



# Legislative Council Staff

## Research Note

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### Bill Number

House Bill 17-1242

### Sponsors

*Representatives Duran & Mitsch  
Bush  
Senators Grantham &  
Baumgardner*

### Short Title

*New Transportation  
Infrastructure Funding Revenue*

### Research Analyst

Katie Ruedebusch (x3001)

### Status

The bill was postponed indefinitely by the Senate Finance Committee on April 25, 2017.

### Background

The most common way states fund transportation is through fuel taxes. States also use bonding and debt, vehicle registration fees, state general sales taxes, tolls, mileage-based fees, federal funds, general funds, and public-private partnerships, among other methods. Depending on the state, local governments may also be authorized to levy taxes and fees or collect tolls for local transportation needs.

**Colorado's transportation system.** Colorado's transportation system consists of the state highway system, county and municipal roads, mass transit, airports, railroads, and bicycle and pedestrian routes. The system is primarily managed by the Colorado Department of Transportation (CDOT). Cities, counties, transit authorities, public highway authorities, and the Colorado Public Utilities Commission also manage parts of the system. Subject to certain constitutional limitations, the General Assembly determines the methods of financing Colorado's transportation system and has delegated transportation planning to CDOT and local governments.

**Colorado transportation finance.** The Colorado transportation system receives revenue from several sources including motor fuel taxes, registration fees, other transportation-related taxes and fees, federal funds, and the General Fund. The funds are distributed according to statutory formulas.

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The Highway Users Tax Fund (HUTF) is the primary source of highway funds in Colorado. Revenue in the HUTF comes from motor fuel taxes, registration fees, driver's license fees, court fines, and interest earnings. HUTF funds are allocated to CDOT, counties, and municipalities, based on a statutory formula. The terms "first stream" and "second stream" are commonly used when explaining the distribution of revenue from the HUTF. Prior to the first stream distribution, appropriations are made to the Department of Revenue, for highway-related functions, and to the Department of Public Safety for the State Patrol. These appropriations are referred to as "off-the-top" deductions. Remaining first stream revenue is distributed to CDOT (65 percent), counties (26 percent), and municipalities (9 percent). Second stream revenue is distributed to CDOT (60 percent), counties (22 percent), and municipalities (18 percent).

**Transportation bonds.** In 1999, Colorado voters authorized CDOT to borrow up to \$1.7 billion by selling Transportation Revenue Anticipation Notes (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 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). 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 on these bonds occurred in December 2016. Debt service payments have been made with state transportation dollars and federal funds.

## Colorado Sales and Use tax

Together, the Colorado sales and use taxes operate as a tax on the consumption of most goods and some services. Colorado levies a 2.9 percent sales and a complementary use tax is levied when sales tax is due, but was not collected. The use tax is assessed only on purchases for which sales tax was not collected, meaning that no consumer is required to pay both sales and use taxes on the same purchase.

Sales tax is collected by a retailer at the time of sale and remitted to the Department of Revenue, usually on a monthly basis. If sales tax is owed but was not collected, the consumer has the responsibility to pay use taxes to the state.

## Taxpayer's Bill of Rights

Article X, Section 20 of the Colorado Constitution, commonly known as the Taxpayer's Bill of Rights (TABOR), requires voter approval for tax increases. Fees can be increased by the General Assembly without voter approval. Voter approval is also required to increase the TABOR limit, which constrains state revenue from both taxes and fees.

## House Action

**House Transportation and Energy Committee (March 22, 2017).** At the hearing, many representatives of local governments, transportation and multimodal transit advocacy groups, business groups, professional associations, private companies, and CDOT testified in support of the bill. Many members of the public testified both for and in opposition to the bill. The committee adopted amendments L.001, L.002, L.003, L.005, L.007, L.013, L.029, L.043, L.044, L.045, L.046, L.047, L.048, L.060, and L.061, and referred the bill as amended to the House Finance Committee. Table 1 below provides the content of the amendments passed by the committee.

**Table 1**  
**Amendments Adopted by the House Transportation and Energy Committee**

Amendment	Description
L.001	Exempt aviation fuel from the additional sales and use tax
L.002	Prevent revenue generated by the additional sales and use tax from marijuana from being diverted to the Marijuana Tax Cash Fund
L.003	Increase the \$300 million flat deduction of additional sales and use tax revenue to the state highway fund to \$375 million.
L.005	Gives CDOT more flexibility with respect to rapid response maintenance
L.007	Reinstate all HUTF off-the-top language for the Colorado State Patrol
L.013	Removes late vehicle registration fees
L.029	Clarifies sections regarding multimodal transportation and persons with disabilities
L.043	Requires a local 100 percent match for pedestrian and active options account funding, but allows a 20 percent match for small communities.
L.044	Allows a 20 percent match for small communities for transportation options account funding
L.045	Allows counties to return new HUTF allocations if necessary to avoid creating or increasing TABOR refund liability
L.046	Allows municipalities to return new HUTF allocations if necessary to avoid creating or increasing TABOR refund liability
L.047	Requires the proposed Multimodal Transportation Options Committee to annually report to the Transportation Legislation Review Committee
L.048	Makes technical changes to the bill
L.060	Allows the proposed Multimodal Transportation Options Committee to consider what steps are being taken by local transit authorities to reduce fares for low-income riders
L.061	Replaces ballot language in the bill

Source: Legislative Council Staff.

