in a separate ballot-box, shall vote in favor of creating such debt; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not at any time exceed three per cent. of the valuation last aforesaid. Debts contracted for supplying water to such city or town are excepted from the operation of this section. The valuation in this section mentioned shall be in all cases that of the assessment next preceding the last assessment before the adoption of such ordinance.

SEC. 9. Nothing contained in this article shall be so construed as to either impair or add to the obligation of any debt heretofore contracted by any county, city, town or school district, in accordance with the laws of Colorado Territory, or prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose which may have been, according to said laws, submitted to a vote of the qualified electors of any county, city, town or school district before the day on which this Constitution takes effect.

## ARTICLE XII.

### OFFICERS.

SECTION I. Every person holding any civil office under the State or any municipality therein, shall, unless removed according to

law, exercise the duties of such office until his successor is duly qualified; but this shall not apply to members of the General Assembly, nor to members of any board or assembly, two or more of whom are elected at the same time; the General Assembly may by law provide for suspending any officer in his functions, pending impeachment or prosecution for misconduct in office.

SEC. 2. No person shall hold any office or employment of trust or profit, under the laws of the State or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

SEC. 3. No person who is now or hereafter may become a collector or receiver of public money, or the deputy or assistant of such collector or receiver, and who shall have become a defaulter in his office, shall be eligible to or assume the duties of any office of trust or profit in this State, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all public money for which he may be accountable.

SEC. 4. No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this State.

SEC. 5. The District Court of each county shall, at each term thereof, specially give in charge to the grand jury, if there be one, the laws regulating the accountability of the County Treasurer, and shall appoint a committee of such grand jury, or of other reputable persons, not exceeding five, to investigate the official accounts and affairs of the Treasurer of such county, and report to the court the condition thereof. The Judge of the District Court may appoint a like committee in vacation at any time, but not oftener than once in every three months. The District Court of the county wherein the seat of government may be, shall have the like power to appoint committees to investigate the official accounts and affairs of the State Treasurer and the Auditor of State.

SEC. 6. Any civil officer or member of the General Assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof, for his vote, official influence or action, or for withholding the same, or with an understanding that his official influence or action shall be in any way influenced thereby, or who shall solicit or demand any such money or advantage, matter or thing aforesaid for another, as the consideration of his vote, official influence or action, or for withholding the same, or shall give or withhold his vote, official influence or action, in consideration of the payment or promise of such money, advantage, matter

or thing to another, shall be held guilty of bribery, or solicitation of bribery, as the case may be, within the meaning of this Constitution, and shall incur the disabilities provided thereby for such offense, and such additional punishment as is or shall be prescribed by law.

SEC. 7. Every member of the General Assembly shall, before he enters upon his official duties, take an oath or affirmation to support the Constitution of the United States and of the State of Colorado, and to faithfully perform the duties of his office according to the best of his ability. This oath, or affirmation, shall be administered in the hall of the House to which the member shall have been elected.

SEC. 8. Every civil officer, except members of the General Assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the Constitution of the United States and of the State of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

SEC. 9. Officers of the Executive Department and Judges of the Supreme and Districts Courts, and District Attorneys, shall file their oaths of office with the Secretary of State; every other officer shall file his oath of office with the County Clerk of the county wherein he shall have been elected.

SEC. 10. If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

SEC. 11. The term of office of any officer elected to fill a vacancy, shall terminate at the expiration of the term during which the vacancy occurred.

SEC. 12. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in the State.

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## ARTICLE XIII.

### IMPEACHMENTS.

SECTION 1. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. When the Governor or Lieutenant

Governor is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without a concurrence of two-thirds of the Senators elected.

SEC. 2. The Governor and other State and Judicial Officers, except County Judges and Justices of the Peace, shall be liable to impeachment for high crimes or misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

SEC. 3. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

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## ARTICLE XIV.

### COUNTIES.

SECTION 1. The several counties of the Territory of Colorado, as they now exist, are hereby declared to be counties of the State.

SEC. 2. The General Assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law, and no county seat shall be removed unless a majority of the qualified electors of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition who shall not have resided in the county six months and in the election precinct ninety days next preceding such election.

SEC. 3. No part of the territory of any county shall be stricken off and added to an adjoining county, without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.

SEC. 4. In all cases of the establishment of any new county, the new county shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which such new county shall be formed.

SEC. 5. When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken.

## CONSTITUTION OF THE

## COUNTY OFFICERS.

SEC. 6. In each county there shall be elected for the term of three years, three County Commissioners, who shall hold sessions for the transaction of county business as provided by law; any two of whom shall constitute a quorum for the transaction of business. One of said commissioners shall be elected on the first Tuesday of October, eighteen hundred and seventy-six, and every year thereafter one such officer shall be elected in each county, at the general election, for the term of three years; *provided*, that when the population of any county shall exceed ten thousand, the Board of County Commissioners may consist of five members, who shall be elected as provided by law, any three of whom shall constitute a quorum for the transaction of business.

SEC. 7. The compensation of all county and precinct officers shall be as provided by law.

SEC. 8. There shall be elected in each county, on the first Tuesday of October, in the year one thousand eight hundred and seventy-seven, and every alternate year forever thereafter, one County Clerk, who shall be *ex officio* Recorder of Deeds and Clerk of the Board of County Commissioners; one Sheriff; one Coroner; one Treasurer, who shall be collector of taxes; one County Superintendent of Schools; one County Surveyor, and one County Assessor.

SEC. 9. In case of a vacancy occurring in the office of County Commissioner, the Governor shall fill the same by appointment; and in the case of a vacancy in any other county office, or in any precinct office, the Board of County Commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

SEC. 10. No person shall be eligible to any county office unless he be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

SEC. 11. There shall, at the first election at which county officers are chosen, and annually thereafter, be elected in each precinct one justice of the peace and one constable, who shall each hold his office for the term of two years; *provided*, that in precincts containing five thousand or more inhabitants, the number of justices and constables may be increased as provided by law.

SEC. 12. The General Assembly shall provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require; and their terms of office shall be as prescribed by law, not in any case to exceed two years.

SEC. 13. The General Assembly shall provide, by general laws,

for the organization and classification of cities and towns. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers, and be subject to the same restrictions.

SEC. 14. The General Assembly shall also make provision, by general law, whereby any city, town or village, incorporated by any special or local law, may elect to become subject to and be governed by the general law relating to such corporations.

SEC. 15. For the purpose of providing for and regulating the compensation of county and precinct officers, the General Assembly shall, by law, classify the several counties of the State according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein, for services to be performed by them respectively; and where salaries are provided, the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites and emoluments, above the amount of such salaries, shall be paid into the county treasury.

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## ARTICLE 'XV.

### CORPORATIONS.

SECTION 1. All existing charters or grants of special or exclusive privileges, under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the State; but the General Assembly shall provide by general laws for the organization of corporations hereafter to be created.

SEC. 3. The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators.

SEC. 4. All railroads shall be public highways, and all railroad

companies shall be common carriers. Any association or corporation organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this State, and to connect at the State line with railroads of other States and Territories. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad.

SEC. 5. No railroad corporation, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation owning or having under its control a parallel or competing line.

SEC. 6. All individuals, associations and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within the State, and no railroad company, nor any lessee, manager or employé thereof, shall give any preference to individuals, associations or corporations in furnishing cars or motive power.

SEC. 7. No railroad or other transportation company in existence at the time of the adoption of this Constitution, shall have the benefit of any future legislation without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution in binding form.

SEC. 8. The right of eminent domain shall never be abridged, nor so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the police powers of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

SEC. 9. No corporation shall issue stocks or bonds, except for labor done, services performed, or money or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock, first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 10. No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served.

SEC. 11. No street railroad shall be constructed within any city, town, or incorporated village, without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

SEC. 12. The General Assembly shall pass no law for the benefit of a railroad or other corporation, or any individual, or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State, a new liability in respect to transactions or considerations already past.

SEC. 13. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph company owning or having the control of, a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 14. If any railroad, telegraph, express or other corporation organized under any of the laws of this State, shall consolidate, by sale or otherwise, with any railroad, telegraph, express, or other corporation organized under any laws of any other State or Territory, or of the United States, the same shall not thereby become a foreign corporation, but the courts of this State shall retain jurisdiction over that part of the corporate property within the limits of the State in all matters which may arise, as if said consolidation had not taken place.

SEC. 15. It shall be unlawful for any person, company or corporation to require of its servants or employes, as a condition of their employment or otherwise, any contract or agreement whereby such person, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof, and such contracts shall be absolutely null and void.

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## ARTICLE XVI.

### MINING AND IRRIGATION.

#### MINING.

SECTION 1. There shall be established and maintained the office of Commissioner of Mines, the duties and salary of which shall be prescribed by law. When said office shall be established, the Governor shall, with the advice and consent of the Senate, appoint

thereto a person known to be competent, whose term of office shall be four years.

SEC. 2. The General Assembly shall provide by law for the proper ventilation of mines, the construction of escapement shafts, and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein; and shall prohibit the employment in the mines of children under twelve years of age.

SEC. 3. The General Assembly may make such regulations, from time to time, as may be necessary for the proper and equitable drainage of mines.

SEC. 4. The General Assembly may provide that the science of mining and metallurgy be taught in one or more of the institutions of learning under the patronage of the State.

#### IRRIGATION.

SEC. 5. The water of every natural stream, not heretofore appropriated, within the State of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

SEC. 6. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes.

SEC. 7. All persons and corporations shall have the right of way across public, private and corporate lands for the construction of ditches, canals and flumes, for the purpose of conveying water for domestic purposes for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

SEC. 8. The General Assembly shall provide by law that the Board of County Commissioners, in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

## ARTICLE XVII.

## MILITIA.

SECTION 1. The militia of the State shall consist of all able-bodied male residents of the State, between the ages of eighteen and forty-five years; except such persons as may be exempted by the laws of the United States, or of the State.

SEC. 2. The organization, equipment and discipline of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 3. The Governor shall appoint all general, field and staff officers, and commission them. Each company shall elect its own officers, who shall be commissioned by the Governor; but if any company shall fail to elect such officers within the time prescribed by law, they may be appointed by the Governor.

SEC. 4. The General Assembly shall provide for the safe-keeping of the public arms, military records, relics and banners of the State.

SEC. 5. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace; *provided*, such person shall pay an equivalent for such exemption.

