Colorado
Legislative
Council
Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 FAX: 866-3855 TDD: 866-3472

MEMORANDUM

August 1, 2011

TO: Members of the Transportation Legislation Review Committee

FROM: Kate Watkins, Economist, 303-866-6289
Elizabeth Hanson, Senior Research Assistant, 303-866-4146

SUBJECT: Colorado State and Local Transportation Funding

This memorandum provides information about major revenue sources that the state and local governments use to fund Colorado's transportation infrastructure and related programs.

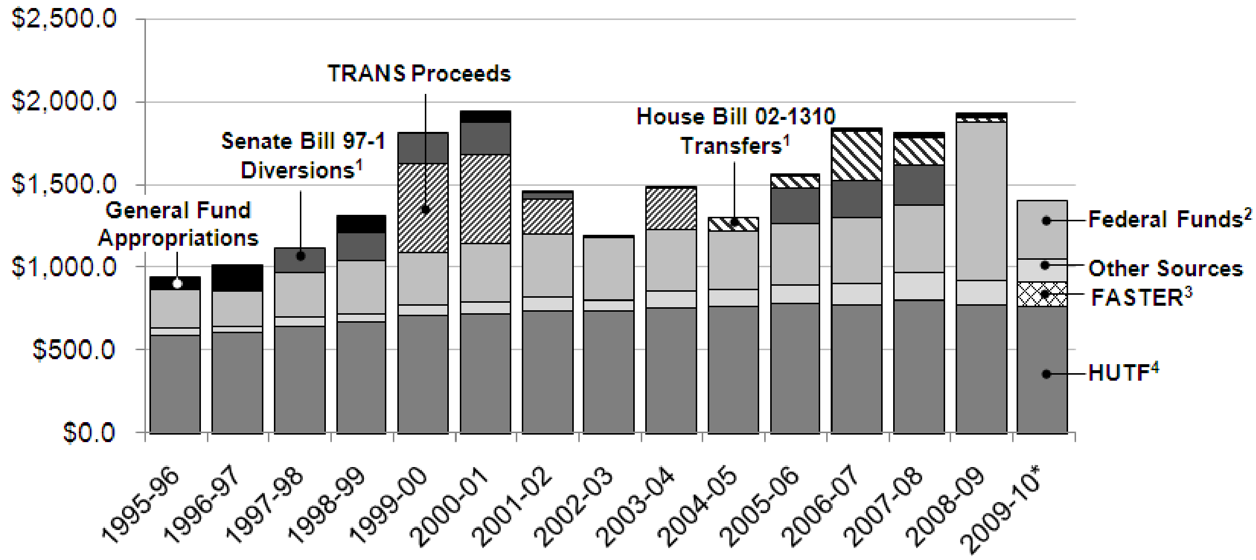
State Transportation Funding

The Colorado Constitution requires that all registrations, fees, and fines charged with respect to the operation of a motor vehicle on Colorado's public highways and any motor fuel taxes be used for the construction, maintenance, and supervision of the state's highways. Further, any taxes charged on aviation fuel must be used exclusively for aviation purposes.[1] Under these constitutional limitations, the General Assembly may determine the sources of transportation revenue and the distribution of this revenue for statewide and local programs.

Figure 1 shows a 15-year history of the major state sources of funding for Colorado's transportation system. Each funding source is described in greater detail below.

[1] Article X, Section 18, Colorado Constitution.

Figure 1
Major Funding Sources for the Colorado Transportation System
(Dollars in Millions)



Source: Office of the State Controller and Colorado Department of Transportation.

*Actual Totals.
Note: Funding sources exclude revenue to regional transit authorities and local governments. Tolling revenues and smaller sources of revenue are also excluded.

[1]Senate Bill 97-1 diversions and House Bill 02-1310 transfers were repealed in 2009.
[2]Federal funds include $404.2 million in American Recovery and Reinvestment Act (ARRA) funds in FY 2008-09.
[3]FASTER revenue includes the road safety surcharge, the daily rental car fee, the late registration fee, the bridge safety surcharge, and the overweight vehicle supplemental fee.
[4]HUTF revenue includes the state distribution of revenue from fuel taxes, motor vehicle registrations, and other fees.

