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**TRANSPORTATION FUNDING LEGISLATION**

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The rapid growth of the state's population during the 1990s led to additional traffic congestion. However, traditional sources of funding could not keep up with highway construction and maintenance needs. In an attempt to close the funding gap, the General Assembly recently passed **Senate Bill 02-179** and **House Bill 02-1310**, identical measures that address transportation funding. This issue brief summarizes the provisions contained within the bills. The provisions can be divided into three categories: highway funding; transit funding; and provisions related to General Fund revenue and the TABOR refund.

**Highway Funding**

Provisions addressing highway funding include the creation of a statewide tolling enterprise and the guarantee of two-thirds of the excess General Fund reserve to the Highway Users Tax Fund (HUTF), with the remaining one-third guaranteed for capital construction.

*The statewide tolling enterprise.* The bills authorize the Transportation Commission to create and serve as the board of a statewide tolling enterprise. The enterprise will function as a division of the Colorado Department of Transportation (CDOT). The enterprise is authorized to issue revenue bonds to finance the construction of toll highways or new toll lanes on existing highways. The commission is responsible for setting the toll rates to pay the debt service on the bonds. When the bonds have been

paid off, the commission is directed to adjust the toll rates to a level sufficient to pay the toll highway's operating and maintenance costs. If needed, the enterprise may borrow money from CDOT to pay the startup costs of the toll highways. Revenue received by the enterprise will be exempt from the state spending limit under the Taxpayer's Bill of Rights (TABOR).

The commission is authorized to contract with private organizations for the maintenance of toll highways and the setting and enforcement of tolls. The commission must report annually on its activities to the General Assembly.

*The excess General Fund reserve.* The excess General Fund reserve is made up of whatever money is left over after the TABOR refund, General Fund appropriations, the statutory four percent General Fund reserve, the Senate Bill 97-1 diversion, and other smaller obligations are fully funded. The bills direct that two-thirds of the excess General Fund reserve be transferred to the HUTF and allocated to state highways each year. The Capital Construction Fund will receive the remaining one-third. According to the March 2002 Legislative Council Staff revenue forecast adjusted for budget changes and anticipated revenue shortfalls, there will not be any revenues available for this transfer through the duration of the forecast period, FY 2002-03 through FY 2006-07. However, budgeting decisions made during the forecast period could change the potential availability of moneys for highway funding.

## **Transit Funding**

Provisions addressing transit funding include the authorization of a Regional Transportation District (RTD) election to increase the RTD sales tax rate, the guarantee of ten percent of each year's Senate Bill 97-1 diversion for transit, and the authorization for counties within the geographical boundaries of the RTD to spend government revenues on transit projects.

### ***RTD election to increase the sales tax rate.***

The bills authorize the RTD to ask district voters for an increase in the RTD sales tax rate from 0.6 percent to 1.0 percent and to allow the RTD to increase its debt to pay for new transit construction. The increased revenue would pay debt service and the maintenance and operation costs of the new transit services. Once all construction has occurred and all debt service has been paid, the RTD would be required to reduce the sales tax rate to a level that would allow the district to continue to pay the maintenance and operation costs of the new transit services, although the sales tax rate could not be lowered below its current level of 0.6 percent. The RTD would be required to collect signatures totaling at least five percent of the number of votes cast on the Secretary of State race within the district at the last general election before putting the question on a ballot. The bills also permit a ballot question to reduce the RTD sales tax rate, once it has been increased, to a rate not lower than 0.6 percent. The lower rate must be sufficient to repay any debt obligations from the initial increase.

***The Senate Bill 97-1 diversion.*** Senate Bill 97-1 required the diversion of 10.355 percent of the state's sales and use taxes into the HUTF rather than into the General Fund. Each year, the diversion occurs only if there is enough money available to fund General Fund appropriations at a six percent growth rate and to fund the four percent statutory General Fund reserve. The 2002 bills *require* ten percent of the diversion to be used for transit. Prior to these bills, as much as ten percent of the diversion

was *permitted but not required* to be used for transit. According to the March 2002 Legislative Council Staff forecast, no moneys will be available for the Senate Bill 97-1 diversion for the duration of the forecast period, FY 2002-03 through FY 2006-07.

***County revenues for transit.*** Counties within the RTD are now allowed to contribute government revenues to transit. Prior to the bill, counties within the boundaries of the RTD were specifically prohibited from doing so.

## **General Fund Revenue and the TABOR Refund**

Measures addressing General Fund revenue and the TABOR refund include authorization for the state to retain the "growth dividend" and the repeal of the requirement that the state refund five percent more than required via the six-tier sales tax TABOR refund mechanism.

***The growth dividend.*** The term "growth dividend" refers to the increase in the TABOR limit that occurs when the actual census population count is higher than what was previously thought. The increase in the TABOR limit results in a build up of the TABOR revenue base. When the TABOR revenue base builds up, the state is able to keep more money each year into the future than it otherwise would have been allowed to keep. Thus, the growth dividend affects not only the amount of money the state will be able to keep in the short term, but each year into the future as long as revenue is sufficient to reach the TABOR limit.

The amount of money the state is allowed to keep and spend each year under TABOR is determined by increasing the prior year's limit (or actual revenue, whichever is lower) by the rate of inflation plus the percentage change in the state's population. The amount of revenue above the limit must be refunded to the state's taxpayers during the following fiscal year. During the 1990s, Colorado's population growth was underestimated by a total of four percent. Meanwhile, population increased by two percent and inflation

increased by four percent in 2000. Thus, the TABOR limit for fiscal year 2001-02 would have been ten percent had revenues been sufficient to meet it. However, total TABOR revenue in FY 2001-02 is not expected to increase even four percent, the portion of the allowable TABOR growth rate originating from inflation. Thus, revenues will not be sufficient to meet the ten percent limit. Without the growth dividend, the new limit would have “ratcheted down” to the amount of actual revenue and the allowable growth resulting from the increase in population would have been lost under the provisions of TABOR. The bills allow the six percent portion of the limit credited to population to be carried forward into future years and added to the TABOR limits in those years to the extent that revenue growth allows. The state will do this on an incremental basis each year until the entire six percent is recovered, or until 2010 when a new census is completed.

Based on the March 2002 Legislative Council Staff revenue forecast, the growth dividend will increase the state’s TABOR limit by \$125.0 million in FY 2002-03, thus reducing the TABOR refund by \$125.0 million in FY 2003-04. By FY 2007-08, the annual increase in the TABOR limit will be \$594.2 million. Between FY 2003-04 and FY 2008-09, the TABOR refund will have been reduced by a cumulative \$2.6 billion. The higher TABOR limit will continue into the future until a revenue shortfall causes the limit to fall.

***Repeal of the five percent over-refund.*** The bills repeal the statute that directs the state to refund 105 percent of the amount refunded via the six-tier sales tax refund mechanism rather than 100 percent. Because the over-refund had been added back into revenue during the following fiscal year, this provision will have no impact on state revenue or the TABOR refund in the long run. It is merely a simplifying accounting change.