



Colorado  
Legislative  
Council  
Staff

HB17-1171

## FISCAL NOTE

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0487

**Date:** February 13, 2017

**Prime Sponsor(s):** Rep. Buck; Carver

**Bill Status:** House SVMA

**Fiscal Analyst:** Larson Silbaugh (303-866-4720)

**BILL TOPIC:** AUTHORIZE NEW TRANSPORTATION REVENUE ANTICIPATION NOTES

Fiscal Impact Summary	FY 2016-2017 (current year)	FY 2017-2018	FY 2018-2019
<b>State Revenue</b> Highway Users Tax Fund		Conditional increase. See State Revenue section.	
<i>State Transfers/Diversions</i>		\$0	\$0
General Fund		(187.8 million)	(241.0 million)
Highway Users Tax Fund		210.7 million	261.4 million
Capital Construction Fund		(22.9 million)	(20.4 million)
<b>State Expenditures</b>	<u>\$5,000</u>		
General Fund	5,000		
Highway Users Tax Fund		Conditional increase. See State Expenditures section.	
Capital Construction Fund			
<b>Appropriation Required:</b> \$5,000 - Department of Revenue (FY 2016-17).			
<b>Future Year Impacts:</b> Ongoing state diversions and conditional revenue and expenditure increase.			

### Summary of Legislation

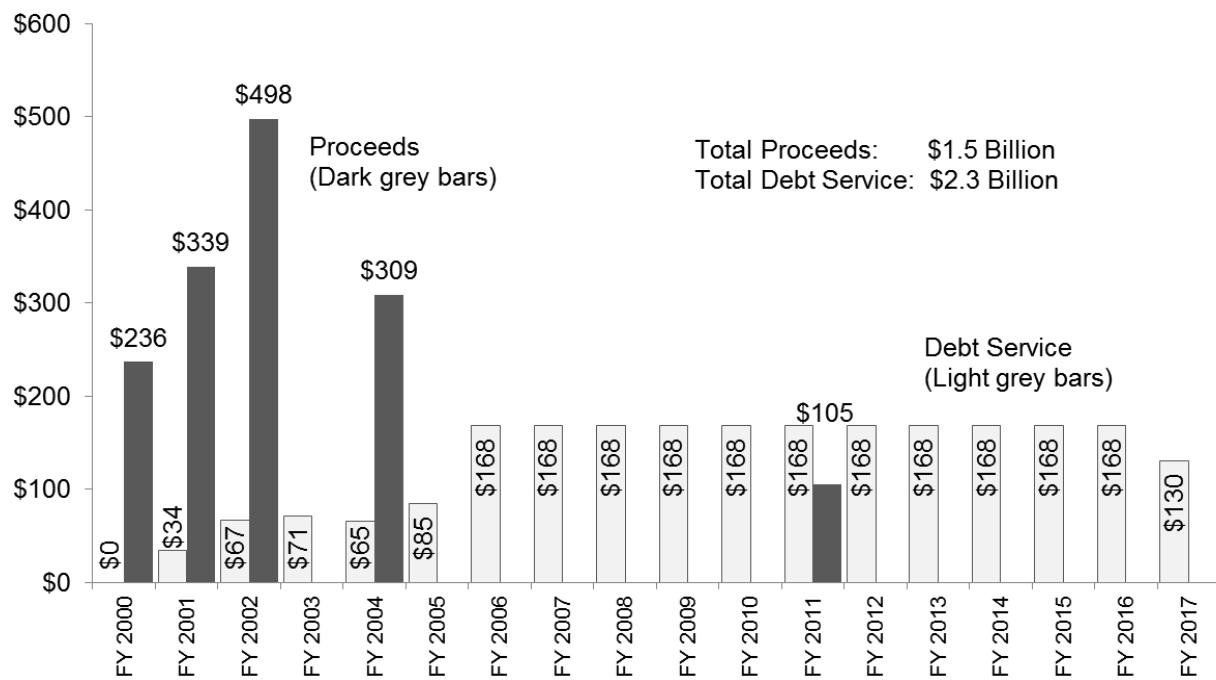
This bill requires the state Transportation Commission to submit a ballot question to voters in 2017 for approval of \$3.5 billion in Transportation Revenue Anticipation Notes (TRANS) once existing transportation bonds have been repaid. The maximum repayment cost cannot exceed \$5.0 billion or take longer than 20 years to repay. TRANS proceeds must be spent on 149 transportation projects across the state identified in the Colorado Department of Transportation's (CDOT) draft 2016 transportation development program.

The bill also eliminates the final three years of Senate Bill 09-228 transfers and diverts 10 percent of state sales tax revenue to the Highway Users Tax Fund (HUTF) and 1 percent of state sales tax revenue to the Capital Construction Fund (CCF). Both the Senate Bill 09-228 transfers and the sales tax diversions to the HUTF are transferred to the State Highway Fund, so this change will not impact the local distribution of the HUTF. No more than 10 percent of the revenue deposited into the HUTF not used to pay the TRANS may be used for transit-related improvements.