Highway Users Tax Fund. The state Highway Users Tax Fund (HUTF) is the primary source of highway funds in Colorado. Revenue to the fund totaled $919.9 million in FY 2009-10. Revenue to the HUTF comes from the following sources:

- *Motor fuel taxes*. State motor fuel excise taxes make up the largest share of HUTF revenue. Excise fuel taxes are levied on a per-gallon basis at 22 cents per gallon for gasoline and 20.5 cents per gallon for diesel fuel. In FY 2009-10, motor fuel and special fuel tax revenue totaled an estimated $542.9 million.

- *Registration fees.* Motor vehicle registration fees make up the second largest source of HUTF revenue. Registration fees are based on the age and weight of the vehicle registered. Notably, registration fees differ from the specific ownership tax, which are apportioned to local governments in a manner similar to property taxes. Registration fees include the apportionment of interstate motor carrier fee revenue under the International Registration Plan (IRP), a reciprocal agreement among states for registration of motor carrier trucks that travel across state lines. In FY 2009-10, registration fee revenue totaled an estimated $182.7 million.

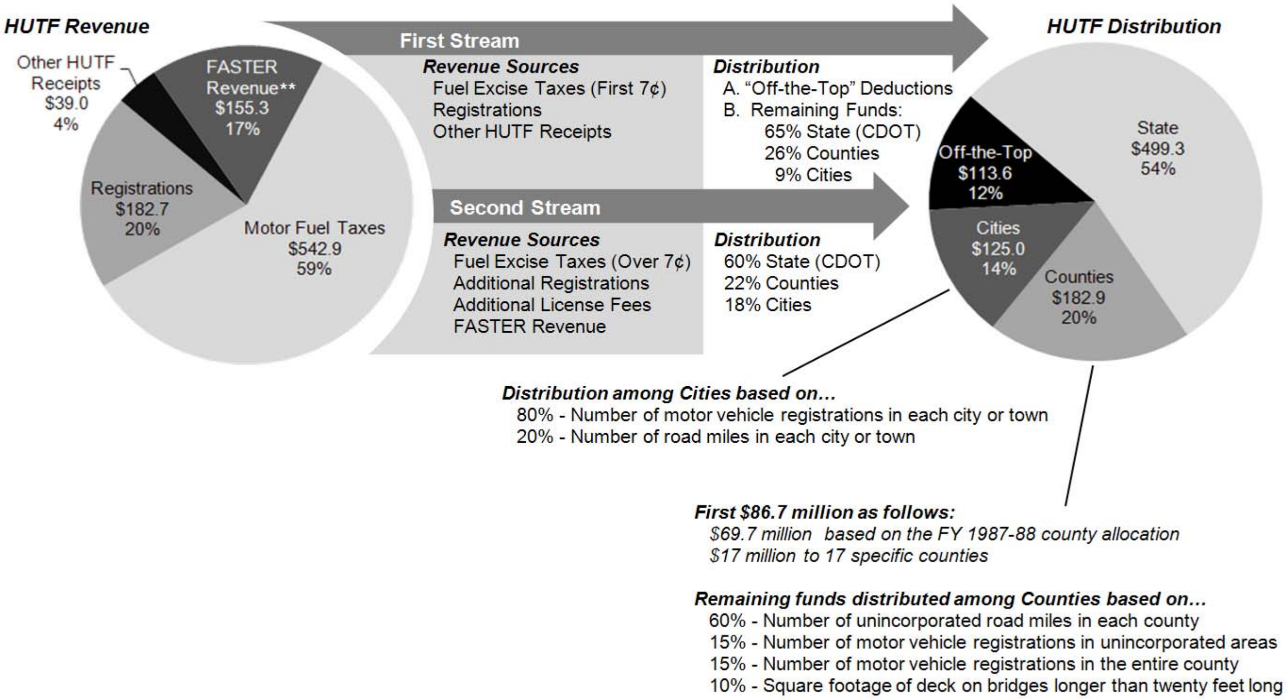
- *FASTER fees*. Legislation passed in the 2009 session, Senate Bill 09-108 (also known as the Funding Advancement and Surface Transportation and Economic Recovery bill, or more commonly, "FASTER") created a $2 daily rental car fee and increased vehicle registration fees and late registration fees. In FY 2009-10, additional revenue to the HUTF due to the passage of FASTER totaled $155.3 million. FASTER also created the bridge safety surcharge, a TABOR-exempt source of revenue not credited to the HUTF, which is detailed in the TABOR-exempt transportation revenue section of this document.

