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# Transportation Revenue Options Study

Draft Report  
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Prepared For:  
Colorado Department of Transportation

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## AN INVESTMENT AT RISK

The health of Colorado's economy has always been tied to the vitality of our transportation system, which includes state highways, local roads and streets, rail lines, airports, and transit facilities. Lacking navigable rivers, pioneers made their way to Colorado and early commerce moved along the lifelines of wagon trails. Perhaps the most important investments in the state's future were made in the 1860s as Denver struggled to compete with Cheyenne, Wyoming as the epicenter of rail traffic, and therefore, commerce, between the major commercial centers along the Mississippi River and the Pacific coast. Creation of a web of rails from Montana to New Mexico and Kansas to Utah put Denver at the hub of a century of economic growth and prosperity benefiting all of Colorado as the state's mining, farming, ranching and natural resources were made accessible to the rest of the country.

Construction of paved roadways in the early 1900s greatly improved the movement of goods and people throughout the state. The building of the Interstate Highway System in the last half of the century knit together the Front Range and mountain recreational communities, and brought tourists to the state in unprecedented numbers. Transit, whether by trolley, bus, or modern light rail lines, has improved the movement of workers to jobs, is playing an increasing role in preserving our environment, and continues to make our communities attractive to out-of-state individuals and businesses seeking to relocate. The development of air travel, supported by the construction of the Denver International Airport, has opened the state to full participation in global commercial and recreational markets. The vision of our business and government leadership to invest in quality transportation through the years has resulted in a system that moves goods and services, supports tourism and recreation, moves commuters to jobs and provides the means for transporting our agricultural products to market - a system that has been a key component in supporting Colorado's economy.

Unfortunately, Colorado's transportation investments are at risk of serious deterioration. The risk results from the convergence of four factors:

1. Sluggish growth in state and local revenue sources used to finance construction and maintenance of our roads;
2. An uncertain future for federal funding;
3. Growth in the use of the system increasing more rapidly than the capacity of the system, causing congestion, deteriorating roadway surfaces, and worsening motorist safety; and
4. Rapidly rising construction costs.

### Slow Growth in Highway Revenues

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The primary source of funding for Colorado's roads is the motor fuel tax. In fiscal year (FY) 2005, approximately 65% of highway and road funding was derived from motor fuel taxes, while 20% came from motor vehicle registration and license fees, and 10% was transferred from the State General Fund. The motor fuel tax is a per gallon excise tax, so the amount collected depends on the number of gallons sold, not on the sales price. Despite increases in vehicle miles traveled, the increasing fuel efficiency of motor vehicles has led to a decline in the rate of growth of motor fuel tax collections, slowing the growth of transportation funding. In recent years, General Fund transfers have become an increasingly important source of transportation funding, but the availability of General Fund revenue for this purpose is highly volatile because of its dependence on the health of the state's economy, mandated spending increases for other programs, and the interaction of Colorado's tax and expenditure limits.

The instability of General Fund transfers as a source of transportation funding is illustrated by recent history. From 1998 through 2006, the transfers varied between zero (i.e., no transfers were made) to as much as almost 28% of the HUTF. The following observations depict the health of the HUTF and its funding sources:

- Motor fuel tax collections declined by \$3.3 million in FY 2005 despite increases in population and vehicle miles traveled.
- Motor Fuel tax collections for FY 2006 increased over FY 2005 levels, but increased by only 1.5% over the two year period from FY 2004 to FY 2006.
- From FY 1994 through FY 2005, the HUTF grew by 56.6%, a compound average annual growth rate of 4.1%.
- A recent state forecast predicts that the HUTF will grow at a compound average annual growth rate of 1% through FY 2011 because "...gas tax revenue will continue to wane with the increased proliferation of more fuel efficient vehicles."

### Uncertain Federal Revenues

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Approximately 35% of highway funding in Colorado is provided by the federal government through a federal multi-year funding authorization act entitled: "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). The principal source of federal revenue is a federal excise tax on motor fuels similar to Colorado's motor fuel tax. Like Colorado, federal motor fuel taxes are being affected by increasing numbers of more fuel-efficient vehicles, and also like Colorado, federal motor fuel taxes have lost about one-third of their purchasing power since 1993. According to recent Congressional Budget Office (CBO) revenue and spending estimates, an alarming decrease is expected in the federal Highway Trust Fund account balance by 2009. The fund balance may dip below zero in 2009 and the shortfall is expected to accelerate thereafter unless action is taken by Congress. Although Colorado has been authorized \$2.45 billion in federal funding over the six-year life of SAFETEA-

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LU, the Colorado Department of Transportation (CDOT) expects the federal funding shortfall to necessitate a federal "obligation limitation" of 80%, allowing Colorado to spend only 80% of its authorization for the period. For these reasons, the future level of federal funds available to assist Colorado in building and maintaining its roadway inventory is uncertain at this time.

## Roadway System Demands

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At the same time that HUTF revenues have slowed and construction costs have grown, demands placed on our roadways have increased with our population and growing economy. Demand expanding faster than capacity has caused rising levels of traffic congestion and greater wear and tear on existing roadway surfaces. Increasing levels of congestion and deteriorating roadways have raised safety concerns for motorists.

- From 1994 to 2005, the state's population grew by an estimated 25.3%.
- Vehicle miles traveled on Colorado highways increased by an estimated 42.3% for the same period.
- At the same time the state's population and travel demands were growing, the state's roadway inventory was not keeping pace - lane miles increased by only 4.6% - leading to increased congestion, deteriorating road conditions, and growing concerns over motorist safety.
- A recent CDOT study indicates that in 2006, slightly less than 40% of the state highway surface was in poor condition, but due to the lagging growth of current revenue, approximately 60% of the highway surface in the state will be in poor condition by 2016. A 1989 study showed that only 20% of the state's highways were in poor condition so the trends noted here have already led to a significant deterioration of the system.
- The same CDOT study reveals that the state's bridge deck in need of replacement will more than triple from approximately 5% in 2006 to 16% in 2016.
- The study also shows that with current revenue sources, the state's level of service for highway maintenance, which includes snow removal, will plummet from a "B" rating in 2006 to an "F" rating in 2016.
- Another finding of the CDOT study concludes that because of the state's inability to fund growth-related highway system improvements, average daily traffic delay times in congestion corridors will increase from 22 minutes in 2006 to 46 minutes in 2016.

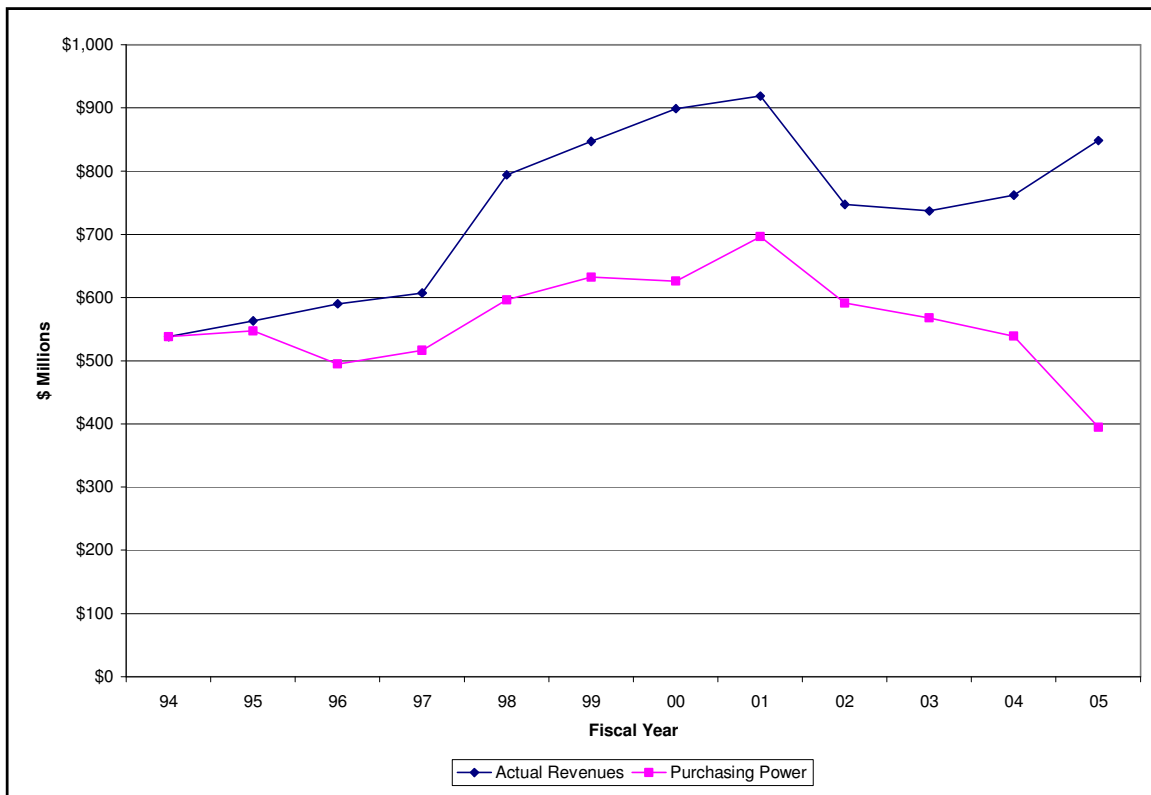
## Rising Construction Costs

At the same time that the growth of the HUTF is stagnating, construction costs continue to escalate. Steady increases in the costs of steel, asphalt, and concrete have combined to increase the costs of building, repairing, and maintaining our roads.

- From 1994 through 2005, Colorado’s construction cost index rose 114.8%.
- For the same period, the 56.6% increase in Colorado’s Highway User Tax Fund (HUTF) revenue was less than half of the rate of growth of construction costs.
- The purchasing power of the HUTF, when adjusted for construction cost increases was 27.1% lower in 2005 than in 1994.

Figure 1 compares actual collections for the HUTF to their purchasing power when adjusted for the Colorado construction cost index from 1994 through 2005.

**Figure 1: Comparison of Actual HUTF Revenues with Construction Cost Indexed Purchasing Power**



Sources: Colorado State Treasurer’s Office; CDOT Colorado Construction Cost Composite Index



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## The Size of the Problem

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Lagging revenues, rising costs, traffic congestion, and deteriorating roadways have created an accumulation of unmet construction and maintenance needs that outstrip available fiscal resources. Unfortunately, the fiscal dynamics conspiring to create the problem are expected to continue well into the future. In 2005, the Colorado Department of Transportation (CDOT) culminated an extensive cooperative process with local government and regional organizations and issued its 2030 Statewide Transportation Plan, which identified additional transportation needs by 2030 in 2005 constant dollars. These needs have now been updated to 2008 constant dollars as the process for updating the 2030 Statewide Transportation Plan is now underway.

In 2008 constant dollars, revenues from current sources available for state highways and local roads, airports, and transit will not keep up with maintenance and construction costs. Cumulative state and local revenues anticipated to be collected from current sources by FY 2030 are:

- \$24 billion for state highways; and
- \$50 billion for local roads, airports, and transit.

In order to keep roads, bridges, airport, and transit infrastructure from deteriorating and to keep congestion and safety from worsening, funding needs include:

- \$89 billion for state highways; and
- \$75 billion for local roads, transit, and aviation.

So in 2008 constant dollars, to sustain our current state and local transportation infrastructure investments, revenues from current sources will fall \$65 billion short for state needs and \$25 billion short for local needs by FY 2030. But these shortfalls are just to sustain our current system. In order to expand the system and improve pavement, bridges, runways, and transit during the period:

- \$40 billion of **additional** funds are needed for state highways; and
- \$33 billion of **additional** funds are needed for local roads, transit, and aviation.

Table 1 compares revenues from current sources available for state highways and local roads, airports, and transit with the costs of both sustaining and expanding our current state and local transportation system in 2008 constant dollars through Fiscal Year 2030.

**Table 1: Comparison of State and Local System Revenues and Needs through FY 2030 in 2008  
Constant Dollars**

<b>Needs</b>	<b>Costs</b>	<b>Revenues</b>	<b>Shortfall</b>
Sustaining the State System	\$89	\$24	\$65
Sustaining Local Roads, Airports, and Transit	\$75	\$50	\$25
Expanding the State System	\$40	\$0	\$40
Expanding Local Roads, Airports, and Transit	\$33	\$0	\$33
<b>TOTAL</b>	<b>\$237</b>	<b>\$74</b>	<b>\$163</b>

Note: All dollar values in billions

In total, to sustain our current state highways and local roads, transit, and aviation investments, to avoid worsening congestion and safety, and to improve the condition of the state and local transportation system, additional revenues totaling \$163 billion are needed by Fiscal Year 2030. The magnitude of this need for additional funds requires a careful look at all available options to meet the challenge.

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## REVENUE OPTIONS

In order to meet the challenge of securing Colorado's transportation investment for the decades to come, every practicable option must be explored, including: 1) increasing existing user-related fees and taxes and/or imposing new ones; 2) increasing general taxes and/or imposing new ones; and 3) other state and local options. The purpose of this section is not to offer specific proposals for increasing selected taxes or fees by specified amounts, but rather to present information about an array of options in a format that illustrates the revenue raising capacity, policy implications, and contextual considerations of a wide array of tax and fee options. For this reason, the options examined are based on an additional increment of an existing tax rate or fee, or a standard increment of a new tax or fee. Policymakers may then roughly simulate the impact of a particular proposal by simply multiplying the increment by the number of increments in the proposal. For example, if an increase of 5 cents in the motor fuel tax is considered the revenue derived can be calculated by taking the appropriate forecast for the proceeds of a 1 cent increase from the table and multiplying by 5.

In 2005, the Colorado Department of Transportation (CDOT) culminated an extensive cooperative process with local government and regional organizations and issued its 2030 Statewide Transportation Plan, which identified additional transportation needs by 2030 in 2005 constant dollars. These needs have now been updated to 2008 constant dollars as the process for updating the 2030 Statewide Transportation Plan is now underway. Forecasts for each option were made in nominal dollars, reflecting inflation in future years, then adjusted to 2008 constant dollars in order to correspond to the transportation needs identified in update of the 2030 Statewide Transportation Plan now in progress. For this reason, both nominal and 2008 constant dollar forecasts are shown for each option.

The discussion of each option below contains a description of the option, its historical background, its revenue potential under a range of 3 economic scenarios (baseline, minimum and maximum scenarios) forecast through FY 2034-35 in both nominal and 2008 constant dollars, the estimation methodology utilized to forecast the option, discussion of legal considerations, who pays the tax (tax incidence), and policy considerations which include the state's competitive position and the reliability, sufficiency, and vulnerability of the revenue stream. The nominal and 2008 constant dollar revenue forecasts for each option are shown in five-year increments so that policymakers can estimate the revenue capacity of any proposal for an intermediate period, and cumulatively throughout the forecast period.

### User Related Fees and Taxes

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There are several options intended to distribute the burden of funding the transportation system onto those who directly use the system. The current system of funding transportation relies heavily on motor fuel taxes. This system was developed specifically because of the nexus between the users of the system and the sources of revenue. Implementation of the options below would continue this philosophy while at the same time diversifying the system from its heavy reliance on motor fuel taxes. The options include:

- Increasing the existing tax on motor fuel;
- Indexing the motor fuel tax to inflation;
- Eliminating the sales tax exemption on motor fuel;
- Implementing a tax on vehicle miles traveled;
- Increasing the fees for motor vehicle registrations and drivers' licenses;
- Increasing the state sales tax on motor vehicles and vehicle parts; and
- Extending the state sales tax to auto repair services.

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## Increase the Fuel Excise Tax on all Motor Fuels (Including Diesel)

**Description of Option:** This option would increase the excise tax on all motor fuels by 1 cent per gallon.

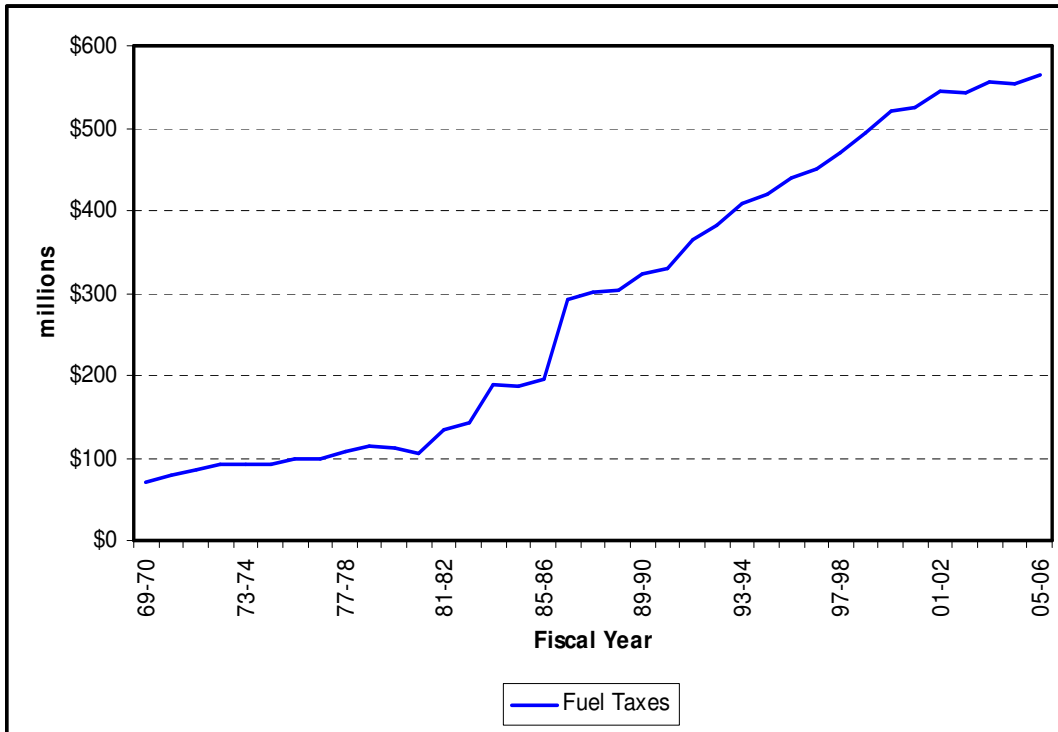
**Background:** The fuel tax is currently 22 cents per gallon on all fuels except for diesel. Diesel is currently taxed at a rate of 20.5 cents per gallon. The current rates went into effect on January 1 of 1991 and 1992 for gasoline and diesel, respectively. It has been well over a decade since the rates were adjusted. Table 2 shows the history of the gasoline and diesel rates and Figure 2 shows the revenue history of this source.

**Table 2: History of Fuel Excise Tax Rates**

Period	Gasoline	Diesel
FY 1970-1980	7 cents	7 cents
FY 1981-1983	9 cents	9 cents
FY 1984-1986	12 cents	13 cents
FY 1987-1989	18 cents	20.5 cents
FY 1990	20 cents and 18 cents	20 cents, 18.5 cents and 18 cents
FY 1991	20 cents and 22 cents	18 cents
FY 1992	22 cents	18 cents and 20.5 cents
FY 1993 - Present	22 cents	20.5 cents

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Figure 2: Historical Fuel Tax Revenues



Source: Colorado Department of Revenue and State Controllers Office

**Revenue Potential:** Table 3 and Table 4 show the revenue estimates for a 1 cent per gallon increase in motor fuel taxes. The estimation assumes a November 2008 election and an implementation of the increase on January 1, 2009.

