

Final
STAFF SUMMARY OF MEETING

COMMITTEE ON JOINT TRANSPORTATION

Date: 11/02/2015

Time: **01:03 PM to 01:44 PM**

Place: RM 271

This Meeting was called to order by
Representative Tyler

This Report was prepared by
Matt Kiszka

ATTENDANCE

Becker J.	X
Buck	X
Carver	X
Cooke	X
Coram	X
Esgar	X
Garcia	E
Kraft-Tharp	X
Melton	X
Mitsch Bush	X
Moreno	X
Neville P.	X
Nordberg	X
Scott	X
Todd	X
Winter	X
Baumgardner	X
Tyler	X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Presentation from the Office of the State Auditor on the Annual Report of A	Witness Testimony and/or Committee Discussion Only
Presentation from the Office of the State Auditor on the Collection and Usa	Witness Testimony and/or Committee Discussion Only
Discussion of the Collection and Usage of the FASTER Motor Vehicle Fees Aud	Witness Testimony and/or Committee Discussion Only

01:02 PM

Senator Baumgardner, Chair, called the committee to order, and made comments about the committee's agenda for the afternoon.

01:03 PM -- Presentation from the Office of the State Auditor on the Collection and Usage of FASTER Motor Vehicle Fees Performance Audit

Matt Devlin and Michelle Colin, Office of the State Auditor (OSA), came to the table to present to the committee on the OSA's Collection and Usage of FASTER Motor Vehicle Fees Performance Audit (Attachment A). A copy of the OSA's *Annual Report, Fiscal Year 2015* and *Annual Report: Status of Outstanding Audit Recommendations* were also distributed to the committee (Attachment B and Attachment C). Mr. Devlin outlined the audits that would be explained to the committee. Ms. Colin discussed the requirements of the State Measurements for Accountable, Reliable, and Transparent (SMART) Act for the OSA, which include looking at the integrity of performance measures, accuracy and validity of performance results, and overall cost and effectiveness of two departments in each year. Ms. Colin said that the OSA completed its FASTER audit as part this requirement, and that the audit focused on the purpose of the FASTER fees, the program's cost to taxpayers, and how the program's performance is measured by CDOT. She discussed the concerns raised by the audit surrounding CDOT's management of FASTER fees and funds.

Attachment B and Attachment C can be viewed at Legislative Council**01:13 PM**

Mr. Devlin described the OSA's findings on CDOT's overall effectiveness in managing the FASTER program and the recommendations OSA made for CDOT in improving its program management. She stated that CDOT had agreed with all of the recommendations made by OSA.

01:15 PM -- Presentation from the Office of the State Auditor on the Annual Report of Audit Recommendations Not Fully Implemented

Mr. Devlin gave the committee an overview of the OSA's audit process, how recommendations for agencies are made, how recommendations are identified as high priority, and the unimplemented recommendations the agency had for CDOT in 2015. Ms. Colin and Mr. Devlin responded to questions on the significant deficiencies that OSA had identified within CDOT. Cindy Radke, Financial Audit Manager, OSA, came to the table to discuss the deficiencies identified by OSA. A request was made by the committee for an official summary of the deficiencies, and Ms. Radke responded to a question on the kinds of grants that were involved in the significant deficiencies found by the OSA.

01:26 PM -- Discussion of the Collection and Usage of the FASTER Motor Vehicle Fees Audit

Joshua Laipply and Andy Karsian, CDOT, came to the table to discuss the OSA's audit of its FASTER program. Mr. Laipply said that CDOT takes OSA audits very seriously, it had previously identified some of the same issues as the audit, and had recently implemented changes to address these issues. He responded to questions on the OSA's findings surrounding safety grants provided to local governments by CDOT from federal funds. A request for information on the significant deficiencies identified by the OSA was made by the committee. Mr. Karsian discussed how CDOT will return to present to the committee on its performance plan and regulatory agenda, per the requirements of the SMART Act, at a later date. Committee discussion ensued on a new technological initiative of CDOT known as RoadX, which is designed to drive up the agency's cost-benefit ratio.

01:44 PM

Senator Baumgardner discussed the next meeting of the Joint Transportation Committee, to be held December 10, 2015. The committee adjourned.