## ARTICLE XVIII.

## MISCELLANEOUS.

SECTION 1. The General Assembly shall pass liberal homestead and exemption laws.

SEC. 2. The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

SEC. 3. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by mutual agreement of the parties to any controversy, who may choose that mode of adjustment. The powers and duties of such arbitrators shall be as prescribed by law.

SEC. 4. The term felony, wherever it may occur in this Constitution, or the laws of the State, shall be construed to mean any criminal offense punishable by death or imprisonment in the penitentiary, and none other.

SEC. 5. The General Assembly shall prohibit by law the impor-

tation into this State, for the purpose of sale, of any spurious, poisonous or drugged spirituous liquors, or spirituous liquors adulterated with any poisonous or deleterious substance, mixture or compound; and shall prohibit the compounding or manufacture within this State, except for chemical or mechanical purposes, of any of said liquors, whether they be denominated spirituous, vinous malt or otherwise; and shall also prohibit the sale of any such liquors to be used as a beverage, and any violation of either of said prohibitions shall be punished by fine and imprisonment. The General Assembly shall provide by law for the condemnation and destruction of all spurious, poisonous or drugged liquors herein prohibited.

SEC. 6. The General Assembly shall enact laws in order to prevent the destruction of, and to keep in good preservation the forests upon the lands of the State, or upon lands of the public domain, the control of which shall be conferred by Congress upon the State.

SEC. 7. The General Assembly may provide that the increase in the value of private lands, caused by the planting of hedges, orchards and forests thereon, shall not, for a limited time, to be fixed by law, be taken into account in assessing such lands for taxation.

SEC. 8. The General Assembly shall provide for the publication of the laws passed at each session thereof; and, until the year 1900, they shall cause to be published in Spanish and German, a sufficient number of copies of said laws to supply that portion of the inhabitants of the State who speak those languages, and who may be unable to read and understand the English language.

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## ARTICLE XIX.

### FUTURE AMENDMENTS.

SECTION 1. The General Assembly may, at any time, by a vote of two-thirds of the members elected to each House, recommend to the electors of the State, to vote at the next general election, for or against a Convention to revise, alter and amend this Constitution; and if a majority of those voting on the question shall declare in favor of such Convention, the General Assembly shall, at its next session, provide for the calling thereof. The number of members of the Convention shall be twice that of the Senate, and they shall be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the act calling the Convention, designate the day, hour and place of its meeting; fix the pay of its members and officers, and provide for the payment of the

same, together with the necessary expenses of the Convention. Before proceeding the members shall take an oath to support the Constitution of the United States and of the State of Colorado, and to faithfully discharge their duties as members of the Convention. The qualifications of members shall be the same as of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said Convention shall meet within three months after such election, and prepare such revisions, alterations or amendments to the Constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the Convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

SEC. 2. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each House, such proposed amendments, together with the ayes and noes of each House thereon, shall be entered in full on their respective journals; and the Secretary of State shall cause the said amendment or amendments to be published in full in at least one newspaper in each county, (if such there be,) for three months previous to the next general election for members to the General Assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the State for their approval or rejection, and such as are approved by a majority of those voting thereon, shall become part of this Constitution; but the General Assembly shall have no power to propose amendments to more than one Article of this Constitution at the same session.

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## SCHEDULE.

That no inconvenience may arise by reason of the change in the form of government, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this Constitution shall, so far as not inconsistent therewith, remain of the same force as if this Constitution had not been adopted until they expire by their own limitation, or are altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the Territory of Colorado, counties, individuals or bodies corporate (not inconsistent therewith), shall continue as if the form of government had not been changed and this Constitution adopted.

SEC. 2. That all recognizances, obligations and all other instruments entered into or executed before the admission of the State, to the Territory of Colorado, or to any county, school district, or other municipality therein, or any officer thereof, and all fines, taxes, penalties and forfeitures due or owing to the Territory of Colorado, or any such county, school district or municipality, or officer, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the change of the form of government. All indictments which shall have been found, or may hereafter be found, and all informations which shall have been filed, or may hereafter be filed, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in the Constitution.

SEC. 3. That all property, real and personal, and all moneys, credits, claims and choses in action, belonging to the Territory of Colorado, at the adoption of this Constitution, shall be vested in and become the property of the State of Colorado.

SEC. 4. The General Assembly shall pass all necessary laws to carry into effect the provisions of the Constitution.

SEC. 5. Whenever any two of the Judges of the Supreme Court of the State, elected or appointed under the provisions of this Constitution, shall have qualified in their office, the causes theretofore pending in the Supreme Court of the Territory, and the papers, records and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the Supreme Court of the State; and, until so superceded, the Supreme Court of the Territory, and the Judges thereof, shall continue with like powers and jurisdiction as if this Constitution had not been adopted. Whenever the Judge of the District Court of any district, elected or appointed under the provisions of this Constitution, shall have qualified in his office, the several causes theretofore pending in the District Court of the Territory, within any county in such district, and the records, papers and proceedings of said District Court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the District Court of the State for such county, and until the district courts of the Territory shall be superceded in manner aforesaid, the said district courts and the Judges thereof shall continue with the same jurisdiction and powers to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 6. The terms of office of the several Judges of the Supreme and District Courts and the District Attorneys of the several judicial districts first elected under this Constitution, shall commence from the day of filing their respective oaths of office in the office of the Secretary of State.

SEC. 7. Until otherwise provided by law, the seals now in use in the Supreme and District Courts of this Territory are hereby declared to be the seals of the Supreme and District Courts respectively of the State.

SEC. 8. Whenever this Constitution shall go into effect, the books, records, papers and proceedings of the Probate Court in each county, and all causes and matters of administration pending therein, shall pass into the jurisdiction and possession of the County Court of the same county, and the said County Court shall proceed to final decree or judgment, order or other determination, in the said several matters and causes as the said Probate Court might have done if this Constitution had not been adopted. And until the election of the County Judges provided for in this Constitution, the Probate Judges shall act as Judges of the County Courts within their respective counties, and the seal of the Probate Court in each county shall be the seal of the County Court therein until the said court shall have procured a proper seal.

SEC. 9. The terms "Probate Court" or "Probate Judge," whenever occurring in the statutes of Colorado Territory, shall, after the adoption of this Constitution, be held to apply to the County Court or County Judge; and all laws specially applicable to the Probate Court in any county, shall be construed to apply to and be in force as to the County Court in the same county, until repealed.

SEC. 10. All county and precinct officers who may be in office at the time of the adoption of this Constitution, shall hold their respective offices for the full time for which they may have been elected, and until such time as their successors may be elected and qualified, in accordance with the provisions of this Constitution, and the official bonds of all such officers shall continue in full force and effect as though this Constitution had not been adopted.

SEC. 11. All county offices that may become vacant during the year one thousand eight hundred and seventy-six, by the expiration of the term of the persons elected to said offices, shall be filled at the general election on the first Tuesday in October, in the year one thousand eight hundred and seventy-six, and except County Commissioners, the persons so elected shall hold their respective offices for the term of one year.

SEC. 12. The provisions of this Constitution shall be in force from the day on which the President of the United States shall issue his proclamation declaring the State of Colorado admitted into the Union; and the Governor, Secretary, Treasurer, Auditor and Superintendent of Public Instruction of the Territory of Colorado shall continue to discharge the duties of their respective offices after the admission of the State into the Union, until the qualification of the officers elected or appointed under the State government; and said officers, for the time they may serve, shall

receive the same compensation as the State officers shall by law be paid for like services.

SEC. 13. In case of a contest of election between candidates, at the first general election under this Constitution, for Judges of the Supreme, District or County Courts, or District Attorneys, the evidence shall be taken in the manner prescribed by Territorial law; and the testimony so taken shall be certified to the Secretary of State, and said officer, together with the Governor and Attorney General, shall review the testimony and determine who is entitled to the certificate of election.

SEC. 14. The votes at the first general election under this Constitution for the several offices provided for in this Constitution who are to be elected at the first election, shall be canvassed in the manner prescribed by the Territorial law for canvassing votes for like officers. The votes cast for the Judges of the Supreme and District Courts and District Attorneys shall be canvassed by the county canvassing board in the manner prescribed by the Territorial law for canvassing the votes for members of the General Assembly; and the County Clerk shall transmit the abstract of votes to the Secretary of the Territory, acting as Secretary of State, under the same regulations as are prescribed by law for sending the abstracts of votes for Territorial officers; and the aforesaid acting Secretary of State, Auditor, Treasurer, or any two of them, in the presence of the Governor, shall proceed to canvass the votes, under the regulations of sections thirty-five and thirty-six of chapter twenty-eight of the Revised Statutes of Colorado Territory.

SEC. 15. Senators and members of the House of Representatives shall be chosen by the qualified electors of the several senatorial and representative districts as established in this Constitution, until such districts shall be changed by law, and thereafter by the qualified electors of the several districts as the same shall be established by law.

SEC. 16. The votes cast for Representatives in Congress at the first election held under this Constitution, shall be canvassed and the result determined in the manner provided by the laws of the Territory for the canvass of votes for Delegate in Congress.

SEC. 17. The provision of the Constitution that no bill, except the general appropriation bill, introduced in either House after the first twenty-five days of the session shall become a law, shall not apply to the first session of the General Assembly; but no bill, introduced in either House at the first session of the General Assembly after the first fifty days thereof, shall become a law.

SEC. 18. A copy of the abstracts of the votes cast at the first general election held under this Constitution, shall, by the County Clerks of the several counties, be returned to the Secretary of the

Territory immediately after the canvass of said votes in their several counties; and the Secretary, Auditor, and Treasurer of the Territory, or any two of them, shall, on the twenty-fifth day after the election, meet at the seat of government and proceed to canvass the votes cast for members of the General Assembly, and determine the result thereof.

SEC. 19. The General Assembly shall, at their first session, immediately after the organization of the two Houses, and after the canvass of the votes for the officers of the Executive Department, and before proceeding to other business, provide, by act or joint resolution, for the appointment by said General Assembly, of electors in the electoral college; and such joint resolution, or the bill for such enactment, may be passed without being printed or referred to any committee, or read on more than one day in either House, and shall take effect immediately after the concurrence of the two Houses therein, and the approval of the Governor thereto shall not be necessary.

SEC. 20. The General Assembly shall provide that after the year one thousand eight hundred and seventy-six, the electors of the electoral college shall be chosen by direct vote of the people.

SEC. 21. The General Assembly shall have power, at their first session, to provide for the payment of the expenses of this Convention if any there be then remaining unpaid.