**Table 3: Estimated Revenue from an Increase of One Cent in Fuel Tax Rates (2008 Constant Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$40	\$40	\$40	\$40	\$40	\$40
FY 2010-11 to 2014-15	\$129	\$169	\$128	\$168	\$132	\$172
FY 2015-16 to 2019-20	\$123	\$292	\$120	\$289	\$135	\$308
FY 2020-21 to 2024-25	\$116	\$409	\$112	\$401	\$139	\$447
FY 2025-26 to 2029-30	\$110	\$518	\$105	\$506	\$144	\$590
FY 2030-31 to 2034-35	\$103	\$621	\$98	\$603	\$150	\$740

Note: All values in Millions

**Table 4: Estimated Revenue from an Increase of One Cent in Fuel Tax Rates (Nominal Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$42	\$42	\$42	\$42	\$42	\$42
FY 2010-11 to 2014-15	\$148	\$190	\$147	\$189	\$152	\$194
FY 2015-16 to 2019-20	\$163	\$353	\$159	\$348	\$179	\$373
FY 2020-21 to 2024-25	\$178	\$531	\$172	\$520	\$213	\$586
FY 2025-26 to 2029-30	\$193	\$724	\$185	\$705	\$254	\$840
FY 2030-31 to 2034-35	\$209	\$933	\$199	\$903	\$305	\$1,145

Note: All values in Millions

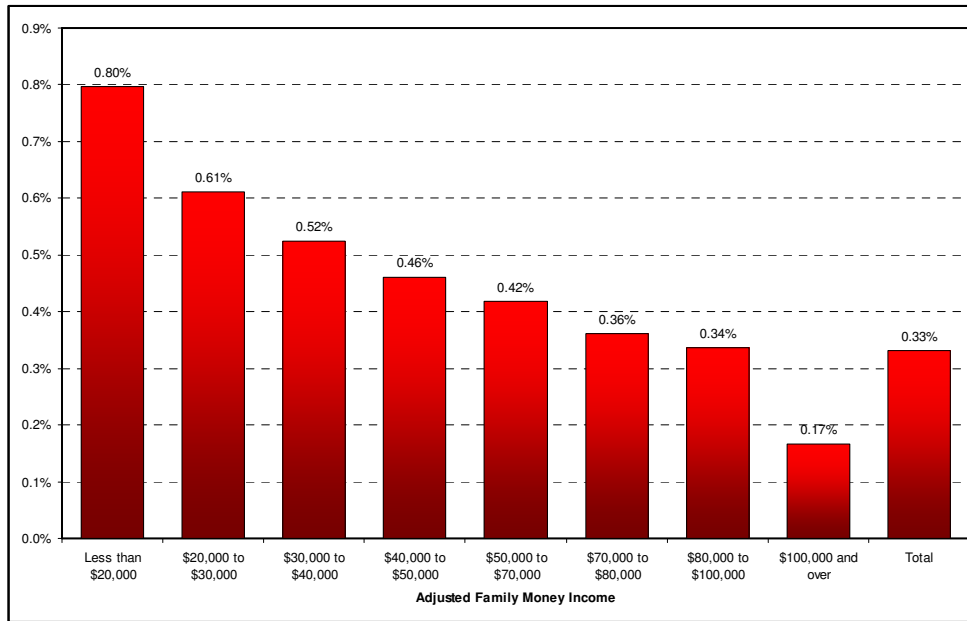
**Estimation Methodology:** The time series of fuel tax receipts was adjusted by correcting for tax rate changes. For the baseline growth rate model, an econometric model was utilized to estimate tax revenue through 2035. The estimates for minimum and maximum growth rates were generated through the application of minimum and maximum historic growth rates for several 20-year intervals over the time series. For each of these estimates it is assumed that there would be no elasticity effect resulting from a change in consumption behavior due to the increase in the tax. For a larger increase in the tax rate, it is likely that an elasticity impact would occur. Research of several studies on the price elasticity of gasoline revealed that a 10 percent increase in the price of gasoline could have as little an impact on demand as 0.5 percent and as high as 6 percent in the long run.

**Legal Considerations:** The state’s TABOR provision (section 20 of Article X of the Colorado Constitution) requires voter approval of an increase in the motor fuel tax rate.

**Who Pays?** The majority of fuel taxes are paid by individual and business residents of Colorado. However, given the health of the tourist industry in the state as well as the central location of the state as it relates to shipping routes, some portion of fuel taxes is exported to those who do not live in the state.

Generally, the absolute contribution to fuel tax revenues increases as income increases. However, when the burden is measured as a proportion of family income, it is evident that the state motor fuel tax is a regressive one. A regressive tax means that lower income families pay a larger percentage of their annual family income for the tax and this percentage consistently decreases as incomes increase. This effect is demonstrated in Figure 3.

Figure 3: Fuel Tax Burden, FY 2003-04



Source: Consultant calculation from data from Colorado Department of Revenue, Office of Research and Analysis

**Policy Considerations - Administrative Burden:** Fuel taxes on both gasoline and diesel are currently collected by the state. Since the administrative apparatus is already in place and the tax is already earmarked for transportation, there would be no significant additional administrative burden. Fuel distributors would also not bear a significant additional administrative burden.

**Policy Considerations - Competitive Position of the State:** For FY 2004-05, the latest national comparison data available, Colorado's ranking for fuel tax burden relative to income was in the bottom half of the nation, suggesting that a modest increase should not render the state uncompetitive. However, it is important to note that at times in the past when increases to fuel taxes were instituted, particularly to diesel fuel, revenues did experience a temporary (generally one year only) decline. In all instances, the revenues ultimately recovered and continued on an increasing trajectory. For changes in the future, the interstate trucking industry likely would be more prone to a change in driving habits than would individuals, making diesel fuel purchases subject to stronger competitive pressure than gasoline. Of Colorado's seven neighboring states, Oklahoma and New Mexico (13 cents), and Arizona (18 cents) have lower diesel fuel tax rates. Table 5 shows Colorado's ranking nationally with particular emphasis on its neighboring states.

Colorado has not increased this tax since 1992. Since 1997 alone, legislatures in 14 states approved fuel tax increases (Arkansas, Indiana, Kansas, Maine, Michigan, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington,



and Wyoming). Five of these states (Kansas, Maine, North Dakota, South Dakota and Washington) have enacted two fuel tax increases since 1997. It is notable that three of these states border Colorado, further supporting the proposition that a slight increase in the fuel tax would not significantly affect the competitive position of the state.

**Table 5: Fuel Taxes per \$1,000 of Personal Income, FY 2004-05**

State	Amount	Rank
Colorado	\$3.58	35
Arizona	\$4.29	25
Kansas	\$4.98	13
Nebraska	\$5.46	9
New Mexico	\$4.40	21
Oklahoma	\$4.14	29
Utah	\$5.54	8
Wyoming	\$3.83	32

Source: Consultant calculation from US Census Bureau data

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue**

**Stream:** The motor fuel excise tax as currently constructed is a flat rate per gallon. As a result, this revenue source is adversely impacted by increases in fuel efficiency, travel behavior changes, and modal shifts to mass transit. Furthermore, since the tax is levied per gallon and not ad valorem, this revenue source does not automatically adjust and keep up with inflation. Over time, this tax is projected to become increasingly insufficient as a major funding source for transportation needs in the state.

## Index the Fuel Tax to the Denver-Boulder-Greeley Rate of Inflation

**Description of Option:** This option would automatically increase the excise tax rate on motor fuel to grow with inflation.

**Background:** The fuel tax is currently 22 cents per gallon on all fuels except for diesel. Diesel is currently taxed at a rate of 20.5 cents per gallon. These rates remain constant unless specific legal action is taken to increase them. As a result, and because the rate is per gallon of consumption and not related to the price of a gallon of gasoline, as inflation increases and thus drives up both the price of motor fuel and the cost of building and maintaining the transportation system, this revenue source fails to keep pace. Since the last rate increase of the motor fuel excise tax, inflation-adjusted per capita fuel taxes have fallen by just under 29% even as consumption of motor fuel has increased. Indexing the fuel tax to inflation would stop this deterioration due to inflation. If the gasoline tax rate had been indexed annually since the last increase in 1991, it would currently be 33 cents per gallon. If the diesel tax rate had been indexed since 1992, it would currently be 30 cents per gallon. These rates are approximately 50 percent higher than the current rates and would generate about \$285 million more in the current year.

**Revenue Potential:** Table 6 and Table 7 show the estimates for the revenue potential of indexing the fuel tax to inflation. The estimates assume a November 2008 election with implementation of the index as of January 1, 2009.

**Table 6: Estimated Revenue from Indexing the Fuel Tax to Inflation  
(2008 Constant Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$40	\$40	\$40	\$40	\$40	\$40
FY 2010-11 to 2014-15	\$129	\$169	\$128	\$168	\$132	\$172
FY 2015-16 to 2019-20	\$123	\$292	\$120	\$289	\$135	\$308
FY 2020-21 to 2024-25	\$116	\$409	\$112	\$401	\$139	\$447
FY 2025-26 to 2029-30	\$110	\$518	\$105	\$506	\$144	\$590
FY 2030-31 to 2034-35	\$103	\$621	\$98	\$603	\$150	\$740

Note: All values in Millions

**Table 7: Estimated Revenue from Indexing the Fuel Tax to Inflation (Nominal Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues during period	Cumulative Revenues	Revenues during period	Cumulative Revenues	Revenues during period	Cumulative Revenues
FY 2008-09 to 2009-10	\$26	\$26	\$26	\$26	\$27	\$27
FY 2010-11 to 2014-15	\$497	\$523	\$466	\$492	\$546	\$574
FY 2015-16 to 2019-20	\$1,188	\$1,711	\$1,059	\$1,551	\$1,433	\$2,007
FY 2020-21 to 2024-25	\$2,117	\$3,829	\$1,797	\$3,347	\$2,839	\$4,846
FY 2025-26 to 2029-30	\$3,293	\$7,121	\$2,681	\$6,029	\$4,979	\$9,825
FY 2030-31 to 2034-35	\$4,784	\$11,905	\$3,777	\$9,806	\$8,299	\$18,125

Note: All values in Millions

**Estimation Methodology:** Baseline estimates for total consumption of fuels, including diesel, were calculated from the econometrically generated revenue estimates to 2035. For the maximum and minimum growth rate scenarios, the maximum and minimum compound annual growth rate, respectively, from the historical time series was applied to calculate future consumption. Inflation to the year 2035 was taken from two sources. The Legislative Council Staff forecast projection for the Denver-Boulder-Greeley consumer price index (CPI) was used to the year 2011. For the years from 2012-2035, the historical average of the Denver-Boulder-Greeley CPI of 2.9% was used. All estimates were made assuming no elasticity effects and increases were made in whole cents once the increment supported the rounding up to the next whole cent. It is important to note that although this estimation is indexed to the CPI, there are other indices such as the national motor fuel index that may be used to implement this option.

**Legal Considerations:** Since indexing would require that the excise tax rate increase each year with inflation, the state’s TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval to index the motor fuel tax to inflation.

**Policy Considerations:** The policy considerations associated with this option are generally the same as those associated with a general increase in the tax rate on motor fuel. However, there are exceptions. Since most states do not index fuel taxes to inflation, implementation of this option in Colorado would likely result in fuel tax rates that are considerably higher than neighboring and other states by the end of the forecast period. According to the National Council of State Legislatures, Florida, Iowa, Kentucky, Maine, Nebraska, New York, and North Carolina have some form of taxation on motor fuel that is linked to inflation. Although the modest increase in the fuel tax proposed in the previous option was not considered to place the state at a competitive disadvantage, there is a greater probability that indexing would do so in the long term. As a tradeoff, indexing would improve the sufficiency of the motor fuel tax as a revenue option. It is also notable that other states, Arizona in particular, are studying options such as indexing to maintain the revenue stream from the motor fuel tax.

## Impose the Sales Tax on Motor Fuel

**Description of Option:** This option would impose the sales tax on motor fuel, thereby making fuel purchases subject to both the state excise tax per gallon and the state sales tax.

**Background:** Motor fuel is not currently subject to sales tax in Colorado. Therefore, there is no revenue history for this option.

**Revenue Potential:** Tables 8 and 9 show the estimates for the revenue potential of eliminating the sales tax exemption on motor fuel. The estimates assume a November 2008 election and implementation of the option on January 1, 2009.

**Table 8: Estimated Revenue from Imposing the Sales Tax on Fuel Purchases (2008 Constant Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$265	\$265	\$255	\$255	\$274	\$274
FY 2010-11 to 2014-15	\$950	\$1,215	\$874	\$1,129	\$1,031	\$1,305
FY 2015-16 to 2019-20	\$1,047	\$2,262	\$908	\$2,037	\$1,238	\$2,543
FY 2020-21 to 2024-25	\$1,147	\$3,409	\$943	\$2,979	\$1,498	\$4,042
FY 2025-26 to 2029-30	\$1,248	\$4,657	\$980	\$3,959	\$1,825	\$5,866
FY 2030-31 to 2034-35	\$1,352	\$6,009	\$1,019	\$4,978	\$2,235	\$8,101

Note: All values in Millions

**Table 9: Estimated Revenue from Imposing the Sales Tax on Fuel Purchases (Nominal Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2007-08 to 2009-10	\$261	\$261	\$255	\$255	\$266	\$266
FY 2010-11 to 2014-15	\$1,092	\$1,354	\$1,004	\$1,259	\$1,187	\$1,453
FY 2015-16 to 2019-20	\$1,390	\$2,743	\$1,204	\$2,463	\$1,646	\$3,099
FY 2020-21 to 2024-25	\$1,756	\$4,499	\$1,443	\$3,906	\$2,297	\$5,396
FY 2025-26 to 2029-30	\$2,205	\$6,705	\$1,730	\$5,636	\$3,228	\$8,624
FY 2030-31 to 2034-35	\$2,754	\$9,459	\$2,074	\$7,710	\$4,560	\$13,183

Note: All values in Millions

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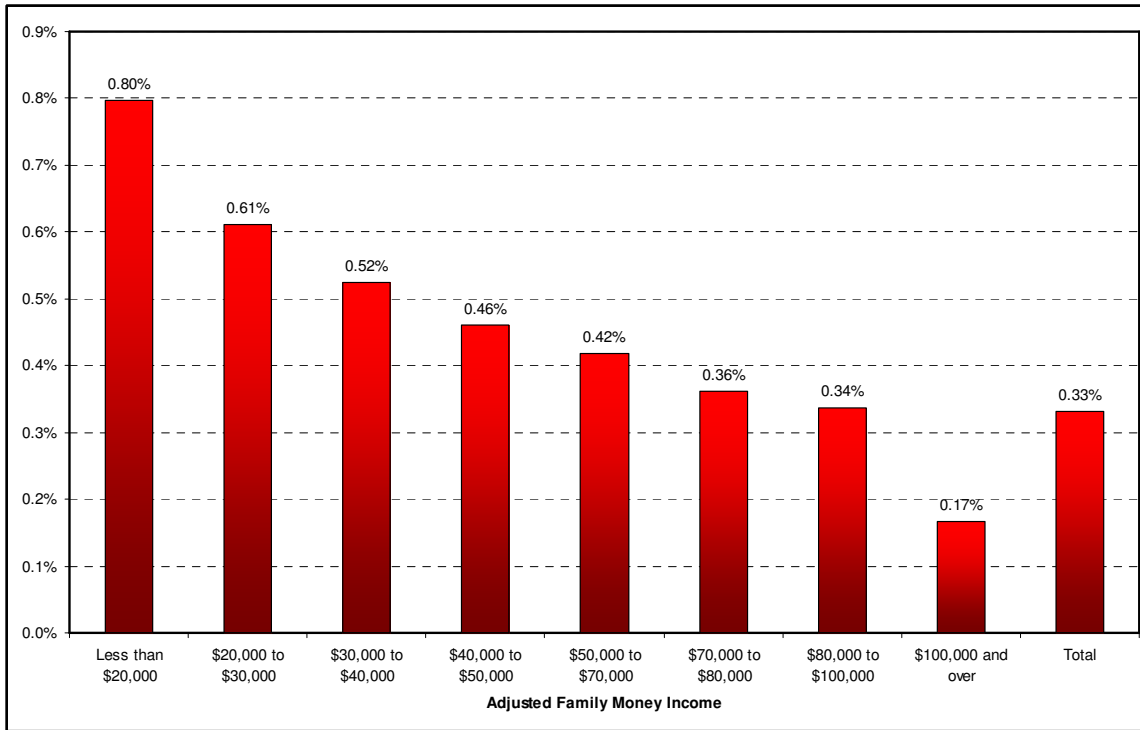
**Estimation Methodology:** Baseline estimates for total consumption of fuels, including diesel, were calculated from the econometrically generated revenue estimates to 2035. The maximum and minimum estimates were derived from the maximum and minimum annual growth rates in fuel consumption over the historical time series. Gas and diesel prices were assumed to increase by the Denver-Boulder-Greeley CPI from their estimated 2007 rates of \$2.00/gallon and \$2.50/gallon, respectively. The Legislative Council's Denver-Boulder-Greeley CPI forecast was used until 2011, and the historical average for regional inflation of 2.9% was used from 2012 to 2035. It was assumed that motor fuel would be taxed at the current state rate of 2.9 percent and the 3.33 percent vendor discount was deducted from the revenue estimate. Forecast years were estimated assuming no elasticity effect.

**Legal Considerations:** The state's TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval to apply the state sales tax to motor fuel purchases.

**Who Pays?** The majority of fuel taxes are paid by individual and business residents of Colorado. However, given the health of Colorado's tourist industry as well as the central location of the state as it relates to shipping routes, some portion of sales taxes is exported to those who do not live in the state.

Generally, the absolute contribution to fuel tax revenues increases as income increases. However, when the burden is measured as a proportion of family income, it is evident that the state motor fuel tax is a regressive one. Lower income families pay a larger percentage of their annual family income for the motor fuel tax and this percentage consistently decreases as incomes increase. This effect is demonstrated in Figure 4 below. Under the assumption of no elasticity effect, imposing a sales tax in addition to the excise tax would make fuel taxes more regressive.

Figure 4: Fuel Tax Burden, FY 2003-04



Source: Consultant calculation on data from Colorado Department of Revenue, Office of Research and Analysis

**Policy Considerations - Administrative Burden:** Currently, excise taxes but not sales taxes are collected on motor fuel purchases. Excise taxes are currently collected at the wholesale level. The imposition of a sales tax in addition to the excise tax would impose an administrative burden on both the state and, presumably, the retailers of fuel. All gas pumps would need to be reprogrammed to charge the sales tax and the sellers would need to separately account for and remit the tax. The state would need an additional administrative apparatus, or at least an extension of the current sales tax collection system, to account for the new revenue stream from fuel purchases. Finally, the earmarked motor fuel sales tax revenues would need to be dedicated to transportation within the state accounting system.

**Policy Considerations - Competitive Position of the State:** Currently, if a motor fuel sales tax were imposed in addition to the current excise tax, the total state tax rate on fuel purchases (not diesel) would be either slightly less than or slightly more than 28 cents per gallon, depending on the current price. This could place the tax rate in Colorado higher than all but five states (Wisconsin, Washington, North Carolina, Pennsylvania, and Rhode Island) and higher than all of the state's border states with

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the possible exception of Nebraska. Nebraska and Ohio could have approximately the same 28 cent rate as Colorado.

For diesel, the total tax per gallon would be just under 28 cents as well (assuming a 2.9% sales tax rate on a gallon at \$2.50/gallon and the 20.5 cent excise tax). As with gasoline, all but five states would have lower diesel rates than Colorado (the states are the same as for gasoline) and Ohio would again match Colorado at a rate of 28 cents per gallon. Again, and probably more importantly for diesel, none of Colorado's neighboring states would charge a higher rate. Under these circumstances, there would be an incentive for truckers to purchase fuel across the state's borders as often as possible in order to avoid the higher tax burden in Colorado. Combining a sales tax with the current excise tax would likely affect the competitive position of the state, particularly as it relates to diesel fuel.

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue**

**Stream:** This option has many of the same reliability and volatility concerns as the options related to changing the excise tax on motor fuel. However, imposing an ad valorem sales tax on motor fuel at least partially eliminates the inflation-related erosion of the revenue stream that is associated with an excise tax per gallon on motor fuel. By charging a sales tax on the price of a gallon of fuel, the revenue from this source would better keep up with inflation, making this source of revenue a more sufficient one for funding the transportation system over time.

## Impose a Tax on Vehicle Miles Traveled

**Description of Option:** This option would impose a tax on vehicle miles traveled (VMT). It is notable that such a tax has not been levied anywhere else in the United States. Currently the state of Oregon is testing the effects of this tax with a pilot program, but the implementation of this option is very much seen as a work in progress. States are still learning the nuances of administering this revenue option and its behavioral effects are simply unknown.

**Background:** This would be a new tax for Colorado. There is currently no tax levied on VMT.

**Revenue Potential:** If, for example, this tax was implemented 2007, it would generate slightly less than \$440 million, but due to the projected growth in VMT between 2005 and 2035, it would grow to just over \$747 million by 2035. Table 10 and Table 11 show the high-end estimate for the revenue a 1 cent per mile tax would generate assuming a November 2008 election and a January 1, 2009 implementation date.

