Colorado Legislative Council Staff

Bill 4

FISCAL NOTE

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

Drafting Number: LLS 17-0180
Prime Sponsor(s):

Date: October 3, 2016
Bill Status: Transportation Legislation Review Committee Bill Request
Fiscal Analyst: Larson Silbaugh (303-866-4720)

BILL TOPIC: AUTH NEW TRANSPORTATION REVENUE ANTICIPATION NOTES

Fiscal Impact Summary	FY 2016-2017 *(current year)*	FY 2017-2018	FY 2018-2019
State Revenue		Conditional increase. See State Revenue section.	
Highway Users Tax Fund			
State Transfers/Diversions		**$0**	**$0**
General Fund		$153.3 million	($10.0 million)
Highway Users Tax Fund		($73.5 million)	$37.1 million
Capital Construction Fund		($80.0 million)	($27.1 million)
State Expenditures	**$55,000**	See State Expenditures section.	
General Fund	55,000		
Appropriation Required: $55,000 - Department of Revenue (FY 2016-17).			
Future Year Impacts: Ongoing state diversions and conditional state expenditure increase.			

Summary of Legislation

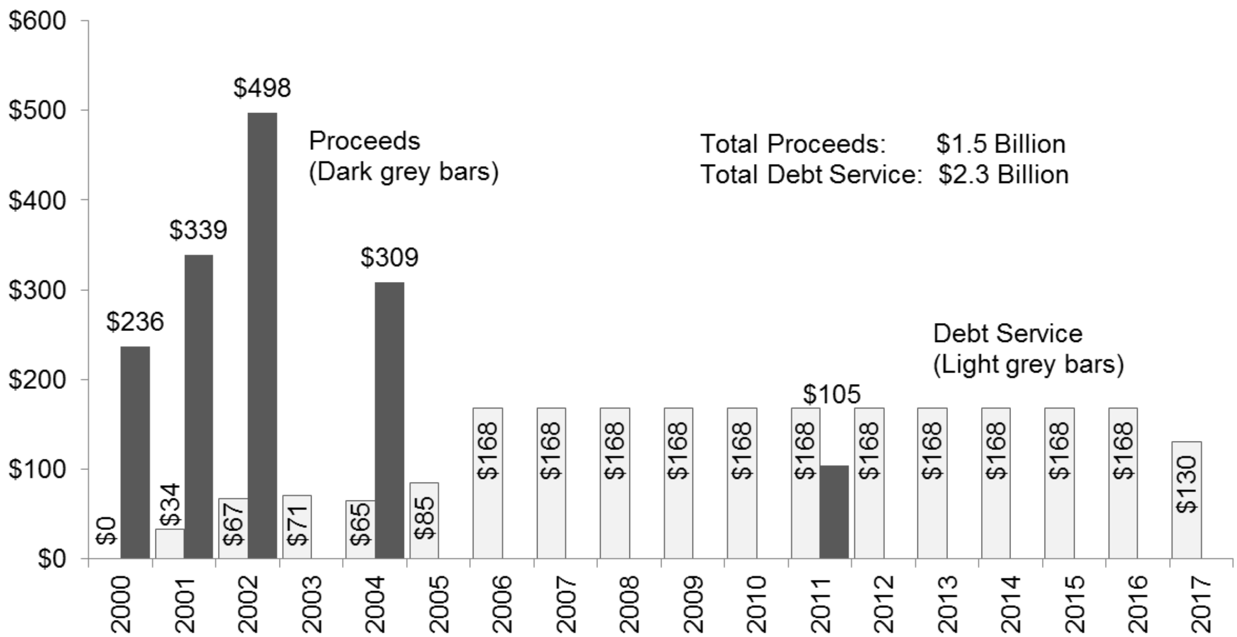
This bill requires the state Transportation Commission to submit a ballot question to voters in 2017 for approval of $3.5 billion in Transportation Revenue Anticipation Notes (TRANs) once existing transportation bonds have been repaid. The maximum repayment cost cannot exceed $5.5 billion or take longer than 20 years to repay. TRANs proceeds must be spent on a list of 42 transportation projects across the state described in the bill.

The bill also eliminates the final three years of Senate Bill 09-228 transfers and diverts 5 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.

