SB 18-001

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated January 19, 2018)

Drafting Number:	LLS 18-0416	**Date:**	February 15, 2018
Prime Sponsors:	Sen. Baumgardner; Cooke Rep. Buck	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Greg Sobetski | 303-866-4105 Greg.Sobetski@state.co.us

Bill Topic: TRANSPORTATION INFRASTRUCTURE FUNDING

Summary of Fiscal Impact:

- ☒ State Revenue *(conditional)*
- ☒ State Expenditure
- ☒ State Diversion
- ☐ TABOR Refund
- ☐ Local Government
- ☐ Statutory Public Entity

This bill diverts 10 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 requires the issuance of Transportation Revenue Anticipation Notes and repeals executions of lease-purchase agreements under Senate Bill 17-267. On net, the bill increases State Highway Fund revenue through FY 2020-21. It increases State Highway Fund expenditures for debt service, and decreases General Fund expenditures for lease payments, through FY 2040-41.

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

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the Senate Transportation Committee.

Table 1
State Fiscal Impacts Under SB 18-001

		FY 2017-18 *(current year)*	FY 2018-19	FY 2019-20	FY 2020-21
Revenue	State Hwy Fund	-	$786.7 million	$666.7 million	$666.7 million
(conditional)	**Total**	-	**$786.7 million**	**$666.7 million**	**$666.7 million**
Expenditures	General Fund	$13,930	-	-	($16.0 million)
(conditional)*	State Hwy Fund	-	-	$52.6 million	$112.3 million
	Total	**$13,930**	**-**	**$52.6 million**	**$96.3 million**
Diversions	General Fund	-	($336.8 million)	($353.8 million)	**
	State Hwy Fund		$336.8 million	$353.8 million	**
	Total	-	**$0**	**$0**	**

* *One-time implementation expenditures in the current FY 2017-18 are not conditional.*
** *This bill diverts 10 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 10 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 transportation project construction or maintenance.

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. 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 FY 2018-19, FY 2019-20, and FY 2020-21. 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 and must satisfy the following criteria:

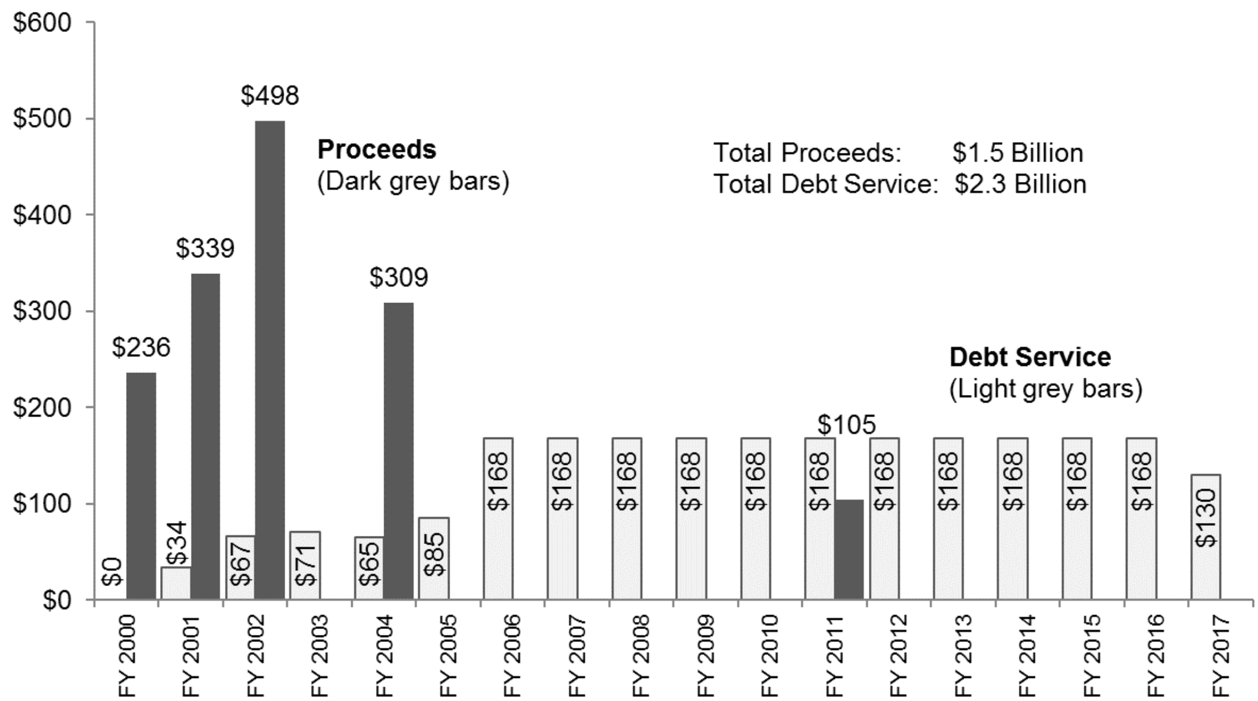
- at least 25 percent of revenue must be used for projects in counties that had populations of 50,000 or less as of July 2015;
- at least one project located in each of the five state engineering regions must receive funding;
- no more than 90 percent of revenue may be used for highway purposes; and
- at least 10 percent of revenue must be used for transit purposes.

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 the 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 FY 2018-19, FY 2019-20, and FY 2020-21. This fiscal note assumes that annual bond payments will begin in the year after bonds are issued, and that payments for each tranche of bonds will equal one-twentieth of the total repayment amount expected over twenty 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. 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 SB 18-001

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

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 $336.8 million in FY 2018-19 and $353.8 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 10 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. The department can perform the testing required in this bill within existing appropriations. 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 SB 18-001*

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

* *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 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 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

The portions of the bill that divert sales and use tax revenue and refer the ballot measure take effect upon signature of the Governor, or upon becoming law without his signature. The portions of the bill authorizing TRANs and repealing the lease-purchase agreement requirement take effect conditional on approval of the ballot measure.

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	Higher Education	Information Technology
Law	Municipalities	Office of State Planning and Budgeting
Personnel	Transportation	Treasury