**Table 10: Estimated Revenue from a Penny per Mile Tax on VMT (2008 Constant Dollars)**

Period	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$661	\$661
FY 2010-11 to 2014-15	\$2,122	\$2,783
FY 2015-16 to 2019-20	\$2,022	\$4,805
FY 2020-21 to 2024-25	\$1,927	\$6,733
FY 2025-26 to 2029-30	\$1,837	\$8,570
FY 2030-31 to 2034-35	\$1,752	\$10,322

Note: All values in Millions

**Table 11: Estimated Revenue from a Penny per Mile Tax on VMT (Nominal Dollars)**

Period	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$686	\$686
FY 2010-11 to 2014-15	\$2,437	\$3,123
FY 2015-16 to 2019-20	\$2,680	\$5,803
FY 2020-21 to 2024-25	\$2,947	\$8,750
FY 2025-26 to 2029-30	\$3,241	\$11,990
FY 2030-31 to 2034-35	\$3,564	\$15,555

Note: All values in Millions



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**Estimation Methodology:** This estimate is derived from the state projection for VMT through 2025 and the consultants' calculation for the period 2025-2035 according to the compound annual growth rates imputed by the state for the 2005-2025 forecast period. The estimates are considered high because not all VMT are from vehicles registered in Colorado, and collecting the tax from vehicles registered elsewhere may be administratively burdensome.

**Legal Considerations:** The state's TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval for the creation and imposition of a tax on VMT.

**Who Pays?** In its simplest form, those who drive vehicles on Colorado's roads will pay the VMT tax. Practically speaking, it may be administratively burdensome to assess this tax on those driving on Colorado's roads in vehicles that are not registered in Colorado since the probable mechanism for assessing this tax is through a reporting of total annual odometer counts at the time of registration renewal. In addition, since all miles reported on an odometer annually may not be traveled within the state, the ultimate structure or rate of the tax should attempt to account for the use of a Colorado vehicle outside the state. Discounting these considerations, the closest measure of tax burden available for this analysis is estimated VMT (at one cent per mile) per Colorado vehicle registration. Based upon the consultants' estimation for vehicle registrations in the state between 2007 and 2035, the average annual burden per vehicle ranges from \$89.30 in 2007 to \$94.45 in 2035. This burden estimate is probably high due to the fact that the VMT estimates include those miles traveled by other than Colorado vehicles.

This tax, as constructed here, is a flat rate per VMT without regard for income levels or type of vehicle traveling the miles. Like many other revenue options, this construct raises some equity concerns. First, assuming that travel behavior does not vary significantly across the income groups, the VMT tax is likely to be regressive. However, to the extent that those with lower incomes elect alternative means of transportation, the regressivity of this tax would be reduced. Second, to the extent that larger, heavier vehicles impose a larger impact on the surface transportation system, a tax on VMT violates equity concerns by charging all miles equally without regard to the size and weight of the vehicle.

**Policy Considerations - Administrative Burden:** Since this is a new tax for the state, there would need to be an administrative apparatus created to collect and audit this revenue stream. Unless the state were to invest in and require a costly global positioning system to monitor VMT, the most likely immediate mechanism for collection of this tax would be through either the annual vehicle registration process or the motor fuel purchase transaction. It is notable, however, that an investment in a global positioning system would have a side benefit in aiding in potential demand management strategies such as congestion pricing.

At the time of annual registration, odometer readings could be collected and the tax calculated and remitted. Given that there is an administrative apparatus in place to collect the other fees associated with vehicle registration, the administrative burden could be minimized by using the existing collection system. One vulnerability to this system is that the potential for tax evasion is high. Vehicle registrations may be renewed by mail. In that case, the self-reporting of mileage is open to cheating. Alternatively, if everyone is to register at the county clerk office, additional costs are created for both government (additional personnel to record the mileage) and for the taxpayers who have to travel to the clerk's office.

If the tax were imposed at the time of purchase of motor fuel, the administrative burden would be shared with operators of gas stations. Gas station owners do not currently collect and remit tax. The current tax is imposed on fuel distributors and passed on to the gas station owners. Therefore, collection of a VMT tax by station owners will impose an additional administrative burden. In addition, the system of collection at service stations has a logistical problem. If a purchaser buys gas at 10 different stations, there will need to be a system by which the respective station operators know how much incremental tax to charge. Additional administrative costs could be covered by the state by allowing the station owners to keep a small portion of the tax collected, as is the case with vendors collecting and remitting sales taxes to governments.

**Policy Considerations - Competitive Position of the State:** To date, no other state in the nation imposes a statewide VMT tax. However, since this tax, at the level of one cent per VMT, is unlikely to change behavior with respect to location decisions for the state's residents and prospective residents, it is unlikely to affect the competitive position of the state. Once it has some experience, the current VMT tax pilot project in Oregon will help to assess the effect of a VMT tax on the state's competitive position as well as other questions related to this option.

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue Stream:** Unlike the motor fuel excise tax that becomes increasingly less productive as fuel efficiency improvements and behavioral changes reduce consumption, a tax on VMT is expected to be reliable and stable over the planning horizon. At the rate of one penny per VMT, the tax is relatively productive while not imposing costs on households high enough to result in significant reduction in miles traveled. Unless there is a significant shift in travel behavior over the 25-year planning horizon, this revenue stream is not subject to the same volatility concerns as other less stable revenue options. However, the question of adequacy remains. A major shortcoming of the existing fuel tax structure is that it does not keep up with inflation driving costs of new construction and maintenance. This shortcoming would also exist with a VMT tax.

## OREGON'S ROAD USER FEE PILOT PROGRAM

In 2001, concerned that gas tax revenues would continue to decline due to improvements in motor vehicle fuel efficiency and voter opposition to gas tax increases, the Oregon State Legislature created a task force to look at alternative revenue sources to maintain and build roads. The Oregon Department of Transportation received the first of three grants later that year. In 2004 and 2005 tests began on a mileage-based charge, using on-board equipment that counts mileage and deducts the gas tax while adding the mileage-based charge. In essence, this is a charge at the pump for mileage in lieu of paying state gas taxes. The pilot program began in 2006 with 260 vehicles. The final report is expected in the summer of 2007.

The program will monitor mileage for one year. During the last half of the study, volunteers will pay a road use fee equal to 1.2 cents a mile, instead of the gas tax. When refueling, the on-board counter relays the mileage to readers at the pump that automatically deducts the gas tax and adds the road user fee. A federal requirement also tests the ability to separately count miles traveled during rush hours within a congested area. Some of the volunteers are in this pricing study group. The goal of this part of the study is to see if drivers change their habits as there are different charges for rush hour and non-rush hour driving. One of the goals is to test this system's ability to provide data for congestion pricing.

The program also seeks to dismiss fears about privacy. According to ODOT, the GPS receiver in the car only tells the electronic odometer whether to count the miles as in-state or out-of-state. The only data that is collected is the mileage, which is sent to the gas pump reader through a radio frequency that can only travel eight to ten feet. ODOT also reports that new vehicles will have most, if not all, the hardware installed in the future and that only software adjustments will be necessary if states were to adopt this system.

Source: Oregon Department of Transportation, Road User Fee Pilot Program, [www.oregon.gov/ODOT/HWY/RUFPP/mileage.shtml](http://www.oregon.gov/ODOT/HWY/RUFPP/mileage.shtml)

## Increase the Fee on Motor Vehicle Registration

**Description of Option:** This option would increase the fee charged to register a motor vehicle by \$1.00.

**Background:** In FY 1997-98, motor vehicle registration fees generated \$136.5 million, and grew to \$193.7 million in FY 2005-06. If the \$1 per registration surcharge had been in place over the historical time series of our data, the surcharge would have raised \$1.78 million in calendar year 1971. By calendar year 2005, the \$1 registration fee increase would have raised just over \$4.8 million.

**Revenue Potential:** Table 12 and Table 13 show the revenue estimates from a \$1.00 increase in the fee to register a motor vehicle. The estimates are for FY 2007-08 through FY 2034-35 and are presented in five-year increments and cumulatively over the forecast period.

**Table 12: Estimated Revenue from Increasing the Motor Vehicle Registration Fee by \$1.00 (2008 Constant Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$7	\$7	\$7	\$7	\$7	\$7
FY 2010-11 to 2014-15	\$24	\$32	\$24	\$31	\$24	\$32
FY 2015-16 to 2019-20	\$23	\$54	\$22	\$54	\$24	\$56
FY 2020-21 to 2024-25	\$22	\$76	\$21	\$75	\$24	\$80
FY 2025-26 to 2029-30	\$20	\$96	\$20	\$94	\$24	\$104
FY 2030-31 to 2034-35	\$19	\$115	\$18	\$113	\$24	\$127

Note: All values in Millions

**Table 13: Estimated Revenue from Increasing the Motor Vehicle Registration Fee by \$1.00 (Nominal Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2007-08 to 2009-10	\$15	\$15	\$15	\$15	\$15	\$15
FY 2010-11 to 2014-15	\$28	\$43	\$27	\$43	\$28	\$43
FY 2015-16 to 2019-20	\$30	\$73	\$30	\$72	\$32	\$75
FY 2020-21 to 2024-25	\$33	\$106	\$32	\$104	\$37	\$112
FY 2025-26 to 2029-30	\$36	\$142	\$35	\$139	\$42	\$154
FY 2030-31 to 2034-35	\$38	\$180	\$37	\$176	\$48	\$202

Note: All values in Millions

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**Estimation Methodology:** The forecast for the number of motor vehicle registrations was estimated econometrically using the Department of Revenue historical time series. The baseline growth rate in Table 12 and Table 13 represent the one-dollar increase applied to the econometrically estimated number of registrations. The minimum and maximum growth rate estimates in Table 12 and Table 13 result from applying the minimum and maximum 20-year compound annual growth rates available from the time series data on registrations and then further applying the \$1.00 increase.

**Legal Considerations:** Since this is an increase in a fee and not a tax, voter approval of this fee rate increase may not be required by the TABOR amendment. However, if the state exceeds its TABOR spending limit, the additional revenue raised by the imposition of the fee rate increase may require the state to either refund the excess revenue to taxpayers or request voter approval to retain and expend the additional revenue.

**Who Pays?** Data was not available to determine the percentage of this fee paid by business compared to the portion paid by individuals. Presumably, the burden would be shared between business and individual taxpayers. Flat rate fees, because they are the same for payers at all income levels, are by their nature regressive. However, the increase of \$1.00 proposed here is sufficiently modest that it should not place undue burdens on any class of payers.

**Policy Considerations - Administrative Burden:** Motor vehicle registration fees are already collected in every county in the state and the administrative apparatus is in place. A fee increase of \$1.00 would not place a significant additional burden on the system.

**Policy Considerations - Competitive Position of the State:** A \$1.00 increase in the fee to register a vehicle is not expected to affect the economic competitiveness of the state.

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue Stream:** This revenue source is a fairly reliable and stable one. It is unlikely that the number of motor vehicle registrations is going to decline significantly over the forecast horizon. However, due to the small increase proposed here, this revenue stream is not a sufficient one for making a significant contribution to funding the transportation system.

### Place a Surcharge on Driver's Licenses

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The policy and economic consideration from a driver license surcharge are similar to those for a fee increase on motor vehicle registrations. While we attempted to estimate the revenue potential of placing a surcharge on the issuance of a driver's license, we were unable to perform a sound analysis on the time series on licenses in order to forecast the number of licenses in the future. The historical data for licenses was affected by multiple law changes that were implemented over the time series period. These law changes amended the term of a license, thus creating peaks and valleys in the data series as license terms became longer and shorter. Without a stable series from which to perform our estimations, we were uncomfortable with a forecast for licenses. However, as was the case with a motor vehicle registration fee increase of \$1.00, the revenue potential from a surcharge on licenses is minimal. Because licenses are not renewed each year as motor vehicle registrations are, the revenue is likely to be even smaller. According to Department of Revenue data, just over 900,000 licenses were issued in 2005. At \$1.00 surcharge per license, this revenue source would raise less than \$1 million. Administratively and competitively, the option of imposing a surcharge on a driver's license would impose minimal burden, making this option a viable incremental part of a system of revenues for funding transportation.

DRAFT

## Increase the Sales Tax Rate on Autos and Auto Parts

**Description of Option:** This option would increase the state sales tax rate by 1 percentage point on the purchases of vehicles and vehicle parts.

**Background:** The state currently imposes a sales tax rate on vehicles and vehicle parts of 2.9 percent. Based upon aggregate consumer behavior data from the Bureau of Labor Statistics' Consumer Expenditure Survey, this tax is estimated to have raised just under \$237 million in 2005.

**Revenue Potential:** Table 14 and Table 15 show the estimate of an increase in the sales tax rate on vehicle and vehicle parts by 1 percentage point. The estimates are for FY 2008-09 and are presented in five-year increments and cumulatively over the forecast period.

**Table 14: Estimated Revenue from Increasing the Sales Tax Rate on Vehicles and Vehicle Parts by 1 Percentage Point (2008 Constant Dollars)**

Period	Baseline Scenario	
	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$130	\$130
FY 2010-11 to 2014-15	\$479	\$609
FY 2015-16 to 2019-20	\$548	\$1,157
FY 2020-21 to 2024-25	\$621	\$1,778
FY 2025-26 to 2029-30	\$700	\$2,479
FY 2030-31 to 2034-35	\$785	\$3,264

Note: All values in Millions

**Table 15: Estimated Revenue from Increasing the Sales Tax Rate on Vehicles and Vehicle Parts by 1 Percentage Point (Nominal Dollars)**

Period	Baseline Scenario	
	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$136	\$136
FY 2010-11 to 2014-15	\$551	\$688
FY 2015-16 to 2019-20	\$728	\$1,415
FY 2020-21 to 2024-25	\$952	\$2,367
FY 2025-26 to 2029-30	\$1,237	\$3,605
FY 2030-31 to 2034-35	\$1,601	\$5,205

Note: All values in Millions

**Estimation Methodology:** For this estimation, the source data was the Bureau of Labor Statistics' Consumer Expenditure Survey for the western U.S. region and for expenditures on vehicle purchases and vehicle maintenance and repair. These expenditure estimates are divided into age cohorts that were applied to forecasts of households by age to the year 2035 completed by the Center for Business and Economic Forecasting. The expenditures to the year 2035 were inflated by the historic relationship between the increase in vehicle and parts expenditures and the CPI for the region. Total estimated expenditures were multiplied by the tax rate increment and then adjusted for the vendor discount. Calendar year estimates were then adjusted to fiscal years.

**Legal Considerations:** The state's TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval of an increase in the sales tax rate on vehicles and vehicle parts.

**Who Pays?** As with the other sales tax options, this sales tax increase will likely be regressive. To the extent higher-income families replace vehicles more frequently than lower-income families; this tax should be slightly less regressive than a general sales tax increase. This decrease in regressivity, however, will likely be offset slightly by the increase in the sales tax rate on auto repair parts. Since lower-income families are relatively more burdened by the increase in the tax on auto parts than higher-income families, the increase in the tax on auto parts will be more regressive than the increase in the tax on vehicle purchases. To the extent that businesses in Colorado purchase and repair vehicles, this tax increase will also impose an additional burden on businesses in the state.

**Policy Considerations - Administrative Burden:** Sales tax is already collected on both vehicle purchases and the purchase of tangible property in the course of vehicle repairs. Therefore, the administrative systems are already in place for the vendors to collect and remit the tax and the state to collect and audit the revenue stream. Both parties will undergo a slight administrative burden to reprogram systems for the new rate. The state will see a burden associated with setting up the system to earmark the increment for transportation.

**Policy Considerations - Competitive Position of the State:** The tax on vehicle purchases is collected when and where the vehicle is registered. And, in a state as large as Colorado, few, if any, residents are likely to cross the state border to access vehicle repair services. Therefore, it is unlikely that the increases modeled here will place the state at a competitive disadvantage.



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**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue**

**Stream:** Nationally, between 1993 and 2006, vehicle and vehicle parts sales have grown by a compound annual growth rate of just under 5.75 percent. A positive rate of growth even prevailed during the recession in the early 2000s with a compound growth rate annually of just under 2 percent between 2000 and 2006. None of the years in the early 2000s saw negative growth rates in the retail sales of vehicles and vehicle parts. Given the reliability of the vehicle and vehicle parts market, this increment for transportation is likely to be a fairly reliable source of revenue for the funding of the transportation system into the future. However, this is a revenue source that will be subject to the business cycle. Although retail sales on vehicles and vehicle parts did achieve positive growth even during the recession, the rate of growth did slow substantially during the recessionary part of the business cycle. This revenue source will be vulnerable to economic fluctuations, and as with many of the incremental increases, will be insufficient on its own to completely fund the state's future transportation needs.

DRAFT

**Extend the Sales Tax to Vehicle Repair and Maintenance Services**

**Description of Option:** This option would extend the state’s 2.9 percent sales tax to services associated with vehicle repair and maintenance. Currently, only the parts used in repair services are taxable. This option would extend the tax to the labor portion of the services as well.

**Background:** Vehicle service maintenance is not currently taxed. Therefore, there is no history for this option.

**Revenue Potential:** Table 16 and Table 17 show the estimates for the revenue potential of extending the sales tax to auto repair and maintenance services.

**Table 16: Estimated Revenue from Extending the Sales Tax to Vehicle Repair Services (2008 Constant Dollars)**

Period	Baseline Scenario	
	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$56	\$56
FY 2010-11 to 2014-15	\$193	\$250
FY 2015-16 to 2019-20	\$201	\$450
FY 2020-21 to 2024-25	\$207	\$657
FY 2025-26 to 2029-30	\$211	\$868
FY 2030-31 to 2034-35	\$215	\$1,083

Note: All values in Millions

**Table 17: Estimated Revenue from Extending the Sales Tax to Vehicle Repair Services (Nominal Dollars)**

Period	Baseline Scenario	
	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$59	\$59
FY 2010-11 to 2014-15	\$222	\$281
FY 2015-16 to 2019-20	\$266	\$547
FY 2020-21 to 2024-25	\$316	\$863
FY 2025-26 to 2029-30	\$373	\$1,236
FY 2030-31 to 2034-35	\$437	\$1,673

Note: All values in Millions

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**Estimation Methodology:** Data on auto repair expenditures from the Bureau of Labor Statistics' Consumer Expenditure Survey for the western region by age of householder were projected out to 2035 by the CPI and then applied to the forecast of households by age of householder over the same forecast period. It was assumed that 75 percent of the total expenditures reported as auto repair were for the expense of the service and that 25 percent was associated with auto repair parts, the portion of the expenditure that is already taxed. The forecast above represents extending the tax to the 75% that is not currently subject to the tax.

**Legal Considerations:** The state's TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval to apply the state sales tax to vehicle maintenance and repair services.

**Who Pays?** Generally sales taxes are considered to be regressive, and it is likely that the extension of the general sales tax to vehicle repair services would also be regressive. To the extent that vehicles in the state are owned by both individuals and businesses, this option would also represent an additional tax burden on businesses in the state.

**Policy Considerations - Administrative Burden:** All providers of vehicle repair and maintenance services currently collect and remit sales tax on the parts and other tangible property used in the course of the repair. Therefore, they already have systems to calculate, account for, and remit sales tax. The extension of the tax to repair services would require a reprogramming of these systems to apply the 2.9 percent rate to the entire cost of the repair and not only to the currently taxable portion. If only the service portion of the revenue stream were dedicated to transportation, there would be some ongoing reporting burden on the part of the sellers of repair and maintenance services as they would likely be asked to account for the goods and service portion separately. The state also has existing systems to collect and audit sales tax from all of these establishments, so the additional burden associated with these functions would be minimal. The only other burden placed on the state from this option is the separate accounting for and earmarking of the portion associated with the service portion of the revenue from vehicle repair and maintenance services.

**Policy Considerations - Competitive Position of the State:** Taxation of services generally is becoming an increasingly popular modification to state tax codes. According to a 2004 study by the Federation of Tax Administrators (FTA), labor charges on motor vehicle repair services are taxable in 22 of the 50 states. Colorado is one of the states from the 2004 study that reported no taxation on labor charges on motor vehicle repair services. In light of the fact that Colorado does not currently tax labor charges on motor vehicle repair services and the fact that for most residents of the state, traveling over the border to access such services would be burdensome, it is unlikely that extending the sales tax to vehicle repair services would negatively affect the competitive position of the state.

### **Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue**

**Stream:** There is increasing evidence that as the population ages and becomes increasingly wealthy, the spending patterns of the population will increasingly shift from consumption of goods to consumption of services. Expanding the tax base to include a service such as vehicle repair services would serve to make the revenue stream more reliable, as this is a service unlikely to disappear from the consumer's budget. Taken alone as a revenue source for transportation, this revenue source is, however, insufficient for funding the overall needs of the system.