## Background

**Transportation Revenue Anticipation Notes.** In 1999, Colorado voters authorized the CDOT to borrow up to \$1.7 billion by selling TRANs, with a maximum repayment cost of \$2.3 billion. Debt service on TRANs is paid with money from the federal government and state matching funds. TRANs proceeds were exempt from the TABOR revenue limit and could be used only for a list of 28 prioritized statewide projects. The use of TRANs allowed CDOT to accelerate construction on these projects, including the widening of I-25 in Denver (T-REX). As shown in Figure 1, CDOT issued a total of \$1.5 billion in installments from 2000 through 2011, with a total repayment cost of \$2.3 billion. The final debt service payment occurred in December 2016.

**Figure 1. 1999 TRANs Proceeds and Debt Service**  
(Dollars in Millions)



Source: Colorado Department of Transportation. Not adjusted for inflation.

**Senate Bill 09-228 transfers.** SB 09-228 requires a five-year block of transfers from the General Fund to the HUTF and the CCF beginning after state personal income grows 5.0 percent or more during a single calendar year. Because personal income growth met the 5.0 percent trigger in 2014, transfers begin in FY 2015-16 and will continue through FY 2019-20.

However, beginning in FY 2017-18 these transfers may be cut in half or not made depending on the existence and size of a state TABOR surplus for each fiscal year in which transfers are scheduled. Transfers are:

- cut in half if the TABOR surplus during a fiscal year is greater than 1 percent and less than or equal to 3 percent of General Fund revenue; and
- eliminated if the TABOR surplus exceeds 3 percent of General Fund revenue.

The December 2016 Legislative Council Staff Economic and Revenue Forecast expects half transfers in FY 2017-18 and FY 2018-19, when the TABOR surplus is expected to be 2.5 percent of General Fund revenue in both years. No forecast of SB 09-228 transfers has been prepared for FY 2019-20. Forecasts of the TABOR surplus relative to General Fund revenue incorporate substantial error.

The Governor signed House Bill 16-1416 as part of the 2016 Long Bill package, which removed the triggers for the SB 09-228 transfers in FY 2015-16 and FY 2016-17, and specified transfers equal to set dollar amounts to the HUTF and CCF. The last three years of transfers were not impacted by HB 16-1416.

### **State Revenue**

House Bill 17-1171 has a conditional state revenue impact, an impact on state transfers, and an impact on state diversions. These impacts are detailed below.

**Conditional state revenue increase.** If voters approve the TRANs, revenue to the HUTF will increase by up to \$3.5 billion over a multi-year period beginning in FY 2017-18. The Transportation Commission is required to submit ballot language to voters in the 2017 election allowing CDOT to issue bonds. The state revenue increase is conditional on voters approving the bonds, and the timing of the revenue increase is uncertain. If voters approve the sale of TRANs, the proceeds would be voter-approved revenue and exempt from the state spending limit.

**State transfers and diversions.** This bill eliminates the final three years of SB 09-228 transfers to the HUTF and CCF and provides a permanent annual diversion of state sales tax revenue instead. The HUTF will receive 10 percent of state sales tax revenue and the CCF will receive 1 percent of state sales tax revenue each year starting in FY 2017-18. Table 1 shows the impact on the General Fund, the HUTF, and the CCF, for FY 2017-18 and FY 2018-19, respectively.

**Table 1. Impact of HB 17-1171 (Half SB 09-228 Transfers)**

<b>FY 2017-18</b>	<b>SB 09-228 Transfer</b>	<b>Sales Tax Diversion</b>	<b>Net Impact of HB 17-1171</b>
Highway Users Tax Fund	(\$110.1 million)	\$320.8 million	\$210.7 million
Capital Construction Fund	(\$55.0 million)	\$32.1 million	(\$22.9 million)
General Fund	\$165.1 million	(\$352.9 million)	(\$187.8 million)
<b>FY 2018-19</b>	<b>SB 09-228 Transfer</b>	<b>Sales Tax Diversion</b>	<b>Net Impact of HB 17-1171</b>
Highway Users Tax Fund	(\$116.4 million)	\$377.8 million	\$261.4 million
Capital Construction Fund	(\$58.2 million)	\$37.8 million	(\$20.4 million)
General Fund	\$174.6 million	(\$415.6 million)	(\$241.0 million)

*Note: Impact based on December 2016 Legislative Council Staff Forecast.*

**SB 09-228 transfers vs. sales tax diversions.** The SB 09-228 transfers in Table 1 are based on the December 2016 Legislative Council Staff forecast. However, small margins of error in the forecasts for General Fund revenue and the TABOR surplus could produce very different results. Because the forecast is based on current law and expectations about the economy, these errors include the impact of legislation enacted in the future by the General Assembly or U.S. Congress

that affect General Fund revenue or cash fund revenue subject to TABOR. Thus, these transfers could occur in full or not at all. From FY 2017-18 to FY 2019-20, the amount of money the HUTF and CCF receives compared with current law depends on the amount of General Fund revenue, the TABOR surplus, and sales tax collections. The actual transfer amounts will not be known until after the end of each fiscal year.

