



# Legislative Council Staff

## Research Note

Version: Final

Date: 2/24/2016

### Bill Number

**House Bill 16-1138**

### Sponsors

***Representative Brown  
(None)***

### Short Title

***General Fund Transfers For  
State Infrastructure***

### Research Analyst

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### Status

This research note reflects the final version of the bill. The bill was postponed indefinitely by the House State Affairs Committee on February 24, 2016.

### Summary

The bill lengthens the five-year block of statutory transfers from the General Fund to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF), in the event that one or more year(s) of transfers are reduced or not made because of a revenue surplus under Article X, Section 20, of the Colorado Constitution, known as the Taxpayer's Bill of Rights (TABOR). For each year in which transfers are reduced or not made, an additional year of transfers is required, in which 2 percent of General Fund revenue is transferred to the HUTF and 1 percent of General Fund revenue is transferred to the CCF. As in current law, transfers created in the bill may be reduced or not made because of the size of the TABOR surplus. The schedule of transfers is extended until five years of full transfers have taken place.

The bill also allows up to 90 percent of General Fund revenue transferred to the HUTF to be spent on highway construction, reconstruction, repair, improvement, and maintenance, in addition to infrastructure projects identified in the Strategic Transportation Project Investment Program.

### Background

Senate Bill 09-228 requires a five-year block of transfers from the General Fund to the HUTF and the CCF beginning in FY 2015-16 and continuing through FY 2019-20. Eighty percent of the first year's transfer is expected to be made on April 20, 2016.

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Transfers may be cut in half or not made depending on the existence and size of a state TABOR surplus for each 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. If the TABOR surplus exceeds 3 percent of General Fund revenue, the transfers are not made for that year. Prior to the transfers authorized by SB 09-228, statutory transfers to the HUTF and the CCF were authorized by House Bill 02-1310.

**HB 02-1310.** Beginning in FY 2004-05, HB 02-1310 required that excess General Fund reserves be transferred two-thirds to highways and one-third to capital construction. The excess General Fund reserve was any money left over after appropriations had been increased by 6 percent, a 4 percent reserve had been fully funded, and the Senate Bill 97-1 diversion of 10.355 percent of sales and use tax revenue was made in full to the HUTF.

**Repeal of HB 02-1310.** SB 09-228 repealed the automatic HB 02-1310 transfer to the CCF and the HUTF, and the SB 97-1 diversion to the HUTF. The bill also changed the year-over-year General Fund appropriation growth limit to equal 5 percent of Colorado personal income. Prior to FY 2009-10, state law limited the growth of General Fund appropriations to 6 percent from one fiscal year to the next.

**SB 09-228.** The statutory transfers to the HUTF and the CCF were scheduled to begin in FY 2012-13, provided Colorado personal income increased by 5 percent or more. However, the entire five-year block of transfers was postponed until the first fiscal year in which personal income increased by at least 5 percent during the calendar year in which the fiscal year originated. This occurred in 2014. Once the personal income trigger was met, Senate Bill 12-168 further delayed the block of transfers by one year, until FY 2015-16. The scheduled transfers to the HUTF are set at 2.0 percent of General Fund revenue for all five fiscal years of the transfer period. The scheduled transfers to the CCF are set at 0.5 percent of General Fund revenue for the first two fiscal years and 1.0 percent of General Fund revenue in the last three fiscal years of the transfer period.

**Current forecast.** The December 2015 Legislative Council Staff Economic and Revenue Forecast expects full transfers in FY 2015-16, halved transfers in FY 2016-17, and no transfers in FY 2017-18. Forecasts of the TABOR surplus relative to General Fund revenue incorporate substantial error. In all three years of the current forecast period, full transfers, halved transfers, and no transfers are all possibilities within normal forecast error.

## House Action

**House State Affairs Committee (February 24, 2016).** At the hearing, the Colorado Competitive Council and the Colorado Motor Carriers Association testified in support of the bill. The Colorado Department of Transportation testified on the bill from a neutral position. The bill was postponed indefinitely.

## Relevant Research

Legislative Council Staff, *Economic and Revenue Forecast*, December 2015: <http://tinyurl.com/j6jwpgw>

Legislative Council Staff, *Statutory Transfers to Fund Transportation and Capital Construction*, Issue Brief, November 2014: <http://tinyurl.com/jct3p2r>