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MEMORANDUM

November 13, 2013

TO: Interested Persons

FROM: Larson Silbaugh, Economist, 303-866-4720

SUBJECT: Overview of Senate Bill 09-228, Concerning an Increase in the Flexibility of the General Assembly to Determine the Appropriate Use of State Revenues

Summary

This memorandum provides an overview of the transfers and economic triggers created in Senate Bill 09-228. Senate Bill 09-228 altered the limit on General Fund appropriations, created future transfers from the General Fund to transportation and capital construction, and increased the General Fund statutory reserve in future fiscal years.

The bill provides that when Colorado personal income growth exceeds 5.0 percent, the transfers and reserve are to increase for the next five fiscal years. However, as the TABOR refund increases, the size of the transfers decrease, leaving more revenue in the General Fund. According to the September 2013 Legislative Council Staff forecast, the transfers will start in FY 2015-16.

Senate Bill 09-228 altered the limit on General Fund appropriations, created future transfers from the General Fund to transportation and capital construction, and increased the General Fund statutory reserve in future fiscal years. The transfers and the increase in the statutory reserve are subject to economic triggers. Some provisions created in SB 09-228 were amended in the 2012 and 2013 sessions. This memorandum is based on current law, but explains changes from the original legislation.

General Fund Appropriations Limit

Prior to SB 09-228, General Fund appropriations were limited to the lesser of a 6.0 percent increase from the previous year's appropriation level or an amount equal to 5.0 percent of Colorado personal income. SB 09-228 set the General Fund appropriations limit equal to 5.0 percent of Colorado personal income.

Economic Trigger to Start the Transfers and Reserve Increase

Growth in Colorado personal income. A five-year block of transfers to transportation and capital construction start in the first full fiscal year after annual Colorado personal income growth exceeds 5.0 percent. The statutory reserve increases occur in the third full fiscal year after Colorado personal income growth exceeds 5.0 percent. Originally, SB 09-228 had set the five-year block of transfers to start in the fiscal year that began in the middle of the calendar year that personal income grew by at least 5.0 percent. Senate Bill 12-168 delayed the start of the five-year block of transfers for one year, so that the transfers will begin in the fiscal year that starts following the calendar year that Colorado personal income increases by at least 5.0 percent. For example, the September Legislative Council Staff forecast anticipates that Colorado personal income will increase by at least 5.0 percent in 2014, triggering the SB 09-228 transfers starting in FY 2015-16.

SB 09-228 Reserve Increases and Transfers

Transfers to transportation. The bill requires 2.0 percent of General Fund revenue to be transferred to the Highway Users Tax Fund (HUTF) each year for the full five-year period. In FY 2015-16, this is expected to be $204.8 million.

Transfers to capital construction. Once the personal income growth meets or exceeds 5.0 percent, 0.5 percent of General Fund revenue is required to be transferred to the Capital Construction Fund (CCF) during the first two fiscal years of the five-year period. In the third, fourth, and fifth fiscal years, 1.0 percent of General Fund revenue is required to be transferred to the Capital Construction Fund. In FY 2015-16, 0.5 percent of General Fund revenue is expected to equal $51.2 million.

General Fund statutory reserve. SB 09-228 would have increased the General Fund statutory reserve by 0.5 percentage points of General Fund appropriations each year during the five-year period, from 4.0 percent of General Fund appropriations to 6.5 percent. However, Senate Bill 13-237 accelerated the first two years of the increase in the reserve, so that the reserve will equal at least 5.0 percent of General Fund appropriations starting in FY 2012-13. SB 13-237 did not change the timing of the last three annual increases in the reserve required by SB 09-228, as shown in Table 1.

Table 1 shows the five-year block of General Fund transfers created by SB 09-228 and the increase in the statutory reserve created by SB 09-228 and amended by SB 13-237. This five-year period of reserve increases and transfers are subject to the triggers described in this memorandum. According to the September Legislative Council Staff forecast, the five-year period shown in Table 1 is expected to begin in FY 2015-16. Transfers from the General Fund to transportation and capital construction is expected to be $256.1 million in FY 2015-16, the last year of the forecast period.

Table 1
General Fund Transfers Required by SB 09-228 and SB 13-237
Transportation and Capital Construction are a Percent of General Fund Revenue, Statutory Reserve is a Percent General Fund Appropriations.

