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**HB 18-1119**

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 18-0624  
**Prime Sponsors:** Rep. Leonard  
 Sen. Neville T.  
**Date:** August 30, 2018  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Greg Sobetski | 303-866-4105  
 Greg.Sobetski@state.co.us

**Bill Topic:** HIGHWAY BUILDING AND MAINTENANCE FUNDING

**Summary of Fiscal Impact:**

- State Revenue
- State Expenditure
- State Diversion
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill would have diverted 7.5 percent of sales and use tax revenue from the General Fund to the State Highway Fund. Conditional on approval of a ballot measure, the bill would have authorized the issuance of Transportation Revenue Anticipation Notes and repealed executions of lease-purchase agreements under Senate Bill 17-267. On net, the bill would have increased State Highway Fund revenue through FY 2020-21. It would have increased State Highway Fund expenditures for debt service, and decreased General Fund expenditures for lease payments, through FY 2040-41.

**Appropriation Summary:** For the current FY 2017-18, the bill would have required a General Fund appropriation of \$13,930 to the Department of Revenue.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill did not become law; therefore, the impacts identified in this analysis do not take effect.

**Table 1  
State Fiscal Impacts Under HB 18-1119**

		FY 2017-18 <i>(current year)</i>	FY 2018-19	FY 2019-20	FY 2020-21
<b>Revenue</b> <i>(conditional)</i>	State Hwy Fund	-	\$786.7 million	\$666.7 million	\$666.7 million
	<b>Total</b>	-	<b>\$786.7 million</b>	<b>\$666.7 million</b>	<b>\$666.7 million</b>
<b>Expenditures</b> <i>(conditional*)</i>	General Fund	\$13,930	-	-	(\$16.0 million)
	State Hwy Fund	-	-	\$52.6 million	\$112.3 million
	<b>Total</b>	<b>\$13,930</b>	-	<b>\$52.6 million</b>	<b>\$96.3 million</b>
<b>Diversions</b>	General Fund	-	(\$252.6 million)	(\$265.4 million)	**
	State Hwy Fund	-	\$252.6 million	\$265.4 million	**
	<b>Total</b>	-	<b>\$0</b>	<b>\$0</b>	<b>**</b>

\* One-time implementation expenditures in the current FY 2017-18 are not conditional.

\*\* This bill diverts 7.5 percent of sales and use tax revenue in perpetuity; a forecast is not available beyond FY 2019-20.

## Summary of Legislation

Beginning in FY 2018-19, this bill diverts state sales and use tax revenue from the General Fund to the State Highway Fund. It also refers a ballot measure to voters at the 2018 general election. If the ballot measure is approved, the bill allows the Department of Transportation (CDOT) to issue new Transportation Revenue Anticipation Notes (TRANs) and repeals most lease-purchase agreements authorized to be executed under Senate Bill 17-267. These provisions are described in the following paragraphs.

**Diversion of sales and use tax revenue.** Beginning in FY 2018-19, the bill diverts 7.5 percent of state sales and use tax revenue from the General Fund to the State Highway Fund. This revenue is required first to be used to service debt on TRANs authorized pursuant to the ballot measure. Any remaining revenue is required to be expended for maintenance of the state highway system.

**Ballot measure.** The bill requires the Secretary of State to submit the TRANs ballot measure to voters at the 2018 election. Within 45 days of its enactment, this bill requires CDOT to furnish Legislative Council Staff with a list of qualified federal aid transportation projects that it intends to fund with TRANs proceeds if the ballot measure is approved. Legislative Council Staff is required to include this information in the published ballot information booklet (Blue Book) for the 2018 election.

**Transportation Revenue Anticipation Notes.** Conditional on approval of the ballot measure, this bill requires CDOT to issue up to \$3.5 billion in TRANs, with at least one-third of the issuance occurring in each of 2019, 2020, and 2021. The total repayment cost may not exceed \$5.0 billion over 20 years. Debt is to be serviced from the State Highway Fund.