SMART GOVERNMENT ACT BRIEFING DOCUMENT

COLLECTION AND USAGE OF THE FASTER MOTOR VEHICLE FEES

DEPARTMENT OF TRANSPORTATION
DEPARTMENT OF REVENUE
JUDICIAL DEPARTMENT

PERFORMANCE AUDIT #1410P
AUGUST 2015

This briefing document pertains to the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act [Section 2-7-204(5), C.R.S.], and contains the Report Highlights and SMART Appendix from the original audit report.



REPORT HIGHLIGHTS

COLLECTION AND USAGE OF THE FASTER
MOTOR VEHICLE FEES
PERFORMANCE AUDIT, AUGUST 2015



DEPARTMENT OF TRANSPORTATION
DEPARTMENT OF REVENUE
JUDICIAL DEPARTMENT

CONCERN

Our audit found that the Colorado Department of Transportation (CDOT) should improve its oversight and management of the State's allocation of FASTER motor vehicle fee revenue to ensure effective and appropriate usage. Our audit also found deficiencies in some of the processes used for collecting three of the six FASTER fees at CDOT, the Department of Revenue (Revenue), and the Judicial Department (Judicial).

KEY FACTS AND FINDINGS

- CDOT and the Bridge Enterprise could not demonstrate that the manner in which they selected bridges for FASTER funding was thorough, integrated, and strategic.
- Individual FASTER bridge projects have been significantly overbudgeted and remain open for long periods after most construction work is complete. The amount budgeted for the 23 closed bridge projects exceeded expenditures, on average, by 19 percent, and these projects remained open an average of 1.4 years after the projects were substantially complete.
- CDOT spent \$10.7 million on projects that may not have met legislative requirements for FASTER safety revenue and CDOT could not confirm how an additional \$6 million was allocated or spent.
- CDOT could not demonstrate that 113 of the 282 (40 percent) FASTER safety projects were approved by the Transportation Commission (Commission) and neither CDOT management nor the Commission received information on how the transportation regions used the FASTER revenue allocated to these projects.
- For 6 of the 8 transit contracts reviewed, the contracts did not comply with the State Procurement Code. Additionally, CDOT did not maintain complete and accurate information on FASTER transit revenue and expenditures.
- Revenue did not have adequate controls over exemptions of the FASTER late fee.
- CDOT did not maintain adequate recordkeeping and accounting controls over the FASTER oversize/overweight vehicle surcharge.
- Judicial did not assess and collect the FASTER unregistered vehicle fine.

BACKGROUND

- Senate Bill 09-108, known as the Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act of 2009, created six new motor vehicle fees to provide CDOT and local governments funding for bridge, road safety, and public transit projects. The FASTER Act also created the Bridge Enterprise, a CDOT-owned business.
- CDOT, Revenue, and Judicial are responsible for collecting all FASTER fees. In total, the State has collected about \$1.4 billion in FASTER fees since the legislation was enacted.
- In recent years, CDOT received more than \$196 million in revenue annually from the FASTER fees. CDOT stated it has funded 593 bridge, road safety, and transit projects.

KEY RECOMMENDATIONS

CDOT should improve its oversight and management of:

- The FASTER bridge revenue by implementing processes to strategically prioritize which bridges to fund, determine appropriate project budgets, and close projects in a timely manner.
- The FASTER road safety revenue by working with the Commission to set eligibility parameters for projects, establishing project prioritization and approval processes, creating a FASTER safety program, tracking and monitoring safety revenue usage, and establishing sufficient achievable performance metrics.
- The FASTER transit revenue by implementing policies that specify oversight activities for the CDOT Transit Division, including conducting routine reconciliations.

The three agencies responsible for FASTER fee collection should establish and implement adequate processes, accounting controls, and recordkeeping to ensure that all FASTER fees are appropriately and accurately assessed and transferred to the correct state accounts.

CDOT, Revenue, and Judicial agreed with these recommendations.

