Colorado Legislative Council Staff

ISSUE BRIEF

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STATUTORY TRANSFERS TO FUND TRANSPORTATION AND CAPITAL CONSTRUCTION

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Senate Bill (SB) 09-228, adopted by the General Assembly during the 2009 legislative session, creates a five-year block of statutory transfers from the General Fund to finance 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 creates a five-year block of transfers from the General Fund to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF). The amounts transferred to each fund are calculated as a percentage of General Fund revenue during the fiscal year when the transfer is made. Transfers to the HUTF will equal 2.0 percent of General Fund revenue during each of the five years when transfers occur. Transfers to the CCF will equal 0.5 percent of General Fund revenue during the first two years, and 1.0 percent of General Fund revenue during the last three years of transfers.

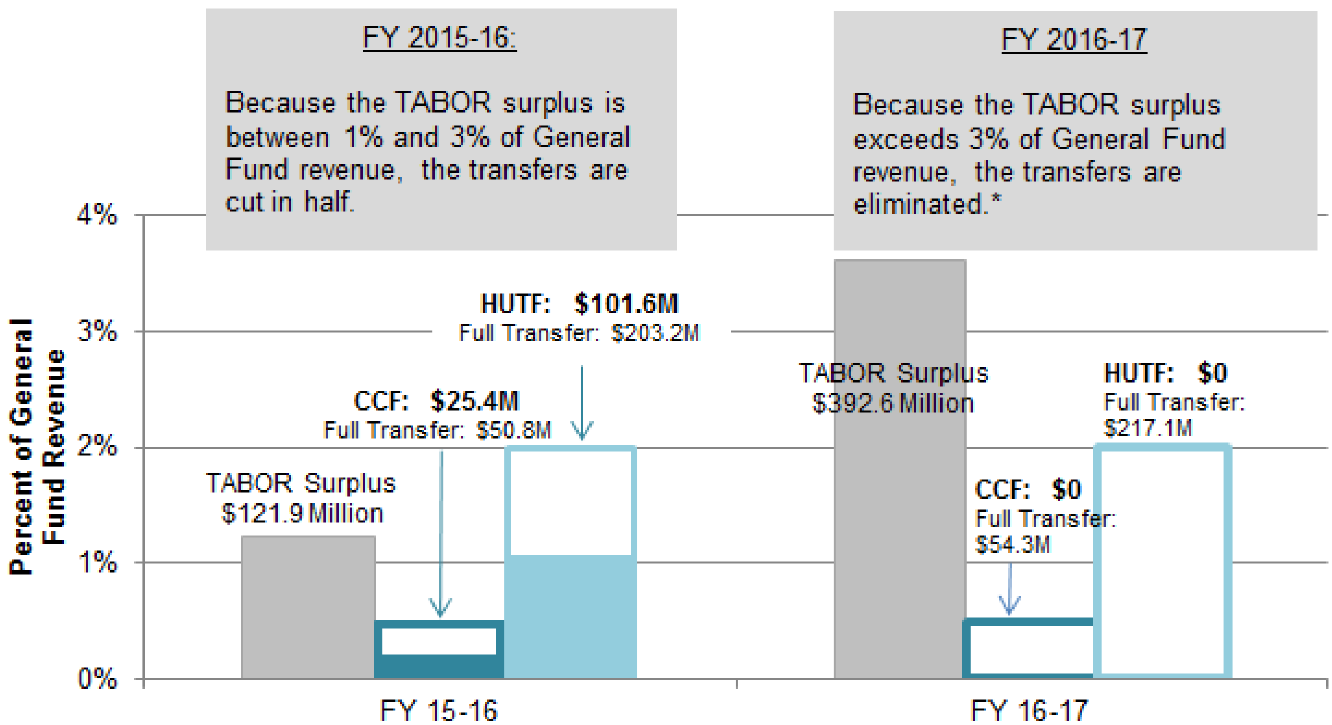
Personal income trigger. SB 09-228 transfers will begin after state personal income grows at a specific rate. The transfers are triggered when Colorado personal income grows 5.0 percent or more in a single calendar year. After this occurs, transfers are scheduled to begin during the following fiscal year. The September 2014 Legislative Council Staff forecast projects personal income growth at 5.4 percent in 2014. This is expected to trigger the first SB 09-228 transfers in FY 2015-16, and transfers would 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 spending limit. This is expected in both FY 2015-16 and FY 2016-17.

Transfer reductions and eliminations. State revenue collected above certain thresholds can reduce the amount of money transferred to transportation and capital construction. SB 09-228 includes a provision reducing or eliminating transfers in the event of 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 14-3a, "Colorado's Constitutional Spending Limit."

Transfers to the HUTF and the CCF are cut in half if the TABOR surplus during a fiscal year is greater than 1.0 percent and less than or equal to 3.0 percent of General Fund revenue. If the surplus exceeds 3.0 percent of General Fund revenue, the transfers are eliminated for that year. 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 both FY 2015-16 and FY 2016-17. Transfers are expected to be cut in half in FY 2015-16 and not occur in FY 2016-17. However, revenue projections are near the threshold for transfer reduction or elimination in both years, meaning that the status of transfers could change if the amount of revenue collected is slightly higher or lower than forecast.

Figure 1. Projected SB 09-228 Transfers, FYs 2015-16 and 2016-17



Source: Legislative Council Staff forecast, September 2014.
**The September 2014 Office of State Planning and Budgeting forecast predicts that transfers will be cut in half during both FY 2015-16 and FY 2016-17.*

Forecasts for the three subsequent fiscal years are not available.

Figure 1 shows projected full transfers for FYs 2015-16 and 2016-17 (represented by the outline of each column), and projected actual transfers accounting for the TABOR situation in each year (represented by the shaded portion of each column).

Timing of transfers. The state treasurer is required to deposit shares of each transfer in the HUTF and the CCF following a schedule established in statute. During the first fiscal year of transfers, the first deposit is scheduled to be made on April 15. Beginning with the second fiscal year of transfers, deposits are made quarterly throughout the fiscal year. In all five years, the final deposit, including all necessary adjustments, is scheduled to be made when the Comprehensive Annual Financial Report for the fiscal year is published, typically in December following the close of the fiscal year.

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, at the discretion of the General Assembly.