SEC. 22. All recognizances, bail bonds, official bonds, and other obligations or undertakings which have been, or at any time before the admission of the State, shall be made or entered into and expressed to be payable to the people of the Territory of Colorado, shall continue in full force, notwithstanding the change in the form of government; and any breach thereof, whenever occurring, may, after the admission of the State, be prosecuted in the name of the people of the State.

*Done in Convention*, at the City of Denver, Colorado, this fourteenth day of March, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundredth.

*In Witness Whereof*, We have hereunto subscribed our names.

J. C. WILSON, *President*.

H. P. H. BROMWELL,	WM. R. KENNEDY,
CASIMIRA BARELA,	WM. L. LEE,
GEORGE BOYLES,	ALVIN MARSH,
W. E. BECK,	WM. H. MEYER,
BYRON L. CARR,	S. J. PLUMB,
WM. H. CUSHMAN,	GEO. E. PEASE,
W. M. CLARK,	ROBERT A. QUILLIAN,
A. D. COOPER,	LEWIS C. ROCKWELL,

## CONSTITUTION.

H. R. CROSBY,  
ROBERT DOUGLAS,  
L. C. ELLSWORTH,  
C. P. ELDER,  
F. J. EBERT,  
W. B. FELTON,  
J. M. GARCIA,  
DANIEL HURD,  
JOHN S. HOUGH,  
LAFAYETTE HEAD,  
Wm. H. JAMES,

WILBUR F. STONE,  
W. C. STOVER,  
H. C. THATCHER,  
AGAPETA VIGIL,  
W. W. WEBSTER,  
G. G. WHITE,  
E. T. WELLS,  
P. P. WILCOX,  
J. S. WHEELER,  
J. W. WIDDERFIELD,  
A. K. YOUNT.

## ATTEST :

W. W. COULSON, *Secretary.*  
HERBERT STANLEY, *1st Assistant Secretary.*  
H. A. TERPENNING, *2d Assistant Secretary.*

## ORDINANCES.

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In conformity with the requirements of an Act of the Congress of the United States, entitled "An Act to enable the people of Colorado to form a Constitution and State Government, and for the admission of said State into the Union on an equal footing with the original States," approved March 3, A. D. 1875, on behalf and by the authority of the people of the Territory of Colorado, this Convention assembled in pursuance of said Enabling Act, at the city of Denver, the capital of said Territory, on the twentieth day of December, A. D. 1875, does ordain and declare:

*First*—That an election shall be held throughout the Territory of Colorado, on the first day of July, in the year one thousand eight hundred and seventy-six, for ratification or rejection of the Constitution framed and adopted by the Convention.

*Second*—At said election the Constitution framed and adopted by this Convention, shall be submitted to the people of the Territory for their ratification or rejection, and all persons who are then qualified electors under the laws of the Territory, shall be qualified to vote upon the ratification or rejection thereof.

*Third*—Said election shall be held at the several places in the several wards and precincts throughout the Territory, appointed for the holding of elections under the laws of the Territory, and shall be conducted in the manner prescribed by the laws of said Territory regulating elections. The judges of elections, appointed under the laws of the Territory, in each of said wards and precincts, shall act as the judges of said election, and vacancies in the board of judges of any ward or precinct shall be filled, and clerks of election shall be appointed, in the manner prescribed by said laws; *provided*, that no law requiring a registration of voters shall apply to said election, and any qualified elector may at said election vote at any ward or precinct in the Territory. Whenever any person shall present himself to vote at said election, and either of the judges shall suspect that such person is not a qualified elector of the Territory, or if his vote shall be challenged by any elector who has previously voted at the said election, then before the ballot of such person shall be received, he shall take and subscribe the following oath or affirmation: "You do solemnly swear (or affirm) that you are a resident of \_\_\_\_\_ county, in the Territory of

Colorado; that you have resided in this Territory six months immediately preceding this election; that you have to the best of your knowledge and belief attained the age of twenty-one years, and have not voted at this election."

*Fourth*—Each elector voting at said election shall deposit in the ballot-box a ticket, whereon shall be printed or written the words "For the Constitution," or the words, "Against the Constitution," or other equivalent words.

*Fifth*—The acting Governor of the Territory shall, within thirty days after the adjournment of this Convention, issue his proclamation for said election, to be held in conformity with the provisions of this ordinance; and the Secretary of the Territory shall, on or before the fifteenth day of May, A. D. 1876, make out and transmit to the Sheriff of each county a notice in writing of said election together with a copy of this ordinance.

*Sixth*—The votes cast at said election for the adoption or rejection of the Constitution, shall be canvassed in the manner prescribed by the laws of the Territory of Colorado for canvassing the votes at general elections; and the returns of said election shall be made to the acting Governor of the Territory, who, with the Chief Justice and the United States Attorney of said Territory, or any two of them, shall canvass the same, and if a majority of the legal votes cast shall be for the Constitution, the acting Governor shall certify the same to the President of the United States, together with a copy of said Constitution and the Ordinances adopted by this Convention.

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In conformity with the requirements of an Act of the Congress of the United States, entitled "An Act to enable the People of Colorado to form a Constitution and State Government, and for the admission of said State into the Union on an equal footing with the original States," approved March 3d, A. D. 1875, on behalf and by the authority of the People of the Territory of Colorado, this Convention, assembled in pursuance of said Enabling Act, at the city of Denver, the capital of said Territory, on the twentieth day of December, A. D. 1875, does ordain and declare:

*First*—That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property, on account of his or her mode of religious worship.

*Second*—That the people inhabiting the Territory of Colorado, by their representatives in said Convention assembled, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the

same shall be and remain at the sole and entire disposal of the United States; that the lands belonging to citizens of the United States residing without said State, shall never be taxed higher than the lands belonging to residents thereof; and that no taxes shall be imposed by the State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

*Third*—That this Ordinance shall be irrevocable without the consent of the United States and the people of the State of Colorado.

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BE IT REMEMBERED, That in the Convention of the Representatives of the People of the Territory of Colorado, chosen in pursuance of the Act of Congress of the United States, entitled, "An Act to enable the People of Colorado to form a Constitution and State Government, and for the admission of the said State into the Union on an equal footing with the original States," approved March 3d, A. D. 1875, and assembled at the seat of government of said Territory, in pursuance of said Act, on the twentieth day of December, A. D. 1875, after the organization of said Convention, and before proceeding to other business, it was, on the 22d day of December, A. D. 1875,

*Resolved*, That in pursuance of the Enabling Act, and in behalf of the People of Colorado, we, in convention assembled, do adopt the Constitution of the United States.

ADDRESS  
TO THE  
PEOPLE OF COLORADO.

Your representatives, in convention assembled, under the provisions of an act of Congress, approved March 3, A. D. 1875, for the purpose of framing a Constitution for the State of Colorado, have completed the work, and herewith submit the result of their labors for your adoption or rejection. The task was an arduous one, requiring a session of eighty-six days, during which time the Convention labored assiduously to frame a fundamental law, wise and wholesome in itself, and which would be adapted to the general wants of the people.

In a work of such magnitude, where the interests are so varied and extensive, it is to be expected that errors would creep in, and omissions pass unnoticed, but, upon the whole, we believe it contains not only all of the primitive rights guaranteed in our National Constitution, but most of those reformatory measures which the experience of the past century have proven to be wise and judicious.

The end sought to be accomplished was to secure a just and economical administration of the Departments of State, and, with this purpose in view, especial effort was made to restrict the powers of the Legislative Department, by making all laws general and of uniform operation; to establish uniformity in the Judicial Department—thereby furthering the ends of justice; to prevent the corruption of public officials; to provide for the safe keeping of all public funds, and to protect the people from unjust monopolies, and the oppression consequent upon the voting of bonds and other kinds of indebtedness to corporations.

But, believing that your interest in the instrument now submitted for your consideration, will lead you to give it personal examination, and that you may be able to form a clear and correct opinion regarding its merits, your careful attention is invited to some of the prominent features of the different articles, which we think must meet your approval.

BILL OF RIGHTS.

In this article the usual guarantees of national and civil rights

have been retained, and to the end that more power should be reserved to the people, it is further declared that the General Assembly shall make no irrevocable grants of special privileges or immunities; that private property shall not be taken or damaged for public or private use without just compensation previously made to the owner thereof, or paid into court for his use; that no preference shall be given by law to religious denominations; that right and justice shall be administered without sale, denial or delay; that aliens, who are *bona fide* residents of the State, shall acquire, inherit, possess and enjoy property to the full extent as if native-born citizens. The Grand Jury system has been so modified as to make a grand jury consist of twelve men instead of twenty-three—any nine of whom concurring may find a bill, and the question whether it may not be abolished altogether is left to the legislature. The Petit Jury system has been so modified as to permit the organization of a jury of less than twelve men in civil cases, thereby materially reducing the expenses of our courts. The right of trial by jury in all criminal cases has been preserved, and for the purpose of protecting witnesses in criminal prosecutions, and that the accused may always meet the witnesses against him face to face, we have provided for the taking of depositions before some Judge of the Supreme, District or County Court, which can be used upon trial of the cause when the personal attendance of the witness cannot be obtained.

#### EXECUTIVE DEPARTMENT.

The term of office of the Governor and other State officers, is fixed at two years, thereby giving the people frequent opportunities to correct the administration of affairs in this department.

It is made the duty of all the State officers to keep an account of all moneys received or disbursed by them, while the Treasurer is required to furnish the Governor a quarterly statement under oath, of all moneys in his hands and the place where kept or deposited, which statement is to be published for the information of the people. The Governor is required to transmit these statements to the General Assembly when called for, thus enabling the representatives of the people to expose, or by suitable laws prevent extravagance and frauds; and that the people may always have a proper understanding of the financial condition of the State; the Governor, upon the meeting of the General Assembly, is required to furnish to that body a full and correct statement of the expenses of the State, as well as an estimate of the revenue derived from all sources.

The Governor is given the power to remove all officers by him appointed, for misconduct or malfeasance in office; he is also empowered to grant pardons, subject, however, to such regulations

for the application of the same as may be provided by law, and in all cases when a pardon is granted, he is required to send the reason for granting the same to the General Assembly.

As an additional check upon ill-advised legislation, a majority of two-thirds of all the members of each House is required to pass a bill over the veto of the Governor.