**House Finance (March 27, 2017).** At the hearing, representatives of the Metro Mayors Caucus, the Colorado Contractors Association, the Colorado Association of Commerce and Industry, and the American Council of Engineering Companies of Colorado, as well as a person representing himself testified in support of the bill. A representative of the Northern Colorado Legislative Alliance testified from a neutral position. A representative of CDOT and RBC Capital Markets answered committee questions. The committee adopted amendments L.062, L.063, L.065, and L.066, and referred the bill, as amended, to the House Appropriations Committee.

Amendment L.062 added conforming public finance bond language to the bill. Amendment L.063 made technical changes to the bill. Amendment L.065 clarified that the proposed Multimodal Transportation Options Committee consider whether transit services are affordable for low-income users. Amendment L.066 changed the geographic diversity of and qualifications for members of the proposed Transportation Revenue Anticipation Notes Citizen Oversight Committee.

**House Appropriations (March 29, 2017).** The committee adopted amendment J.001 and referred the bill, as amended, to the House Committee of the Whole. Amendment J.001 added an appropriations clause to the bill.

**House second reading (March 30, 2017).** The House adopted the House Transportation and Energy, House Finance, and House Appropriations committee reports. The committee adopted amendments L.072, L.076, L.079, L.081, L.082, L.083, L.103, L.111, and L.118. Table 2 below provides the content of the amendments passed by the committee. The House passed the bill on second reading, as amended.

**Table 2  
Amendments Adopted by the House Committee of the Whole**

Amendment	Description
L.072	Requires CDOT report annually to the regarding expenditures from the Pedestrian and Active Transportation Account to the Transportation Legislation Review Committee (TLRC)
L.076	Clarifies the language in previous amendments L.045 and L.046 regarding cities and counties ability to avoid creating or increasing TABOR liability
L.079	Clarifies that bonded projects in the bill are CDOT's ten-year development program's Tier 1 projects
L.081	Changes the composition of the proposed Multimodal Transportation Options Committee
L.082	Changes the length of terms for members appointed to the proposed Multimodal Transportation Options Committee
L.083	Requires CDOT to study more flexible options for the use of high-occupancy vehicle and toll lanes and report to the TLRC
L.103	Provides conditions for use of revenue dedicated to the State Highway Fund for toll lane construction
L.111	Requires that the provisions of the "Keep Jobs in Colorado Act of 2013" apply to sections of the bill
L.118	Adds a representative of the trucking industry, as appointed by the Governor, to the proposed Transportation Revenue Anticipation Notes Citizen Oversight Committee

Source: Legislative Council Staff.

**House third reading (March 31, 2017).** The House passed the bill on third reading with no amendments.

## Senate Action

**Senate Transportation (April 11, 2017).** At the hearing, many representatives of local governments, transportation and multimodal transit advocacy groups, business groups, professional associations, private companies, and CDOT testified in support of the bill. Many members of the public testified both for and in opposition to the bill. The committee adopted amendments L.122, L.125, L.126, L.127, L.128, L.129, L.130, L.132, L.133, L.134, L.135, and L.136, and referred the bill as amended to the Senate Finance Committee. Table 3 below provides the content of the amendments passed by the committee.

**Table 3**  
**Amendments Adopted by the Senate Transportation Committee**

Amendment	Description
L.122	Changes the amount of revenue allocated to CDOT from a fixed amount to a percentage
L.125	Raises the maximum TRANS bond repayment limit
L.126	Increases the time for CDOT to provide the list of projects to the Director of Legislative Council for the ballot information booklet.
L.127	Makes changes to the ballot language in the bill.
L.128	Removes language added by amendment L.060.
L.129	Removes the proposed Multimodal Transportation Options Committee from the bill and instead adds duties and requires certain qualifications from members serving on the existing Transit and Rail Advisory Committee.
L.130	Creates an annual transfer from the General Fund to the State Highway Fund and makes some technical changes to the bill.
L.132	Changes the priority order of how revenues are used to repay TRANS bonds.
L.133	Changes the sales tax increase from 0.62 percent to 0.50 percent.
L.134	Adds additional members to the Transit and Rail Advisory Committee
L.135	Addresses the public transparency of CDOT's proposal solicitation and contract award process.
L.136	Limits CDOT shortlisting by requiring the consideration of certain submitted bids.

**Senate Finance Committee (April 25, 2017).** At the hearing, many representatives of local governments, transportation and multimodal transit advocacy groups, business groups, professional associations, private companies, and CDOT testified in support of the bill. Many members of the public testified both for and in opposition to the bill. The committee postponed the

bill indefinitely.

## Relevant Research

Legislative Council Staff, *Colorado's Transportation System*, January 2017: <http://leg.colorado.gov/publications/colorados-transportation-system>.

Legislative Council Staff, *Colorado Transportation Finance*, November 2016: <http://leg.colorado.gov/publications/colorado-transportation-finance-2016>.

Legislative Council Staff, *Public-Private Partnerships*, March 2017: [http://leg.colorado.gov/sites/default/files/ib\\_17-12\\_public-private\\_partnerships.pdf](http://leg.colorado.gov/sites/default/files/ib_17-12_public-private_partnerships.pdf).

Legislative Council Staff, *Colorado's Constitutional Spending Limit*, Issue Brief, September 2015: <http://leg.colorado.gov/publications/colorados-constitutional-spending-limit-2015>