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## General Tax Increases

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While the most common sources of revenue for funding transportation systems are those with an established nexus between the users of the system and those paying, there is an economic argument to justify supplementing the user-related fees and taxes with support from the general tax base.

Regardless of whether one drives a motor vehicle on the state's roads, each citizen in the state benefits from the transportation system. The benefit may accrue through the use of public transit or having goods and services delivered. In addition, a sound transportation system contributes to the general economic well-being of the state. All of the state's citizens benefit from the economic health of the state.

To the extent that the benefits of the system accrue to all, those who directly use the roads and those who don't, it is appropriate to consider any of the general tax options discussed below. These options are:

1. An increase in the general sales and use tax;
2. An increase in the state income tax;
3. A statewide property tax; and
4. Visitor-related taxes on lodging and auto rentals.

### Increase the Sales and Use Tax Rate

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**Description of Option:** The sales tax is applied to the sales price of items purchased at retail by individuals, and the use tax typically pertains to items purchased by businesses for their own use. This option would increase the state sales and use tax rate on the current sales tax base. It would not extend the sales or use tax to any goods or services not already in the state tax base, nor would it differentially tax anything within the base (see earlier options for extending the sales tax to auto services and differentially taxing auto related goods for further analysis of sales tax options).

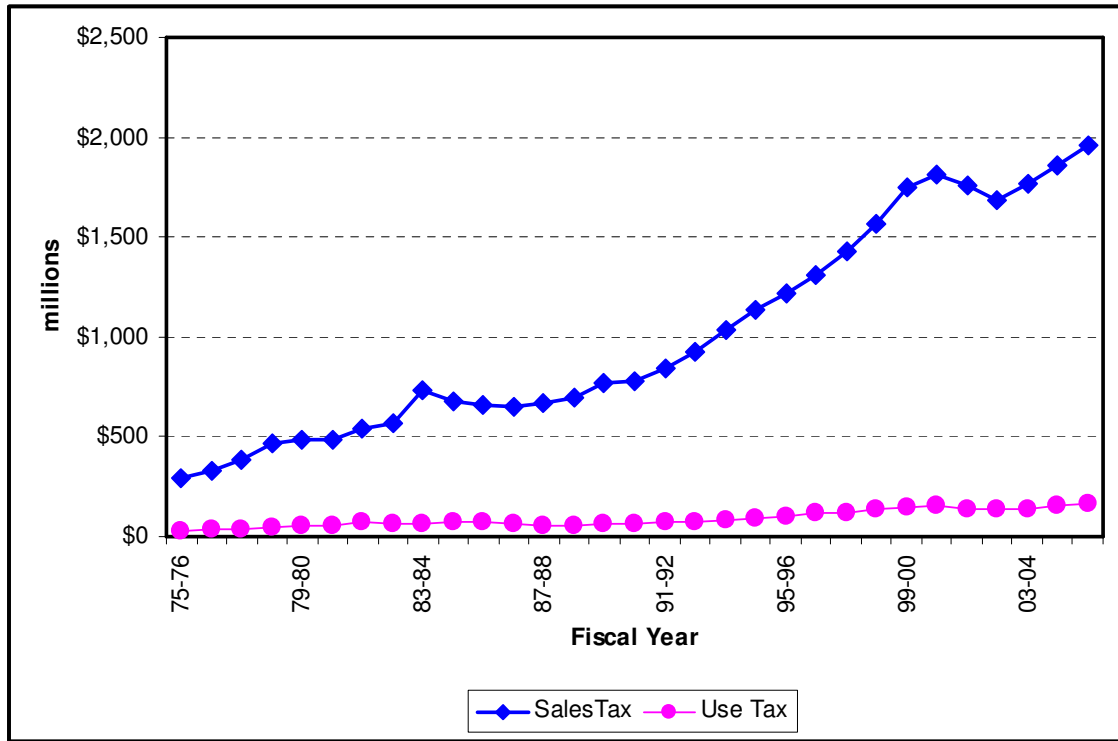
**Background:** The state currently imposes a sales and use tax at a rate of 2.9 percent. This rate has been in effect since January 1, 2001, and was the result of a rate reduction from the previous rate of 3 percent. Prior to 2001, and for the majority of the latter quarter of the 20<sup>th</sup> century, the state tax rate on sales was 3 percent. The revenue option modeled here is an increase in the tax rate of 0.1 percentage point with the proceeds dedicated to transportation.

Figure 5 shows the history of state sales tax collections over the time series used in this analysis. The chart does not adjust for temporary changes in the tax rate in the mid-1980s or for the rate reduction in FY 2000-01. The declines in tax collections just after 2000 were due largely to the recession.

**Revenue Potential:** Tables 18 and 19 show the baseline, low, and high estimates of an increase in the sales and use tax rate of 0.1 percentage points. The estimates assume a November 2008 election and implementation of the increase on January 1, 2009. They are presented in five-year increments and cumulatively over the forecast period.

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**Figure 5: Historical State Sales and Use Tax Collections**



Source: State Controller's Office

**Table 18: Estimated Revenue from Increasing the Sales and Use Tax Rate by 0.1 Percentage Point (2008 Constant Dollars)**

Period	Baseline Growth Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$133	\$133	\$133	\$133	\$133	\$133
FY 2010-11 to 2014-15	\$488	\$621	\$480	\$613	\$499	\$632
FY 2015-16 to 2019-20	\$573	\$1,194	\$540	\$1,153	\$617	\$1,249
FY 2020-21 to 2024-25	\$672	\$1,866	\$609	\$1,762	\$763	\$2,013
FY 2025-26 to 2029-30	\$790	\$2,655	\$686	\$2,448	\$944	\$2,957
FY 2030-31 to 2034-35	\$928	\$3,583	\$773	\$3,221	\$1,168	\$4,125

Note: All values in Millions

**Table 19: Estimated Revenue from Increasing the Sales and Use Tax Rate by 0.1 Percentage Point (Nominal Dollars)**

Period	Baseline Growth Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$138	\$138	\$138	\$138	\$138	\$138
FY 2010-11 to 2014-15	\$562	\$700	\$553	\$690	\$575	\$713
FY 2015-16 to 2019-20	\$761	\$1,461	\$718	\$1,408	\$821	\$1,533
FY 2020-21 to 2024-25	\$1,030	\$2,491	\$932	\$2,340	\$1,171	\$2,704
FY 2025-26 to 2029-30	\$1,396	\$3,887	\$1,212	\$3,552	\$1,670	\$4,374
FY 2030-31 to 2034-35	\$1,892	\$5,779	\$1,576	\$5,128	\$2,384	\$6,758

Note: All values in Millions

**Estimation Methodology:** The time series of state sales and use tax receipts was adjusted by correcting for tax rate differences. For use tax, an econometric model was utilized to estimate tax revenues through 2035. For sales tax, the econometric model estimated revenues through 2011. The remaining projections, from 2012 to 2035, were made by applying baseline, high, and low growth rates to the 2011 estimate. The baseline estimate, low estimate, and high estimate were based on historic growth rates for several 20-year periods. Under the assumption that the increase would take effect on January 1, 2009, the incremental revenues for FY 08-09 are estimated for only a half year.

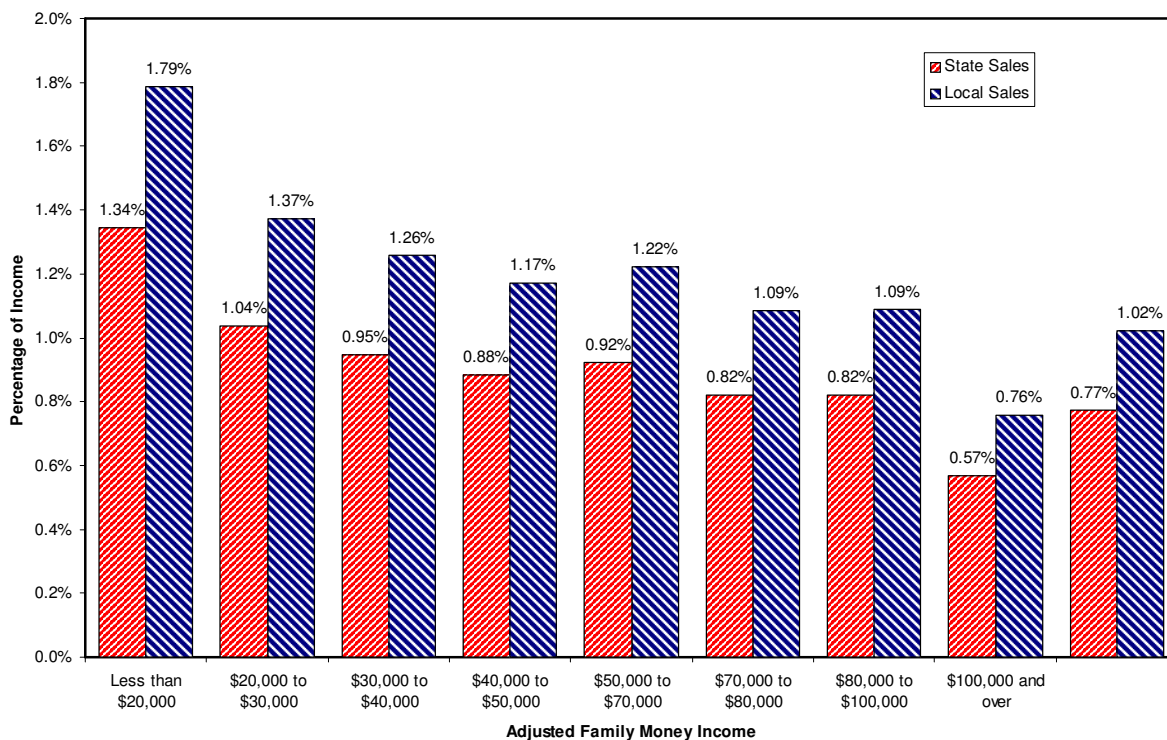
**Legal Considerations:** The state’s TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval of an increase in the sales and use tax rate.

**Who Pays?** The predominant share (47.2 percent) of sales tax is paid by individuals who are residents of Colorado. However, given the health of the tourist industry in the state, some portion of sales tax is exported to those who do not live in the state. Additionally, businesses pay most of the use tax and a substantial portion of the sales tax.

Generally, the absolute sales tax burden increases as income increases. However, this is not true when the burden is measured as a percentage of family income. Lower income families dedicate a larger percentage of their annual family income to sales tax and this percentage generally decreases as incomes increase. This regressive nature of the sales tax is true even in systems, such as the state of Colorado’s system that exclude food, energy, and other essentials from the sales tax base. In Colorado, where many local governments tax food, the sales tax becomes even more regressive. As a result, the state sales tax is regressive, as demonstrated in Figure 6.



**Figure 6: State and Local Sales and Use Tax Burden FY 2003-04**



Source: Consultant calculation from data from Colorado Department of Revenue, Office of Research and Analysis

**Policy Considerations - Administrative Burden:** The sales and use tax is already collected by the state. As such, the administrative and audit apparatus is already in place. This option would have a relatively low administrative burden. The majority of the burden would be associated with ensuring that the portion of the sales and use tax earmarked for transportation is accounted for appropriately. Some additional costs would be incurred by the state government to change computer systems for the rate change and to notify retailers. Retailers would need to re-program their cash register systems for the rate change.

**Policy Considerations - Competitive Position of the State:** At the state level, Colorado’s sales tax burden is among the lowest in the country. However, when the Colorado’s state and local sales and use tax burdens are combined, our ranking rises to the midpoint of the 50 states. Since taxes as they affect competitiveness are more a function of the total state and local burden, Table 20 shows the relative ranking of the state against the nation with particular regard for Colorado’s immediate neighbors.

With respect to its closest neighbors, Colorado is a relatively low sales tax burden state, suggesting that a modest increase in the rate would not place the state at a competitive disadvantage. If the 0.1 percentage point increase modeled here had been in place in FY 2004-05, the state’s ranking would not have changed.

**Table 20: State and Local Sales Taxes per \$1,000 of Personal Income, FY 2003-04**

State	Combined Sales Tax	
	Amount	Rank
Colorado	\$26.89	25
Arizona	\$42.27	6
Kansas	\$30.60	15
Nebraska	\$32.97	14
New Mexico	\$41.87	7
Oklahoma	\$30.05	16
Utah	\$33.59	13
Wyoming	\$36.89	9

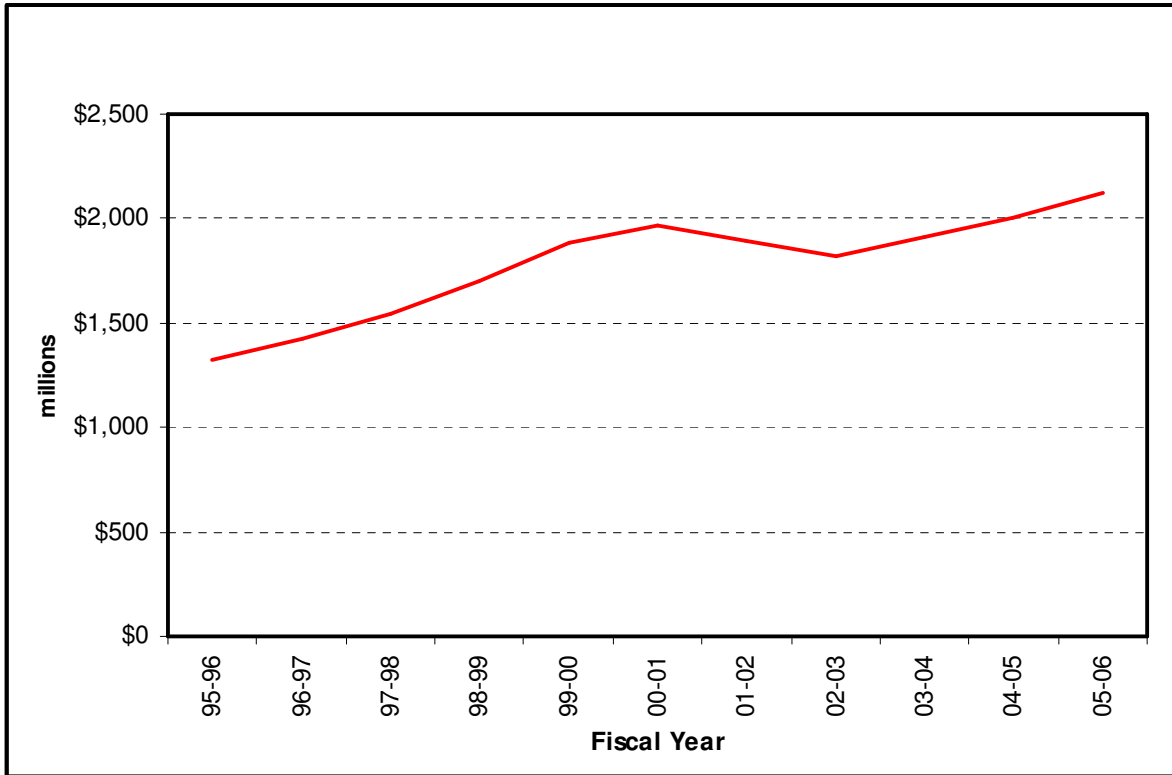
Source: Consultant calculation from US Census Bureau data

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue Stream:**

Although not discernable from the long-term historical graph presented above, sales and use taxes may experience significant volatility on a year-over-year basis. These taxes tend to be quite economically cyclical, as Figure 7 demonstrates by showing only the past 10 years. Furthermore, in Colorado, local governments rely heavily on sales tax to fund local services. Because of their reliance on local sales taxes, especially for municipalities, any increase in the total sales tax burden is an on-going concern to local government officials. Adding additional burdens to the sales tax at the state level, if it results in a reduction of overall consumption, may threaten the reliability of the revenue source for both state and local units of government.

Finally, long-term projections for the sales tax suggest that this revenue stream will become relatively less productive as the population of the state ages and spends less of its income on goods subject to the sales tax. If a dedicated sales tax were used as a means of funding transportation, it should be used along with other sources of revenues, some of which are more stable than the sales tax. In this manner, the volatility would be tempered and the necessary investments in the transportation system would not be as adversely impacted by economic cycles.

**Figure 7: Recent History of Sales and Use Tax Collections**



Source: State Controllers Office

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### Increase the Income Tax Rate

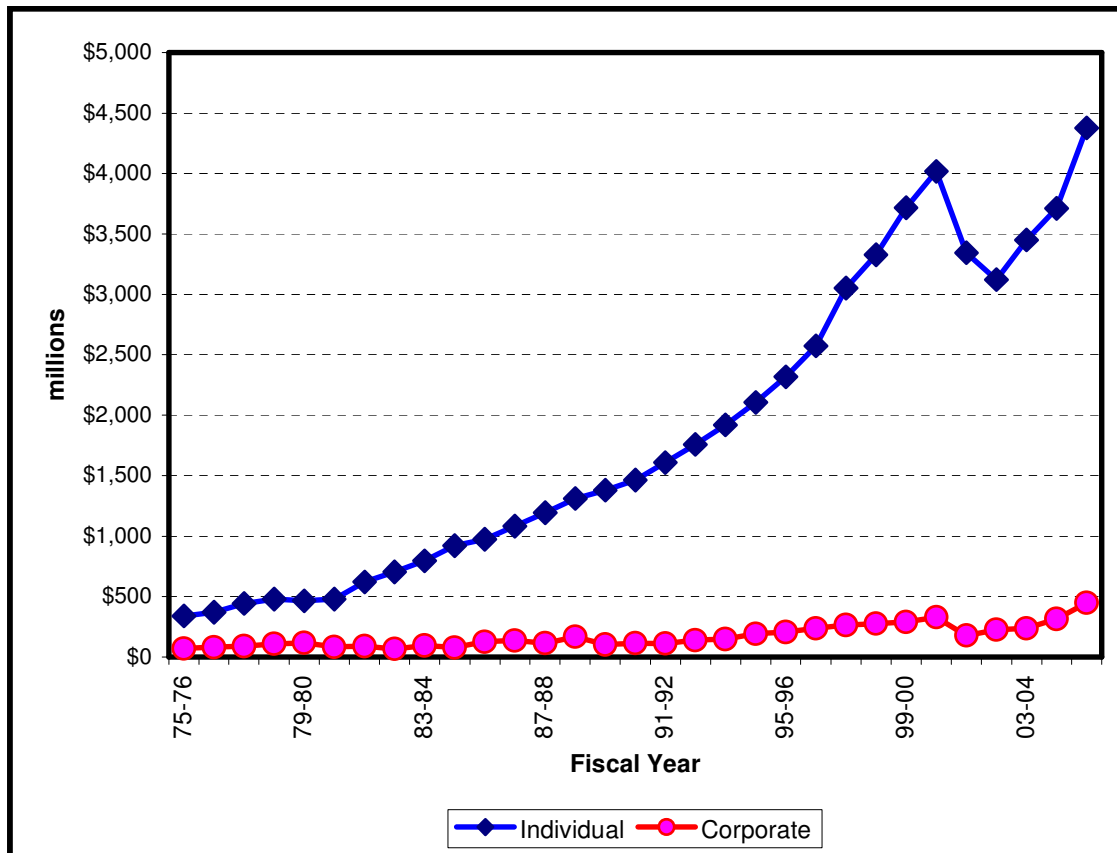
**Description of Option:** This option would increase the state income tax rate on individuals and corporations by 0.1 percentage points.

**Background:** The state currently imposes an income tax rate of 4.63 percent on federal taxable income as modified by state law. A single tax rate of 5% was first imposed in 1987. The tax rate was reduced to 4.75 percent in 1999. It was reduced to the current 4.63 percent rate in 2000.

Figure 8 shows the history of state income tax collections over the past 30 years. The chart shows the tax collections after tax credits and does not adjust for changes in the tax rate in 1999 and 2000. The declines in tax collections in the early part of the current decade were primarily due to the recession and stock market downturn.

**Revenue Potential:** Tables 21 and 22 show the baseline, low, and high estimates of an increase in the income tax rate of 0.1 percentage points. The estimates assume a November 2008 election with an implementation of the increase on January 1, 2009.

