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MEMORANDUM

November 17, 2014

TO: Interested Persons

FROM: Greg Sobetski, Economist, (303) 866-4105

SUBJECT: Colorado Transportation Finance

Summary

This memorandum provides information on transportation planning and finance. It examines the major revenue sources that the state government uses to fund Colorado's transportation system.

Colorado's transportation system consists of a network of roads, highways, bridges, mass transit lines, airports, and rail systems. State and local governments maintain the system with funding from federal, state, and local government sources. Subject to certain constitutional limitations, the General Assembly has by statute determined the methods of administering and financing Colorado's transportation system by:

- outlining the state transportation planning process;
- establishing and determining the roles and responsibilities of the Colorado Department of Transportation (CDOT) and the Transportation Commission;
- identifying revenue sources and financing for state highway construction and maintenance; and
- determining the distribution of state funding to CDOT and Colorado's local governments.

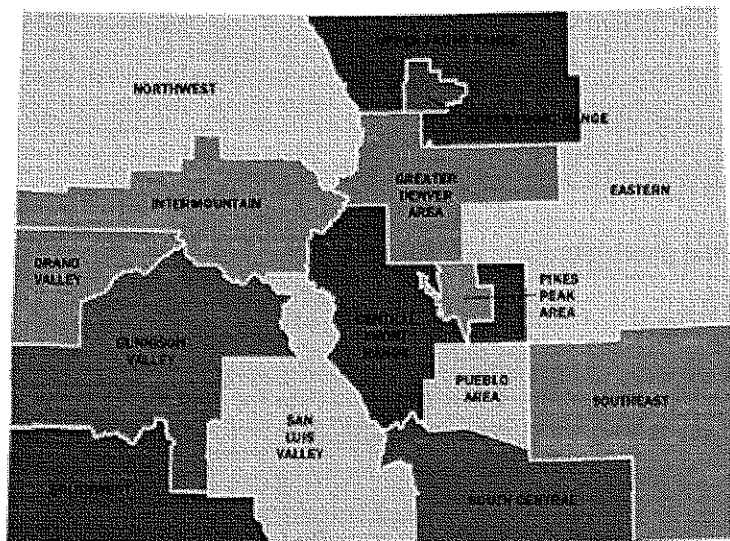
Statewide Transportation Planning

Since 1991, state and federal laws have required CDOT to compile both long-range and short-range transportation plans. State law requires CDOT, in cooperation with the 15 local

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transportation planning regions shown in Figure 1, to produce a 20-year plan.¹ This plan is updated every five years; the current "2035 Plan" estimates needs and revenue from 2011 to 2035. The 2035 Plan estimates a shortfall of \$53 billion in constant 2008 dollars through 2035 to sustain current levels of performance. In addition to the long-range plan, federal law requires a "Statewide Transportation Improvement Program" (STIP) that identifies short-term project needs and priorities. CDOT has chosen to publish a six-year STIP, updated every four years.

Figure 1. Colorado Transportation Planning Regions



Source: Colorado Department of Transportation.

Colorado Department of Transportation. The responsibilities of CDOT are outlined in statute.² Generally, responsibilities include the construction and maintenance of the state highway system, which totals over 23,000 lane miles and includes federal interstate highways, U.S. highways, state highways, and 3,437 bridges. CDOT also coordinates the integration of different modes of transportation including automotive, aviation, transit, and rail, with local governments.

Colorado Transportation Commission. The decision-making authority for the majority of state transportation revenue rests with the Colorado Transportation Commission as outlined by statute.³ The 11 nonpartisan commissioners, each representing one of 11 statutorily defined geographical districts of the state, are appointed by the Governor and confirmed by the Senate. The commission sets budgetary priorities for and gives policy direction to CDOT.

While the commission serves a fiduciary role by declaring and adopting transportation construction and program budgets, it does not have the authority to raise tax revenue; this power is retained by the General Assembly and the voters. It does have the authority to change its short-term and long-term priorities, thus shifting funding among projects and regions within the state.

¹Section 43-1-1103, C.R.S.

²Sections 43-1-103, -104, and -105, C.R.S.