The office of Lieutenant Governor is created, thereby giving the State the benefit of an officer elected by the people to fill any vacancy that might occur in the office of Governor; he is also made the presiding officer in the State Senate, and has the majority vote in that body in case of a tie.

All the State officers are paid by salaries for their services, and are required to pay into the treasury all fees by them collected in their respective offices.

#### LEGISLATIVE DEPARTMENT.

The General Assembly is required to meet once in two years, and is limited to a session of forty days, after the first Legislature under the State. The term of office of the Senators is fixed at four years; that of the Representatives at two. For the first session the compensation of the members of the General Assembly is fixed at four dollars per day, and thereafter as may be provided by law. No member of the General Assembly shall, during his term of office, receive any increase of salary, or mileage, above that allowed at the time of his election.

The evils of local and special legislation being enormous, the passage of any law not general in its provisions is prohibited—thus saving the State from expenses usually incurred in passing and publishing laws secured by combinations to advance private interests, and to create dangerous monopolies.

To afford protection from hasty legislation, it is required that all bills shall be printed; that only one subject shall be embraced in each bill, which shall be clearly expressed in its title; that it shall be read on three different days in each House before being passed, and that no bill shall be introduced, except for the general expenses of the government, after the first twenty-five days of the session.

We invite your special attention to section twenty-five of the article on legislation, wherein are enumerated the many cases in which the General Assembly is prohibited from passing any local or special laws.

To provide against extravagance we have prohibited the passing of any law giving extra compensation to any public officer, servant, agent or employé, after services rendered, without previous authority of law; nor is any officer of the State to be in any way interested in any contracts or awards by which the legislative and

other departments of government are furnished with stationery, printing, paper and fuel.

It is further provided that no appropriation shall be made to any denominational, sectarian or any other institution not under the absolute control of the State.

Attention is also directed to sections twenty-seven and twenty-eight, providing against the corruptions heretofore complained of in legislative bodies, and prescribing punishments therefor.

#### JUDICIARY.

Radical changes have been made in the judicial system, to meet the imperative demands of our rapidly increasing population. As at present constituted our courts are wholly inadequate to the transaction of the business brought before them. The consequence is, causes accumulate on the dockets, and are continued from term to term, both in the District Courts and in the Supreme Court, causing expensive and ruinous delays to parties litigant, and when reached for disposal sufficient time and attention cannot be devoted to their consideration to render the same satisfactory to either courts or litigants. To correct these evils an additional judicial district is provided, with an additional district judge, making four instead of three judicial districts. This will enable the District Courts to dispose of business with proper consideration and dispatch for several years, and the General Assembly is permitted to increase the number of judicial districts and the number of judges after the year 1880.

The district courts are invested with original jurisdiction to hear and determine all controversies in behalf of the people, concerning the rights, duties and liabilities of railroad, telegraph and toll road companies or corporations. A Supreme Court, composed of different Judges from those of the District Courts, is created. This court will have three Judges, and as constituted will obviate the objections long entertained and frequently expressed against our present system, by which the same Judge who presides over the trial of a cause in the District Court, sits in review of his own decision in the Supreme Court. The Supreme Court will now be better enabled to fully and impartially investigate and properly decide all causes brought before it, and to write out carefully prepared and creditable opinions in all causes heard and determined by it.

Experience having shown frequent changes of the judiciary to be unwise and detrimental to the public interest, long terms are prescribed for the Judges of these courts. The Judges of the District Courts will be elected for six, and those of the Supreme Court for nine years.

Instead of Probate Courts, County Courts are created for every

county, with probate jurisdiction, and such civil and criminal jurisdiction as may be prescribed by law, their civil jurisdiction being limited to controversies in which the amount involved does not exceed the sum of two thousand dollars. The Judges of these courts will be elected for three years.

The General Assembly is empowered to create Criminal Courts for counties having a population exceeding fifteen thousand, and Police Magistrates for cities and towns.

Justices of the Peace have jurisdiction to the amount of three hundred dollars.

Provision is made for the settlement of differences by arbitration for those who prefer that summary mode of adjustment to the more tedious and expensive litigation in other courts.

All laws relating to courts are required to be of uniform operation throughout the State, and the organization, jurisdiction, powers, proceedings and practice of all the courts of the same class or grade, and the force and effect of their proceedings are required to be uniform. All judicial officers will be elected by the people, and after the first election they may be elected on a different day from that on which an election is held for any other purpose, thus taking judicial elections out of the arena of party politics.

#### EDUCATION.

By the provisions in this article the general supervision of the public schools is vested in a Board of Education.

The maintenance of free public schools, and the gratuitous instruction therein for all children between the ages of six and twenty-one years, is forever guaranteed.

It is declared that the public school fund shall forever remain inviolate and intact; that neither the State, nor any county, city, town or school district shall ever make any appropriation, nor pay from any public fund anything in aid of, or to help support, any school or institution of learning of any kind controlled by any church or sectarian denomination whatsoever; that no religious test shall ever be required as a condition for admission into any of the public schools, either as pupil or teacher; that no religious or sectarian dogmas shall ever be taught in any of the schools under the patronage of the State.

The General Assembly is required to pass suitable laws to husband, to the fullest extent, the several grants of land donated by the general government to this State for school purposes. It is provided that the several institutions of learning and charity now fostered by the Territory shall be perpetuated and cared for by the State.

#### LEGISLATIVE APPORTIONMENT.

To guard against the undue influences to which small bodies

are exposed, and in order that every portion of our extensive State, with its numerous and diversified interests, may be fairly represented, the Senate is made to consist of twenty-six, and the House of Representatives of forty-nine, members—these members not to be increased until 1890.

A State census is provided to be taken in the year 1885, and every ten years thereafter, which, with the federal census of 1880, and decennially thereafter, will enable the General Assembly to revise and correct the apportionment, on the basis of population, every five years. By these revisions the portions of the State which most rapidly increase in population will receive additional representation.

In view of the provisions against special legislation, already adverted to, and other measures adopted to secure economy in legislation, it is estimated that the additional expense of a legislature composed of this number over a smaller body will not be great, and that the benefits to be derived from a larger representation will more than compensate the increased expenditure. By this apportionment, every county will have a member in the House of Representatives, without regard to population.

Such a provision in a State where many of its counties are larger than whole States further east, is a necessity, and must commend itself to general approval.

#### CORPORATIONS.

Probably no subject has come before the Convention causing more anxiety and concern than the troublesome and vexed question pertaining to corporations. The legislatures of other States have, in most cases, been found unequal to the task of preventing abuses and protecting the people from the grasping and monopolizing tendencies of railroads and other corporations. Experience has shown that positive restrictions on the powers of the legislature in relation to these matters are necessary.

To this end we have provided for the wiping out of all dormant and sham corporations claiming special and exclusive privileges. We have denied the General Assembly the power to create corporations, or to extend or enlarge their chartered rights by special legislation, or to make such rights and privileges irrevocable; but in case it shall be found that the exercise of such rights and privileges proves injurious to the people, then the General Assembly shall have power to alter, revoke or annul such charters, when that can be done without injustice to the corporators. We have declared that railroad corporations shall be liable as common carriers, and that to avail themselves of the benefits of future legislation, they must subject themselves to all the provisions and requirements of this Constitution. We have forbidden the consolidation

of parallel and competing lines, and of all unjust and unreasonable discriminations between individual in their business with such corporations. We have carefully guarded the right of eminent domain, requiring a just compensation to be paid in cash when private property is taken, and have required all foreign corporations, as a condition of their doing business here, to have one or more known places of business, and an agent or representative within the State, upon whom the process of our courts can be served at any and all times. We have also retained the jurisdiction of our courts in case of consolidation of a corporation within the State with any foreign corporation, over that part of the corporate property within the limits of this State. We are aware that these provisions do not cover the whole ground, but it must be remembered that while some of our sister States have not gone far enough in placing restrictions on the legislative power, others have gone too far, and have had to recede. We have endeavored to take a middle ground, believing it to be more safe, and in the end that it will give more general satisfaction.

#### REVENUE AND FINANCE.

In framing this article, much labor was bestowed with the view of securing sufficient revenue to defray the expenses of the State government, without imposing onerous taxation upon any class of property or industry of the State. A uniform system of taxation upon the same class of subjects has been established. Mines and mining claims have been exempted for a period of ten years, except the net proceeds and surface improvements thereof, and ditches, canals and flumes owned and used by individuals and corporations, for the purpose of irrigating their own lands are not to be separately taxed. The property of the State, counties, cities, towns and other municipalities, and public libraries, are exempted from taxation, and, unless otherwise provided by law, lots and buildings thereon situate, used exclusively for religious worship, for schools and strictly charitable purposes, and places of burial of the dead, are exempted.

For the purpose of defraying the expenses of the State a tax is provided for, not in any case to exceed six mills on the dollar, with restrictions that when the valuation of property within the State shall amount to one hundred million dollars, the rate shall not exceed four mills, and when the valuation shall amount to three hundred million dollars, the rate shall never thereafter exceed two mills on each dollar of valuation. Corporations and corporate property, real and personal, are required to share the burdens of taxation, and the power to tax the same is never to be relinquished or suspended. The State Treasurer is required to keep a separate account of each fund in his hands, to render quarterly

statements specifying the amount of each fund on hand, and where the same is deposited. Stringent provisions have been adopted to prevent the speculations in public moneys so generally engaged in by the custodians of these funds, which so often result in defalcations and loss to the people. A State Board of Equalization is created, consisting of the Governor, State Auditor, Treasurer and Secretary of State, whose duties are to equalize and adjust the valuation of real and personal property among the several counties, and the Board of County Commissioners in the respective counties are constituted County Boards of Equalization, whose duties are to equalize and adjust such valuations within their respective counties.

#### PUBLIC INDEBTEDNESS.

By the provisions of this article we have prohibited the Legislature from lending the credit of the State in aid of any corporation, either by loan or becoming a subscriber to any stock, or a joint owner with any party, except in case of forfeitures and escheats; also, from assuming any debt or liability of any party, and have also required appropriations to be kept within the limits of our resources, and that no appropriations be made unless assessments are also made sufficient to meet them, and at the same session of the Legislature.

The same principles are applied to counties, cities, towns and school districts, as far as applicable, with the additional safeguard that to increase the indebtedness in excess of the rates fixed in this Constitution a vote of the people must be had thereon. In limiting the amount of indebtedness which may be contracted by counties, we have endeavored to make a classification that would not cripple counties having small resources, and at the same time restricting those of larger resources to prevent extravagance.