- *Other HUTF receipts*. Remaining HUTF revenue comes from driver's license fees, court fines, and interest earnings. In FY 2009-10, revenue from these sources totaled $39.0 million.

HUTF funds are allocated to the state highway fund, counties, and cities based on statutory formulas.[2] Figure 2 shows both the source or revenue for the HUTF and the distribution of moneys from the fund. The terms "first stream" and "second stream" are commonly used when explaining the distribution of revenue from the HUTF. In the "first stream," before anything is distributed, appropriations are made to the Department of Revenue and the State Patrol in the Department of Public Safety for highway-related functions. These appropriations are referred to as "off-the-top" deductions. Remaining revenue is distributed to Colorado Department of Transportation (CDOT) (65 percent), counties (26 percent), and cities (9 percent). Revenue to the "second stream" is distributed directly to CDOT (60 percent), counties (22 percent), and cities (18 percent).

[2] Sections 43-4-205, 43-4-206, 43-4-207, and 43-4-208, C.R.S.

Figure 2
Highway Users Tax Fund (HUTF) Revenue and Distributions, FY 2009-10
(Dollar Amounts in Millions)



Data Source: Office of the State Controller and Office of the State Treasurer.
**FASTER revenue to the HUTF does not include the TABOR-exempt bridge safety surcharge.

State Highway Fund revenue. The State Highway Fund is administered by CDOT and is primarily used for the maintenance of the state's highway system. The state's share of HUTF distributions and federal funds are deposited and managed in this fund. The fund also generates its own revenue from interest earnings on the fund balance, local government matching funds to federal transportation funding programs, and a handful of small miscellaneous sources. In FY 2009-10, $53.1 million in revenue from these sources was credited to the fund.

Other sources of transportation revenue. Smaller sources of state transportation revenue include the aviation tax and a number of registration and highway safety-related fees and fines. These sources of revenue include:

- Aviation Fund revenue. Aviation Fund revenue includes revenue from a 6 cent per gallon fuel excise tax on fuel used by smaller propeller-driven aircraft, a 4 cent per gallon jet fuel tax, and a 2.9 percent sales tax on the retail cost of jet fuel. Over 80 percent of the revenue from these taxes comes from the activity at Denver International Airport, with local municipal airports comprising the remaining revenue. Aviation Fund revenue is shared between the local governments that own and operate the airports and CDOT. Local governments use the aviation fuel tax revenue to maintain and operate local airports. CDOT uses this revenue to provide discretionary grants to airports and to fund the operation of the CDOT Aeronautics Division. In FY 2009-10, $25.3 million in revenue was credited to the fund.

- *Highway safety revenue*. Transportation revenue also comes from statutory fees charged for the Law Enforcement Assistance Fund (LEAF), and fines for driving under the influence (DUI) or driving while ability impaired (DWAI). Revenue from these sources is generally used to fund traffic signals, and safety campaigns such as the "Click it or Ticket" and the "Heat is On." Revenue from these sources is shared with the Judicial Branch, Department of Public Health and Environment (to pay the costs of laboratory services and implied consent specialists for DUI analysis), and the Department of Revenue, Division of Motor Vehicles. In FY 2009-10, revenue from these fees and fines totaled $11.6 million.