Proceeds from the TRANs issuance are exempt from TABOR. Proceeds may be expended for TRANs debt service. Any amount that is not expended for debt service must be expended for qualified federal aid projects that are included in CDOT's strategic transportation project investment program. No more than 10 percent of proceeds may be expended for administrative and engineering costs related to the selected projects.

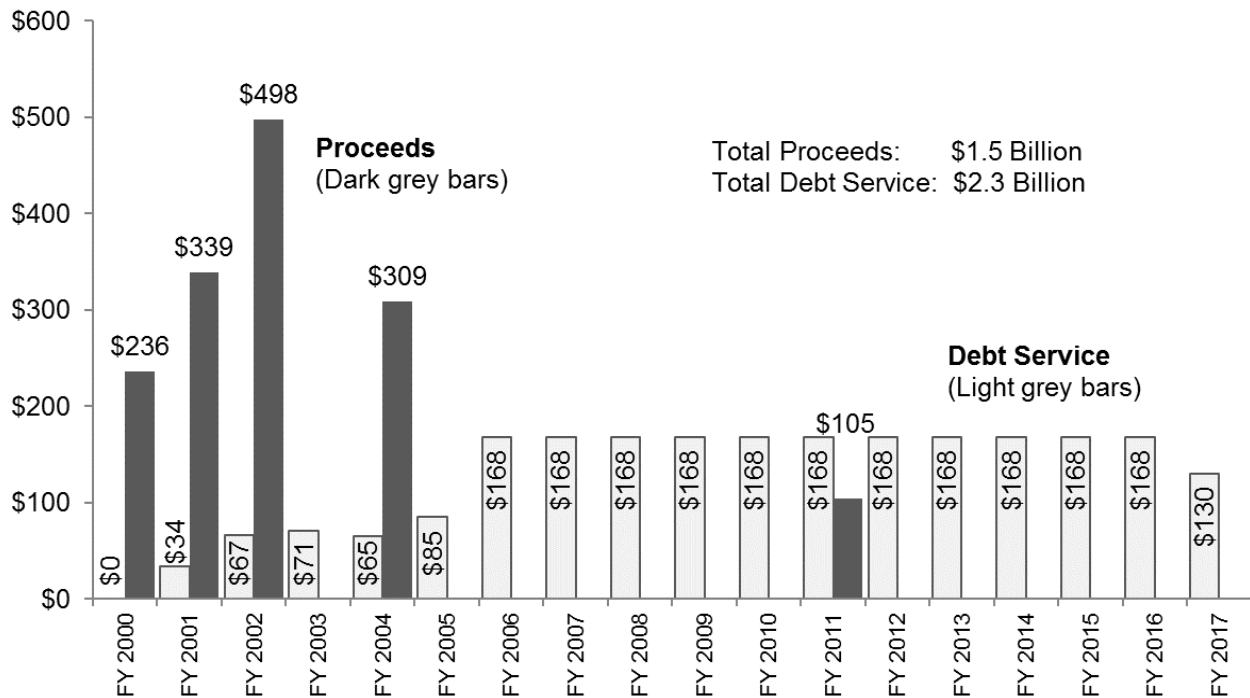
**Lease-purchase agreements.** Under current law, the state is required to execute \$2.0 billion in lease-purchase agreements between FY 2018-19 and FY 2021-22, from which \$1.88 billion is to be used for transportation projects and \$120 million is to be used for controlled maintenance and capital construction projects. Conditional on approval of the ballot measure, this bill reduces the requirement to a single execution of \$120 million in FY 2018-19 only, to be used for controlled maintenance and capital construction projects, and the requirement that additional lease-purchase agreements be executed to fund transportation projects is repealed. The General Fund obligation for lease payments is reduced to \$9.0 million annually for 20 years, and the State Highway Fund obligation for lease payments is eliminated.

