



Legislative  
Council Staff

Nonpartisan Services for Colorado's Legislature

SB 18-001

REVISED  
FISCAL NOTE

(replaces fiscal note dated March 20, 2018)

**Drafting Number:** LLS 18-0416  
**Prime Sponsors:** Sen. Baumgardner; Cooke  
Rep. Buck

**Date:** April 4, 2018  
**Bill Status:** House Transportation  
**Fiscal Analyst:** Greg Sobetski | 303-866-4105  
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**Bill Topic:** TRANSPORTATION INFRASTRUCTURE FUNDING

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>conditional</i> )	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>conditional</i> )	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

For 21 years, this bill creates annual transfers from the General Fund to the State Highway Fund for transportation purposes. If an initiated ballot measure authorizing state debt for transportation is not approved in 2018, this bill refers a ballot measure to do so at the 2019 election. Conditional on approval of the 2019 measure, the bill requires the issuance of Transportation Revenue Anticipation Notes worth up to \$3.5 billion. Conditional on approval of a ballot measure in either 2018 or 2019, this bill repeals executions of lease-purchase agreements under Senate Bill 17-267 for years beyond FY 2018-19. The bill conditionally increases state revenue from debt issuance and state expenditures for debt service over a 20-year term.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The revised fiscal note reflects the reengrossed bill.

**Table 1**  
**State Fiscal Impacts Under SB 18-001**

		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
<b>Revenue</b> ( <i>conditional</i> )	State Hwy Fund	-	\$666.7 million	\$666.7 million	\$666.7 million
	<b>Total</b>	-	<b>\$666.7 million</b>	<b>\$666.7 million</b>	<b>\$666.7 million</b>
<b>Expenditures</b> ( <i>conditional</i> )	General Fund	\$18.4 million	\$2.4 million	(\$35.1 million)	(\$72.6 million)
	State Hwy Fund	(\$18.4 million)	(\$39.9 million)	\$41.2 million	\$122.4 million
	<b>Total</b>	<b>\$0</b>	<b>(\$37.5 million)</b>	<b>\$6.1 million</b>	<b>\$49.8 million</b>
<b>Transfers</b>	General Fund	(\$500 million)	(\$250.0 million)	(\$250.0 million)	(\$250.0 million)
	State Hwy Fund	\$500 million	\$250.0 million	\$250.0 million	\$250.0 million
	<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Summary of Legislation