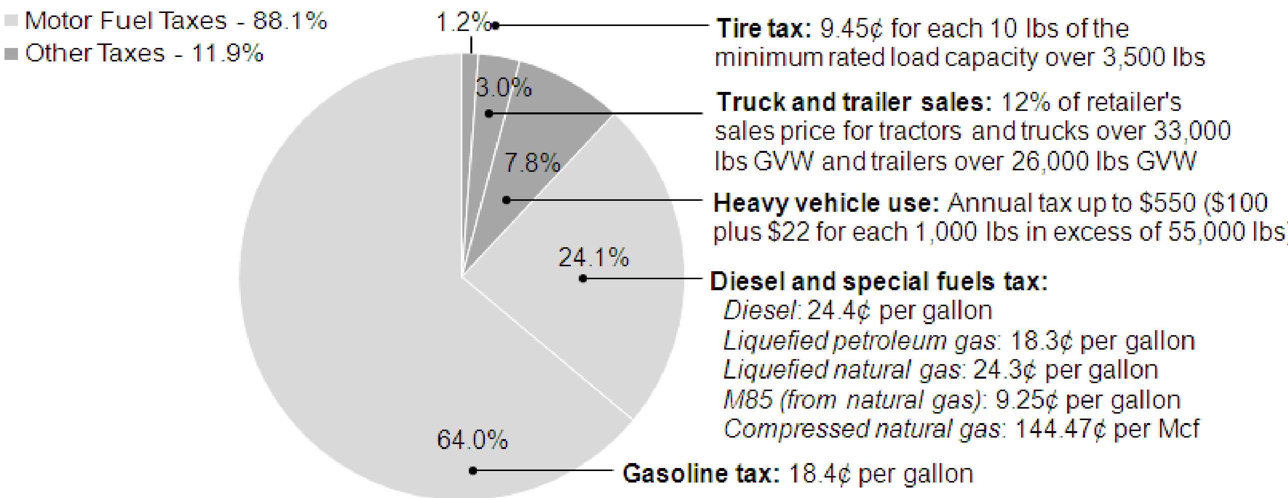
- *Other registration fees*. A number of additional registration fees are assessed when a motor vehicle is registered with the state. These fees include: emergency medical services fees, emissions registration and inspection fees, motorcycle and motor vehicle license fees, and Police Officer Standards and Training (P.O.S.T.) Board fees. Revenue from these fees totaled $49.7 million in FY 2009-10.

General Fund revenue. Over the last 15 years, the General Assembly has allocated General Fund revenue for transportation purposes by authorizing appropriations, transfers, and diversions. Legislation passed in 2009, Senate Bill 09-228, established a new mechanism for transferring General Fund money to the HUTF. Under the new mechanism for transfers, the HUTF will receive a five-year block of transfers, with each annual transfer equaling two percent of total General Fund revenue collected in that fiscal year. Under Senate Bill 09-228, the five-year block of transfers is triggered in FY 2012-13 if Colorado personal income grows by at least five percent in 2012. If personal income increases by less than 5 percent in 2012, the five-year block is postponed until the first fiscal year in which personal income increases by at least 5 percent during the calendar year in which the fiscal year originated. If personal income growth falls below 5 percent during the five-year period, the transfers continue without pause. The June 2011 Legislative Council Staff forecast indicates that these transfers will occur in FY 2013-14.

Additionally, transfers to the HUTF authorized by Senate Bill 09-228 are subject to a trigger based on the size of future refunds required by Article 10, Section 20, of the state constitution, otherwise known as TABOR. If a TABOR refund between 1 and 3 percent of General Fund revenue is expected to occur, transfers will be reduced by 50 percent. If the TABOR refund is equal to more than 3 percent of General Fund revenue, the transfer will not occur.

Federal funds. Congress authorizes the expenditure of federal funds by state and local governments through multi-year transportation funding acts. The most recent authorization act was the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU), which was signed into law in August 2005. SAFETEA-LU was a five-year authorization set to expire in 2009. However, Congress extended the act until September 2011, and will likely continue to do so until it can reach consensus on a new multi-year transportation authorization bill. Federal funds are distributed from the federal Highway Trust Fund, which collects motor fuel taxes and truck-related taxes (truck and trailer sales, truck tires, and heavy-vehicle use) and redistributes them to the states based on formulas specified in federal law. Figure 3 shows the sources of revenue to the federal Highway Trust Fund.

Figure 3
Revenue Sources to the Federal Highway Trust Fund
Average Distribution, FY 2005 through FY 2008



lbs = pounds. GVW = Gross vehicle weight. Mcf = Thousand cubic feet.

