



Colorado  
Legislative  
Council  
Staff

SB16-087  
FINAL  
FISCAL NOTE

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0900  
**Prime Sponsor(s):** Sen. Baumgardner  
Rep. Tyler

**Date:** July 27, 2016  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Erin Reynolds (303-866-4146)

**BILL TOPIC:** HIGHWAY-RAIL CROSSING SIGNALIZATION FUND FUNDING

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	<b>\$0</b>	<b>\$0</b>
<i>State Transfer</i> Highway Users Tax Fund Highway-Rail Crossing Signalization Fund	(240,000) 240,000	up to (244,800) up to 244,800
<b>State Expenditures</b>	<b>up to \$240,000</b>	<b>up to \$244,800</b>
Cash Funds	up to 240,000	up to 244,800
<b>Appropriation Required:</b>	\$240,000 – Department of Regulatory Agencies (FY 2016-17).	
<b>Future Year Impacts:</b>	Ongoing state diversion and expenditure increase.	

**Summary of Legislation**

The bill creates a one-time state transfer of \$240,000 from off-the-top Highway Users Tax Fund (HUTF) revenue to the Highway-Rail Crossing Signalization Fund in FY 2016-17.

In FY 2017-18 and each year thereafter, the bill creates a state diversion from the General Fund. Under current law, 3 percent of public utilities fees to the Fixed Utility Fund (FUF) of the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) must be credited to the General Fund. The bill requires one of the following amounts to be diverted to the Highway-Rail Crossing Signalization Fund:

- the lesser of the total of the 3 percent of public utilities fees remaining, after \$150,000 of the fees are credited as a grant match required for the receipt of federal money under the federal Moving Ahead for Progress in the 21st Century (MAP-21) Act for rail fixed guideway system safety oversight responsibilities; or
- \$240,000 plus an annual inflation adjustment of 2 percent for each fiscal year beginning in FY 2017-18.

## Background

**Highway-Rail Crossing Signalization Fund.** The Highway-Rail Crossing Signalization Fund was created to promote public safety and to provide for the payment of costs of installing, reconstructing, and improving automatic and other safety appliance signals or devices at grade crossings of tracks over any public highway or road. The fund may not be used to pay for any projects that use any federal highway funding. Under existing law, a \$240,000 transfer from the General Fund to the Highway-Rail Crossing Signalization Fund is to occur annually, subject to appropriation. However, the last General Fund appropriation to the Highway-Rail Crossing Signalization Fund occurred in 2003, when it was granted \$13,524 in spending authority.

**Highway Users Tax Fund.** The HUTF is the primary source of highway funds in Colorado. Preliminary estimates of revenue to the fund totaled \$1.10 billion in FY 2014-15. Revenue from the HUTF comes from motor fuel taxes, registration fees, Funding Advancement for Surface Transportation and Economic Recovery (FASTER) vehicle registration and car rental fees, and other sources like driver's license fees, court fines, and interest earnings.

HUTF funds are allocated to CDOT, counties, and municipalities, based on statutory formulas. 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 Colorado State Patrol in the Department of Public Safety. 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).

**Fixed Utilities Fund.** The FUF and the Telecommunications Utilities Fund (TUF) pay for the majority of PUC operating expenses. Revenue to these funds comes from fees assessed against regulated electric, natural gas, and telecommunications utilities at a rate set annually based on the amount needed to cover applicable PUC and other utility regulation expenditures in DORA. The rate is applied to each regulated company's gross intrastate utility operating revenues, as calculated by the Department of Revenue. The rate of FUF assessments for electric and natural gas utilities is capped at 0.25 percent of gross revenue, while the rate of TUF assessments for telecommunications utilities is capped at 0.20 percent of gross revenue.

## State Revenue

The bill results in a transfer of \$240,000 in FY 2016-17 from the HUTF and a diversion of up to \$244,800 in FY 2017-18 and each year thereafter from the General Fund to the Highway-Rail Crossing Signalization Fund. The one-time transfer and the ongoing state diversion does not affect overall net revenue to the state.

**State transfer.** For FY 2016-17 only, \$240,000 will be transferred to the Highway-Rail Crossing Signalization Fund from the HUTF. This results in a decrease of revenue to the State Highway Fund in CDOT of \$156,000, which represents the amount of first stream revenue distributed to CDOT (65 percent) that will instead be transferred to the PUC under the bill. However, CDOT is eligible to request funding from the Highway-Rail Crossing Signalization Fund for rail crossing signalization projects that are not federally funded.

**State diversion.** The bill creates a diversion of fixed utility fees that would be credited to the General Fund under current law, but that will be diverted to the Highway-Rail Crossing Signalization Fund instead under the bill. Beginning in FY 2017-18, the fiscal note assumes that up to \$240,000 plus an additional 2 percent annual inflation adjustment will be diverted, resulting in a total diversion of up to \$244,800. The fiscal note assumes that this full amount will be diverted because the 3 percent credit to the General Fund from fixed utility fees has been around \$390,000 in recent years, leaving enough fee revenue for both the MAP-21 grant match amount of \$150,000 and the bill's diversion to the Highway-Rail Crossing Signalization Fund.

## **State Expenditures**

State expenditures by the PUC will increase by up to \$240,000 in FY 2016-17 and up to \$244,800 in FY 2017-18. The amount of the expenditure increase in the PUC in DORA will depend on operating expenses and the number and value of grants awarded by the PUC to fund rail crossing safety improvements. The PUC has statutory authority to approve payments from the fund, and interest on the fund is continuously appropriated.

## **Local Government Impact**

In FY 2016-17 only, the bill will decrease HUTF revenue to counties by \$62,400 and to municipalities by \$21,600. This amount represents first stream HUTF revenue distribution to these entities — 26 percent to counties and 9 percent to municipalities.

## **Effective Date**

The bill was signed into law by the Governor and took effect on June 6, 2016.

## **State Appropriations**

For FY 2016-17, the bill includes a cash fund appropriation of \$240,000 to the Highway-Rail Crossing Signalization Fund for use by the Public Utilities Commission in the Department of Regulatory Agencies from the Highway Users Tax Fund.

## **State and Local Government Contacts**

Information Technology  
Transportation

Regulatory Agencies  
Treasury

Revenue