Figure 8: Historical Income Tax Collections



**Table 21: Estimated Revenue from Increasing the Income Tax Rate by 0.1 Percentage Point (2008 Constant Dollars)**

Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$192	\$192	\$192	\$192	\$192	\$192
FY 2010-11 to 2014-15	\$741	\$933	\$717	\$909	\$762	\$954
FY 2015-16 to 2019-20	\$968	\$1,901	\$867	\$1,776	\$1,061	\$2,015
FY 2020-21 to 2024-25	\$1,267	\$3,168	\$1,051	\$2,827	\$1,482	\$3,497
FY 2025-26 to 2029-30	\$1,661	\$4,829	\$1,278	\$4,105	\$2,072	\$5,570
FY 2030-31 to 2034-35	\$2,181	\$7,010	\$1,558	\$5,663	\$2,902	\$8,471

Note: All values in Millions

**Table 22: Estimated Revenue from Increasing the Income Tax Rate by 0.1 Percentage Point (Nominal Dollars)**

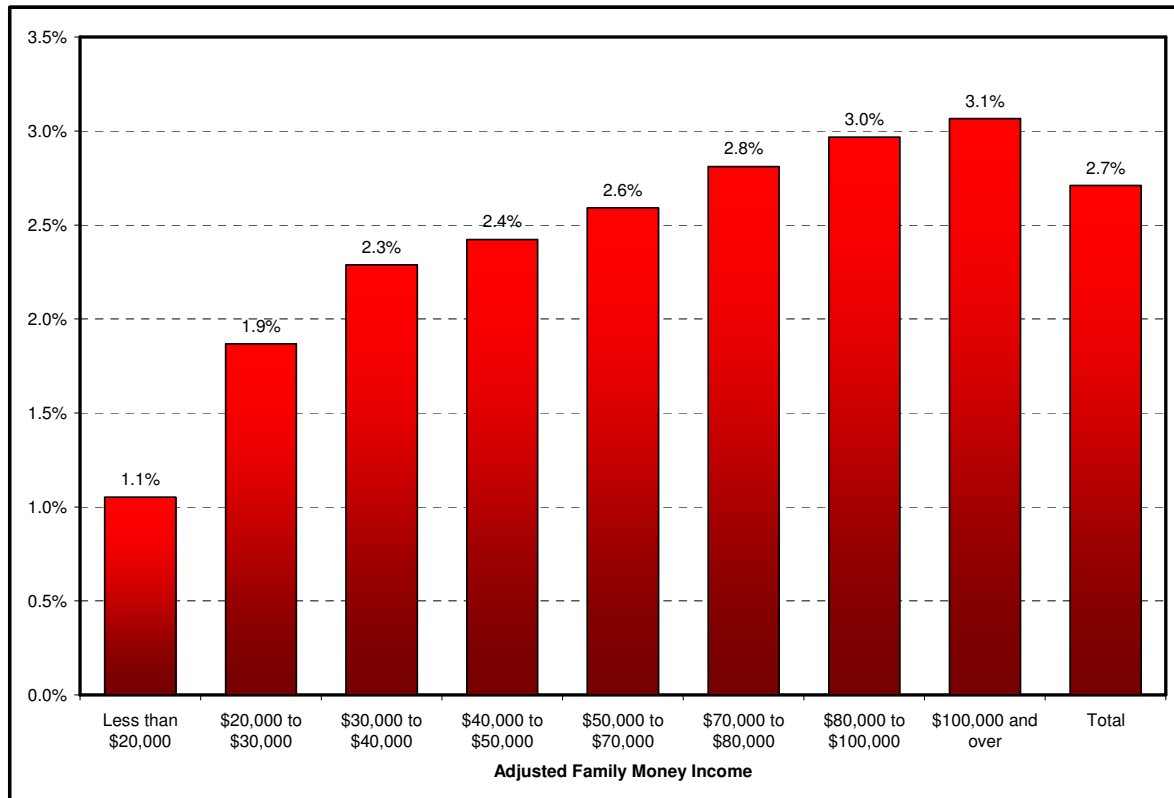
Period	Baseline Scenario		Minimum Growth Scenario		Maximum Growth Scenario	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$199	\$199	\$199	\$199	\$199	\$199
FY 2010-11 to 2014-15	\$854	\$1,053	\$826	\$1,025	\$878	\$1,078
FY 2015-16 to 2019-20	\$1,287	\$2,341	\$1,152	\$2,177	\$1,413	\$2,491
FY 2020-21 to 2024-25	\$1,944	\$4,285	\$1,612	\$3,789	\$2,276	\$4,766
FY 2025-26 to 2029-30	\$2,941	\$7,225	\$2,261	\$6,050	\$3,672	\$8,438
FY 2030-31 to 2034-35	\$4,454	\$11,679	\$3,179	\$9,228	\$5,930	\$14,368

Note: All values in Millions

**Estimation Methodology:** The historical time series of state income tax receipts was adjusted by correcting for tax rate differences and by adding back income tax credits to simulate the tax base. An econometric model was utilized to estimate tax revenue for the first five years. The baseline estimate, low estimate, and high estimate are based on historic growth rates for several 20-year periods and applied after the first five years.

**Legal Considerations:** The state’s TABOR provision would require voter approval of an increase in the tax rate. An increase in the income tax rate cannot be applied retroactively and is assumed to be effective on January 1, 2009, in this analysis. TABOR (section 20 of Article X of the Colorado Constitution) also requires that individual and corporate income be taxed at one rate. We did not examine the potential for graduated income tax rates or differential rates for individuals versus businesses.

Figure 9: Income Tax Burden, FY 2003-04



Source: Consultant calculation from data from Colorado Department of Revenue, Office of Research and Analysis

**Who Pays?** Individuals paid 90.7 percent of the income tax in FY 2005-06, while corporations paid 9.3 percent. The individual income tax is progressive in nature. Taxpayers with higher incomes pay a higher percentage of their income for this tax than do taxpayers with lower incomes. The individual income tax is progressive despite the single rate of tax. The personal exemption, standard deduction, and itemized deductions are worth relatively more to low-income taxpayers than high-income taxpayers.

Many households do not pay income tax. In 2006, the first \$8,450 of income for a single person without dependent children was not subject to the income tax. The first \$16,900 of income for a married couple with no children was not subject to the income tax. These thresholds increase by \$3,300 for each additional child within a household. These thresholds will increase each year. Given the tax thresholds and the progressive nature of the income tax, lower income households would pay a relatively smaller share of financing for transportation needs, while higher income households would pay relatively larger shares. Figure 9 indicates the percentage of income that taxpayers pay in state income taxes.

**Policy Considerations - Administrative Burden:** Government and businesses would incur increased administrative costs to implement an increase in the income tax rate. The state would need to change withholding tables for employers. This change already occurs periodically when the state adjusts withholding tables for increased standard deductions and personal exemptions that are indexed by the federal government. The state would also have to change computer programs.

**Policy Considerations - Competitive Position of the State:** Table 23 indicates Colorado’s and its neighboring states’ income tax rankings. As a percentage of personal income, Colorado’s individual income tax ranked in the bottom half of the states in FY 2004-05. The state’s corporate income tax was the lowest in the country for states using this tax. An increase of 0.1 percentage points in the tax rate would have increased Colorado’s ranking by one place for the individual income tax, while the corporate ranking would have remained the same. It is unlikely that an income tax rate increase would alter many firms’ or individuals’ decisions to remain or relocate to the state.

**Table 23: Colorado’s Income Tax Ranking per \$1,000 of Personal Income, FY 2004-05**

State	Individual Income		Corporate Income	
	Amount	Rank	Amount	Rank
Colorado	\$22.91	30	\$1.92	44
Arizona	\$17.32	39	\$4.27	16
Kansas	\$23.96	27	\$2.90	37
Nebraska	\$24.95	24	\$3.55	28
New Mexico	\$21.38	33	\$4.77	12
Oklahoma	\$24.70	25	\$1.69	45
Utah	\$30.39	12	\$2.98	36
Wyoming	\$0.00	44	\$0.00	47

Source: Consultant calculation from US Census Bureau data

**Policy Considerations - Reliability, sufficiency, and vulnerability of the income tax revenue stream:** With the exception of the early part of this decade, the individual income tax has been relatively stable. It contracted with economic slowdowns and grew during expansions. Over the long run, the individual income tax has the highest annual growth rate of the state's major tax sources. However, the importance of capital gains over the past 16 years has exaggerated the growth trend for income tax revenues. The rapid increases in the late 1990s were attributable to the rising stock market. The steep decline in 2002 and 2003 reflected the sharp decline in capital gains. Capital gains had increased from 3.5 percent of income in 1991 to 11.3 percent in 2000. After the stock market decline in the early part of the decade, capital gains plummeted by 58% and comprised only 5.2 percent of income in 2002. They have likely since recovered to more than ten percent, leading to the possibility that steep stock market declines will once again significantly affect this revenue source.

Corporate income taxes are highly volatile. Because of their small size relative to the individual income tax, the volatility is masked when the two taxes are combined.

Colorado's income tax base is federal taxable income. Thus, changes in federal definitions of income subject to tax, as well as deductions and exemptions, could adversely affect Colorado's tax receipts. Of course, such changes could also increase Colorado's tax receipts. Although very unlikely in the near future, a replacement tax such as a national sales tax would completely eliminate Colorado's income tax, absent voter approval under TABOR to retain the tax.

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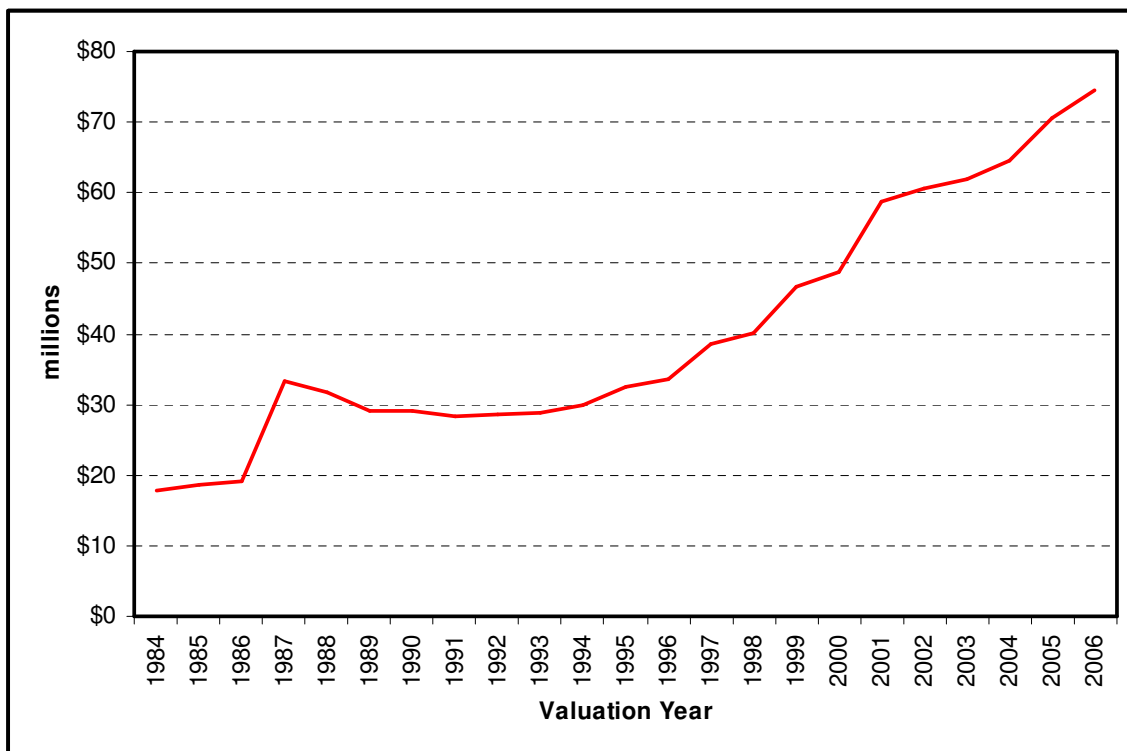
## Implement a Statewide Property Tax

**Description of Option:** This option would add a one mill statewide property tax on all assessed values in the state.

**Background:** The property tax is a mainstay of local government finance in Colorado. The property tax was also the first tax used to finance Colorado’s transportation system. One-half mill was first levied in 1915 and increased to one mill in 1919. However, property taxes have not been used to fund transportation at the state level since 1929. Based upon 2007 statewide assessed values, one mill is estimated to generate just under \$81 million in tax revenue. Figure 10 shows revenue that would have been generated by a levy of one mill on total statewide valuation since 1984. Note that there was a major revaluation of properties in 1987 that caused the large increase in that year.

**Revenue Potential:** Table 24 Table 25 show three projections for the revenue generation from the implementation of a one mill statewide property tax. The estimates assume a November 2008 vote and implementation of the increase in tax year 2009. The estimates below are presented in five-year increments and cumulatively over the forecast period, and represent various assumptions about assessed value growth as outlined below.

**Figure 10: Revenue Generation of 1 Mill on Statewide Assessed Values**



**Table 24: Estimated Revenue from an Increase of 1 Mill on Assessed Values (2008 Constant Dollars)**

Period	Baseline Growth Rate		Using Alternate Year Averages Growth Rate		Using 10 Year CAAGR Growth Rate	
	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$125	\$125	\$125	\$125	\$125	\$125
FY 2010-11 to 2014-15	\$433	\$558	\$436	\$561	\$442	\$567
FY 2015-16 to 2019-20	\$466	\$1,023	\$507	\$1,068	\$518	\$1,085
FY 2020-21 to 2024-25	\$499	\$1,523	\$584	\$1,652	\$606	\$1,691
FY 2025-26 to 2029-30	\$535	\$2,058	\$680	\$2,332	\$709	\$2,400
FY 2030-31 to 2034-35	\$574	\$2,632	\$784	\$3,117	\$830	\$3,230

Note: All values in Millions

**Table 25: Estimated Revenue from an Increase of 1 Mill on Assessed Values (Nominal Dollars)**

Period	Baseline Growth Rate		Using Alternate Year Averages Growth Rate		Using 10 Year CAAGR Growth Rate	
	Revenues during period	Cumulative Revenues	Revenues during period	Cumulative Revenues	Revenues during period	Cumulative Revenues
FY 2008-09 to 2009-10	\$171	\$171	\$171	\$171	\$171	\$171
FY 2010-11 to 2014-15	\$498	\$669	\$502	\$673	\$509	\$680
FY 2015-16 to 2019-20	\$618	\$1,287	\$673	\$1,346	\$688	\$1,368
FY 2020-21 to 2024-25	\$765	\$2,052	\$895	\$2,241	\$929	\$2,297
FY 2025-26 to 2029-30	\$946	\$2,998	\$1,203	\$3,444	\$1,254	\$3,551
FY 2030-31 to 2034-35	\$1,169	\$4,167	\$1,599	\$5,043	\$1,692	\$5,243

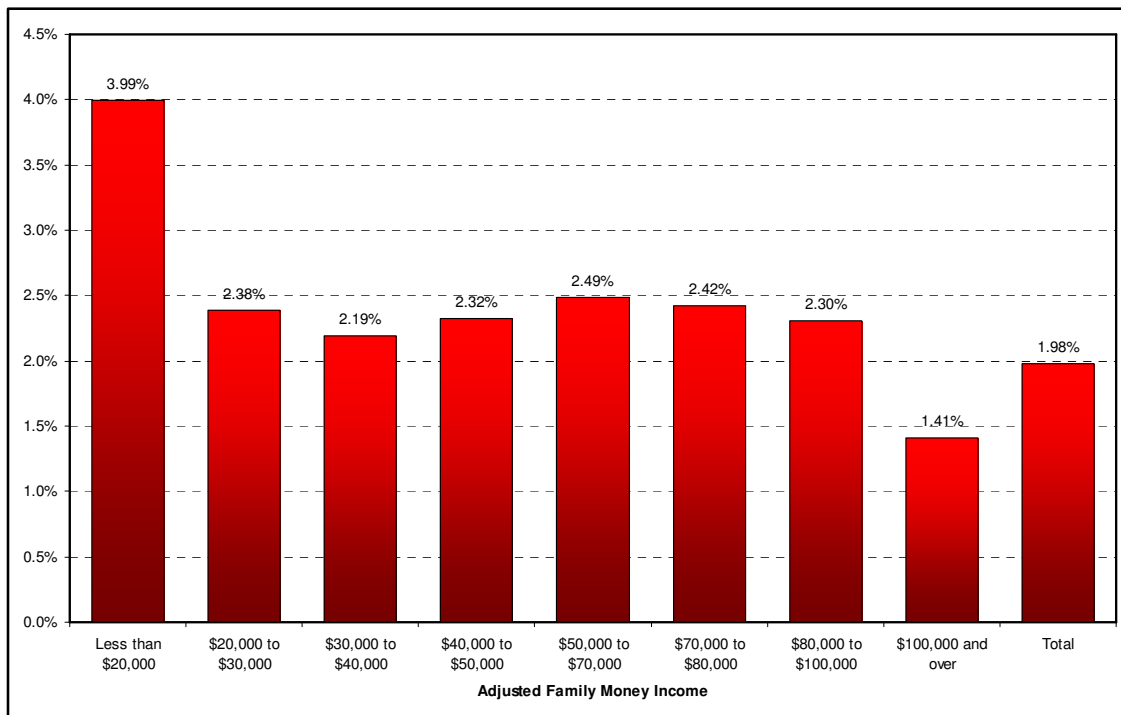
Note: All values in Millions

**Estimation Methodology:** The assessed value series that underlies the above calculations comes from two sources. For the years 2007-2011, the Legislative Council forecast for assessed values statewide was used. For the years 2012-2035, three different growth factors were applied to the 2011 value to generate the three scenarios in Table 24 and Table 25 above. The first (baseline growth rate) is the compound annual growth rate since 1987, the second alternates averages for reassessment and non-reassessment years, and the third scenario uses a growth rate that is the average of the 10-year compound annual growth rates that assessed values experienced over the time series. Two other scenarios, representing the average minimum and maximum growth rates over several 10 year periods, were calculated but were not included due to the fact that neither was likely to occur.

**Legal Considerations:** Implementing a statewide property tax would require a series of approvals from the voters. Although the state constitution allows for a 4 mill assessment for a statewide property tax, the TABOR provision (section 20 of Article X of the Colorado Constitution) specifically prohibits a statewide property tax. The voters would need to repeal that clause of TABOR and approve the tax increase at an election.

**Who Pays?** Under Colorado’s Gallagher Amendment, approximately 53 percent of property tax is paid by nonresidential taxpayers and the remainder is paid by residential taxpayers. Any increase in the rate of property tax (the mill levy) disproportionately burdens nonresidential taxpayers. Under the current Gallagher ratio, nonresidential taxpayers pay 3.64 times the property tax per value as do residential taxpayers. Within the portion paid by residential taxpayers, lower income families dedicate a larger portion of their annual income to property taxes than do higher income families. However, the tax burden is somewhat proportional and at times slightly progressive in the middle income groupings as can be observed in Figure 11.

**Figure 11: Property Tax Burden, FY 2003-04**



Source: Consultant calculation on data from Colorado Department of Revenue, Office of Research and Analysis

**Policy Considerations - Administrative Burden:** Property taxes are already levied and collected at the local level in all counties in the state. The administrative apparatus to collect at the county levy and remit to the appropriate level of government is already in place. The addition of a small increment for the state should not impose an excessive administrative burden on the system of collection. Taxpayers would not incur an additional administrative burden with an increased levy.

**Policy Considerations - Competitive Position of the State:** In general, Colorado is a low tax state. As a proportion of personal income, the state ranked 46<sup>th</sup> out of 50 in total tax burden in FY 2004-05. As Table 26 demonstrates, Colorado also ranks in the bottom half of the nation when property tax burdens are measured as a proportion of personal income. Among its neighbor states, the picture is a bit more mixed. Colorado is quite competitive with some and compares poorly against others. If the one mill increment were in place at the time of these rankings, the state would move from 32<sup>nd</sup> to 31<sup>st</sup> in property tax burden, but would remain 46<sup>th</sup> in terms of total tax burden. Given Colorado's favorable tax ranking, it is unlikely that a one mill increase would render the state less competitive. However, it is important to note that the favorable ranking for the state is somewhat driven by the low property taxes paid by residential property owners. If this ranking were to consider nonresidential taxpayers only, the state's ranking might not be as favorable. The rankings are based on combined residential and nonresidential property taxes.

