Colorado Legislative Council Staff

ISSUE BRIEF

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STATUTORY TRANSFERS TO FUND TRANSPORTATION AND CAPITAL CONSTRUCTION

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Senate Bill 09-228, adopted by the General Assembly during the 2009 legislative session, created a five-year block of statutory transfers from the General Fund to pay for transportation and capital construction projects. This *issue brief* discusses the state law that specifies the amounts of these transfers, the trigger that determines when they occur, and the conditions under which they may be reduced or eliminated.

Statutory transfers. SB 09-228 created a five-year block of transfers from the General Fund to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF). Some of these transfers are now set as fixed amounts of money, while others will be calculated as a percentage of General Fund revenue collected during the fiscal year when the transfer is made.

FY 2015-16 and FY 2016-17. House Bill 16-1416 fixed the first two years of transfers to specific dollars amounts. The bill transfers $199.2 million in FY 2015-16 and $158.0 million in FY 2016-17 to the HUTF. The CCF receives transfers equal to $49.8 million in FY 2015-16 and $52.7 million in FY 2016-17.

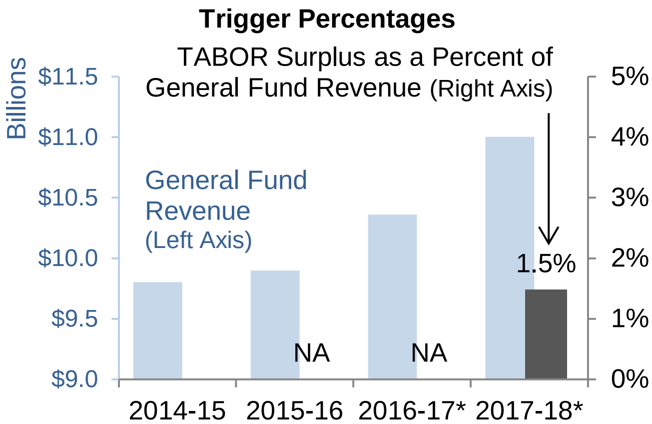
FY 2017-18 through FY 2019-20. For these three years, transfers to the HUTF are set to equal 2.0 percent of General Fund revenue for the fiscal year when the transfer is made. Transfers to the CCF are set to equal 1.0 percent of General Fund revenue for the fiscal year when the transfer is made.

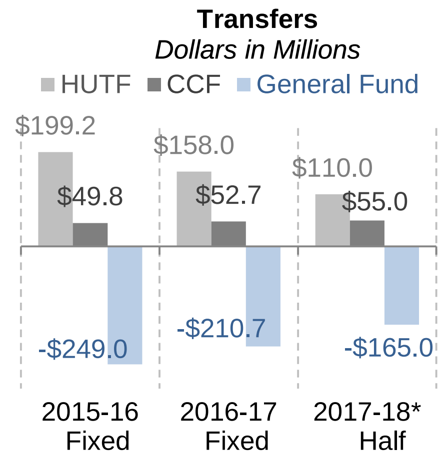
Personal income trigger. The SB 09-228 transfers were triggered after the first official estimate of Colorado personal income indicated that it grew by at least 5.0 percent in a single calendar year. The state economy achieved this growth rate in 2014. Transfers began in FY 2015-16, the first fiscal year after the trigger was met, and are scheduled to continue through FY 2019-20. The schedule of transfers is independent of growth in state revenue; however, transfers may be reduced or eliminated if revenue exceeds the state's constitutional revenue limit. Based on the June 2016 forecast, this is expected to occur in FY 2017-18.

Transfer reductions and eliminations. State revenue collected above certain thresholds can reduce the amount of money transferred to transportation and capital construction in FY 2017-18 and subsequent years. SB 09-228 includes a provision reducing or eliminating transfers if the state collects a Taxpayer's Bill of Rights (TABOR) surplus. The TABOR Amendment to the Colorado Constitution requires a refund if state revenue exceeds a certain amount, called the TABOR limit. More information on the TABOR limit can be found in Legislative Council Staff Issue Brief 15-14, "Colorado's Constitutional Spending Limit."

In FY 2017-18 through FY 2019-20, SB 09-228 transfers revenue to the CCF and the HUTF, respectively. However, the transfers

Figure 1. Projected SB 09-228 Transfers, *FY 2015-16 through FY 2017-18*, **and General Fund Impacts**





**Indicates forecast.*
Source: Legislative Council Staff forecast, June 2016.

to the CCF and the HUTF are cut in half if the TABOR surplus during a year is between 1.0 percent and 3.0 percent of General Fund revenue, and eliminated if the surplus exceeds 3.0 percent of General Fund revenue. A surplus less than 1.0 percent of General Fund revenue does not affect the transfers.

Current forecasts anticipate TABOR revenue in excess of the limit in FY 2017-18. Transfers are expected to be cut in half in FY 2017-18; however, either full transfers or eliminated transfers are possible because of normal forecast error.

Figure 1 shows projected SB 09-228 transfers and General Fund impacts for FY 2015-16 through FY 2017-18. Forecasts for the two subsequent fiscal years are not available.

Use of transferred funds. State law requires that all SB 09-228 transfers to the HUTF be paid to the State Highway Fund for allocation to the Department of Transportation. Further, state law requires that these funds be expended for the implementation of the Strategic Transportation Project Investment Program, a collection of transportation improvement projects selected by the Transportation Commission. Finally, no more than 90 percent of the transferred funds may be spent on highways and highway-related capital improvements, while at least 10 percent of transferred funds must be spent on transit or transit-related capital improvements.

State law does not specify the use of SB 09-228 transfers to the CCF. Funds in the CCF are spent on capital construction, capital renewal, and controlled maintenance projects, at the discretion of the General Assembly.