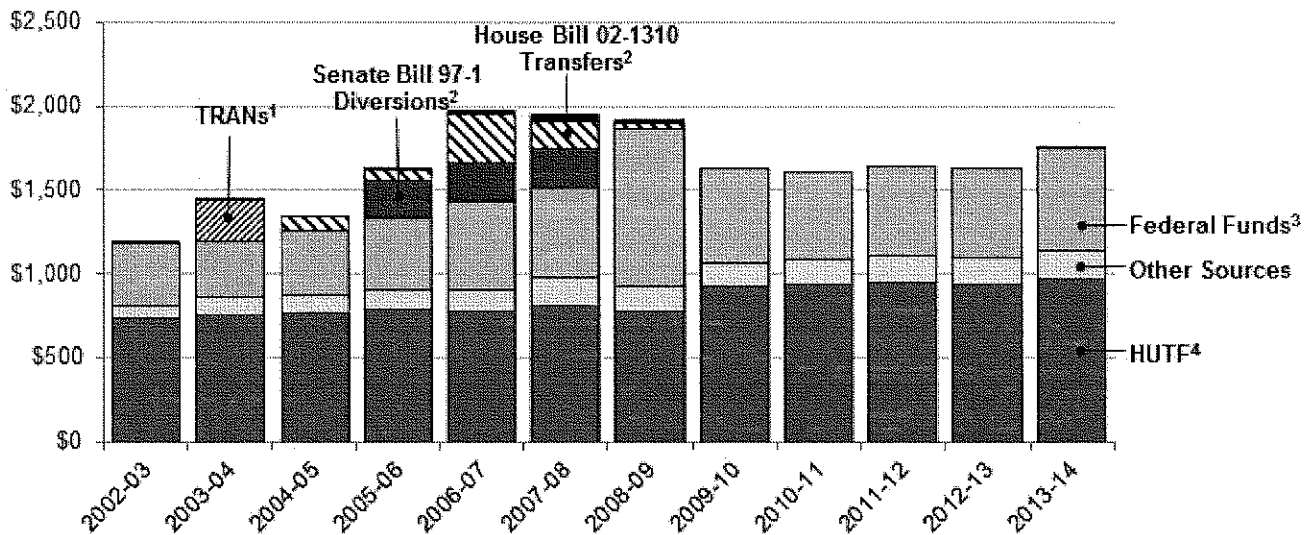
³Section 43-1-106, C.R.S.

State Transportation Funding

The Colorado Constitution requires that all vehicle registrations, fees, and fines charged with respect to the operation of a motor vehicle on Colorado's public highways or 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.⁴ Under these constitutional limitations, the General Assembly may determine the sources of transportation revenue⁵ and the distribution of this revenue for statewide and local programs.

Figure 2 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.

Figure 2. Major Sources of Funding for the Colorado Transportation System
Dollars in Millions



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

Note: Funding sources exclude revenue to regional transit authorities and local governments. FY 2013-14 figures are preliminary estimates.

¹CDOT sold Transportation Revenue Anticipation Notes (TRANS) as a means of generating revenue between FY 1999-00 and FY 2003-04. All TRANS revenue has been spent. Debt service on TRANS is paid with money from the federal government and state matching funds; debt service is expected to cease in FY 2016-17.

²Senate Bill 97-1 diversions and House Bill 02-1310 transfers were repealed during the 2009 legislative session.

³Federal funds include \$404.2 million in American Recovery and Reinvestment Act (ARRA) funds in FY 2008-09.

⁴HUTF revenue includes additional registration fees paid pursuant to Senate Bill 09-108 (FASTER) beginning FY 2009-10.

Highway Users Tax Fund. The Highway Users Tax Fund (HUTF) is the primary source of highway funds in Colorado. Preliminary estimates of revenue to the fund totaled \$969.3 million in FY 2013-14. Revenue from the HUTF comes from the following sources:

⁴Colo. Const. art. X, § 18.

⁵Colo. Const. art. X, § 20 (4) (a) requires that the state obtain voter approval to create a new tax, increase a tax rate, extend an expiring tax, or change tax policy in a way that causes a net tax revenue gain.