#### SUFFRAGE AND ELECTIONS.

By this article we have given the right of suffrage to every male person over the age of twenty-one years, imposing such restrictions only as are required by the Constitution of the United States, and upon questions pertaining to schools in the several districts of the State no person is denied the right to vote on account of sex. The question of female suffrage having been strongly urged upon the Convention by petitions numerously signed and otherwise, and the Convention thinking it unwise to hazard the adoption of the Constitution upon the decision of this question, but recognizing the right of the people to express their will thereon, have required the General Assembly, at their first session, to submit the question to a direct vote of the people at the next general election thereafter. It is provided that an educational qualifi-

cation for electors may be prescribed after the year of our Lord one thousand eight hundred and ninety. For the purpose of preventing frauds and of protecting the purity of the ballot-box, the system of numbering ballots has been adopted. The working of this plan has been abundantly tested, and the benefits resulting therefrom are so numerous that to have omitted it would have been to have rejected that which the experience of the older States teaches to be wise and judicious; by this plan the secrecy of the ballot is not invaded, while frauds can be easily detected and the guilty party reached, without disfranchising a whole community, as frequently results under our present system.

## COUNTIES.

By this article we have provided that the General Assembly shall not by special law remove the county seat of any county, but that the location of county seats shall always remain a question to be voted on by the qualified electors in the several counties. We have provided that no portion of any county shall be stricken off, or any new county formed, without submitting the question to the electors of such county; and that when any portion of a county is added to another, or a new county created, the inhabitants thereof shall pay their proportion of the indebtedness of the county from which they were taken.

We have provided for the usual county and precinct officers, leaving the compensation to be received by them for their services to be fixed by law, as provided in section fifteen of this article. That no inconvenience may arise by reason of the change from a Territorial form of government to that of a State, it is provided that all county and precinct officers shall hold their respective offices for the full term for which they may have been elected.

## MISCELLANEOUS.

We have provided that all laws upon our statute books at the adoption of this Constitution, shall remain in full force and effect until altered or repealed by the legislature of the State.

We have declared that all persons who are qualified electors at the adoption of the Constitution, shall be eligible to the several State offices, to the General Assembly, and to the various county offices.

We have prohibited under very stringent provisions the importation, manufacturing and sale of all spurious or adulterated liquors. We have provided for the passing of laws, to prevent the destruction of, and to keep in good preservation the forests upon the public domain. We have provided for the printing of this Constitution in Spanish as well as laws passed by the General Assembly until the year 1890, thus giving the Spanish-speaking

population of the State an equal opportunity of being fully informed of the provisions of the fundamental law, as well as all laws passed in compliance therewith.

We have provided liberally for the amending of the Constitution, thus giving to the people frequent opportunities of changing the organic law when experience and public policy may require it.

In this hasty review of the several articles contained in this Constitution, we have endeavored to call your attention to those provisions in which we presumed you would be most interested. We do not think it necessary to enter into an elaborate argument to show why they should meet your approval; believing that you fully appreciate the inestimable prize secured by entering the sisterhood of States, whereby you gain those privileges that flow only from that form of government, which is the offspring of your choice, completely free in its principles, uniting in its powers security, happiness and prosperity of the whole people. But it is easy to foresee that from different causes, and from different sources, an effort will be made, and many artifices employed, to weaken in your minds the conviction of this truth, and we may reasonably assume that the chief objection made to a State government will not be founded upon the character of the instrument we have framed, but upon the alleged and supposed increase of expenses and consequent taxation. This is the old cry, and however potent it may have been heretofore, it certainly has lost its force in the facts of the present. We meet this objection directly, by conceding that a State government will, of course, involve an increased expense over that of our present form, but we assert that this expense will be more than balanced by the pecuniary gain alone which we will receive by becoming a State. We will suppose that if we are not admitted now, we will not have another opportunity of admission for at least five years. The increase in our expenses under a State government will be about \$50,000 per annum, which, in five years, will amount to \$250,000. This would be saved to us, or, more properly, be delayed in payment by remaining out of the Union five years longer.

Now, let us see what we would lose in that time: The act of Congress granting sections sixteen and thirty-six for school purposes, allows the State to select an amount of public land equal to that which has been sold out of said sections to settlers prior to survey. Under this arrangement we will be entitled to select about fifty sections of land.

The Enabling Act grants fifty other sections for public buildings, fifty sections for the penitentiary, and seventy-two sections for general purposes—making a total of two hundred and twenty-two sections, or one hundred and forty-two thousand and eighty acres of land, which, at \$2.50 per acre, amounts, in value, to \$385,200.

It will also be remembered that, upon becoming a State, Colorado will be entitled to five hundred thousand acres of the public land within her borders, by virtue of a grant heretofore made by Congress. This amount, if selected now, would be worth to us at least \$500,000.

The enabling act also grants the State five per cent. of the proceeds from the sale of the public agricultural lands after the adoption of this Constitution. The amount to be derived from this source for the next five years would exceed one hundred thousand dollars, which, added to the value of the land above mentioned, would make a total of about \$1,000,000, which is four times the estimated amount of the increased expenses of the State for this period, so that we would really gain over three-quarters of a million dollars in five years by becoming a State. More than this, the revenues from sections 16 and 36 will save the whole State, in our school taxes, from ten to twenty-five thousand dollars yearly, making a saving in five years of from fifty to one hundred thousand dollars in addition to that already estimated. Should we not be admitted, and remain in a territorial condition five years longer, most, if not all, the public agricultural and non-mineral lands in Colorado, which are worth anything, will have been sold by that time, so that there being none left for selection, we would lose all this, even if a like grant should be renewed at the end of that time. No one will doubt this statement who reflects upon the small amount of public agricultural lands now left within our Territorial limits, and considers the probable immigration for the next five years. The five per cent. alluded to would, from the same cause, like the lands granted in the enabling act, be forever lost to Colorado, and we would, therefore, at the end of that time be obliged to commence our Statehood with increased expenses, and at a dead loss of over a million of dollars at the lowest possible estimate. In addition to these several benefits to be derived by our admission into the Union at this time, we would also call your attention to the fact that, by cutting off special legislation, we have lessened the expenses of that department almost one-half; by reducing the number of the petit and grand jurors the expenses of the judiciary department are greatly reduced, while the provisions guarding against hasty legislation at the close of the sessions of the General Assembly, will prevent great squandering of public money, and in many cases save more to the State than sufficient to pay the per diem and mileage of the members of that body.

This much for the pecuniary balance of gains and losses. Let us now look at the political and substantial advantages of Statehood as contrasted with our present condition of Territorial vassalage. By becoming a State, we elect our officers from our own people and are permitted to join in the election of the Chief Mag-

istrate of the Nation, thus enjoying for the first time, while in Colorado, the sweets of self-government.

Our privileges will then be enlarged, we will no longer be supplicants for the rights and immunities belonging to freemen—we will have gained them. Then we will be able to assume our proper station among the States of the Union. With two Senators and a Representative in the National Congress, we will be enabled to command respect, and to secure additional appropriations for the fostering of our industries, as well as of extending our political privileges; then we will have a voice in the matter of Indian treaties, in the establishing of military posts and roads, in the location of mail routes, in the passing of laws concerning the title to mineral veins, and providing for the disposal of the mineral and pastoral lands of the State as suited to peculiar wants; also upon many other questions which at present interest us, but upon which we cannot now be heard. Who is there among you that would not rather be a citizen of an independent sovereign State, than a mere settler upon the public lands of the Territory, governed by satraps appointed and removed at pleasure, as best serves the whims and purposes of political rings and cliques—beggars, asking pittance at the gate of the nation; poor wards dependent upon the charity of Congress, living in a sort of penal colony, the Botany Bay of political servitude? Now that the golden opportunity is afforded, shall this state of things longer exist? We confidently believe it will not. Let us cherish, then, this occasion with more than ordinary zeal, actuated by the memories of the past, and inspired by the rewards for us in the future; let us arouse ourselves to the responsibilities of the hour, and, as citizens of a free republic, become, in fact, as well as in name, citizens of the American Union of Sovereign States.

WM. M. CLARK, *Chairman,*

WILBUR F. STONE,  
WM. E. BECK,  
JOHN S. WHEELER,  
JESUS M. GARCIA,  
E. T. WELLS,  
ROBERT DOUGLASS,  
GEORGE E. PEASE,  
WILLIAM R. KENNEDY,  
CASIMIRA BARELA.

## APPENDIX C



# Georgia Department of Transportation Fact Sheet

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## The State Highway System: Background & Process of Revising the System (Part I)

Georgia State Code 32-4-1 establishes the state's public road system into three categories: 1) County Roads; 2) City Streets; and 3) State Routes. While the first two systems fall under the jurisdictional responsibility and authority of local governments, Georgia DOT is responsible for the State System.

Roads on the State System provide two primary operational functions. The first is the providing of an integrated road network for intra-regional and interstate travel. Secondly, the State Highway System is the primary means by which large commercial truck travel can legally navigate the State's public road system. The State Highway System designation process heavily impacts the Department's Construction Work Program in regard to supporting preconstruction activities; that business process is addressed in the next Fact Sheet "**Part II: The State Highway System and Department Preconstruction Activities.**"

Because the State Highway System falls under the authority of the Georgia DOT, in regard to planning and designation, all administrative actions and reviews of proposed updates to the System both begin and end at the GDOT Commissioner's Office; therefore, all internal and external requests should initially be submitted to the Commissioner's Office.

Upon receipt of the request, the Commissioner will pursue one of two courses of action. The first being to act without benefit of study or recommendation, to approve or deny the request and then direct the Office of Transportation Data to respond accordingly. The second possibility would be the Commissioner directing OTD to take this matter under study and to develop a recommendation.

If the latter course is decided OTD will advise the requesting party via correspondence that a response will be forthcoming within 90 days of said notification. OTD will then initiate all coordination activities with internal and external offices involved with the requested systems change.

Often, local officials request that existing local roads be added to the State System, in those instances OTD will request the appropriate GDOT District Office to conduct an investigation of the roadway's physical condition to determine if it meets the necessary standards for addition to the State System. The District Office will transmit its findings on the road's condition and adequacy to OTD. The District office will also provide a preliminary cost estimate to bring the proposed road up to current standards if it does not meet them.