**Table 26: Colorado's Property Tax Ranking per \$1,000 of Personal Income, FY 2003-04**

State	Amount	Rank
Colorado	\$30.49	32
Arizona	\$32.27	24
Kansas	\$40.02	13
Nebraska	\$37.60	18
New Mexico	\$17.99	46
Oklahoma	\$17.68	47
Utah	\$28.11	37
Wyoming	\$41.67	11

Source: Consultant calculation from US Census Bureau data

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**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue**

**Stream:** Property taxes are generally considered to be very stable sources of revenue. This is especially true in states where the mill levy may float higher with changes in valuation to ensure the stable flow of revenue. In Colorado, where the Taxpayers Bill of Rights (TABOR) does not allow mill levies to increase without a vote of the people, the stable flow of revenue is not assured. However, the recent history in the state has been one of consistently increasing values. If this were to continue throughout the forecast period, as per our projection, this revenue stream would be reliable and stable. If valuations were to fall between now and 2035, the restrictions of floating mill levies would render this revenue stream more volatile. By using averages that incorporate periods when assessed values were declining, the forecast is somewhat softened with respect to this source of volatility.

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## Visitor Related Revenue Options: Increase the Lodger's and Vehicle Rental Tax

**Description of Option:** This option would increase the state sales tax rate on accommodations and vehicle rentals by 1 percentage point. Alternatively, following the model used by many local governments in the state, this tax could be structured as a tax separate from the sales tax. The state's tourism promotion tax, which expired in 1992 and incorporated accommodations and vehicle rentals as part of its tax base, was structured as a separate tax.

**Background:** The state currently imposes a sales and use tax at a rate of 2.9 percent on auto rentals and lodging. This rate has been in effect since January 1, 2001, and was the result of a rate reduction from the previous rate of 3 percent. It is not uncommon for governments to charge differential rates on lodging and accommodations, and in Colorado, many local governments do so.

**Revenue Potential:** Tables 27 and 28 show revenue estimates from an increase in the sales tax rate on lodging and vehicle rentals of 1 percentage point. The estimates assume a November 2008 election with the tax increase implemented on January 1, 2009. As such, the forecast is for FY 2008-09 through FY 2029-35 and is presented in five-year increments and cumulatively over the forecast period.

**Table 27: Estimated Revenue from Increasing the Sales Tax Rate on Auto Rentals and Lodging by 1 Percentage Point (2008 Constant Dollars)**

Period	Baseline Growth Rate	
	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$46	\$46
FY 2010-11 to 2014-15	\$195	\$241
FY 2015-16 to 2019-20	\$211	\$452
FY 2020-21 to 2024-25	\$223	\$674
FY 2025-26 to 2029-30	\$234	\$908
FY 2030-31 to 2034-35	\$243	\$1,151

Note: All values in Millions

**Table 28: Estimated Revenue from Increasing the Sales Tax Rate on Auto Rentals and Lodging by 1 Percentage Point (Nominal Dollars)**

Period	Revenues During Period	Cumulative Revenues
FY 2008-09 to 2009-10	\$57	\$57
FY 2010-11 to 2014-15	\$224	\$281
FY 2015-16 to 2019-20	\$280	\$561
FY 2020-21 to 2024-25	\$341	\$902
FY 2025-26 to 2029-30	\$412	\$1,314
FY 2030-31 to 2034-35	\$496	\$1,810

Note: All values in Millions

**Estimation Methodology:** The historical time series of taxable sales on car rental and lodging was derived from tax returns by industry from the Colorado Department of Revenue. The series includes all lodging and vehicle rental related revenue except for the taxable sales on rentals at auto dealerships. Revenues from these sources were projected to 2035 with an econometric model, and the 1 percentage point increment was estimated assuming no elasticity effect.

**Legal Considerations:** The state’s TABOR provision (section 20 of Article X of the Colorado Constitution) would require voter approval of an increase in the sales tax rate on accommodations and auto rentals.

**Who Pays?** Although data was not available to do an in-depth analysis of the burden of the accommodations and vehicle rental tax, it is generally understood that a significant portion of the tax burden is exported to tourists and business travelers.

**Policy Considerations - Administrative Burden:** If the tax were structured as a differential sales tax rate, the administrative burden would be minimal. Sales tax on accommodations and auto rentals is already collected by the state. However, the current state rate on these services is the same as the 2.9 percent collected on the state’s sales tax base. Implementing a differential rate for these options and earmarking it for transportation would require vendors to reprogram their collection systems and the state to separately account for the earmarked funds.

If the tax were structured as a separate tax, similar to the expired tourism promotion tax, there would be additional administrative burden on vendors to reprogram their revenue collection systems and separately account for this distinct tax. The state would also have additional administrative costs associated with setting up, collecting, and auditing this separate tax.

**Policy Considerations - Competitive Position of the State:** It is not uncommon for governments to levy differential sales tax rates on services such as accommodations and vehicle rentals. At the state level, Colorado's relatively low sales tax burden suggests that a differential increase for these services would not render the state uncompetitive. However, many local governments currently assess a higher differential or separate rate on lodging and auto rentals. Depending upon the local rates, an additional differential state rate might make certain cities in the state less competitive. To become uncompetitive, though, the new combined rates would need to be sufficient to make business or leisure travelers amend their plans because of the new rate. The experience of the local governments across the state who do assess differing tax rates for these services suggests that the rate of taxation does not significantly affect behavior. From Colorado's local government experience, it is unlikely that a modest differential rate at the state level would affect the competitive position of the state.

**Policy Considerations - Reliability, Sufficiency, and Vulnerability of the Revenue Stream:** This revenue source, because it is highly tied to travel behavior, is a somewhat volatile source of revenue. It will be affected by both conditions relating to the health of business and to those related to personal consumption of leisure travel. However, in a state such as Colorado with a healthy tourist and business travel economy, this is a fairly reliable incremental source of revenue for funding transportation over the forecast horizon.

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## Other Revenue Options

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Several other revenue options were considered. They include:

1. An increase in the severance tax;
2. Establishment of a weight-distance tax on trucks;
3. Asking the voters to approve a subsequent revenue change upon the expiration of the Referendum C revenue change and dedicate the retained revenues to transportation; and
4. Local funding options.

These other revenue options are extremely difficult to forecast for a variety of reasons involving the volatility of receipts and economic variables, administrative issues and/or legal issues circumscribing the extent to which an option may be implemented. Some of the problems with using one of these options as a source of transportation funding are discussed below.

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### Severance Taxes

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The Colorado severance tax was put into place in 1978. The tax proceeds have been tapped for a large variety of purposes. During previous budget shortfalls, a portion was diverted to the state General Fund. In more recent years, they were used for funding other nontraditional programs.

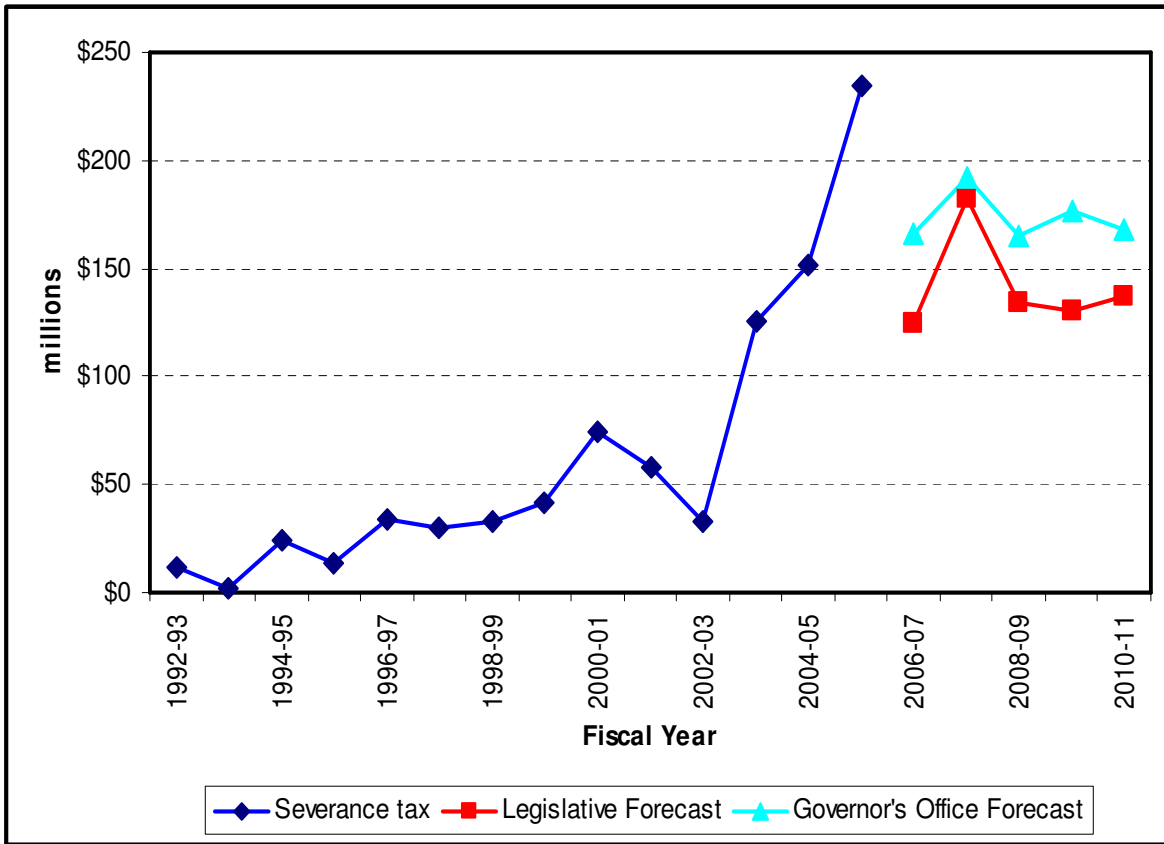
The severance tax is imposed on oil and gas, coal, and metallic minerals including molybdenum. Until recently, the yield from severance taxes has been relatively small.

The tax proceeds from coal are relatively steady over time, varying from \$6.8 million to \$10.8 million over the past ten years. Until FY 2005-06, the tax on metallic minerals has yielded relatively little, typically less than \$1,000,000. Spiking prices for molybdenum last year boosted these proceeds to \$7.5 million.

Revenue from oil and gas is highly volatile. Revenue proceeds are closely linked to the prices of oil and gas and a tax credit for local property taxes paid on oil and gas property. While the severance tax may increase sharply because prices increase, the net tax proceeds are subject to a decline in the following year. Energy companies are allowed a tax credit equal to 87.5 percent of their property taxes paid in the previous year.

Figure 12 shows the recent history of severance tax collections, as well as forecasts of these revenues by two state offices. The lack of predictability is a major concern with respect to the severance tax. Over the past three years, the severance tax increased more than seven-fold. Moreover, the Legislative Council Staff and Governor's Office of Planning and Budgeting predict steep declines in revenue in the current fiscal year and some volatility in the remaining years of the forecast horizon. The two forecasts vary by as much as \$46 million on a relatively small base. The large degree of variability in the tax proceeds, combined with a tendency of the state legislature to utilize the revenue for other purposes, makes this tax source a poor candidate for reliable funding of the state's transportation needs.

Figure 12: Severance Tax Revenue and Forecasts



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### Weight-Distance Tax

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One of the options for supplemental road funding is the imposition of a weight-distance tax. Colorado previously had a form of this tax, known as the gross-ton mile (GTM) tax, which was repealed in 1989. At the time of its repeal, it raised \$32 million. Colorado's GTM tax was considerably more complex than a traditional weight-distance tax. Colorado's tax used empty and cargo weights to determine the tax liability, while a weight-distance tax uses only the gross vehicle weight to determine liability. The complexity was a large factor in the repeal of the tax. The fiscal note for the repeal indicated an estimated \$1 million cost savings for the state. Business savings are unknown, but are apparently substantial.

Currently, only four states currently have a weight-distance tax. The collections in these states ranged from \$71 million in New Mexico to more than \$200 million in Oregon. A weight-distance tax appears to have fallen out of favor, as three other states, including a border state to Colorado, have repealed such taxes since 1994.

Because of the complexity of determining tax liability, the Colorado tax imposed a burden on the trucking industry as well as government enforcement of the tax. In Colorado, while industry and the state could use average weight factors to simplify the computation of tax liability, the factors were often out of date. The state auditor's office found that noncompliance could have been as high as 31.1 percent. A more traditional weight-distance tax would reduce noncompliance and be easier to administer for business and government.

Registration fees on trucks were increased when the GTM tax was repealed. The increase in fees was intended to be revenue neutral with respect to the repealed GTM tax. According to the Department of Revenue, it took at least two years for the replacement fees to become revenue neutral. Some trucking companies registered their vehicles in other states and idle trucks were scrapped when higher fees were implemented. The fees are multi-dimensional based on gross vehicle weight and annual miles traveled, and on whether the truck is a private or contract carrier. The annual fees range from \$330 for a truck weighing 16,001 pounds to as much as \$2,350 for a truck weighing more than 74,000 pounds. The Department of Revenue cannot easily determine the current amount of registration fees attributed to trucks.

Given the relative lack of use of weight-distance taxes in the United States, it would likely make Colorado non-competitive if this tax were to be reinstated in some form. Additionally, the administrative burden for the state and businesses would increase. The administrative burden was a principal reason for repeal of the tax in 1989. Finally, it would be difficult to determine the amount of revenue raised from a weight-distance tax because the amount of revenue generated would be dependent on the specific provisions governing the structure of the new tax.

It should be noted that some observers of the future of transportation funding believe that weight-distance taxes should be given consideration given the bleak prospects for the

traditional gas tax funding mechanism. These considerations were not limited to the trucking industry and included all classes of vehicles.

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### Asking the Voters for an Approved Revenue Change upon the Expiration of Referendum C

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In November 2005, Colorado voters approved Referendum C, effectively taking a “time out” from the revenue limits in the state’s constitutional TABOR amendment. Under the provisions of Referendum C and other existing provisions of state law, for 5 years the state is permitted to retain revenue in excess of TABOR’s population plus inflation limit, and the retained funds are earmarked for specific programs within the state, including transportation funding. The “time out” from the revenue retention limits expires in fiscal year 2011, and the current legislative forecast for that year does not envision a TABOR surplus. While Referendum C contained a provision to eliminate the ratchet effect, essentially “rebasin” the limit to the calculate the growth increment of population plus inflation based on the highest revenue year of the time out period, it is generally believed that at some time in the future the state will once again experience TABOR surpluses.

Uncertainty in estimating the magnitude and timing of these surpluses beyond the 2011 legislative forecast due to the multiple determinants of the calculation is a major obstacle in determining the utility of this approach to transportation financing. Population, inflation, and state revenue, among other economic variables, would need to be estimated in order to perform such a forecast. The compounding of errors that would occur with multiple unknowns would render such forecasts widely unreliable. However, given the high probability that a surplus under TABOR will occur sometime during the 2035 forecast horizon for this study, a possible option would be to return to the voters in the state upon the expiration of Referendum C’s time out and ask for a reauthorization of a time out, for a specified period, with the revenues dedicated to funding transportation needs in the state.

Given the uncertainty around the timing and magnitude of future TABOR surpluses, this option may be more volatile than the other tax and fee revenue increases outlined above. Administratively, the state has created the systems necessary to comply with Referendum C’s requirements. If these were extended and earmarked for transportation, there would not be an incremental burden on state government. While taxpayers would continue to bear the burden of foregoing refunds under TABOR, given the provisions of the current law under Referendum C, no additional marginal tax burden would be imposed on taxpayers in the state.

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## Local Funding Options – Growth Related

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Local governments are increasingly using special impact fees and development-related taxes on new growth to fund infrastructure improvements or expansions and other capital needs necessitated by that growth. In many local governments, a portion of these fees and assessments is dedicated to growth-related transportation needs. It is important to note that the use of growth related exactions is strictly governed case law requiring that the infrastructure funded by the fees bears a rational nexus to the growth paying the fee and that the fee is levied in reasonable proportion to the fiscal impact of the growth. Before impact fees can be levied, in-depth studies must be performed to demonstrate both the nexus and that the fees are proportionally appropriate. For these reasons, as well as the fact that it would likely take constitutional and statutory changes, it may be legally difficult and administratively burdensome to levy development-related charges at the state level. Since local governments are already using development-related taxes and fees to fund transportation, they are an existing component of the mix of funding for transportation needs in the state.

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## THE HISTORY OF COLORADO TRANSPORTATION

Colorado has always been off the beaten path. Her mountains attracted trappers, but their rendezvous points were north of the Centennial State's eventual geographic reach. Gold attracted a lot of adventurers, but their supply routes were difficult, at best. In the first western migration of the 1850s, the trails to the west coast avoided our impassable mountains. When the railroads pushed west, they also went north or south, bypassing the Front Range. In the early days of Colorado government, the competition between Denver and Golden for the first railhead was mirrored in their fight to be the state capitol. It was no coincidence that Denver won the distinction after being designated the terminus of the state's first railroad. Until World War II, the primary mode of transportation in the state was rail. The Interstate highway system also tried to avoid crossing our mountains. Only through intense lobbying was the original plan changed, allowing I-70 to extend over and through them.

By 1861, the year Colorado became a territory, the Kansas Territorial Legislature had authorized several toll roads and bridges, one of which was a bridge over the Arkansas River at Pueblo. By 1864, Richens "Uncle Dick" Wooton had obtained franchises from both the Colorado and New Mexico legislatures for a toll to pay for his improvements to the old Santa Fe Mountain Route over Raton Pass, perhaps the first public-private partnership in Colorado history.<sup>1</sup> Otto Meares, whose stern face gazes from a stained-glass window in the Capitol building, built hundreds of miles of toll roads in and around the San Juan Mountains, including what is now the Million Dollar Highway (US 550) from Ouray to Silverton.

In the early 1900s, municipal streets and county roads were the only publicly-financed thoroughfares for the new and growing contraption called an automobile. Auto owners, as well as bicyclists, began pushing for paved roads, and finally convinced the state legislature to establish the Colorado Highway Commission in 1909.

Colorado state highway funding began with one-time state General Fund appropriations for specific projects that were originally administered by a board made up of county commissioners, the state engineer and the county surveyor or a municipal official. The State Road Fund was created at the same time as the Colorado Highway Commission in 1909, with an original appropriation of \$50,000.<sup>2</sup>

The federal government formally recognized that improving rural roads would help accomplish an interconnected highway system, and enacted the Federal Aid Road Act of 1916. The federal government has been an active partner in surface transportation planning and financing since then.

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<sup>1</sup> <http://www.santafetrailsenicandhistoricbyway.org/sitetrin.html>

<sup>2</sup> Colorado Highway Funding – Then and Now, Colorado Municipal League, Denver; 2003; page 5.

## The Highway, Road and Street System

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Although many people use the three terms interchangeably, in state law, as well as in general usage, highways are the state's responsibility, roads make up the county system, and streets are found in municipalities.

The state highway system consists of federal-aid primary roads, the federal-aid secondary roads, and the interstate system, including extensions thereof within urban areas, plus an amount not to exceed five percent of the mileage of such systems which may be declared to be state highways by the transportation commission while not being any part of any federal system.<sup>3</sup>

The county road system is made up of primary roads and secondary roads, as designated by the board of county commissioners in each county.<sup>4</sup> The municipal governing body in each municipality is required to designate arterial and local service streets.<sup>5</sup>

By 1903, when Ford and Cadillac joined Oldsmobile as the top three U.S. automobile manufacturers, drivers were demanding improvements to the state road system. Some municipal streets had been improved, but driving between towns was difficult on roads created by wagon wheels and hooves. The new Colorado Auto Club began pushing the state legislature to adopt a statewide approach to road improvements. They were finally successful in 1909, with the establishment of the Colorado Highway Commission.

The highway system was first established from county maps, showing their most traveled roads, and was originally made up of 1,643.5 miles. The highway commissioners had a policy of not adding new mileage to the system without driving them. By the 1920s, the Colorado Department of Highways was spending \$2.5 million annually on the system.<sup>6</sup>

Early roads were named, rather than numbered, sometimes by civic groups who raised money for the road's improvements. The first highway in Colorado to be signed was the Old Santa Fe Trail "Mountain Route," from Holly west through La Junta to Trinidad, and over Raton Pass, 1908.

In 1916, the Federal Highway Act funded the Federal Primary Aid System, offering 50% matching funds for the first federal highway improvements in Colorado. These included the first paved road in Colorado from Denver to Littleton, known today as Santa Fe Drive, part of US 85.

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<sup>3</sup> 43-2-101(1), C.R.S.

<sup>4</sup> 43-2-109 and 110, C.R.S.

<sup>5</sup> 43-2-125, C.R.S.