## Background

**Transportation Revenue Anticipation Notes.** In 1999, Colorado voters authorized CDOT to borrow up to \$1.7 billion by selling TRANs with a maximum repayment cost of \$2.3 billion. Debt service on TRANs was 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.

**Assumptions**

**Lease-purchase agreements.** Current law requires the execution of lease-purchase agreements for transportation during FY 2018-19, when agreements worth \$380 million are to be executed, and between FY 2019-20 and FY 2021-22, when agreements worth \$500 million are to be executed each year. Current law does not specify when annual lease payments are to begin. This fiscal note assumes that annual payments for each lease will begin in the year after lease-purchase agreements are executed and will equal one-twentieth of the total payment amount expected over twenty years.

Current law authorizes the execution of lease-purchase agreements worth \$2.0 billion total, including \$120 million in lease-purchase agreements for controlled maintenance and capital construction that are unaffected in this bill. Current law requires that lease terms not exceed 20 years, and that the amount of lease payments not exceed \$150 million per year, for a total of \$3.0 billion in payments. For this reason, this fiscal note assumes that the aggregate interest paid will equal 50 percent of the principal value on which agreements are executed.

**Transportation Revenue Anticipation Notes.** If the ballot measure is approved, this bill requires CDOT to issue \$3.5 billion in TRANs with a repayment cost of up to \$5.0 billion. Based on underwriting analysis prepared for CDOT, this fiscal note assumes that CDOT will be able to issue that maximum \$3.5 billion in TRANs with a repayment cost of \$4.87 billion. The bill requires that one-third of this amount be issued in each of 2019, 2020, and 2021; this fiscal note assumes that these tranches will be issued in FY 2018-19, FY 2019-20, and FY 2020-21, respectively, to allow for the commencement of projects within the years required. Annual bond payments are assumed to begin in the year after the bonds are issued and are assumed to equal one-twentieth of the total repayment amount to be repaid over twenty years.

To the extent that timing for lease payments, TRANs issuance, and TRANs payments differ from what is assumed, the pattern of revenue and expenditure impacts will differ from that presented in the following sections. In any case, if the ballot measure is approved, this bill results in a net increase in State Highway Fund revenue through FY 2020-21, and net decreases in General Fund expenditures and increases in State Highway Fund expenditures through FY 2040-41.

**State Revenue**

This bill conditionally increases State Highway Fund revenue by \$786.7 million in FY 2018-19, and by \$666.7 million in each of FY 2019-20 and FY 2020-21. The bill conditionally decreases State Highway Fund revenue by \$500.0 million in FY 2021-22 only. These amounts are shown in Table 2. No revenue impacts are expected after FY 2021-22.

**Table 2  
 Conditional Revenue Under HB 18-1119**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>State Highway Fund</b>				
Lease-Purchase Agreements	(\$380.0 million)	(\$500 million)	(\$500 million)	(\$500 million)
TRANs Proceeds	\$1.17 billion	\$1.17 billion	\$1.17 billion	
<b>Total</b>	<b>\$786.7 million</b>	<b>\$666.7 million</b>	<b>\$666.7 million</b>	<b>(\$500 million)</b>

Conditional upon approval of the ballot measure, this bill repeals the requirement for execution of transportation-related lease-purchase agreements in SB 17-267 while authorizing the issuance of new TRANs. The amounts in Table 2 are consistent with the timing assumptions presented in the previous section of this fiscal note, and conclude in FY 2021-22.

**State Diversions**

This bill diverts \$252.6 million in FY 2018-19 and \$265.4 million in FY 2019-20 from the General Fund to the State Highway Fund. Diversions will continue in all subsequent fiscal years. These amounts represent 7.5 percent of sales and use tax revenue anticipated in the December 2017 Legislative Council Staff forecast.

**State Expenditures**

This bill unconditionally increases current year Department of Revenue expenditures for computer programming. Beginning in FY 2018-19, all of the bill's impacts on state expenditures are conditional on approval of the ballot measure or depend upon decisions to be made by the Transportation Commission. These impacts are described below.