Source: Federal Highway Authority

In FY 2008-09, in addition to spending authorization under SAFETEA-LU, CDOT received spending authority for $404.2 million in American Recovery and Reinvestment Act (ARRA) funds. These funds will be received over several fiscal years, reimbursing transportation projects as they are completed.

Transportation Revenue Anticipation Notes (TRANs). 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 a list of 28 prioritized statewide projects, referred to as the "seventh pot." In effect, the use of TRANs allowed CDOT to accelerate construction on the seventh pot projects by pre-spending payments from the federal government. CDOT has exhausted its limits on TRANs, having issued a total of $1.5 billion in five installments during 2000 through 2004, with a total repayment cost of $2.3 billion. CDOT will be paying debt service of approximately $168 million each year through FY 2016-17. TRANs revenue was spent on a number of state highway projects, including the expansion of I-25.

TABOR-exempt transportation revenue. Two enterprises operate under CDOT. These government-owned businesses have authority to issue revenue bonds and must receive less than ten percent of their revenue from state and local government sources or they will lose their enterprise status and will be subject to the revenue limitations of TABOR.[3] These enterprises are as follows:

- *Statewide Bridge Enterprise.* Senate Bill 09-108 (FASTER) created the Statewide Bridge Enterprise, and appointed the Transportation Commission to serve as the Bridge Enterprise Board of Directors.[4] The Statewide Bridge Enterprise was created to "finance, repair, reconstruct, and replace any designated bridge in the state."[5] FASTER also created a new TABOR-exempt revenue source, the bridge safety surcharge, to fund bridge projects. In FY 2009-10, the bridge safety surcharge generated $45.2 million in revenue. This amount is expected to double as the surcharge is increased through FY 2011-12.

- *High-Performance Transportation Enterprise.* Senate Bill 09-108 replaced the Colorado Tolling Enterprise (CTE) which was created in 2002 as a result of House Bill 02-1310 with the High-Performance Transportation Enterprise (HPTE). HPTE was formed for the purpose of efficiently financing surface transportation infrastructure projects that will improve the safety, capacity, and accessibility of the surface transportation system. To date, revenue received by the HPTE/CTE has been solely from the I-25 Express Toll lanes and interest earnings on a loan granted from the Transportation Commission to the CTE for initial startup costs. In FY 2009-10, this revenue totaled $2.5 million.

Declining Value of the State Transportation Dollar

Over time, the purchasing power of a dollar allocated for transportation funding has declined. This means that building a road, highway, or bridge costs more today than in the past due to the rising cost of labor and construction materials over time. To illustrate the purchasing power of state transportation revenue over time, Figure 4 compares total nominal transportation funding to funding levels adjusted by inflation and construction costs since FY 1995-96.