**SUMMARY OF FINDINGS RELATED TO THE
SMART GOVERNMENT ACT
COLLECTION AND USAGE OF THE MOTOR VEHICLE FEES
CREATED BY THE FASTER ACT OF 2009
COLORADO DEPARTMENT OF TRANSPORTATION
AUGUST 2015**

The SMART Government Act [Section 2-7-204(5), C.R.S.] requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments. These audits may include, but are not limited to, the review of:

- The integrity of the department's performance measures audited.
- The accuracy and validity of the department's reported results.
- The overall cost and effectiveness of the audited programs or services in achieving legislative intent and the department's goals.

The performance audit relating to the collection and usage of the motor vehicle fees created by Senate Bill 09-108, known as the Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act of 2009, was selected for audit work related to the SMART Government Act. Specifically, we evaluated the Colorado Department of Transportation's (CDOT's) usage and management of the State's allocation of FASTER motor vehicle fee revenue.

This document outlines our findings related to the integrity and reliability of performance measurement for CDOT's usage of the FASTER motor vehicle fee revenue. We have presented our findings as responses to six key questions that can assist legislators and the general public in assessing the value received for the public funds collected from taxpayers under the FASTER fee requirements.

WHAT IS THE PURPOSE OF THIS PROGRAM/SERVICE?

The purpose of creating the FASTER motor vehicle fees, as provided in Section 43-4-801 C.R.S. et seq., is to establish a sustainable funding source to maintain, repair, reconstruct, operate, and improve Colorado's surface transportation system, including the State's bridges, roadways, and public transit system. CDOT and local governments are responsible for utilizing the FASTER fee revenue to

address the State's "urgent present need" to complete this work in a strategic, timely, and efficient manner.

WHAT ARE THE COSTS TO THE TAXPAYERS FOR THIS PROGRAM/SERVICE?

The FASTER motor vehicle fees that are collected for use on bridge, road safety, and public transit projects totaled about \$264 million for Fiscal Year 2014. The annual total revenue collected is allocated under a statutory formula to both the State and to local governments, and of the Fiscal Year 2014 FASTER fee revenue collected, CDOT received about \$202 million. During the audit period, Fiscal Years 2010 through 2014, CDOT received a total of \$898.6 million in FASTER fee revenue.

HOW DOES THE DEPARTMENT MEASURE THE PERFORMANCE OF THIS PROGRAM/SERVICE?

CDOT's Fiscal Year 2015 Performance Plan is based on six agency-wide, long-term policy initiatives and six shorter-term "focus areas" for improving operations. These overarching policy initiatives and operational focus areas include, for example, reducing project-delivery delays, preserving the condition of the transportation infrastructure, and improving safety by reducing traffic fatalities and serious injuries. Within this framework, CDOT has established multiple performance measures, including the following measures that are related to FASTER motor vehicle revenue and projects:

- For projects that utilize FASTER ROAD SAFETY REVENUE, encumber or expend 80 percent of the FASTER road safety fiscal year budget by June 30 each year, and award 95 percent of contracts within 30 days of bid opening.
- For projects that utilize FASTER BRIDGE REVENUE, maintain at least 90 percent of total bridge deck area as not structurally deficient, and achieve at least 90 percent on the "Schedule Performance Index," which indicates whether or not a bridge project is completed within the planned timeline.
- For all transit projects, including those that utilize FASTER TRANSIT REVENUE, maintain a rural transit fleet where at least 65 percent of the fleet is in fair,

good, or excellent condition; increase the total number of agencies that have Asset Management Plans to 100 percent by 2017; and increase rural ridership by 1.5 percent annually over a 5-year period.

Additionally, CDOT stated in response to the audit that it also measures crash rates related to the number of accidents and their severity (e.g., deaths and injuries) in order to measure the performance of FASTER safety.

IS THE DEPARTMENT'S APPROACH TO PERFORMANCE MEASUREMENT FOR THIS PROGRAM/SERVICE MEANINGFUL?

The SMART Government Act [Section 2-7-202(18), C.R.S.] includes several requirements to ensure that departments' performance measures are meaningful. Specifically, performance measures included in departments' performance plans are required to:

- Be quantitative indicators used to assess the operational performance of a department.
- Apply to activities directly under the influence of a Department.
- Demonstrate the department's efficiency and effectiveness in delivering goods or services to customers and taxpayers.
- Be reasonably understandable to the general public.