<sup>6</sup> A good deal of this information is derived from "Colorado Highways: A History," by Matthew E. Salek;  
<http://www.mesalek.com/colo/history.html>

U.S. highways were the first to be paved across the state, but local paving projects sometimes linked neighboring towns, where efficient transportation was important to local commerce. New Deal projects made the paved mileage in the state grow from 500 miles in 1930 to 4,000 in 1940.<sup>7</sup> In 2003, the State Highway System had 23,061 lane miles, the county road system 134,617 lane miles, and the municipal streets 30,062 lane miles.<sup>8</sup>

The U.S. Highway System began in 1927, and in Colorado it followed roads and state highways that were already built. We see the result today, with many roads designated by both a state highway number and a U.S. highway route number.

Use of the state’s surface transportation system in the past thirty-five years has boomed along with the population. Outside the areas of high growth, not much has changed, but in the areas to which the people have moved, road usage has also grown, especially in the Front Range, and has not always kept up with the growing population. The booms of the 1970s and the 1990s have seen a related growth in use of the highway, road and street system, with beltways, rail, tolls and debt trying to keep up with the demand, working together to help people and their goods move.

## The Transportation’s Finance System

The evolution to today’s complex fiscal relationship between the state and local governments follows a winding path with certain milestones in governmental authority and money:

Year	Milestone
1909	Creation of State Highway Commission and State Road Fund
	Voter-approved ½ mill levy for road and highways projects first imposed
1917	State Highway Department created
	An additional ½ mill approved, and a 1¢ per gallon motor fuel tax imposed <sup>9</sup>
1922	Moffat Tunnel Improvement District created by the state legislature
1923	State fuel tax increased to 2¢
1927	U.S. Highway System began, with 50% matching funds
	State fuel tax increased to 3¢
1928	Moffat Tunnel opened
1929	Fuel tax increased to 4¢; 27% set aside for county roads and 3% set aside for municipal streets connecting state highways, as designated by the State Highway Commission
	1 mill property tax for highways removed

<sup>7</sup> Presumably these were road miles on a 2-lane road, so the lane mile figure would be double these amounts.

<sup>8</sup> A lane mile is one mile of road, one lane wide. One mile of road two lanes wide equals two lane miles.

<sup>9</sup> 39-27-101, C.R.S.

Year	Milestone
1934	Citizen-initiated constitutional amendment restricting the revenue from motor fuel taxes, driver's licenses, registration and other motor vehicle fees, to be used exclusively for public highways <sup>10</sup>
1947	Fuel tax increased to 6¢
1949	Legislature authorized CDOH to issue \$6.3 million in bonds and charge tolls for the proposed Denver-Boulder Turnpike
1953	Highway Users Tax Fund (HUTF) created, using money from the motor fuel tax, licensing fees and various fines and penalties; 30% reserved for county roads and 5% for municipal streets
1955	The Gross Ton Mile Tax (GTM) created
1959	HUTF changed to share 26% with counties and 9% with municipalities
1960	\$1.50 special vehicle registration fee imposed
1969	Fuel tax increased to 7¢
1971	50% of county road and bridge fund property tax revenue required to be shared with the originating municipality; the 1960 special vehicle registration fee was allocated to counties and municipalities where the vehicle was registered; rural-urban shareback of the first \$2.50 of the normal vehicle registration fee; allocation of all traffic fines to the HUTF
1979	Sales and use tax revenue on automobiles and auto-related accessories allocated to the HUTF: 22% to counties and 18% to municipalities ("new money" formula, used for all subsequent increased taxes or fees to the HUTF)
1981	Fuel tax increased to 9¢
	Bridge Fund created to earmark funds for state, county and municipal bridges
1984	Gas tax increased to 12¢, special fuels to 13%
1985	1979 sales and use tax diversion repealed, replaced by transfers from the state General Fund, to be phased out by 1991
1987	Gas tax increased to 18¢, special fuels to 20.5¢
	GTM \$150 minimum established
	Public Highway Authority law enacted, allowing counties and municipalities to collaborate in forming toll road authorities
1988	Gross Ton Mile Tax abolished and truck registration fee increased
1989	Drivers' fees increased to \$15 for a five-year license
	An additional registration fee imposed based on the age of the vehicle
1990	Gas tax increased to 20¢
1991	Gas tax increased to 22¢
	The Colorado Department of Transportation was created from The Department of Highways, when aviation and rail were added to its responsibilities
1995	Moffat Tunnel bonds paid off
1997	Senate Bill 97-01 passed: 10% of state sales and use tax revenue above "6% General Fund Appropriations Limit" (also known as "Arveschoug-Bird") diverted to HUTF, but not shared with

<sup>10</sup> Art. X, §18, Colo. Const.

Year	Milestone
	local governments
1999	Voters approved Ref. A, allowing the issuance of Transportation Revenue Anticipation Notes (TRANS)
2002	SB 02-179 passed, allowing the Transportation Commission to create a Statewide Tolling Enterprise Authority
	House Bill 02-1310 passed, transferring a portion of the growth in state revenue created by adjusting the state's TABOR limit to 2000 census population figures to transportation
2005	Referendum C passed by the voters, allowing the state to retain and spend revenue in excess of TABOR's spending limit

The story of state transportation finance in Colorado is complicated by the intertwined relationship between the state and its local governments, and how that relationship ebbed and flowed over the years. It is necessary to understand governmental structure and authority, and how they differ at each level: federal, state, and local.

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## GOVERNMENTAL STRUCTURE

In addition to the federal government, 1,485 of the 2,875 governmental units in Colorado (the state being one) finance transportation improvements to some extent. The variety of local governments involved in this work is shown in Appendix A.

Of this total there are seven Downtown Development Authorities,<sup>11</sup> 38 Urban Renewal Authorities,<sup>12</sup> 37 General Improvement Districts<sup>13</sup> and 38 Special Improvement Districts<sup>14</sup> that are component units of municipalities. In addition, there are 48 Local Improvement Districts<sup>15</sup> and 42 Public Improvement Districts<sup>16</sup> that are subservient to county governments, that is, the Board of County Commissioners acts as the Board of the Improvement District ex officio. Each of these 210 districts has some authority to construct and maintain transportation structures, but, since they are sub-districts of general purpose governments, they will not be dealt with in detail below.<sup>17</sup> Without those units being listed separately, there are 1,275 units, including the state, counties, municipalities, consolidated city/counties, and special districts. This is a substantial array of governmental authority, many of which overlap with other entities that also provide some support for transportation services. The relationships between each other, as well as between them and the state, are not always simple.

Each separate type of government, and how each finances surface transportation, is examined individually below.

### The Federal Government

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Federal involvement in transportation is nearly a century old. The Federal-Aid-Highway Program began in 1916 within the United States Department of Agriculture. It was formula-allocation program based on road mileage, total state area, and total state mileage. The federal government's share was 50% per mile up to \$10,000. In 1930, federal law required the dedication of federal motor fuel taxes to transportation purposes, similar to constitutional or statutory provisions in most states. Federal spending on highways became more significant in 1956 with the establishment of the Interstate Highway System, the Highway Trust Fund, and authorization of more than \$25 billion in spending for the 1957-1969 period. National goals of increased mobility, economic development, defense, and innovations have been employed in order to increase federal spending to support highway and transit activities. Federal support for mass transit programs began in the 1960s, along with the creation of the U.S. Department of Transportation.

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<sup>11</sup> 31-25-801, C.R.S.

<sup>12</sup> 31-25-101, C.R.S.

<sup>13</sup> 31-25-601, C.R.S.

<sup>14</sup> 31-25-501, C.R.S.

<sup>15</sup> 30-20-601, C.R.S.

<sup>16</sup> 30-20-501, C.R.S.

<sup>17</sup> The revenue and expenditures, as well as specific services, for these entities are not collected, and therefore are not available on a summary basis.

Since 1921, Congress has authorized the spending of federal highway funds on a multiple-year basis. The current practice of guaranteeing each state a minimum return on the money generated by the highway users in the state began in 1982 with the passage of the Surface Transportation Act. Most federal transportation funds are allocated using statutory formulas, but some categories of federal funds are not subject to these formulas and are distributed among the states according to administrative criteria or through competitive grant procedures.

In more recent years, there have been three reauthorizations of federal spending: 1) the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) was enacted in 1991; 2) the Transportation Equity Act for the 21<sup>st</sup> Century of 1998 (TEA-21); and 3) the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), adopted in 2005 and effective for the ensuing 6 years.

Funding under the various federal transportation programs is provided through six basic steps:

- Authorization – expenditure authority of federal funds enacted by Congress;
- Apportionment and allocation -- the FHWA apportions authorized funding for each federal fiscal year among the states either according to statutory formulas or, for some funding categories, through discretionary administrative action;
- Obligation – a state’s apportioned or allocated funds are obligated for a portion of the eligible expenditures on FHWA approved projects;
- Program implementation – project-by-project highway programs are developed by states, describing how federal reimbursements will be made;
- Reimbursement -- under which states request and are paid the federal share for eligible projects; and
- Redistribution -- Each year, the FHWA determines whether states plan to use their obligation authority before the end of that federal fiscal year, and if not, the unused authority is redistributed to other states. For the past 20 years, Colorado has used its entire obligation authority and has consistently received additional obligation authority through this redistribution process.

Subsequent to the passage of TEA-21 in 1998, Colorado’s federal formula allocation averaged \$319.1 million per fiscal year through 2005. SAFETEA-LU was enacted in that year and it provides \$2.45 billion in guaranteed funding for Colorado over the course of its six-year lifespan – including over \$322 million in earmarks for special projects around the state. The bill also acknowledges priorities for Colorado including an increased emphasis on freight and transit programs, as well as recognition of the need for innovative financing programs given the funding shortfalls currently experienced at the state level.



The passage of SAFETEA-LU provided Colorado one of the highest percentage increases in funding among all states -- approximately a 47% increase over TEA-21 levels. However, three major factors mitigate the increased federal funding levels: 1) construction inflation of about 5% per year, or 30% over the life of the bill which will reduce its buying power; 2) federal earmarks within the Colorado Department of Transportation (CDOT's) formula funds that were not part of CDOT's 6-year, or even 2-year plans that will have the effect of displacing planned projects; and 3) uncertainty about the federal gas tax trust fund that is expected to exhaust all revenues in 2009 and lead to the imposition of an "obligation limitation" of 80% or less, meaning Colorado will be allowed to spend no more than 80% of its authorized federal funding.

There are also federal discretionary grant funds made available to Colorado for emergency relief of specific projects. While CDOT has been historically successful in obtaining these grant funds, their continued availability is uncertain.

## State of Colorado

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The state has the broadest base on which to levy taxes and fees, allowing it to raise significant revenues with the imposition of taxes with a relatively low rate. This is important for two reasons. First, a relatively low tax/fee can produce substantial revenue while not creating a material change in the spending or earning activities of those upon whom it is imposed. Second, the tax/fee payers will pay the same amount statewide, so competition between jurisdictions is minimized.

The state doesn't directly spend all the transportation revenue collected statewide, but instead transfers some to local governments. The funds that the state retains are, for the most part, the responsibility of the Department of Transportation, under the supervision of the Colorado Transportation Commission, and are deposited into the State Highway Fund. Some highway expenditures are made from the Capital Construction Fund, but are spent on Transportation Commission priorities.

The share of total state appropriations designated for direct state spending on transportation has steadily declined over time. The following table shows the decline from FY 1979-80 through FY 2006-07.

**Table 29: Transportation Share of Total State Appropriations 1980-2007**

Year	Transportation	Total State	Trans. Share
1980	\$309,544	2,440,549	12.7%
1981	324,432	2,634,949	12.3%
1982	311,650	2,828,749	11.0%
1983	318,921	2,922,573	10.9%
1984	506,867	3,341,623	15.2%
1985	437,819	3,559,669	12.3%
1986	428,912	3,854,084	11.1%
1987	367,166	3,957,230	9.3%
1988	411,039	4,228,598	9.7%
1989	468,151	4,507,938	10.4%
1990	405,840	4,827,462	8.4%
1991	437,568	5,131,845	8.5%
1992	507,339	5,709,892	8.9%
1993	487,849	6,492,975	7.5%
1994	496,861	8,001,003	6.2%
1995	585,343	7,960,956	7.4%
1996	601,472	8,728,268	6.9%
1997	623,965	9,224,929	6.8%
1998	748,789	9,855,177	7.6%
1999	785,735	10,314,891	7.6%
2000	889,798	11,662,564	7.6%
2001	947,091	12,264,109	7.7%
2002	999,244	13,289,753	7.5%
2003	782,426	13,630,964	5.7%
2004	786,417	13,859,427	5.7%
2005	792,355	13,971,892	5.7%
2006	822,321	15,411,207	5.3%
2007	1,034,332	16,664,639	6.2%

Note: All values in thousands of dollars

## The State Highway Fund

Created in 1909, the State Highway Fund (SHF) is the source of nearly all the money that is spent by CDOT on the state highway system. Money allocated to the SHF by law is directly deposited into the SHF, and is not subject to appropriation by the General Assembly, as is the money in most other state funds.<sup>18</sup>

Revenue to the SHF derives from federal highway funds, highway bond and note proceeds, state gaming funds, state excise tax revenues, license and registration fees, and fuel excise taxes.<sup>19</sup>

## Statewide Tolling Enterprise

In 2002, during the depths of the state revenue shortfall following 9/11, the Legislature authorized toll roads to pay for highway construction as a way to alleviate traffic congestion. Until that time, the last toll road in Colorado was the Denver-Boulder Turnpike, built with bonds that were paid off early in 1969, at which point the tollbooth at the Broomfield exit was demolished. In 2002, however, tolling was seen as a way to not only build roads, but to maintain them as well.

HB 02-1310 created the Statewide Tolling Enterprise<sup>20</sup> within the Department of Transportation, with the Colorado Transportation Commission as the Board of Directors of the Statewide Tolling Enterprise.<sup>21</sup>

The Statewide Tolling Enterprise may issue revenue bonds and charge tolls and other fees to finance, construct, operate or maintain a toll highway.<sup>22</sup> The Transportation Commission may loan funds from the State Highway Fund to cover the expenses of the Statewide Tolling Enterprise before bond proceeds or tolls are received, which must be reimbursed when toll revenue begins.<sup>23</sup> The Statewide Tolling Enterprise may charge tolls, fees and charges sufficient to construct, maintain and operate toll highways, and may also set up nonprofit entities, which can issue bonds, to build tolled highways.<sup>24</sup>

The Statewide Tolling Enterprise has established one operation to date, converting the HOV lanes to "managed lanes" lanes from near 32<sup>nd</sup> Ave. in Denver north on Interstate 25 to 70<sup>th</sup> Ave., and west on US 36 from Pecos St. to Federal Boulevard. The project began in 2005, and

<sup>18</sup> 43-1-219, C.R.S.

<sup>19</sup> 43-1-220, C.R.S. The last three items on this list pass through the Highway Users Tax Fund before being deposited into the SHF.

<sup>20</sup> This is the name used in the statute; CDOT and the Transportation Commission refer to this entity as the Colorado Tolling Enterprise, and thus they use the initials CTE.

<sup>21</sup> By the terms of TABOR: "'Enterprise' means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined." [Art. X, §20(4)(d)] By making this designation, the legislature acknowledged that the STE meets the tests in this definition, and thus the STE is exempt from TABOR's fiscal years spending limit.

<sup>22</sup> 43-4-806(1), C.R.S.

<sup>23</sup> 43-4-805, C.R.S.

<sup>24</sup> 43-4-806(1)(q), C.R.S.

the cost was approximately \$8 million. A federal grant of \$2.8 million covered some of the initial costs. Remaining funds will come from toll revenues.<sup>25</sup> The original HOV lanes, cooperatively financed by the City and County of Denver, the Regional Transportation District and CDOT, cost about \$228 million, and opened in 1994.<sup>26</sup>

## Local Governments

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There is a wide variety of local jurisdictions involved in surface transportation construction, improvement and maintenance efforts. They all have some things in common, the keystone being that they are all political subdivisions of the state of Colorado. As such, they are all, to some extent, subject to the limits and responsibilities dictated by the legislature, as well as those dictated by the voters in ballot measures.

Home rule cities and towns enjoy more freedom to pursue their own interests as a result of a 1902 ballot measure granting them relative autonomy when it is a "local and municipal matter."<sup>27</sup> When an issue rises to the level of statewide concern, the legislature has the power to overrule any local charter provision.<sup>28</sup>

Taxation is another commonality between local governments, but is subject to a number of limits delineated in the state constitution and statutes. The income tax is solely a state tax, the property tax is reserved only for local governments, and the sales tax is levied by both state and local governments.<sup>29</sup> All the limits in the Taxpayer's Bill of Rights (TABOR) apply to local governments as well as the state: the limit on fiscal year spending, which, in practice, is a limit on the revenue received by a government entity,<sup>30</sup> and the requirement for prior voter approval in raising any rate of tax<sup>31</sup> are the best known of them. In addition, a second limit on local property tax revenue was added by TABOR<sup>32</sup> to the statutory limit on increasing property tax, which has been in place since 1913.<sup>33</sup>

All of these restrictions constrain local governments in their ability to raise revenue without a vote of the people for any purpose.<sup>34</sup> Thus, the need to improve streets or roads, as perceived by any local jurisdiction, must be balanced with competing needs for other local services. Increases above any of these limits must be submitted to the voters, so a strong case must be made why the needed improvements cannot be otherwise financed.

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<sup>25</sup> <http://www.dot.state.co.us/cte/expresslanes/about.cfm>

<sup>26</sup> HB 02-1310 specifically prohibits turning existing free highway lanes into toll lanes with the exception of HOV lanes. [43-4-806(1)(k), C.R.S.]

<sup>27</sup> Art. XX, §6, Colo. Const.

<sup>28</sup> People v. City & County of Denver, 90 Colo. 598, 10 P.2d 1106 (1932).

<sup>29</sup> Art. X, §8(a), Colo. Const.

<sup>30</sup> Art. X, §7(b), Colo. Const.

<sup>31</sup> Art. X, §4(a), Colo. Const.

<sup>32</sup> Art. X, §7(c), Colo. Const.

<sup>33</sup> 29-1-301, C.R.S.

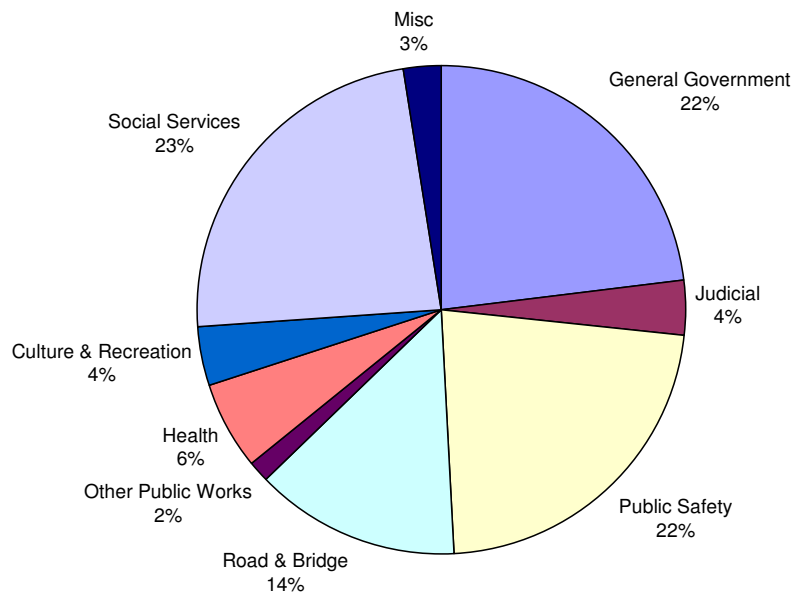
<sup>34</sup> There are some minor exceptions in both the constitutional and statutory limits, notably for emergencies.

## Counties

Counties experience a distinction apart from all other local governments in Colorado: in addition to their status as a local government, they are also administrative arms of the state, and as such, they only have the powers delegated to them by the state.<sup>35</sup> The state legislature created the 62 counties, and therefore can decide which powers to delegate to them. One result of this is that county home rule powers are not as extensive as those of municipalities;<sup>36</sup> counties cannot even change the salaries paid to elected officials without a bill passed by the state legislature and signed by the Governor. Another result of this basic constraint on county authority is the limited extent to which counties can raise revenue for any purpose, including transportation.