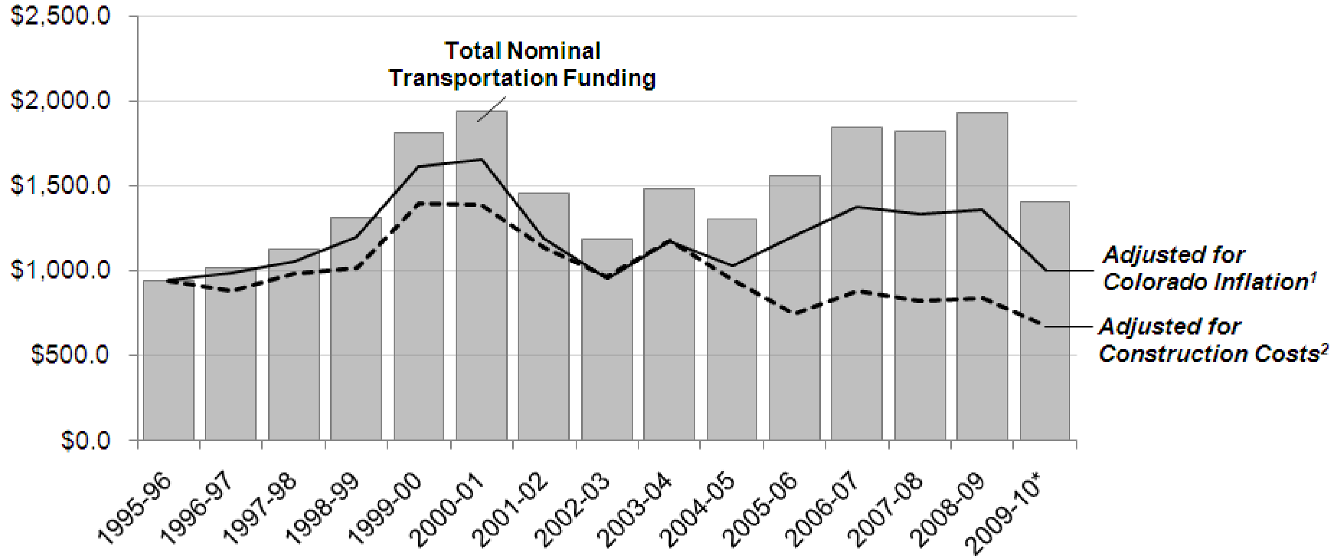
---

[3] Article X, Section 20, Colorado Constitution.

[4] The Transportation Commission is charged by Colorado law with formulating general policy with respect to the management, construction, and maintenance of public highways and other state transportation systems. The commission is comprised of 11 commissioners who represent specific districts. These individuals are appointed by the Governor and confirmed by the state Senate.

[5] Section 43-4-805, C.R.S.

Figure 4
State Transportation Funding and Cost Adjustments
Dollars in Millions



Source: Office of the State Controller and Colorado Department of Transportation.
*Actual totals.

[1]Adjusted using the Denver-Boulder-Greeley Consumer Price Index (CPI) (base year =1995).
[2]Adjusted using the Colorado Construction Cost Index (CCI) (base year = 1995).

Local Government Transportation Funding

In addition to state-funded projects, local governments — including Colorado cities, counties, special districts, and authorities — provide funding independently for the construction, operation, and maintenance of roads and transit within their borders. In addition to the HUTF distribution, funding for local government transportation projects comes from a number of different sources, including the following:

- ridership fares and user tolls;
- private and nonprofit partnerships;
- dedicated sales and use tax revenue;
- dedicated lodging tax revenue;
- local government general fund revenue; and
- federal funds, including federal matching funds.

Table 1 provides examples of some of the different types of transportation funding sources for selected local governments.

Table 1
Selected Local Government Transportation Funding Sources

Local Government Type	Local Government	Funding Source
City	City of Aspen	1.0% lodging tax (half of the revenue goes to the Local Transit Services and half goes toward local tourism promotion)
County	Larimer County	Combination of: • Highway Users Tax Fund • Federal payment in lieu of taxes (PILT) funds from Rocky Mountain National Park • Specific ownership tax (SOT) • Property taxes
Mass Transit District	Eagle County	0.5% sales tax rate
	Summit County	0.75% sales tax rate
	Pitkin County	0.5% sales and use tax rate
Local Improvement District	Jefferson County Southeast Local Improvement District	0.5% sales tax

Source: Colorado Department of Revenue, City of Aspen, and Larimer County.

Regional transportation authorities. Colorado law allows municipalities and counties, with voter approval, to form a regional transportation authority (RTA).[6] An RTA is a taxing authority authorized to make improvements to transportation infrastructure and provide transportation services within its geographic boundaries. With voter approval, an RTA may collect revenue by doing the following:

- charging a toll;[7]
- levying a sales and use tax of up to 1 percent;[8]
- charging a local motor vehicle registration fee of up to $10;[9] and
- levying a lodging taxes of up to 2 percent.[10]

Table 2 summarizes the five RTAs in Colorado, member municipalities, and their respective sale and use tax rates.

[6] Section 43-4-601, *et. seq.*, C.R.S.

[7] Section 43-4-605 (1)(d), C.R.S.

[8] Section 43-4-605 (1)(j), C.R.S.

[9] Section 43-4-605 (1)(i), C.R.S.

[10] Section 43-4-605 (1)(i.5), C.R.S.