The performance measures that CDOT has included in its Fiscal Year 2015 Performance Plan that include how CDOT utilizes its FASTER motor vehicle fee revenue comply with these requirements. However, we found that the manner in which CDOT measures its usage of FASTER road safety revenue included multiple concerns, as discussed in RECOMMENDATION 5, including that:

- CDOT does not calculate or report on the performance measure on awarding FASTER safety project contracts within 30 days of bid opening.
- CDOT has not established any performance measures related to outputs achieved from use of the FASTER safety revenue, such as number of guardrails installed or miles of shoulders widened. CDOT stated that it also uses crash rate performance as a measure, but this does not comply with the requirement of being an activity directly under the influence of CDOT, since accident and death/injury rates may increase despite the best efforts of CDOT in relation to

completing road safety projects.

By establishing additional performance measures for FASTER road safety, CDOT can improve its ability to demonstrate the effectiveness of its efforts to improve road safety by using the FASTER safety revenue to fund these types of projects, and better inform policy-makers and the public.

We did not identify any concerns with the measures that CDOT established regarding the FASTER bridge revenue. Additionally, the measures that CDOT established regarding transit projects were not exclusive to FASTER fee revenue and as such, the scope of this audit did not include an assessment of these measures.

ARE THE DATA USED TO MEASURE PERFORMANCE FOR THIS PROGRAM/SERVICE RELIABLE?

As discussed in RECOMMENDATION 5, CDOT used incomplete data for calculating the reported results for measuring the percentage of the FASTER safety fiscal year budget encumbered or expended by June 30. Moreover, for this performance measure, CDOT changed its calculation formula for Fiscal Year 2014, compared to the formula used in the reported results for Fiscal Years 2012 and 2013, but did not indicate this change in formula in its report, as discussed in RECOMMENDATION 5. As a result, users of the report are erroneously led to believe that the performance measure results can be compared over the 3 years included in the report. Further, CDOT used expenditure data for this measure and, as discussed in RECOMMENDATION 5, expenditure data is not reliable because CDOT's process for recording expenditures for open or ongoing projects is arbitrary and actual expenditures of FASTER safety revenue are not finalized—and thus an accurate reflection of utilized FASTER revenue—until the project is closed.

We did not evaluate the data related to the crash rate performance measures since these types of measures do not comply with all of the basic requirements of a SMART Government Act performance measure.

We did not identify any concerns with the reliability of the data used to calculate measures for the FASTER bridge revenue.

IS THIS PROGRAM/SERVICE EFFECTIVE IN ACHIEVING LEGISLATIVE INTENT AND THE DEPARTMENT'S GOALS?

Overall, we found that CDOT has generally utilized the FASTER motor vehicle fee revenue on projects that appear to address the State's bridge and road safety needs. As discussed in RECOMMENDATION 5, we found that due to the manner in which CDOT oversees (1) the process to fund projects with FASTER road safety revenue and (2) the projects themselves, CDOT cannot demonstrate that all of the FASTER road safety revenue was utilized to achieve the legislative intent of the FASTER Act. Additionally, as discussed in RECOMMENDATIONS 1 and 2, we found that CDOT utilized the FASTER bridge fee revenue on a small number of projects that may not have improved bridge safety as strategically and efficiently as possible.

Overall, CDOT can improve its oversight and management of the FASTER motor vehicle fee revenue, as discussed throughout this report, to further ensure that the legislative intent of FASTER is achieved. Specifically, CDOT could improve its oversight and management of FASTER safety, as discussed in RECOMMENDATION 3, RECOMMENDATION 4, and RECOMMENDATION 5, by setting up criteria that define the types and aspects of projects that are eligible for FASTER safety funding; establishing processes for prioritizing and approving eligible projects; designating specific staff responsibility for oversight; improving the accuracy and completeness of reports; ensuring that the amount of FASTER safety revenue utilized on a project is proportionate to the amount of safety work on that project; routinely tracking and monitoring the revenue from an aggregate level; and providing adequate training to relevant staff. Additionally, CDOT could improve its bridge project selection, budgeting and closure processes, as discussed in RECOMMENDATIONS 1 and 2.