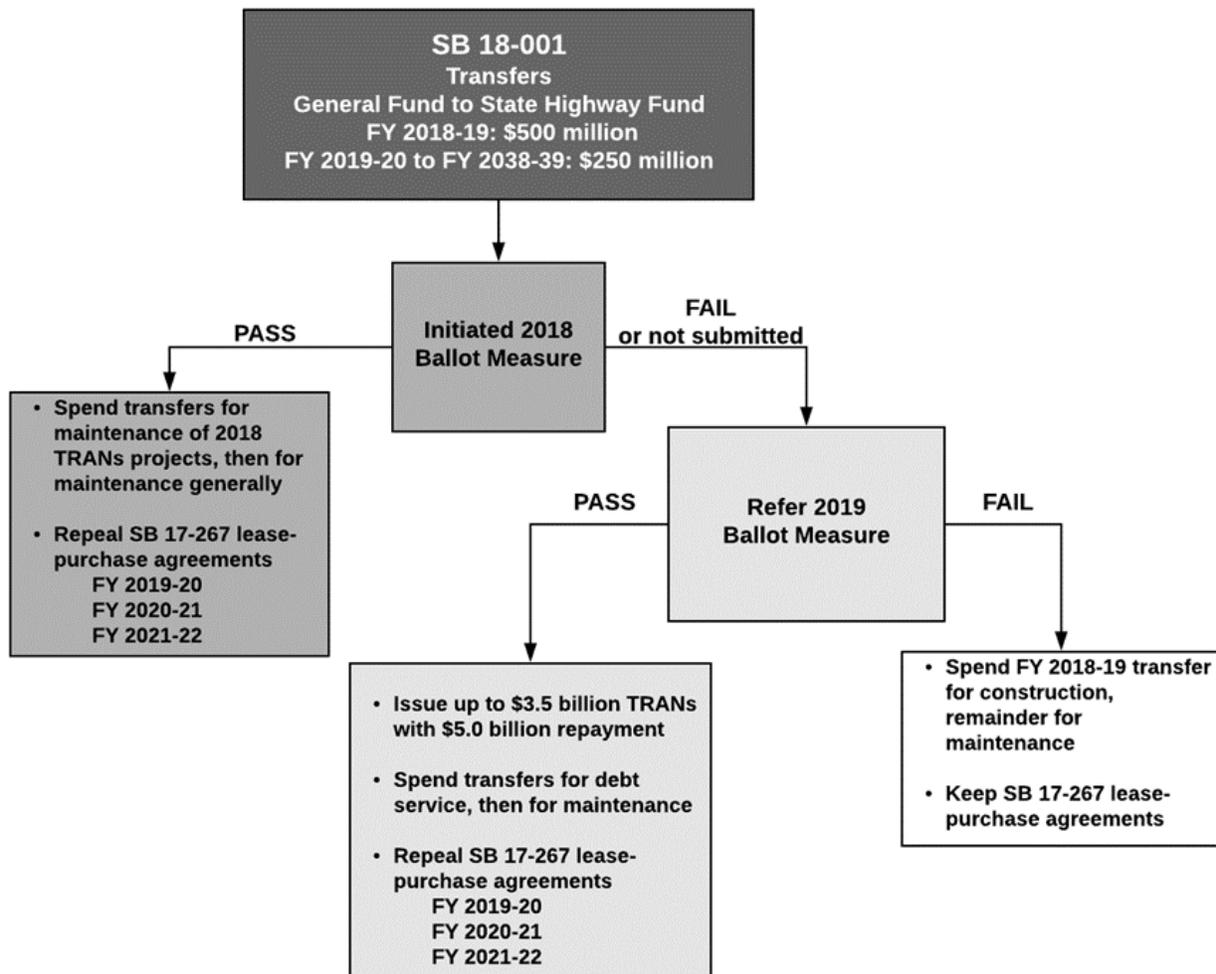
This bill provides General Fund support for transportation project construction and maintenance. The amount of funding and the purposes for which it may be used depend on the outcome of ballot measures at two statewide elections: a 2018 ballot measure that may be initiated by citizens, and, conditional on that measure not appearing or not passing, a 2019 ballot measure referred pursuant to this bill.

**Transfers.** In any case, the bill creates the following transfers from the General Fund to the State Highway Fund:

- \$500 million in FY 2018-19, supplanting the transfer contemplated in House Bill 18-1340, part of the Long Bill orbital package; and
- \$250 million annually in FY 2019-20 through FY 2038-39.

Funding contingencies dependent on ballot outcomes are summarized in Figure 1 and described in the following paragraphs.

**Figure 1**  
**Funding Contingencies Under SB 18-001**



**2018 ballot measure.** If a citizen-initiated ballot measure authorizing the issuance of Transportation Revenue Anticipation Notes (TRANS) is approved at the 2018 election, moneys transferred from the General Fund to the State Highway Fund are required to be spent first for maintenance of transportation projects funded through the TRANS issuance, and then for maintenance of the state highway system.

In this circumstance, the bill also repeals lease-purchase agreements authorized pursuant to Senate Bill 17-267 for FY 2019-20, FY 2020-21, and FY 2021-22. Under current law, lease-purchase agreements authorized for these years are expected to generate \$1.5 billion to the State Highway Fund, with the requirement that these moneys be expended for transportation projects. The state's annual obligation for lease payments will be reduced from \$150.0 million to \$37.5 million, the amount required for lease payments on only the \$500.0 million lease-purchase agreements anticipated to be executed in FY 2018-19. The General Fund obligation for lease payments is reduced to \$27.4 million annually for 20 years, and the State Highway Fund obligation for lease payments is reduced to \$10.1 million annually for 20 years.