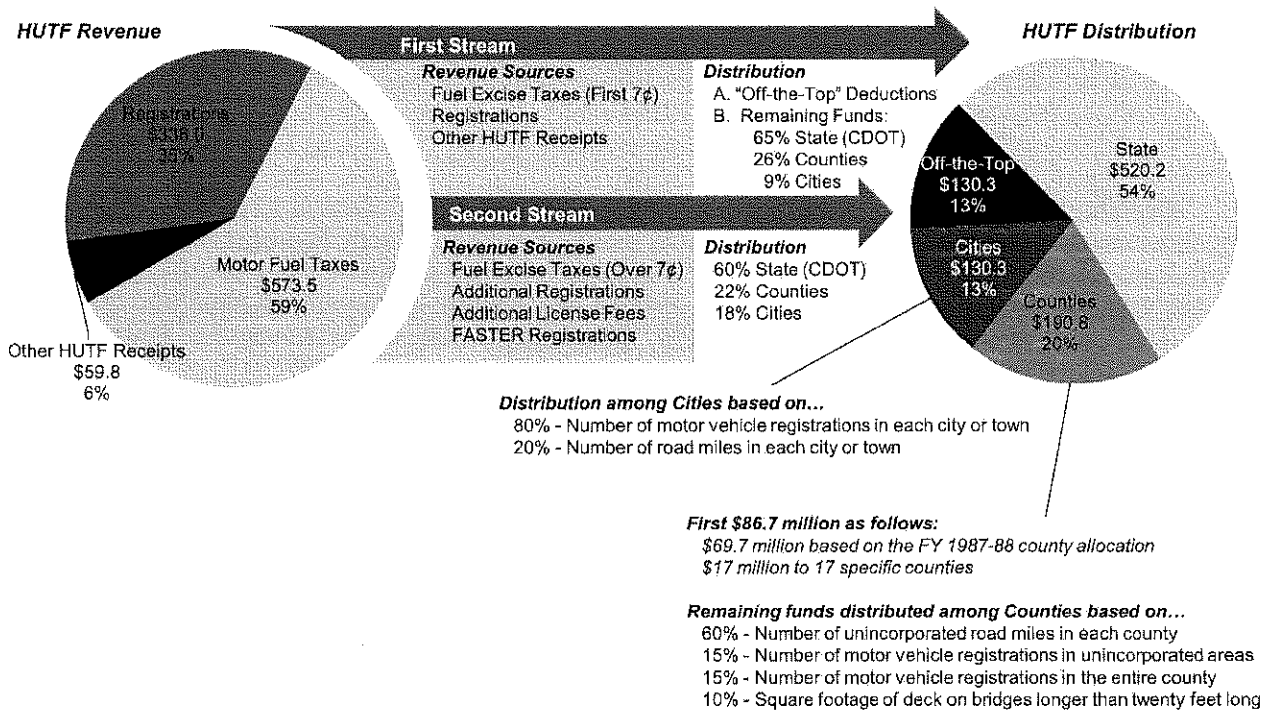
- *Motor fuel taxes.* State motor fuel excise taxes make up the largest share of HUTF revenue. Excise taxes are levied on a per-gallon basis at 22 cents per gallon for gasoline and 20.5 cents per gallon for diesel fuel. In FY 2013-14, revenue from these taxes totaled \$573.5 million.
- *Registration fees.* Motor vehicle registration fees make up the second largest share 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, revenues from 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, a reciprocal agreement among states.⁶ In FY 2013-14, registration fee revenue totaled \$197.6 million, excluding FASTER fees.
- *FASTER fees.* During the 2009 legislative session, the General Assembly adopted Senate Bill 09-108, Funding Advancement for Surface Transportation and Economic Recovery (FASTER). FASTER increased vehicle registration fees and created a \$2 daily rental car fee. In 2013-14, additional revenue to the HUTF attributable to FASTER totaled \$168.6 million.
- *Other HUTF receipts.* Other HUTF revenue comes from driver's license fees, court fines, and interest earnings. In FY 2013-14, revenue from these sources totaled \$59.8 million.

HUTF funds are allocated to CDOT, counties, and municipalities, based on statutory formulas.⁷ Figure 3 shows the sources and distribution of revenue in the fund. 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 Department of Public Safety, for the State Patrol. 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).

⁶Section 42-3-304 (10)(c), C.R.S.

⁷Sections 43-4-205, -206, -207, and -208, C.R.S.

Figure 3. HUTF Revenue and Distributions, FY 2013-14*
Dollars in Millions



Source: Office of the State Controller and Office of the State Treasurer.
 *Preliminary estimates.

State Highway Fund. The State Highway Fund (SHF) 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 in the SHF. The fund also generates its own revenue, primarily from interest earnings on the fund balance and local government matching funds to federal transportation funding programs. In FY 2013-14, \$54.5 million in revenue from these sources was generated to the fund.

Other sources of transportation revenue. Smaller sources of transportation revenue include the aviation fuel tax, highway safety-related fees and fines, and other registration fees.