After assembling all pertinent information, including the Division of Field Districts' input, OTD will proceed with development of a recommendation to the Commissioner. If the proposal is found not feasible, accompanying the request will be a letter of response advising the requesting party of the Department's decision and supporting justification. There are three primary reasons for denying a local request for addition to the State System: 1) it is not cost effective to bring a requested roadway up state route standards, 2) the proposed roadway does not serve suitable statewide travel movement, or 3) the existing State Highway System already provides adequate service through the region of the requested roadway.

If the study results in the development of a plan for updating the State System, then a "Notice of Intent" will be sent to the Commissioner for approval. This Notice will then be forwarded through OTD and the District Office to the affected local governments for coordination and sign-off. The Notice of Intent

allows the formal position of the Department to be coordinated with the local officials prior to actual execution. The Notice also communicates formally to the local officials the requirements for implementation such as: needed improvements to local roadways proposed to be added to the State System or a mandatory transfer of existing State Routes to local jurisdiction. It is the responsibility of OTD to manage this process and ensure all issues have been resolved or adequately addressed to facilitate local government response.

Once this process has been completed, OTD will report back to the Commissioner's Office the results of the Notice of Intent coordination process. If all matters were resolved satisfactorily with the local officials, the final report from OTD will also include an Order of the Commissioner to implement the State Highway System revision plan. Finally it is the responsibility of OTD to broadcast approved State Highway System revisions to all internal and external stakeholders as well as to ensure the updating of the Department's electronic records as well as its maps series.

# APPENDIX D



## Georgia Department of Transportation Fact Sheet

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### The State Highway System-Part II: Department Preconstruction

Georgia State Code 32-5-2 states that the Department cannot use State or federal-matching funds to purchase Rights of Way (ROW) off the State Highway System. This State Code means that three specific project types moving through the Department's Construction Work Program and the Plan Development Process must have State Highway System coordination activities completed prior to Rights of Way acquisition beginning. These projects involve Georgia DOT:

1. Utilizing State or Federal funds to purchase ROW on new location
2. Reimbursing Local ROW activities with State or Federal funds
3. Securing GRTA Bonds to reimburse ROW acquisition

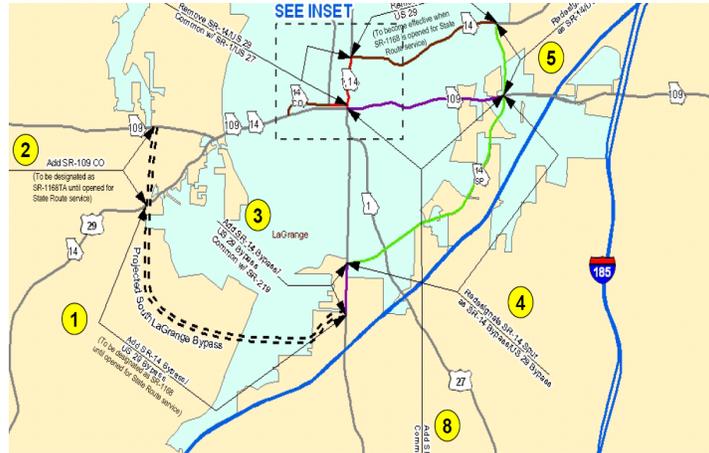
In order to ensure that the parallel activities of State System revision and Plan Development are done in concert, it is critical that proper level of communication and coordination take place between these offices:

1. Office of Rights of Way
2. Design Offices within the Division of Preconstruction and District Preconstruction Units (Project Managers)
3. Office of Financial Management
4. Office of Transportation Data

Below are the processes followed to revise the State Highway System concurrent with Project Plan Development activities. For the purpose of clarification these processes are divided up into two major "Cases."

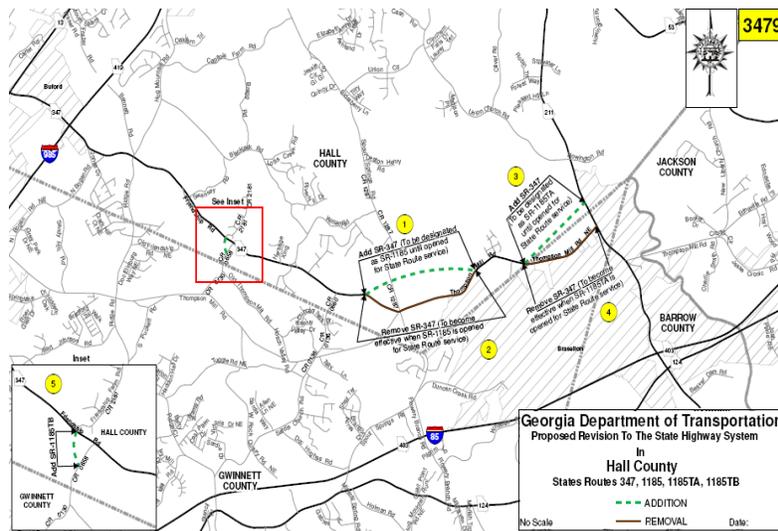
#### **Case I Major & Minor Projects**

These projects involve Georgia DOT buying ROW for new roadways. When the Office of Preconstruction transmits to the Office of Transportation Data(OTD) a Project Concept Report indicating that plans call for constructing a new Bypass (see example sketch map below) or another major State Route facility, OTD will monitor the project's plan development until environmental approval has been secured. At that time OTD will begin its initial highway systems coordination activities. These activities consist of establishing how the new facility will be designated as part of the existing State Highway System. In addition, it is determined what adjustments to the existing State Highway System will be proposed to ensure a balanced addition of new roadways to the State System while older, less-traveled State roadways are identified for transfer to local jurisdiction. After this study is completed, the Notice of Intent process (as outlined in the Fact Sheet: **The State Highway System-Part I: Background & Process of Revising the System**) is used to coordinate the proposed revision plan with local officials.



### Case I Major

If the Project Concept Report indicates only a minor relocation(s) of the State System (see example below), OTD tracks the project until the Preliminary Field Plans have been developed. From those plans OTD will determine if a local transfer of existing State Route roadway will need to be conducted as a part of the State Highway System revision process. Once the local government coordination phase for Case I Projects have been completed, an Order of the Commissioner is transmitted to the Commissioner for approval of the route designation.

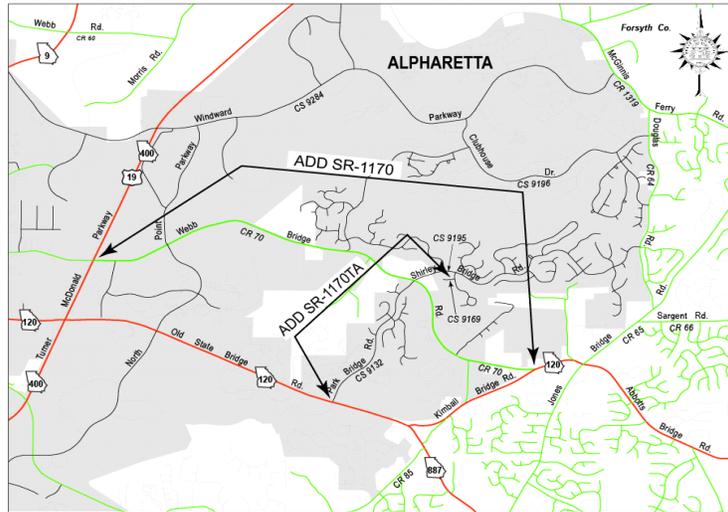


### Case I Minor

### Case II

Often during project negotiation with local officials it is determined that the Department will utilize State funds, federal funds, or GRTA Bonds to participate in rights-of-way acquisition on off-System roadways (county roads or city streets). In those instances, the “temporary” State Route designation process is followed. The Office of Preconstruction notifies the Office of Financial Management to update a project’s information in TPRO. Once this information is noted in TPRO, an automated e-mail notification is sent to OTD advising them to begin the necessary State Route designation activities. OTD will coordinate with Department management and the principal local elected officials a Contract for Maintenance of Highways. By executing this Contract the local officials agree to maintain the roadway while designated as part of the State Highway System. In addition a maintenance resolution is executed by the local officials agreeing to accept maintenance responsibility of the temporary State Route once the project is

completed. Upon completion of these activities, an Order of the Commissioner is transmitted to the Commissioner for approval of the route designation.



### Case II

**Note:** All highway systems administrative activities must be completed with an Order of the Commissioner being executed prior to Rights of Way activities beginning on projects involving the three noted preconstruction activities

# APPENDIX E

## MDOT Pavement Funding Allocation Process

MDOT adopted a Pavement Rehabilitation and Reconstruction (R&R) formula which sub allocates the funding for this program into seven regions. The formula weighs four overall factors including: pavement condition, eligible lane miles for pavement reconstruct and rehabilitation work, usage (average daily traffic volumes) and regional cost. The formula is updated annually with pavement condition, traffic, cost and eligible lane mile information.

Measures within each overall factor are weighted and include:

- Pavement condition
  - Surface condition and remaining service life lane miles by region.
- Eligible lane miles for rehabilitation and reconstruction work
  - Totals miles by region of pavements that are eligible for R&R work under MDOT policy (pavements with a remaining service life of 2 or under at time of construction).
  - Lane miles on routes that are considered “Corridors of Highest Significance” in the state long range plan were given higher weighting among all eligible lane miles.
- Usage
  - Annual Average Daily Traffic (AADT) on fair and poor condition pavements were utilized in the formula
  - Commercial Average Daily Traffic (CADT) on fair and poor condition pavements were also utilized since pavement longevity/fix life is heavily dependent upon commercial traffic.
- Cost
  - Average costs for freeway and non freeway by region.
  - Measures for intangible costs associated with road construction within urban areas (drainage, ramps, depressed freeways, etc) compared with the less costly rural areas.

The result of the formula allocation is R & R funding by region which represents a percentage of the overall statewide R & R target. Each year the R & R targets are updated for each region based on new condition, cost, and traffic data.