Table 2
Regional Transportation Authority Sales and Use Tax Rates

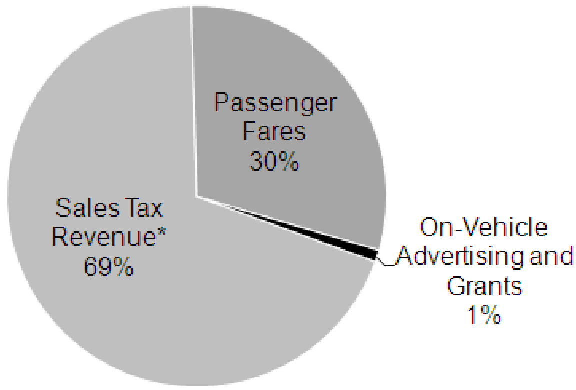
Regional Transportation Authority	Member Municipalities	Sales and Use Tax Rate
Roaring Fork Transportation Authority	Cities of Basalt and New Castle	0.8%
	Cities of Carbondale and Glenwood Springs	1.0%
	Areas of unincorporated Eagle County in the El Jebel area and outside the city limits of Carbondale	0.6%
	City of Aspen, Snowmass Village, and unincorporated Pitkin County	0.4%
Pikes Peak Rural Transportation Authority	El Paso County except the municipalities of Calhan, Fountain, Monument, and Palmer Lake	1.0%
Gunnison Valley Rural Transportation Authority	All of Gunnison County except the municipalities of Marble, Ohio, Pitkin, and Somerset	0.6%*
	City of Gunnison	0.35%*
South Platte Valley Regional Transportation Authority	City of Sterling	0.1%
Baptist Road Rural Transportation Authority	City of Monument	1.0%

Source: Colorado Department of Revenue.
*Sales tax only.

Transit. The General Assembly created the Regional Transportation District (RTD) in 1969 as a statutory regional special district to plan, construct, and operate the public transportation system in the Denver area.[11] RTD is the state's largest transit provider and includes all of Denver, Boulder, and Jefferson counties, and parts of Broomfield, Adams, Arapahoe, and Douglas counties. While RTD receives substantial funding from passenger fares and the federal government, most of its revenue comes from a sales tax levied on purchases made within the district. Colorado law requires RTD to recover 30 percent of its operating costs through passenger fares. Figure 5 shows a distribution of revenue sources to RTD for FY 2009-10.

[11] Section 32-9-101, *et seq*., C.R.S.

Figure 5
Regional Transportation District (RTD) Revenue Sources, FY 2009-10



Source: Regional Transportation District.

House Bill 02-1310 authorized RTD to ask voters within their district to increase the RTD sales tax rate from 0.6 percent to 1.0 percent and to allow RTD to borrow for new transit construction. The ballot language of Referendum 4A in 2004 limited the increase in debt to $3.5 billion and the repayment cost to $7.1 billion.

Voters approved Referendum 4A during the 2004 election, and in doing so approved the RTD **FasTracks** program to add 122 miles of light rail and commuter rail, 18 miles of bus rapid transit and high occupancy vehicle lanes, new parking structures, and expanded bus service in RTD's eight member counties. RTD announced 50 percent completion of the FasTracks project in September 2010. In addition to the sales tax, the FasTracks program has been funded through the federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loans, certificates of participation (COPs), local contributions, and public-private partnerships.

Public highway authorities. Colorado law permits the creation of public highway authorities (PHAs) by municipal and county governments.[12] PHAs may construct, finance, operate, and maintain public highways in the state. PHAs are also authorized to issue debt and collect tolls, property taxes, vehicle registration fees, and sales taxes. There are currently three PHAs operating in Colorado: the E-470 PHA, the Northwest Parkway PHA, and the Jefferson Parkway PHA. Over the last several decades, these PHAs funded construction of a highway system surrounding the Denver metro area, as shown in Figure 6.

[12] Section 43-4-501, *et. seq*., C.R.S.

During the November 1988 election, voters in member jurisdictions approved a $10 vehicle registration fee, which has been used to fund construction and maintenance of E-470, the 47-mile corridor surrounding the eastern edge of the metro area. Construction bonds funded through private money financed the construction of Northwest Parkway, a 9-mile stretch of highway that was completed in 2003. The Jefferson Parkway PHA is intended to complete the beltway. Construction of this 20-mile stretch is still in planning stages.

Figure 6
Colorado Public Highway Authority Projects