- **Aviation Fund.** 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 excise tax, and a 2.9 percent sales tax on the retail cost of jet fuel. Aviation Fund revenue is shared between the local governments that own and operate airports and CDOT. Local governments use their share of aviation fuel tax revenue to maintain and operate airports. CDOT uses its share of this revenue to provide discretionary grants to airports and fund the operation of the CDOT aeronautics division. In FY 2013-14, \$36.9 million in revenue was generated to this fund.
- **Highway safety revenue.** Revenue to transportation also comes from statutory fees charged for the Law Enforcement Assistance Fund, and from fines for driving under the influence or driving while ability impaired. Revenue from these sources is generally used to fund traffic signals and statewide public safety campaigns. Revenue is shared with the Judicial Branch, the Department of Public Health and Environment, and the Division of Motor Vehicles in the Department of Revenue. In FY 2013-14, revenue from these fees and fines totaled \$11.0 million.

- *Other registration fees.* In addition to the registration fees paid to the HUTF, a number of additional fees are charged when a motor vehicle is registered. These include: Emergency Medical Services fees, emissions inspection fees, motorcycle and motor vehicle license fees, and Police Officer Standards and Training Board fees. Revenue from these fees totaled \$64.0 million in FY 2013-14.⁸

General Fund. The General Assembly has used various mechanisms to provide General Fund revenue for transportation. General Fund money has been directly appropriated to CDOT, or transferred to the Capital Construction Fund to finance transportation projects, at the discretion of the General Assembly. In FY 2013-14, the General Assembly transferred \$500,000 to the Capital Construction Fund (CCF) with the requirement that these funds be spent on highway-related capital projects.

Senate Bill 09-228 transfers. Since 1979, the General Assembly has used statutory mechanisms to transfer General Fund revenue to the HUTF when sufficient funds are available.⁹ The current statutory transfers were established by the General Assembly with the passage of Senate Bill 09-228 during the 2009 legislative session. Senate Bill 09-228 establishes a five-year block of transfers to the HUTF and the CCF after Colorado personal income grows 5.0 percent or more during a calendar year. When the transfers are triggered, 2.0 percent of General Fund revenue will be transferred to the HUTF each year. Statute requires that this revenue be deposited in the State Highway Fund, where it must be spent to implement the current STIP.¹⁰ Further, no more than 90 percent of transfers may be spent on highways and highway-related capital improvements, while at least 10 percent must be spent on transit and transit-related capital improvements.¹¹ Growth in personal income is projected to exceed 5.0 percent in 2014, which would trigger the five-year block of transfers beginning in FY 2015-16 through FY 2019-20.

Senate Bill 09-228 transfers may be reduced or eliminated in any year of the five-year block of transfers if state revenue exceeds the constitutional spending limit contained in the Taxpayer's Bill of Rights (TABOR) amendment.¹² Transfers are cut in half if the TABOR surplus during a fiscal year is greater than 1.0 percent and less than or equal to 3.0 percent of General Fund revenue. If the TABOR surplus exceeds 3.0 percent of General Fund revenue, transfers are eliminated for that year. A surplus less than or equal to 1.0 percent of General Fund revenue does not affect the transfers. Current revenue projections forecast a TABOR surplus large enough to cut transfers in half in FY 2015-16, and a surplus large enough to eliminate transfers in FY 2016-17.

Federal funds. Congress authorizes the expenditure of federal funds by state and local governments through multi-year transportation funding acts. The most recent authorization, the Moving Ahead for Progress in the 21st Century Act (MAP-21), was signed into law in July 2012. MAP-21 was a two-year authorization set to expire at the end of September 2014. In August 2014, Congress approved the Highway and Transportation Funding Act of 2014, extending the MAP-21 authorization through May 31, 2015, while imposing a \$26.8 billion ceiling on federal highway and highway safety construction during the period of the extension.

⁸This figure includes driver's license registration fees diverted from the HUTF to the Licensing Services Cash Fund, as required pursuant to Section 42-2-113, C.R.S. HUTF diversions to the Licensing Services Cash Fund continue through FY 2014-15.

⁹Senate Bill 79-536; Senate Bill 97-1; House Bill 02-1310.