Background

Transportation Revenue Anticipation Notes. In 1999, Colorado voters authorized the Colorado Department of Transportation (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 is scheduled to occur 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 September 2016 Legislative Council Staff Economic and Revenue Forecast expects full transfers in FY 2017-18, when the TABOR surplus is expected to be 0.8 percent of General Fund revenue. The TABOR surplus is forecast to be 1.6 percent of General Fund revenue in FY 2018-19, resulting in halved transfers. 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

Bill 4 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 impact. 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 5 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 1a shows the FY 2017-18 impact on the General Fund, the HUTF, and the CCF, and Table 1b shows the impact for FY 2018-19.

Table 1a. FY 2017-18 Impact of Bill 4 (Full SB 09-228 Transfer)

	SB 09-228 Transfer	Sales Tax Diversion	Net Impact of Bill 4
Highway Users Tax Fund	($217.7 million)	$144.2 million	($73.5 million)
Capital Construction Fund	($108.8 million)	$28.8 million	($80.0 million)
General Fund	$326.5 million	($173.0 million)	$153.5 million

Note: Impact based on September 2016 Legislative Council Staff Forecast.

Table 1b. FY 2018-19 Impact of Bill 4 (Half SB 09-228 Transfer)

	SB 09-228 Transfer	Sales Tax Diversion	Net Impact of Bill 4
Highway Users Tax Fund	($114.9 million)	$152.0 million	$37.1 million
Capital Construction Fund	($57.5 million)	$30.4 million	($27.1 million)
General Fund	$172.4 million	($182.4 million)	($10.0 million)

Note: Impact based on September 2016 Legislative Council Staff Forecast.

SB 09-228 Transfers vs. sales tax diversions. The SB 09-228 transfers in Tables 1a and 1b are based on the September 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. In 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 5 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

Bill 4 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 $55,000 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 5 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. With 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 5 percent sales tax diversion will average $239.4 million per year. Early in the repayment period, the sales tax diversion will not provide enough revenue to cover the entire annual bond payment. In years when the sales tax diversion does not cover the bond payments, other transportation dollars will be used to make up the difference. Later in the repayment period, the sales tax diversion will exceed the annual bond payment. Table 2 shows three examples based on the assumptions above.

Table 2. Comparison of HUTF Sales Tax Diversion and Bond Payment

	FY 2017-18 (Year 1)	20 Year Average	FY 2036-37 (Year 20)
Bond payment	$250.0 million	$250.0 million	$250.0 million
5% sales tax diversion	$144.2 million	$239.4 million	$365.9 million
Difference	($105.8 million)	($10.6 million)	$115.9 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 5 percent is deposited in the HUTF, 1 percent is deposited in the CCF, and 94 percent is deposited in the General Fund. This will require programing changes to the state tax administration software, GenTax. The bill requires that any sales tax payments received starting July 1, 2017 are distributed to the three funds, including late payments filed for prior sales tax periods. This will require GenTax programing to multiple sales tax periods and differentiating between payments received before and after July 1, 2017. This will require 275 hours of programing and testing from the GenTax vendor at a contract rate of $200 per hour, or $55,000, in FY 2016-17.

Election expenditure impact (existing appropriations). The bill includes a referred measure that will appear before voters on the November 2017 ballot. Although no additional appropriation is required in this bill to cover election costs associated with this ballot measure, certain election costs to the state are appropriated as part of the regular budget process. First, state law requires that the state reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund. 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 prior to the election paid from the Ballot Analysis Revolving Fund.

Table 3 shows the ballot costs for 2016, which are representative of preliminary 2017 ballot cost estimates. As of this writing, it is unknown whether there will be any measures on the 2017 ballot other than the TRANs measure under Bill 4, which will trigger the ballot costs shown in Table 3 below for a single ballot measure. If the base amount is already spent by another measure on the ballot, 2017 costs will increase by approximately $100,000 per measure beyond the base amount. These are preliminary ballot costs estimates, and may increase.

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

Cost Component	Amount
County Reimbursement for Statewide Ballot Measures	$2,400,000
Ballot Information Booklet (Blue Book) & Newspaper Publication	$670,000
TOTAL	**$3,070,000**

Effective Date

Sections 3, 4, and 5 of the bill take effect upon signature of the Governor, or upon becoming law without his signature. Sections 6 and 7, regarding the transfer of sales taxes 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 $55,000.

State and Local Government Contacts

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