	Transfers			Statutory Reserve	
Fiscal	**Transportation**	**Capital**	**Total**	**SB 09-228**	**SB 13-237**
Year 1*	2.0%	0.5%	2.5%	4.5%	5.0%
Year 2	2.0%	0.5%	2.5%	5.0%	5.0%
Year 3	2.0%	1.0%	3.0%	5.5%	5.5%
Year 4	2.0%	1.0%	3.0%	6.0%	6.0%
Year 5	2.0%	1.0%	3.0%	6.5%	6.5%

** Based on September 2013 Legislative Council Staff forecast, Colorado personal income is expected to increase by at least 5.0 percent in 2014, triggering the first year of transfers in FY 2015-16.*

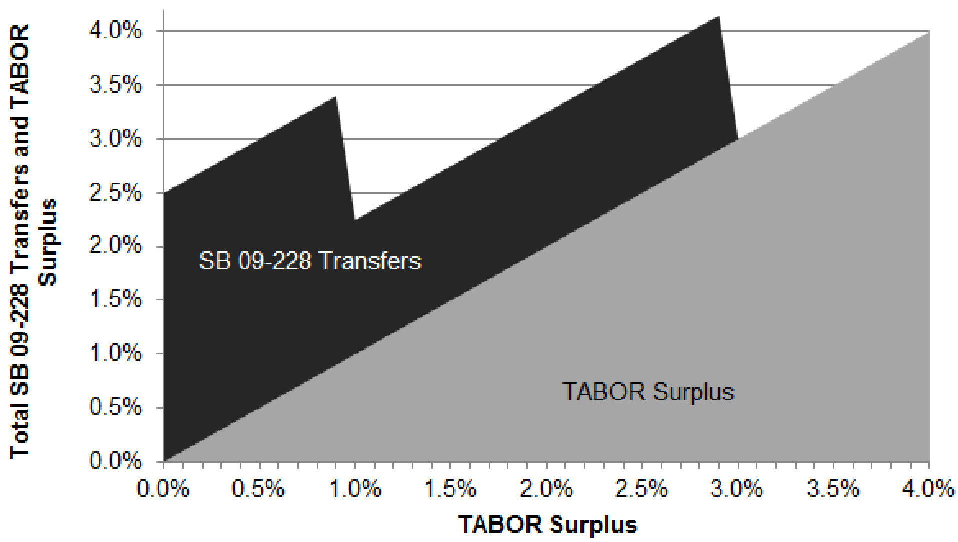
TABOR Surplus and the Size of Transfers

Size of the TABOR refund. The state Constitution limits the amount of revenue that the state can collect, and when revenue exceeds this limit, it is referred to as a TABOR surplus. The state is required to refund the TABOR surplus to taxpayers in the in the form of refunds or credits in the following fiscal year. During any year in which the TABOR surplus is between 1.0 and 3.0 percent of General Fund revenue, the SB 09-228 transfers to the HUTF and CCF are required to be reduced by 50 percent. When the TABOR surplus is more than 3.0 percent of General Fund revenue, the transfers are suspended for that fiscal year.

The increases in the General Fund statutory reserve are not affected by the size of the TABOR surplus.

Figure 1 shows the size of the TABOR surplus and the reduction in the size of SB 09-228 transfers as a percent of General Fund revenue as the size of the TABOR surplus increases. As shown in Figure 1, SB 09-228 transfers are equal to 2.5 percent of General Fund revenue during any year in which the TABOR surplus is less than 1.0 percent of General Fund revenue; the total of SB 09-228 transfers and the money set aside for the TABOR refund is equal to 3.5 percent of General Fund revenue. Once the TABOR surplus exceeds 1.0 percent of General Fund revenue, the SB 09-228 transfers are reduced by half, so the total SB 09-228 transfers and the amount set aside for the TABOR refund ranges from 2.25 percent to 4.25 of General Fund revenue. The SB 09-228 transfers are suspended for any year when the TABOR surplus exceeds 3.0 percent of General Fund revenue.

Figure 1
Size of TABOR Surplus and Size of SB 09-228 Transfers as a Percent of General Fund Revenue
FY 2015-16, if Colorado Personal Income Growth First Equals or Exceeds 5.0 Percent in 2014



Note: The size of the TABOR refund does not affect the increases in the General Fund reserve required by SB 09-228.

A TABOR surplus is not expected through the forecast period, but revenue subject to TABOR is expected to be within $154 million, $52 million, and $43 million of the TABOR limit in FYs 2013-14, 2014-15, and 2015-16, respectively. If the economy improves more than expected, there may be a TABOR surplus as early as FY 2013-14. It should be noted that the transfers will be reduced during the year in which the TABOR surplus is generated, not the year it is refunded. The state Constitution requires the surplus to be refunded in the year after it is generated.