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M E M O R A N D U M

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TO: Members of the Transportation Legislation Review Committee

FROM: Jonathan Senft, Fiscal Analyst, 303-866-3523

SUBJECT: Colorado State and Local Transportation Funding

Summary

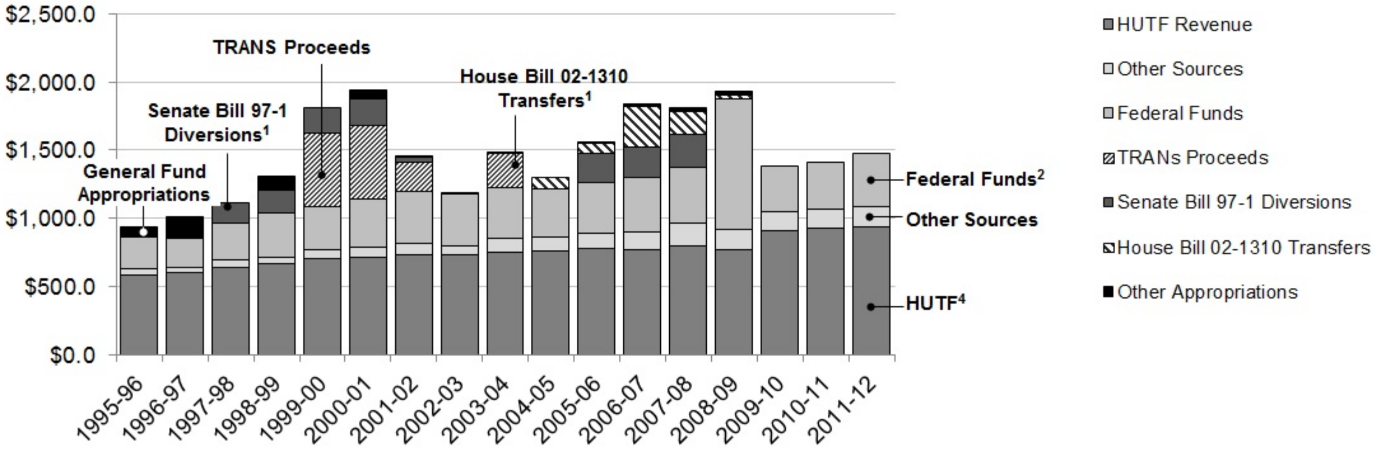
This memorandum provides information about major revenue sources that the state and local governments use to fund Colorado's transportation infrastructure and related programs. Revenue to the state includes motor fuel taxes, registration fees, as well as monies from the Aviation Fund, federal funds, and, on occasion, the state's General Fund. Local governments also contribute to transportation funding through ridership fares, user tolls, sales and use taxes, and lodging taxes.

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. The recently passed Senate Bill 13-048 added that this revenue can also be used on transit-related projects. Under these constitutional limitations, the General Assembly, in cooperation with transportation stakeholders, 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. In FY 2011-12, the state received $1.4 billion in total transportation revenue, including federal funds. As summary of each funding source follows.

Figure 1
Major Funding Sources for the Colorado Transportation System



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[1]Senate Bill 97-001 diversions and House Bill 02-1310 transfers were repealed in 2009.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, which are now exhausted.
[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. The revenue collected from this bill is shown as HUTF revenue.
[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 $941.1 million in FY 2011-12. Revenue to the HUTF comes from the following sources:

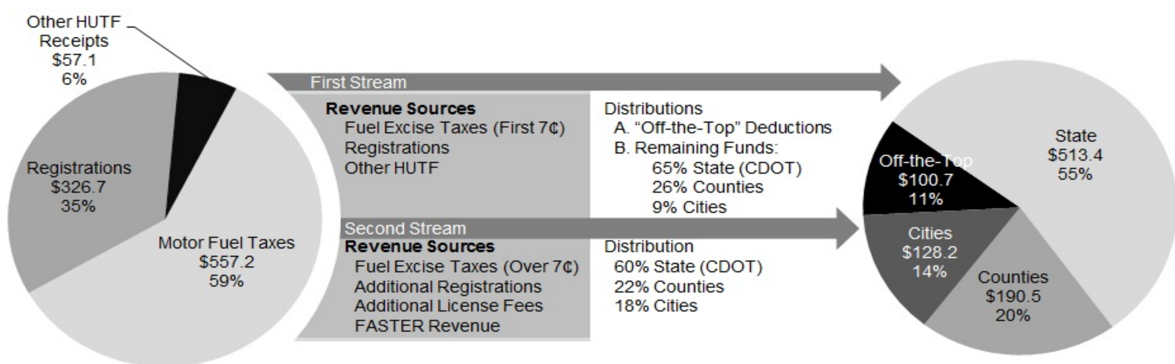
- *Motor fuel taxes.* State motor fuel excise taxes make up the largest share of HUTF revenue. Excise fuel taxes are levied on a per-gallon basis at 22 cents per gallon for gasoline and 20.5 cents per gallon for diesel fuel. In FY 2011-12, motor fuel and special fuel tax revenue totaled an estimated $557.2 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 2011-12, registration fee revenue totaled an estimated $326.7 million.