DRAFT

**2018 R & R Target Allocation Formula**

(2011 Sufficiency File Data, 2011 Pavement Condition File Data, 2010/2011 PASER)

Add in weights to add up to 100%



weight			Bay	Grand	Metro	North	Southwest	Superior	University	Statewide
<b>Cost</b>										
25%	10%	% Average Cost (RQFS cost tables) Freeway	14.7%	13.5%	23.6%	7.8%	15.4%	6.6%	18.4%	100.0%
	5%	% Average Cost (RQFS cost tables) NonFreeway	18.7%	11.8%	14.6%	12.6%	13.2%	10.1%	19.0%	100.0%
	10%	% Urban 50,000+ lanemiles	6.6%	7.2%	71.4%	0.0%	6.6%	0.0%	8.1%	100.0%
<b>3.0%</b>										
25%	4%	% Surface cond >= 3 - Freeway lane miles	17.4%	12.5%	22.7%	9.5%	13.0%	2.7%	22.2%	100.0%
	2%	% Surface cond >= 3 - Non Freeway lanemiles	16.2%	8.6%	12.1%	19.3%	13.2%	18.5%	12.2%	100.0%
		PASER<=6 Freeway lane miles	17.9%	13.8%	18.4%	11.0%	14.2%	2.9%	21.7%	100.0%
	4%	PASER<=6 Non-Freeway lane miles	15.9%	8.4%	11.8%	20.0%	16.5%	15.2%	12.3%	100.0%
	2%									
	9%	% RSL <=7 - Freeway lane miles	19.4%	9.8%	24.0%	8.3%	17.2%	2.8%	18.6%	100.0%
	4%	% RSL <=7 - Non Freeway lane miles	20.2%	7.6%	13.9%	19.7%	14.6%	12.3%	11.6%	100.0%
<b>Size of System</b>										
25%	8%	% Surface Condition >=3 and COHS Nat/State lane mile	12.2%	9.8%	25.7%	14.8%	9.6%	11.0%	16.9%	100.0%
	5%	% Surface Condition >=3 and COHS Reg/Local lane mil	19.9%	9.6%	6.9%	17.8%	15.9%	16.4%	13.5%	100.0%
	8%	% RSL <=7 and COHS Nat/State lane miles	13.7%	8.2%	27.4%	14.7%	12.7%	9.0%	14.4%	100.0%
	4%	% RSL <=7 and COHS Reg/Local lane miles	25.0%	8.2%	8.3%	18.0%	17.4%	10.3%	12.9%	100.0%
<b>Usage</b>										
25%	13%	% RSL Cat I&II on Comm AADT 5000+ lanemiles	4.6%	2.6%	40.1%	0.0%	26.2%	0.0%	26.5%	100.0%
	12%	% RSL Cat I&II on AADT 50,000+ lanemiles	12.9%	5.2%	58.8%	0.0%	2.9%	0.0%	20.3%	100.0%
	100.0%									
	\$375.0	<b>Resulting 2018 New Target with updated data</b>	\$52.1 13.9%	\$31.7 8.4%	\$121.0 32.3%	\$32.0 8.5%	\$51.4 13.7%	\$21.1 5.6%	\$65.9 17.6%	\$375.0 100.0%

<b>2013 Base Target</b>	\$48.4 12.9%	\$32.2 8.6%	\$142.5 38.0%	\$25.6 6.8%	\$46.9 12.5%	\$18.1 4.8%	\$61.4 16.4%	\$375.0 100.0%
<b>2017 Target approved and published in 2017 CFP</b>	\$51.8 13.8%	\$31.1 8.3%	\$121.5 32.4%	\$32.0 8.5%	\$51.6 13.8%	\$21.6 5.7%	\$65.5 17.5%	\$375.0 100.0%
<b>Difference (2017 to 2018)</b>	\$0.3	\$0.5	(\$0.5)	(\$0.0)	(\$0.2)	(\$0.4)	\$0.4	\$0.0
<b>Difference from 2013 Base to 2018</b>	\$3.7	(\$0.5)	(\$21.5)	\$6.4	\$4.5	\$3.1	\$4.5	\$0.0

# APPENDIX F

## MDOT Highway Funding Allocation Process

### **Template Development/Monitoring:**

The Michigan Department of Transportation (MDOT) has developed a Template process to accomplish the effective usage of financial resources on Michigan's Highway Capital program. This process allocates estimated financial resources to template categories or programs in order to achieve approved transportation improvement goals and allow for the ability to monitor that the program improvement strategies are constrained within the department's available revenue.

The process allocates a target amount to a template category annually based on its improvement strategy and needs. The amount indicates the level of obligation authority from federal aid and state revenues. Target changes due to the extra funds and/or target transfers between template programs are also administered throughout the year to fully utilize the approved obligation authority.

The target development and monitoring process assists in setting the level of funding to achieve highway improvement goals and provides a tool to constrain the overall statewide program against available revenues.

### **Financial resources:**

- Federal Source:
  - Annual obligation authority for state trunkline system (MDOT) excluding locals
- State Source:
  - Distribution from Michigan Transportation Fund (MTF) based on Act51 formula to State Trunkline Fund (STF)
  - Available Bond proceeds

### **Allocation of target amount:**

- Preservation of the Road and Bridge Programs:

The target amounts are derived based on the funding needed to achieve pavement and bridge goals established by the State Transportation Commission.
- Capacity Improvement & New Roads Programs:

The target amounts are based on the estimated costs of projects which are reviewed and approved by the Department's Program/Project Review Board (P/PRB).
- Other:

The recommendations of target levels are coordinated between transportation planners and program managers taking into considerations of the program goals, needs, and special funding allocations (ex: CMAQ, Enhancement, TEDF-A).

# Preliminary Draft of FY 2013 Announcement Investment

In millions

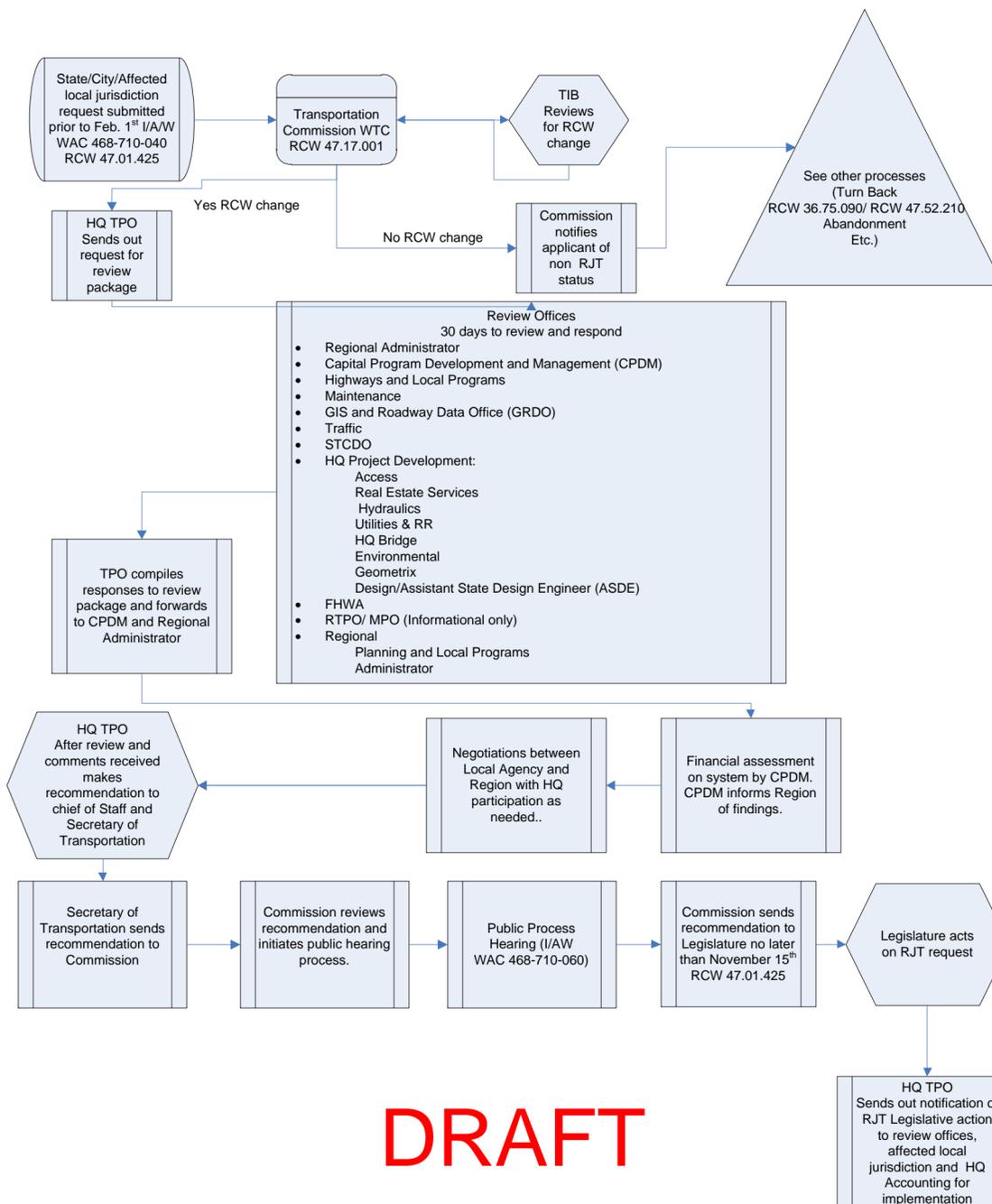
	<b>FY 2013</b>
<b>REPAIR &amp; REBUILD ROAD PROGRAM</b>	
Rehabilitation & Reconstruction	\$318.56
Capital Preventive Maintenance	\$93.60
<b>Total Repair and Rebuild Roads</b>	<b>\$412.16</b>
<b>REPAIR &amp; REBUILD BRIDGE PROGRAM</b>	
Rehabilitation & Reconstruction	\$125.43
Capital and Scheduled Preventive Maintenance	\$5.79
Big Bridges	\$18.25
Special Needs	\$6.00
Blue Water Bridge- Appropriated Capital Outlay Projects	\$3.00
<b>Total Bridges</b>	<b>\$158.47</b>
<b>ROUTINE MAINTENANCE</b>	<b>\$273.40</b>
<b>TOTAL REPAIR &amp; REBUILD ROADS AND BRIDGES</b>	<b>\$844.03</b>
<b>CAPACITY IMPROVEMENTS AND NEW ROADS</b>	
Capacity Improvements	\$0.50
New Roads	\$125.89
<b>TOTAL CAPACITY IMPROVEMENT &amp; NEW ROADS</b>	<b>\$126.39</b>
<b>SAFETY AND SYSTEM OPERATIONS</b>	
Safety Programs	\$18.50
Safety Installations	\$38.80
RR Xings-Trunkline	\$4.40
Intelligent Transportation Systems (ITS)	\$13.19
Congestion Mitigation and Air Quality (CMAQ)	\$40.40
Operations	\$15.34
Pump Station	\$4.00
Freeway Lighting	\$1.11
Commercial Vehicle Enforcement	\$1.00
<b>TOTAL SAFETY AND SYSTEM OPERATIONS</b>	<b>\$136.74</b>
<b>TRANSPORTATION ALTERNATIVES</b>	
Non-Motorized/Streetscape Improvements	\$25.81
Safe Routes to Schools	\$0.00
Recreational Trails	\$2.85
<b>TOTAL TRANSPORTATION ALTERNATIVES*</b>	<b>\$28.66</b>
<b>ROADSIDE FACILITIES</b>	
Rest Areas	\$1.50
Wetland Pre-Mitigation	\$2.40
Noise Abatement	\$1.20