**2019 ballot measure.** If a citizen-initiated ballot measure authorizing TRANS does not appear on the 2018 ballot, or if the 2018 ballot measure is rejected, this bill refers a ballot measure at the 2019 election. Conditional on approval of the ballot measure, the bill requires that TRANS be issued up to a maximum amount of \$3.5 billion, with a maximum repayment cost of \$5.0 billion over 20 years. TRANS proceeds are exempt from TABOR as a voter-approved revenue change and must be expended for qualified federal aid projects that are included in CDOT's strategic transportation project investment program, including funding for sound walls, and must satisfy the following criteria:

- at least 25 percent of revenue must be used for projects in counties that had populations of 50,000 or less as of July 2015;
- no more than 90 percent of revenue may be used for highway purposes; and
- at least 10 percent of revenue must be used for transit purposes.

The bill requires that the Department of Transportation (CDOT) furnish Legislative Council Staff (LCS) with a list of qualified federal aid transportation projects for inclusion in the ballot information booklet (Blue Book) for the 2019 election.

Moneys transferred from the General Fund to the State Highway Fund are required to be spent first for debt service on TRANS and then for maintenance of the state highway system. The bill also repeals lease-purchase agreements for FY 2019-20, FY 2020-21, and FY 2021-22, as described previously, and adjusts the General Fund and State Highway Fund obligations for lease payments correspondingly.

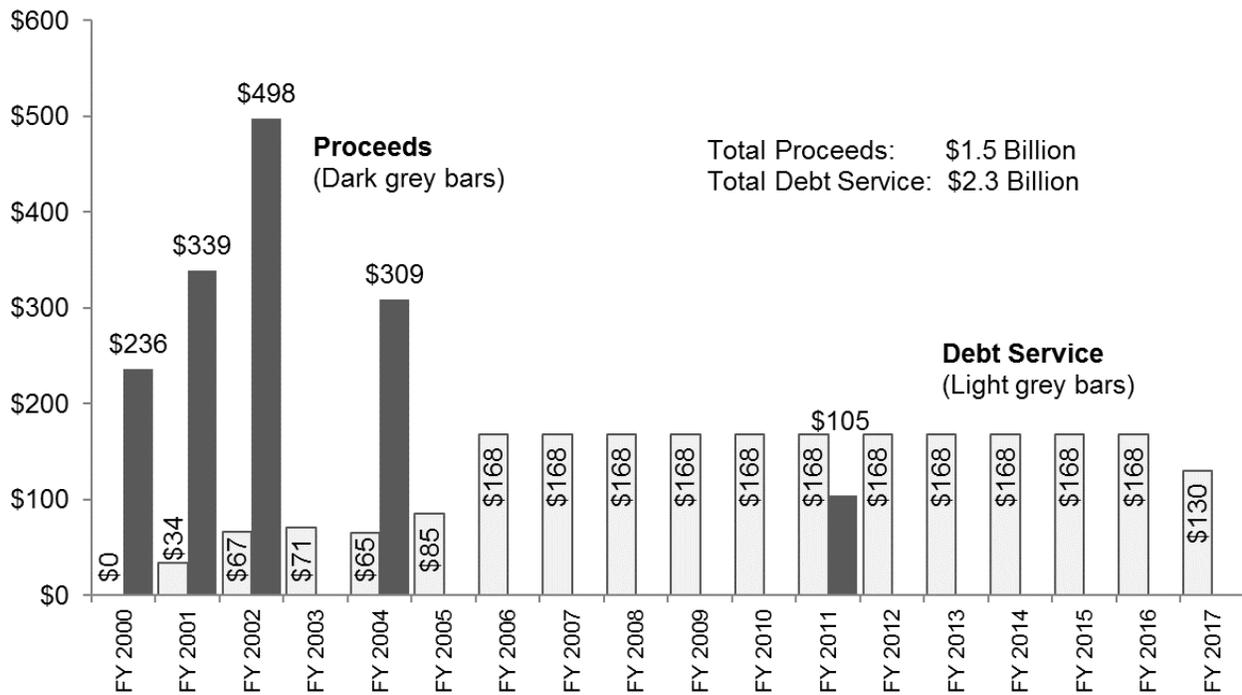
**No ballot measure.** If a ballot measure either does not appear or fails at the 2018 election, and if the referred 2019 ballot measure also fails, the bill requires that the \$500 million transferred in FY 2018-19 be spent for transportation project construction and that transfers for FY 2019-20 through FY 2038-39 be spent for maintenance of the state highway system. Lease-purchase agreements scheduled to be executed pursuant to SB 17-267 remain in law.