*Ongoing state sales tax diversions.* Starting in FY 2020-21, there is no General Fund transfer to the HUTF or the CCF in current law. Creating a 10 percent and 1 percent sales tax diversion into these funds increases the money available for statewide transportation projects and capital construction projects starting in FY 2020-21 and future fiscal years and reduces the amount of money available in the General Fund.

### **State Expenditures**

House Bill 17-1171 has a conditional expenditure increase for transportation projects and an uncertain fund balance impact on the HUTF and the CCF. In addition, the Department of Revenue requires a \$5,000 General Fund appropriation in FY 2016-17.

**Department of Transportation.** If voters approve the TRANs bonds in 2017, CDOT will accelerate spending on road construction and is obligated to spend future revenues on interest payments. These impacts are conditional on voter approval of the bond measure. CDOT will also have an uncertain funding impact from eliminating the SB 09-228 transfers and a new distribution equal to 10 percent of sales tax revenue in FY 2017-18, FY 2018-19, and FY 2019-20. Starting in FY 2020-21, department funding will increase, allowing expenditures to increase, relative to current law.

If voters approve the TRANs bonds, the total bond repayment costs may not exceed \$5.0 billion and must be repaid within 20 years. Within these parameters, the average annual bond repayment cost will be \$250 million. Based on current expectations for sales tax collections and a 5.0 percent annual growth rate, the 10 percent sales tax diversion will average \$531.8 million per year. Sales tax revenue transferred into the HUTF that exceeds the TRANs repayment amounts will be available for other transportation purposes. Table 2 shows three examples based on the assumptions above.

**Table 2. Comparison of HUTF Sales Tax Diversion and Bond Payment under HB 17-1171**

	<b>FY 2017-18 (Year 1)</b>	<b>20 Year Average</b>	<b>FY 2036-37 (Year 20)</b>
Bond payment	\$250.0 million	\$250.0 million	\$250.0 million
10% sales tax diversion	\$320.8 million	\$531.8 million	\$812.9 million
Difference	\$70.8 million	\$281.8 million	\$652.9 million

The amounts in Table 2 will vary depending on the actual bond payment and sales tax revenue. The annual bond payment will depend on the terms of the bonds, including the timing of when the bonds are issued and the interest rate.

**Capital construction.** The impact on the Capital Construction Fund balance is also uncertain in FY 2017-18, FY 2018-19, and FY 2019-20. Starting in FY 2020-21, capital construction funding will increase, allowing expenditures to increase.

**Department of Revenue.** The Department of Revenue is required to change the distribution of sales tax revenue received starting July 1, 2017 so that 10 percent is deposited in the HUTF, 1 percent is deposited in the CCF. This will require programming changes to the state tax administration software, GenTax. The bill requires that any sales tax payments for tax periods beginning July 1, 2017 or later are distributed to the three funds. This will require 25 hours of programming and testing from the GenTax vendor at a contract rate of \$200 per hour, or \$5,000, in FY 2016-17.

**Election expenditure impact (existing appropriations).** This bill includes a referred measure that will appear before voters at the November 2017 election. Although no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet (Blue Book) mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department. Table 1 estimates the costs for a single ballot measure in 2017. These costs will increase by approximately \$100,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

**Table 3. Projected Costs of a Single Statewide Ballot Measure Election in 2017**

Cost Component	Amount
County Reimbursement for Statewide Ballot Measures	\$2,700,000
Ballot Information Booklet (Blue Book) and Newspaper Publication	700,000
<b>TOTAL</b>	<b>\$3,400,000</b>

### Technical Note

Section 6 of the bill changes how 15 percent of sales and use tax revenue is allocated. It is clear that 10 percent is deposited into the HUTF, 1 percent is deposited in the CCF, and consistent with current law, a fixed \$10 million is transferred to the Older Coloradans Cash Fund. The remaining 4 percent is unallocated. This fiscal note assumes that the unallocated sales and use tax revenue will be available in the General Fund.

### Effective Date

Most sections of the bill take effect upon signature of the Governor, or upon becoming law without his signature. However, the sales and use tax diversion into the HUTF and CCF are effective July 1, 2017.

### State Appropriations

For FY 2016-17, the Department of Revenue requires a General Fund appropriation of \$5,000.

**State and Local Government Contacts**

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