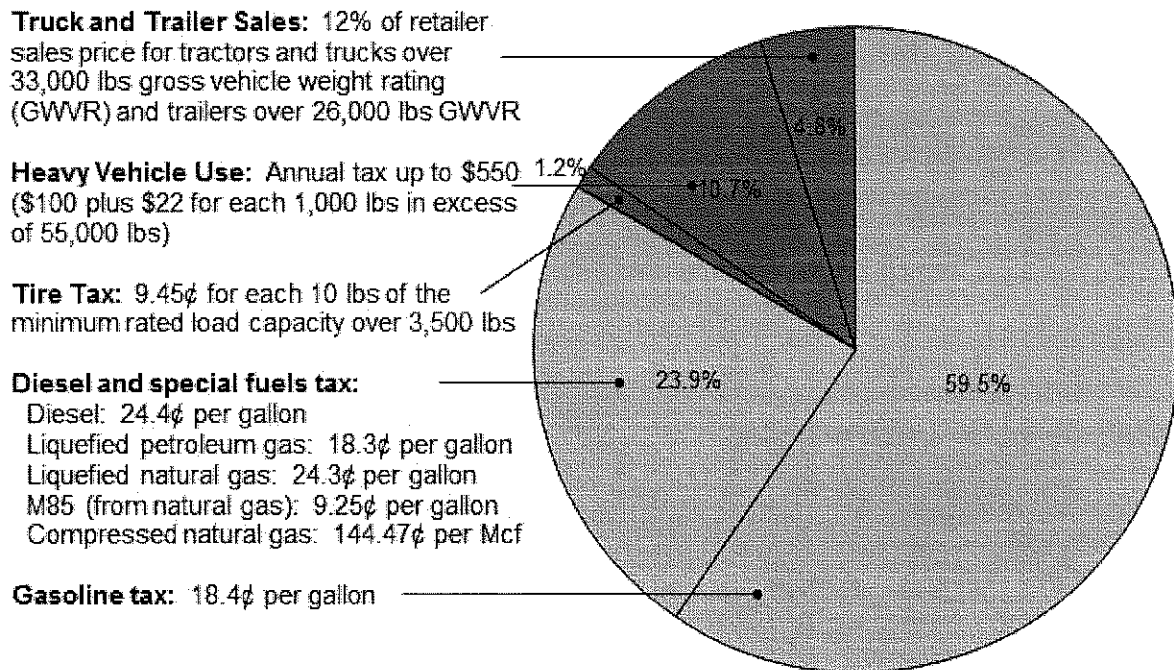
¹⁰Section 43-4-206 (2)(a), C.R.S.

¹¹Section 43-4-206 (2)(a)(I), C.R.S.

¹²Colo. Const. art X, §20 (7).

Federal funds are distributed to states from the federal Highway Trust Fund (HTF), which collects motor fuel taxes and truck-related taxes (truck and trailer sales, truck tires, and heavy vehicle use). HTF disbursements are paid to states based on formulas in federal law. Figure 4 shows the sources of revenue to the HTF.

Figure 4. Revenue Sources to the Highway Trust Fund, Federal Fiscal Year 2011-12



Source: Federal Highway Administration

Enterprises. The state constitution defines an enterprise as a government-owned business that has authority to issue revenue bonds and receives less than 10.0 percent of its revenue from state and local government sources.¹³ Revenue to enterprises is exempt from the state's constitutional spending limit, usually called the TABOR limit. Two enterprises created in Senate Bill 09-108 (FASTER) operate under CDOT:

- *Statewide Bridge Enterprise.* The Statewide Bridge Enterprise was created to "finance, repair, reconstruct, and replace designated bridges in the state."¹⁴ The enterprise is authorized to impose a bridge safety surcharge at rates reasonably calculated to defray the costs of completing bridge projects. Revenue from this TABOR-exempt fee totaled \$101.1 million in FY 2013-14. Members of the Transportation Commission serve as the Board of Directors of the enterprise.
- *High-Performance Transportation Enterprise.* The High-Performance Transportation Enterprise (HPTE) replaced a predecessor enterprise, the Colorado Tolling Enterprise. The HPTE is tasked with pursuing innovative means of transportation finance, including through public-private partnerships, operating concession agreements, and fee-based

¹³ Colo. Const. art X, §20 (2)(d).

¹⁴ Section 43-4-805 (1)(b)(I), C.R.S.

projects.¹⁵ Revenue to the HPTE comes from tolls paid and fines collected on the I-25 Express Lanes, federal grants, interest income, and miscellaneous smaller sources. According to an audit released in January 2014 by the Office of the State Auditor, revenue to the HPTE totaled \$4.5 million in FY 2012-13.

¹⁵Section 43-4-806, C.R.S.