- *Other HUTF receipts*. Remaining HUTF revenue comes from driver's license fees, court fines, and interest earnings. In FY 2011-12, revenue from these sources totaled $57.1 million.

HUTF funds are allocated to the state highway fund, counties, and cities based on statutory formulas.[1] Figure 2 shows both the source of revenue to 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).

Figure 2
Highway Users Tax Fund (HUTF) Revenue and Distributions, FY 2011-12



Data Source: Office of the State Controller and Office of the State Treasurer.

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 2011-12, $56.1 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:

- <u>*Aviation Fund revenue*</u>. 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. Commercial airlines are exempt from paying the 4 and 6 cent tax, but not exempt from sales tax. 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 2011-12, $41.0 million in revenue was credited to the state Aviation Fund.

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

- *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, the 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. Revenue from these fines and fees totaled $10.9 million in FY 2011-12.

- <u>Other registration fees</u>. 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 fines and fees totaled $62.2 million in FY 2011-12.

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 receives a five-year block of transfers, with each annual transfer equaling 2 percent of total General Fund revenue collected in that fiscal year. Under Senate Bill 09-228, the five-year block of transfers would be triggered in FY 2013-14, if Colorado personal income grew by at least 5 percent in 2012.

Based on the June 2013 Legislative Council Staff forecast, Colorado personal income is expected to increase by 5 percent in 2013, triggering the first year of these transfers in FY 2014-15. The Highway Users Tax Fund will receive an estimated $189.7 million, or 2 percent of General Fund revenue. These transfers will occur for five years unless the state incurs a large enough TABOR surplus. If, during any particular year, the state incurs a TABOR surplus equal to between 1 percent ($94.8 million in FY 2014-15) and 3 percent ($284.5 million in FY 2014-15) of General Fund revenue, state law requires these transfers to be cut in half. During any year in which the TABOR surplus is greater than 3 percent of General Fund revenue, these transfers will be eliminated. Transfers to the HUTF remain at 2 percent of General Fund revenue for the full five years.

Federal funds. Congress authorizes the expenditure of federal funds by state and local governments through multi-year transportation funding acts. MAP-21 is the most recent authorization and remains the current statutory framework governing federal transportation law and spending. MAP-21sustains current funding levels for two fiscal years years, and is slated to expire in late 2014. Funding for the current authorization is reliant on federal General Fund dollars, which continue to prop up the federal Highway Trust Fund. MAP-21 also had provisions for continuation of the Federal Gas Tax – ($18.4 cents per gallon) for four more years. Congress plans to begin work on the reauthorization of MAP-21 during the second half of 2013.

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. Federal funds received by CDOT were approximately $552.6 million in FY 2011-12, and $487.0 million in FY 2012-13.

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 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. This program was refinanced in January 2013, although the payment terms of the refinancing have not yet been updated.

TABOR-exempt transportation revenue. TABOR allows a program that operates similar to a private business to be exempt from the TABOR limit if it meets certain conditions. These programs are referred to as "enterprises" for the purposes of TABOR. Two enterprises operate under CDOT. These government-owned businesses have authority to issue revenue bonds and must receive less than 10 percent of their revenue from state and local government sources or they will lose their enterprise status.[2] 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.[3] The Statewide Bridge Enterprise was created to "finance, repair, reconstruct, and replace any designated bridge in the state."[4] FASTER also created a new TABOR-exempt revenue source, the bridge safety surcharge, to fund bridge projects. In FY 2011-12, the bridge safety surcharge generated $101.5 million in revenue.

- *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 2012-13, this revenue totaled $4.0 million.

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;

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2 Article X, Section 20, Colorado Constitution.

3 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.

4 Section 43-4-805, C.R.S.

- 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	0.5% lodging tax (one quarter of the revenue goes to the Local Transit Services and three quarters 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).[5] 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;[6]
- levying a sales and use tax of up to 1 percent;[7]
- charging a local motor vehicle registration fee of up to $10;[8] and
- levying a lodging taxes of up to 2 percent.[9]

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

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

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

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

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

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

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.