**Managed lanes.** Regardless of the outcome of the ballot measure(s), the bill requires that CDOT and the High-Performance Transportation Enterprise thoroughly evaluate alternative means of increasing capacity and reducing traffic congestion before constructing or designating a managed lane, defined as a toll lane, high-occupancy toll lane, or high-occupancy vehicle lane on a state highway. Managed lanes may only be constructed or designated if CDOT or the enterprise has published data-based findings that all of the alternatives evaluated are unfeasible to implement, unsafe, or would not provide adequate capacity expansion and congestion relief.

**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 2, 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 2**  
**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 worth \$500 million annually between FY 2018-19 and FY 2021-22. Current law does not specify when annual lease payments are to begin. Consistent with the March 2018 LCS forecast, this fiscal note assumes that annual payments for each lease will begin in the year in which lease-purchase agreements are executed and will equal one-twentieth of the total payment amount expected over 20 years. Current law requires 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 a 2018 ballot measure authorizing TRANs is approved, revenue and debt service costs for the TRANs are assumed to be attributable to the ballot measure and are not presented in this fiscal note.

If a 2019 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 the maximum \$3.5 billion in TRANs with a repayment cost of \$4.87 billion. This fiscal note assumes that one-third of the principal amount will be issued in each of FY 2019-20, FY 2020-21, and FY 2021-22. This fiscal note assumes that annual payments will begin in the year after TRANs are issued, and that payments for each tranche will equal one-twentieth of the total repayment amount expected over 20 years.

To the extent that timing for lease payments and TRANs payments differ from what is assumed, the pattern of revenue and expenditure impacts will differ from that presented in the following sections. If the 2019 ballot measure is approved, this bill results in a net increase in State Highway Fund revenue through FY 2021-22, and net decreases in General Fund expenditures and increases in State Highway Fund expenditures through FY 2041-42.

**State Revenue**

Conditional on referral and approval of the 2019 ballot measure, this bill conditionally increases State Highway Fund revenue by \$666.7 million in each of FY 2019-20, FY 2020-21, and FY 2021-22. These amounts represent the net impacts of issuing TRANs and eliminating three years of lease-purchase agreements pursuant to SB 17-267. If a 2018 ballot measure is approved instead, this bill reduces state revenue by \$500.0 million in each of FY 2019-20, FY 2020-21, and FY 2021-22, partially offsetting the revenue increase attributable to the ballot measure. These amounts are shown in Table 2 and are consistent with the timing assumptions discussed in the Assumptions section of this fiscal note. No revenue impacts are expected after FY 2021-22.

**Table 2**  
**Conditional Revenue Under SB 18-001**

	<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	-	(\$500 million)	(\$500 million)	(\$500 million)
TRANs Proceeds	-	\$1.17 billion	\$1.17 billion	\$1.17 billion
<b>Total</b>	-	<b>\$666.7 million</b>	<b>\$666.7 million</b>	<b>\$666.7 million</b>

**State Transfers**

This bill unconditionally transfers \$500 million in FY 2018-19 and \$250 million annually in FY 2019-20 through FY 2038-39 from the General Fund to the State Highway Fund. Transferred funds are available for expenditure at a time determined by the Transportation Commission provided that they are used for the purposes identified in the bill and presented in the Summary of Legislation section of this fiscal note. Transfers conclude in FY 2038-39.

**State Expenditures**

This bill unconditionally and indeterminately increases expenditures for CDOT and the High-Performance Transportation Enterprise for evaluation and potential implementation of alternatives to managed lanes. The bill additionally allows the expenditure of transferred moneys, and, conditionally, TRANs proceeds, from the State Highway Fund for transportation uses dependent on decisions made by the Transportation Commission. Conditional on approval of a ballot measure in 2018 or 2019, the bill reduces General Fund and State Highway Fund expenditures for lease payments beginning in FY 2019-20. Finally, conditional on approval of a ballot measure in 2019, the bill increases State Highway Fund expenditures for TRANs debt service beginning in FY 2020-21, more than offsetting the reduction in expenditures for lease payments. These impacts are described below.