**Computer programming.** The sales tax diversion requires changes to the Department of Revenue's GenTax software system during the current FY 2017-18 in order to preserve the correct allocation of sales tax revenue across funds in cases of buyers' claims for refunds. Changes are programmed by a contractor at a rate of \$250 per hour. The changes in this bill are expected to increase General Fund expenditures by \$6,250, representing 25 hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill will require the expenditures for contract personnel totaling \$7,680, representing 320 hours of testing at a rate of \$24 per hour.

**Conditional impacts.** Conditional on approval of the ballot measure, this bill increases state expenditures by \$52.6 million in FY 2019-20, \$96.3 million in FY 2020-21, and \$139.9 million in FY 2021-22, as shown in Table 3. These impacts continue through FY 2040-41 as debt is amortized. The amounts in Table 3 reflect the timing assumptions presented in the Assumptions section of this fiscal note.

**Table 3**  
**Conditional Expenditures Under HB 18-1119\***

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
<b>General Fund</b>				
Lease Payments	-	-	(\$16.0 million)	(\$53.5 million)
<b>State Highway Fund</b>				
Lease Payments	-	(\$28.5 million)	(\$50.0 million)	(\$50.0 million)
TRANs Debt Service	-	\$81.1 million	\$162.3 million	\$243.4 million
<b>Total</b>	<b>-</b>	<b>\$52.6 million</b>	<b>\$96.3 million</b>	<b>\$139.9 million</b>

\* These amounts do not include decreases to expenditures from lease-purchase agreements, or increases to expenditures from diverted sales and use tax revenue and TRANs proceeds, for transportation projects. These moneys will be expended at the discretion of the Transportation Commission.

**Transportation projects.** This bill authorizes the expenditure of diverted sales and use tax revenue and, conditional upon approval of the ballot measure, TRANs proceeds, for transportation projects. Actual project spending is at the discretion of the Transportation Commission and is not reflected in Table 3.

**TRANs issuance.** The requirement that CDOT issue TRANs will generate implementation costs in CDOT and may require expenditures for legal representation. Issuance costs are indeterminate and are assumed to be paid from the State Highway Fund. If legal services are required and cannot be accomplished within existing resources, additional State Highway Fund moneys may be paid to the Department of Law beginning in FY 2018-19.

**TRANS debt service.** Conditional upon approval of the ballot measure, this bill requires TRANS debt service payments to be made from the State Highway Fund.

**Lease-purchase agreements.** Conditional upon approval of the ballot measure, this bill reduces required lease-purchase agreements in FY 2018-19 and eliminates required lease-purchase agreements in each of FY 2019-20, FY 2020-21, and FY 2021-22. Repealing these requirements will reduce workload in the state agencies that are required under current law to participate in the process of determining buildings to collateralize and creating and selling financial instruments. This provision is expected to decrease workload in the Departments of Higher Education, Law, Personnel, and Treasury, and in the Office of State Planning and Budgeting, through FY 2021-22.

Conditional upon approval of the ballot measure, the bill eliminates all but \$9.0 million of the annual General Fund obligation, and the entire State Highway Fund obligation, for lease payments.

**Election expenditure impact — existing appropriations.** This bill includes a referred measure that will appear before voters at the November 2018 general election. While 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, estimated at \$3.2 million in FY 2018-19. 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 mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost \$2.1 million in FY 2018-19. Publication costs will increase by approximately \$115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

## Effective Date

This bill was postponed indefinitely by the House Transportation and Energy Committee on February 21, 2018.

## State Appropriations

For the current FY 2017-18, this bill requires a General Fund appropriation of \$13,930 to the Department of Revenue.

## State and Local Government Contacts

Counties  
Law  
Personnel  
Treasury

Higher Education  
Municipalities  
Revenue

Information Technology  
Office of State Planning and Budgeting  
Transportation