Carpool Parking Lot program	\$0.60
<b>TOTAL ROADSIDE FACILITIES</b>	<b>\$5.70</b>
WORKFORCE DEVELOPMENT	\$7.00
NON-FEDERALLY FUNDED PROGRAMS	
TEDF - Category A	\$0.89
State Funded Required Programs	\$14.60
Program Development/Scoping	\$10.90
<b>TOTAL NON-FEDERALLY-FUNDED PROGRAMS</b>	<b>\$26.39</b>
<hr/>	
<b>TOTAL CAPITAL OUTLAY PROG. &amp; MAINTENANCE PROG.</b>	<b>\$1,174.91</b>
<b>Non-Federal &amp; Non-State</b>	
<b>New International Trade Crossing</b>	TBD

*\*Includes \$11.4M earmark for Detroit Riverwalk*

APPENDIX G

Route Jurisdictional Transfer (RJT) Process Flow Chart



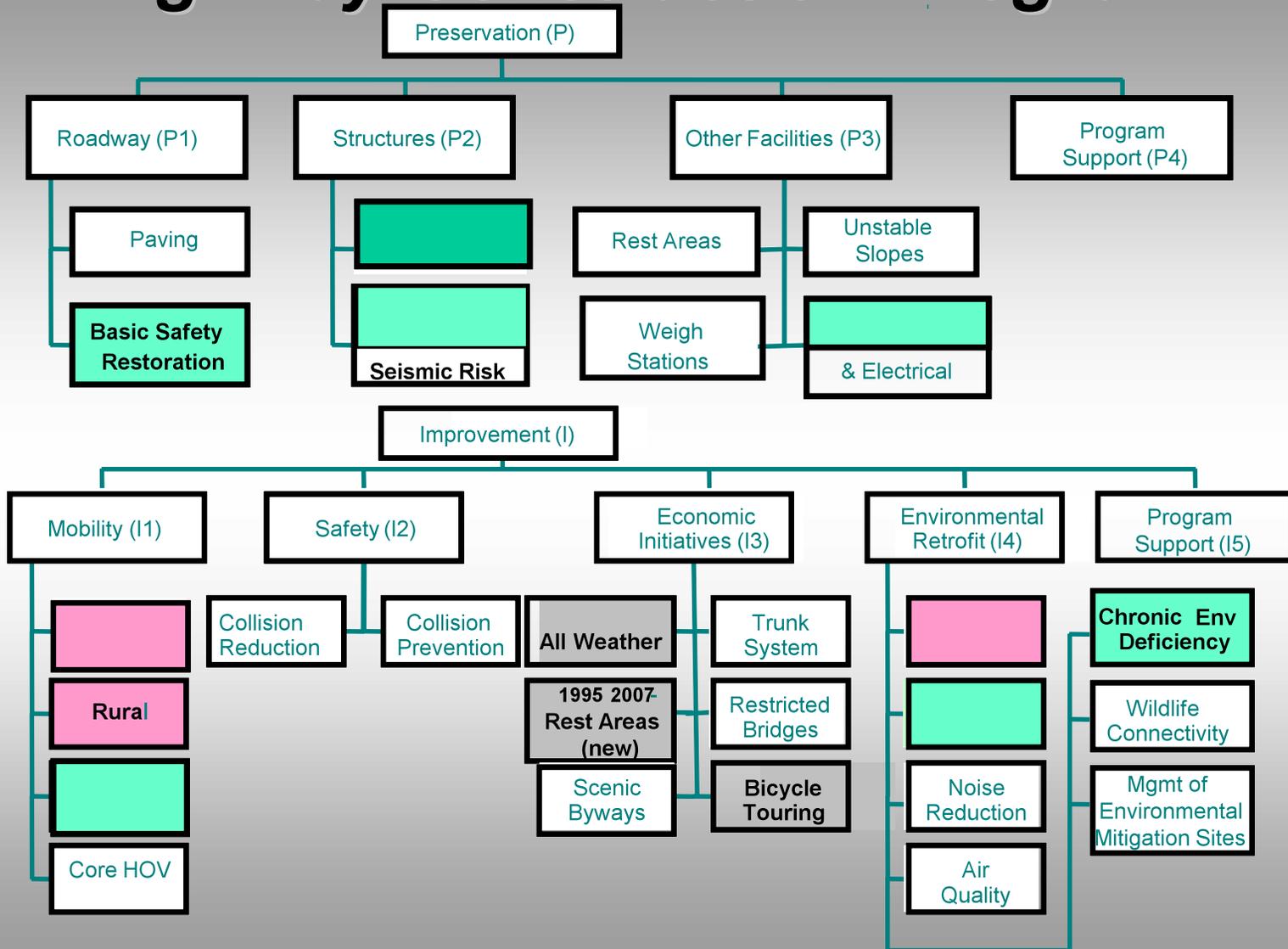
DRAFT

## **APPENDIX H**

Washington State DOT provided a spreadsheet that identified distribution of funding on the state highway system. This multiple tab Excel spreadsheet was provided separately to MnDOT staff, separate from this document.

# APPENDIX I

## Highway Construction Program



# APPENDIX J

## CONNECTICUT ACADEMY OF SCIENCE AND ENGINEERING

### BENCHMARKING CONNECTICUT'S TRANSPORTATION INFRASTRUCTURE CAPITAL PROGRAM WITH OTHER STATES

#### STATE SURVEY: PHASE I

**Best Practice States:** Missouri, Washington, Vermont

**Benchmark States:** Maryland, Massachusetts, New Jersey

#### General Description:

The following is a preliminary request for information. The Connecticut Academy of Science and Engineering's Research Team for a study on "Benchmarking Connecticut's Transportation Infrastructure Capital program with Other States" is utilizing a 2-phase process of information gathering to make the most efficient use of time for those responding to the surveys.

The intent of the first phase survey is to collect basic budgetary and procedural data from each of the case study states that will guide the Research Team in developing significantly better and more specific questionnaires for a follow-up interview.

#### (1) Short Term Capital Plan (equivalent to ConnDOT's 5-year Capital Plan)

a. Does your state maintain a document or process within which short-term capital programming projects are planned in detail?

Yes (Transportation Executive Information System)

b. Does this document/process identify the funding amounts and sources of funding for the projects?

Yes. Project estimates are determined parametric estimating tools.

c. Is there any specific link between:

i. The capital programming document/process and the high-level goals of the long-range transportation plan?

Yes. The projects in the capital six year plan come from long range transportation plan.

ii. The capital program and performance metrics?

Yes. The capital projects address system deficiencies based on the lack of performance.

#### (2) Statewide Long-Range Transportation Plan (LRTP)

a. What are the primary long- range policy goals for your state's transportation system identified by the LRTP?

Legislative transportation policy goals include

1. Preservations of existing assets
2. Congestion relief and reliable transportation times
3. Safety
4. Economic Vitality
5. Environmental retrofit
6. Stewardship

Please visit [www.wsdot.wa.gov/accountability](http://www.wsdot.wa.gov/accountability) for detail performance reporting based on the above stated transportation policy goals.

b. How are these goals used to guide short term programming and planning decisions?

- WSDOT establishes specific objectives under each goal and performance metrics to achieve them.
- Network performance data is used to identify system needs. Capital projects are developed to fix those needs. Economic analysis is performed to identify the projects that make the greatest improvement to the dollar spent (required by law)

**(3) A list and description of performance measures being used by the state**

a. Identify, or provide links to the performance measure used and maintained by your state?

Please visit the following websites for detailed performance metrics

[www.wsdot.wa.gov/accountability](http://www.wsdot.wa.gov/accountability)

<http://www.wsdot.wa.gov/Accountability/GrayNotebook/SubjectIndex.htm>

[http://www.wsdot.wa.gov/Accountability/GrayNotebook/gnb\\_archives.htm](http://www.wsdot.wa.gov/Accountability/GrayNotebook/gnb_archives.htm)

<http://www.wsdot.wa.gov/Accountability/Congestion/>

b. How are these measures used in project selection?

See the answer 2.b.

c. How do these measures relate to the LRTP goals? If so, in what way?

These performance measures were established to determine how much progress is made in reaching the legislative goals by project and by program.

**(4) A detailed capital program budget including funding sources and the allocation of funding to specific categories of investment. Please provide the following information and answer the questions below:**

a. Capital program budget for the next 3-10 years (depending on the time frame your state uses as a short/medium term planning horizon)

During the next six years 2013-2019; the current revenue projection for the capital program is approximately \$7.72 billion.

b. State/federal breakdown of the capital program budget

\$4.32billion in State funds / \$3.4 billion in federal funds.

c. Correlation between capital program budget and LRTP goals (or performance measures, or other means of identifying the policy goals of the expenditure)

The LRTP does not have a specified goal in terms of performance for the next six years.

d. Any documents describing the state's project planning/selection/design process.

Highway System Plan. Mobility Project Prioritization Program.

<http://www.wsdot.wa.gov/projects/prioritization/default.htm>

e. Describe the level of stability/certainty associated with the various sources of funding used by your state for capital projects. What strategies does your agency use to mitigate the problems caused by uncertainty in funding?

Nickel and TPA gas tax and fixed fee causes uncertainty in the revenue as the vehicle miles traveled is volatile in the current environment.

- Minor adjustments in vehicle user fee.
- Implementing tolling on major routes for partial project funding.
- Lower cost incremental improvements for gaining maximum performance.
- Moving Washington <http://www.wsdot.wa.gov/movingWashington/>

**(5) Documents (or a description of) the process of measuring project deliverability and its role in the capital**

**programming process.**

Please refer to Gray Notebook Project Reporting (Beige Pages) section.

<http://www.wsdot.wa.gov/Accountability/GrayNotebook/SubjectIndex.htm#beige>