**Managed lanes.** The provision in the bill requiring study of alternatives to managed lanes will indeterminately increase CDOT and enterprise expenditures on an ongoing basis beginning in FY 2018-19. Expenditures will be required to evaluate alternative options at future dates when managed lane projects are considered. The amounts of these expenditures will vary according to the scope of the project. If alternative options are found to be feasible, safe, and sufficient, the bill may increase upfront expenditures for contracted construction work, while reducing toll costs to drivers over the life of the contract. These impacts are not estimated and will vary considerably depending on project contracts.

**Conditional impacts.** Conditional on approval of the 2019 ballot measure, this bill decreases state expenditures by \$37.5 million in FY 2019-20 and increases state expenditures by \$6.1 million in FY 2020-21, \$49.8 million in FY 2021-22, and \$130.9 million in FY 2022-23 and subsequent years. These amounts reflect the net impacts of decreasing expenditures for lease payments and increasing expenditures for debt service on TRANs. If a 2018 ballot measure is approved instead, this bill decreases expenditures for lease payments without a corresponding increase in expenditures for debt service, though such an expenditure might be required by the ballot measure itself. Conditional impacts continue through FY 2041-42 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 SB 18-001 with 2019 Ballot Measure\***

	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>General Fund</b>				
Lease Payments	\$2.4 million	(\$35.1 million)	(\$72.6 million)	(\$72.6 million)
<b>State Highway Fund</b>				
Lease Payments	(\$39.9 million)	(\$39.9 million)	(\$39.9 million)	(\$39.9 million)
TRANs Debt Service	-	\$81.1 million	\$162.3 million	\$243.4 million
<b>Total</b>	<b>(\$37.5 million)</b>	<b>\$6.1 million</b>	<b>\$49.8 million</b>	<b>\$130.9 million</b>

\* This bill issues TRANs and creates a debt service obligation only if the 2019 ballot measure referred in this bill is approved. These amounts do not include decreases to expenditures from lease-purchase agreements, or increases to expenditures from transferred General Fund 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 transferred General Fund revenue and, conditional upon approval of the 2019 ballot measure, TRANs proceeds, for transportation projects and/or maintenance. Actual project spending and timing 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 2019-20.

**TRANs debt service.** Conditional upon approval of the 2019 ballot measure, this bill requires TRANs debt service payments to be made from revenue transferred to the State Highway Fund.

**Lease-purchase agreements.** Conditional upon approval of a ballot measure in either 2018 or 2019, this bill repeals 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 a ballot measure in either year, the bill reduces the annual obligation for lease payments and changes the fund sources from which lease payments are to be made. Specifically, the measure requires that the first \$9.0 million annually be paid from the General Fund, that the next \$10.1 million annually be paid from the State Highway Fund, and that the remainder, estimated at \$18.4 million annually, be paid from the General Fund. If and only if a 2018 ballot measure is approved, this shift in lease payment obligations will occur in FY 2018-19, as shown in Table 1, in addition to the lease payment effects shown in Table 3.

**Election expenditure impact — existing appropriations.** This bill includes a referred measure that may appear before voters at the November 2019 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 2019-20. 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 2019-20. 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**

The portions of the bill that create transfers and requirements for evaluation of managed lane proposals take effect upon signature of the Governor, or upon becoming law without his signature. The bill refers a 2019 ballot measure only if a 2018 ballot measure does not appear or

is rejected by voters. The portions of the bill that repeal lease-purchase agreements take effect conditional on approval of a 2018 or 2019 ballot measure. The portions of the bill that require the issuance of TRANs take effect conditional on approval of a 2019 ballot measure only.

**State and Local Government Contacts**

Counties  
Law  
Personnel

Higher Education  
Municipalities  
Transportation

Information Technology  
Office of State Planning and Budgeting  
Treasury