Counties spent a total of \$276 million on construction and maintenance of roads and bridges in 2003, about 14% of their total expenditures, as shown in Figure 13.<sup>37</sup> Counties received \$253 million, nearly 92% of their total road and bridge expenditures (\$276 million), from taxes related to motor vehicles in some form: \$150 million from the state’s Highway Users Tax Fund (HUTF), \$5 million in motor vehicle registration fee revenues, and \$99 million derived locally from Specific Ownership taxes. The \$22 million balance was generated by county road & bridge property tax levies.<sup>38</sup>

**Figure 13: 2003 County Expenditures**



The state-shared HUTF funds represented 69% of all county road and bridge expenditures in 1994. By 2003, that share had dropped to 55%, indicating that the growth of HUTF funds to

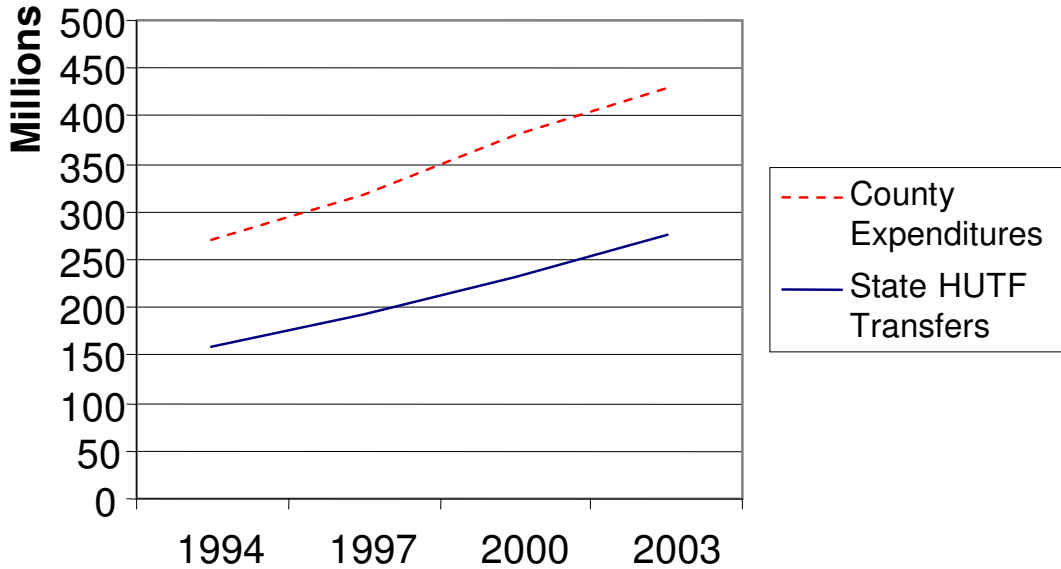
<sup>35</sup> Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

<sup>36</sup> Art. XIV, §16, Colo. Const.

<sup>37</sup> Source: Division of Local Government Financial Compendium; 2003 data is the most recent available.

<sup>38</sup> Each of these revenue sources will be discussed in more detail below.

Figure 14: County Expenditures Compared to State HUTF Transfers to Counties



counties is not keeping pace with the increased costs of constructing and maintaining county roads and bridges. This requires counties to raise revenues from other local sources.

Counties can use general revenue to support roads, but must declare it in the county’s original annual budget, since they are statutorily prohibited from transferring any General Fund revenue to support roads and bridges during the course of the year.<sup>39</sup> Counties are also required to make a special property tax levy for road and bridge purposes for any property tax used to support road expenditures.<sup>40</sup> Compliance with these restrictions must be demonstrated by using a special Road and Bridge Fund, into which all state, federal and other revenue for road and bridge purposes are tracked, and from which all such expenditures are made.<sup>41</sup> A statute requires that all amounts allocated to the county from motor vehicle registration fees also be credited to the county road and bridge fund,<sup>42</sup> and all state funds may only be used

“for the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the county highway systems and any other public

<sup>39</sup> 30-25-106, C.R.S.; City of Colo. Springs v. Bd. of County Comm'rs, 648 P.2d 671 (Colo. App. 1982)

<sup>40</sup> City of Greeley v. Bd. of County Comm'rs, 644 P.2d 76 (Colo. App. 1981)

<sup>41</sup> 43-2-202(1), C.R.S.

<sup>42</sup> 42-3-310(5), C.R.S.

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highways, including any state highways, together with the acquisition of rights-of-way and access rights for the same.”<sup>43</sup>

Two counties have created improvement districts to generate additional revenue locally. A sales tax of 0.5% in Southeast Jefferson County, and another in Niwot and Cottonwood Square in Boulder County, accrue to the general revenue of the county, but were justified in part by road expenses in those areas.

## Municipalities

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Cities and towns are allocated certain funds from the state and their county or counties, and any costs in excess of that money must be paid out of general revenue. All municipalities are required to maintain an “appropriate fund,” into which all motor vehicle registration fees are allocated, which can be expended “only for the construction and maintenance of highways, roads, and streets located within its boundaries.”<sup>44</sup> In addition, all municipal HUTF money must be expended

“for the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the system of streets of such city or incorporated town or of any public highways located within such city or incorporated town, including any state highways, together with the acquisition of rights-of-way and access rights for the same.”<sup>45</sup>

## Home Rule Cities

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The backbone of highway finance in Colorado, the Highway Users Tax Fund, treats the consolidated city/county governments of Broomfield and Denver as cities, even though they also provide county services. For this reason, we will treat Broomfield and Denver as home rule cities in this discussion.

Since 1970, any municipality may become a home rule city by completing a fairly lengthy and technical process to adopt a home rule charter<sup>46</sup> (Denver and Broomfield had to submit to statewide elections in 1904 and 2000 respectively to become consolidated city/county governments). Once done, their charter can define not only what services they will provide, but how they will provide them. A home rule charter can provide for financing options not available to other municipalities. They can also supersede many state laws, such as when they will hold elections and the administrative structure of the municipality. After charter adoption, they still qualify for all the same inter-governmentally-shared revenue from the state that the other types of municipalities enjoy.

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<sup>43</sup> 43-4-207(1), C.R.S.

<sup>44</sup> 42-3-310(5), C.R.S.

<sup>45</sup> 43-4-208(1), C.R.S.

<sup>46</sup> Art. XX, §9, Colo. Const. and 31-2-209, C.R.S.

There are 86 home rule municipalities in Colorado, in addition to the two consolidated city/county governments of Denver and Broomfield.<sup>47</sup> Home rule cities and towns represent not only some of the largest municipalities, but also some of the smallest, ranging in size from Denver (population 554,636) to Black Hawk (pop. 111). Nearly 90% of the population in Colorado lives in a home rule city or city/county.<sup>48</sup>

### **Statutory Cities and Towns**

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The state statutes, rather than a home rule charter, govern the way a statutory municipality does business. Thus, they are subject to the dictates of the state legislature much more than if they operated under a home rule charter. A statutory town becomes a city when (a) its population exceeds 2,000, and (b) when the governing body declares the city's existence and an election effects such an enactment.<sup>49</sup> There is no requirement that a statutory city revert to its status as a town when the population declines below 2,000, so there are some statutory cities with a population of less than 2,000. There are 14 statutory cities and 168 statutory towns.

### **Territorial Charter Municipalities**

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Georgetown is the only city in Colorado operating today under such a charter, a vestige of the pre-1876 days of the Colorado and Kansas territories. As such, it does not operate with the benefit of the fairly broad grant of authority which the statutes give to statutory towns and cities or the even broader one for home rule municipalities. Instead, their charter is under the control of the state Legislature, inherited from the territorial government of either Kansas or Colorado prior to 1876. In order to amend their territorial charter, the municipality must request a bill from the legislature, which must pass and be signed by the Governor.

Although each type of municipality has slightly different authority to raise general revenue from sales tax, property tax and fees, for the purpose of this discussion, their finances will be discussed as a group. Municipalities of all types spent a total of \$277 million on construction and maintenance of streets in 2003, about 27% of their total general operating expenditures, and 75% of their public works budgets.

The state-shared HUTF funds represented 31% of all municipal street expenditures in 1994. By 2003, that share had grown to 33%, indicating that the municipal share of HUTF funds at least kept pace with costs over that period. Municipalities are still required to raise a majority of revenues for streets from local sources.

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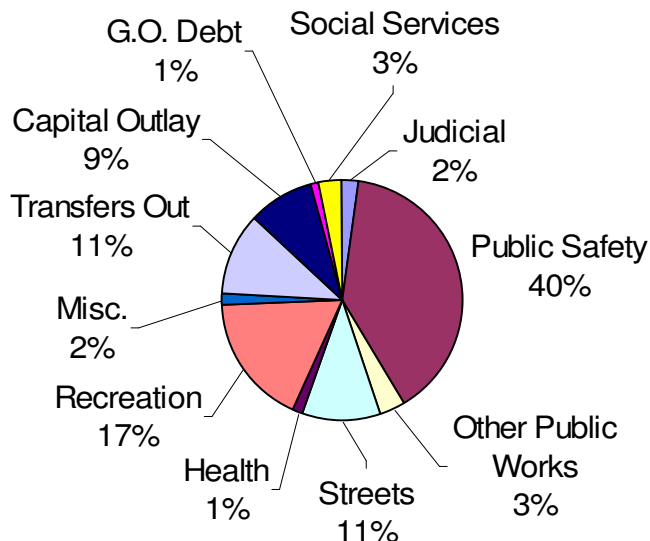
<sup>47</sup> All counts of local government types contained herein represent figures published by the Division of Local Government in February 2007.

<sup>48</sup> 2005 population estimates, Office of the State Demographer.

<sup>49</sup> 31-1-204, C.R.S.



**Figure 15: 2003 Municipal Expenditures**



## Special Districts

### **Dependent Districts**

As noted previously, there are 209 units of local government which are component units of a general purpose government.<sup>50</sup> Each of these units has some authority to construct and maintain transportation structures, but, since they are sub-districts of general purpose governments, they will not be dealt with in detail here. Some units have the ability to assess fees, others can levy a property tax, and most issue bonds to build improvements, including streets, roads, and appurtenant structures. Their financial activity has not been the object of any centralized data collection efforts to date, so their expenditures for road and street purposes cannot be summarized.

### **Independent Districts**

#### ***Metropolitan Districts***

A metropolitan district must perform two or more of the following ten services: fire protection, mosquito control, parks and recreation, safety protection (i.e., stop signs and traffic lights), sanitation, solid waste disposal facilities or collection and transportation of solid waste, street improvement, television relay and translation, transportation, and water. There are 930 active metropolitan districts in the state today.

<sup>50</sup> To reiterate - Municipal: seven Downtown Development Authorities, 32 Urban Renewal Authorities, 34 General Improvement Districts and 35 Special Improvement Districts; county: 42 Local Improvement Districts and 38 Public Improvement Districts.

Metropolitan districts were originally governed by the Metropolitan District Act of 1947, under which authority two organized in 1948. The next metropolitan district to organize did so in 1960, and by 1980 there were 50 in the state. Colorado’s rapid population growth of the 1980s prompted 148 more to be organized in that decade, and 119 were added to the list in the 1990s. Since 2000, their number has increased dramatically.

**Table 30: Metropolitan Districts in Colorado by year organized**

Year	Number of Municipal Districts
1940s	2
1960s	14
1970s	34
1980s	148
1990s	119
2000s	613

This framework has been used extensively by developers to organize districts in which commercial and/or residential development occurs, indicated by the number of newly-organized districts formed since 1980, and especially after the beginning of this century, following periods of rapid population growth in the state. For example, there was one metropolitan district in Douglas County in 1980, and today there are 132 in that county alone. Another 17 metropolitan districts are in the process of being organized in Douglas County today. Most of the new areas in Castle Rock, Parker and Highlands Ranch were developed by metropolitan districts. Other counties in the metropolitan area show similar numbers.

Metropolitan districts have built some major parkways, as well as many miles of local roads that are maintained by the county, and qualify for the state-shared HUTF funds. Some of the four-lane parkways built, operated and maintained by metropolitan districts contribute significantly to the total amount spent statewide on surface transportation. Centralized data do not reflect the amounts spent on transportation, apart from other metropolitan district functions, so that activity cannot be summarized here.

Metropolitan district financial activity is not trivial, however. Data show that the 260 metropolitan districts in the seven-county Denver area had authorized \$260 million of debt that had not yet been issued by 2004.<sup>51</sup> In 1989, when the real estate market experienced a downturn, a number of such districts couldn’t pay the principal and interest on outstanding debt. A number were in technical default, and resulted in the first Colorado public bankruptcy proceedings in many years. These problems prompted amendments to the Special District Act,

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<sup>51</sup> Oversight of Metropolitan Districts – Department of Local Affairs, September 2006 Performance Audit, Office of the State Auditor.

which purported to solve the problem,<sup>52</sup> but some observers have noted that defaults and bankruptcies could possibly recur.

### ***Regional Service Authorities***

A 1972 constitutional amendment referred by the legislature added a new section allowing regional service authorities to be formed out of part or all of one or more counties.<sup>53</sup> In the five years that followed, each effort to establish an RSA was stymied, in spite of the fact that the Service Authority Act of 1972<sup>54</sup> specifically "...encourages single service authorities to transcend local government boundaries in the interest of more efficiently providing services to the inhabitants."<sup>55</sup>

The first successful organization of an RSA was the Ouray County Regional Service Authority in 2000. It provides financing and joint operation of a medical clinic with a \$300,000 budget, and is still the only RSA organized in the state.

### ***Regional Transportation District***

The Regional Transportation District (RTD) was organized in the Denver metropolitan area in 1969 to begin planning a regional mass transit system. Until then, the area had been served by a number of transit agencies, many of which were privately owned. In 1973 the RTD was given the authority by the legislature to levy a 0.5% sales tax, which was first collected in 1974, and the agency began acquiring existing transit companies. The largest of these was the Denver Metro Transit Agency, owned and operated by the City and County of Denver, which it took over from the Denver Tramway Company.

Originally governed by an appointed Board of Directors, a 1980 ballot initiative changed RTD to an elected Board. In 1983 the Board was given the authority to levy an additional 0.1% sales tax, and the taxable base was lowered by exempting the sales of basic necessary commodities, such as food for home consumption and home heating fuel. The 0.6% sales tax has provided the basis of tax support for the RTD transit system since that time.

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<sup>52</sup> e.g., 32-1-1101(6)(a), C.R.S.

<sup>53</sup> Art. XIV, §17, Colo. Const., and 32-7-101, C.R.S.

<sup>54</sup> 32-7-101, C.R.S.

<sup>55</sup> In re Reg'l Serv. Auth. v. Bd. of County Comm'rs, 199 Colo. 501, 618 P.2d 1105 (1980).

**Table 31: RTD Sales Tax Revenue 1996-2006**

Year	RTD Sales Tax Revenue
1996	\$153,807
1997	\$164,565
1998	\$179,990
1999	\$202,303
2000	\$224,182
2001	\$224,648
2002	\$213,668
2003	\$210,447
2004	\$221,276
2005	\$386,427
2006	\$399,557

In 1987 the RTD was given the authority to construct, operate and maintain a “fixed guideway system,” now referred to as light rail. In 1994 service began through downtown Denver on the 5.3 mile Metro Area Connection (MAC), now known as the Central Corridor Light Rail Line, connecting the Park ‘N’ Ride at I-25 & Broadway to the terminus at 30<sup>th</sup> Ave. and Downing St. The cost of this initial line was \$117 million, and was paid using existing RTD revenue, reserves and bonds with no tax increase.

The \$178 million Southwest Corridor line was added from I-25 & Broadway along Santa Fe Blvd. to Mineral Road, with service beginning in 2000. The Central Platte Valley (“C Line”) spur was added to the Central Corridor line from Colfax Ave. to Union Station, serving the three major professional sports venues. This 1.8 mile line opened for service in 2002 at a total cost of \$48 million.

The latest section to go into service was the \$879 million “T-Rex,” with 19 miles of rail lines southeast along I-25 from Broadway & I-25 to Lincoln Ave. in Douglas County, with a spur east along I-225 to South Parker Road in Arapahoe County, which began operation in November 2006.

In 2002, the state legislature granted the RTD authority to conduct an election to approve an additional .4% sales tax, which passed in 2004, and was first levied on January 1, 2005, to pay for the “FasTracks” system.<sup>56</sup> Its completion date is planned for 2017, when the 137-mile FasTracks system will extend existing light rail to Arvada, Golden, Highlands Ranch, south into Douglas County, and the entire I-255 corridor, while building new commuter rail lines to DIA,

<sup>56</sup> 32-12-119.4, C.R.S.

Boulder and Longmont, in addition to other improvements. The total cost will be \$4.7 billion, with about half paid by sales tax revenue bonds.

### ***Intergovernmental Authorities***

The same 1970 ballot measure that added the Regional Service Authority Law to the state constitution also included provisions authorizing local governments to contract with each other to provide services. The enabling Intergovernmental Relationships statute<sup>57</sup> facilitated inter-local cooperation, almost without limit. It allows any two or more local governments to create a separate governmental entity by contract, to which can be delegated any power or authority that the contracting governments have in common, including the imposition of debt and levying of taxes.<sup>58</sup> There are 24 such intergovernmental authorities in existence today, and five are directly involved in surface transportation development. These five range from the Black Hawk Transportation Authority, organized in 1996 under a contract between the Town of Black Hawk and the Black Hawk Business Improvement District, with a \$1.1 million budget, to provide local bus service, to the Southeast Transportation Authority in Greenwood Village, organized in 1997 between Greenwood Village and the Goldsmith and Greenwood South metropolitan districts, with a with a \$2.1 million 2006 budget to provide local transit service.<sup>59</sup>

While not a separate contract-established governmental entity like those above, the City of Colorado Springs organized the Front Range Express (FREX), a commuter bus transit operation north into Denver, in 2003 with a Federal Transit Administration grant for \$5.3 million. CDOT committed funds in 2002 to study the feasibility of commuter service along the Front Range, and through 2006 the operation (about \$1.7 million annually) has also been supported by a grant from the Town of Castle Rock. 2007 ushered in a new era of cooperation on FREX, with Douglas County, Monument, Fountain and the Pikes Peak Rural Transit Authority joining in to support the operation. RTD is a non-contributing signatory, as well, and CDOT has approved a grant of \$6.32 million out of the SB 97-01 funds that must be earmarked for transit.<sup>60</sup> FREX must provide a 20% local match to receive the grant.

The latest effort in this arena is the proposed Rocky Mt. Rail Authority, which would be formed by intergovernmental agreement between a number of cities and counties along the Front Range and I-70 corridor to Grand Junction, and would build, operate and maintain a commuter (heavy) rail system with federal assistance. The Ranger Xpress system could cost as much as \$9 billion, paid for by bonds that would have to be approved by the voters, perhaps as early as 2008. The Ranger Xpress has received a \$1.2 million planning grant from CDOT, and proponents are discussing it with various local governments in order to secure the local match needed to qualify to use these funds for a feasibility study.<sup>61</sup>

<sup>57</sup> 29-1-201, C.R.S.

<sup>58</sup> Article XIV, §§18(2)(a) and 18(2)(b), Colo. Const., and 29-1-203, C.R.S.

<sup>59</sup> The Roaring Fork Transit Authority reorganized from a 1983 intergovernmental authority to a rural transportation authority in 2000, therefore it is listed under that category below.

<sup>60</sup> See [State Sources of Revenue](#), "Surplus Revenue," below.

<sup>61</sup> "High-speed-rail Plan Surfaces," [Rocky Mt. News](#), January 2, 2007, p. 11A; Douglas County specifically rejected it: [Douglas County News-Press](#); November 30, 2006, page 7.

### ***Rail Districts and Tunnel Districts***

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The first rail or tunnel district in the state was created for the sole purpose of building the Moffat Tunnel under James Peak. The genesis for the idea dates to at least 1896, when, on a trans-mountain excursion made with William Evans (the Territorial Governor's son), David Moffat was convinced that it was the route to put Denver on the map. He went broke in 1911 after boring a six mile hole.<sup>62</sup> For the next 11 years, a number of efforts to complete the project failed, until the 1921 Pueblo flood made political bedfellows out of legislators from Denver and Pueblo, allowing sufficient legislative votes to pass a bill. Separate taxing districts were created to control floods on the Arkansas and complete the bore that Moffat started.

Created in 1922,<sup>63</sup> the Moffat Tunnel Improvement District was formed covering nine counties,<sup>64</sup> to finance the completion of Moffat's project by issuing \$6.7 million in bonds, the first public debt for surface transportation in Colorado. The total cost of the tunnel was \$18 million by the time it opened in 1928. The final payment on the bonds was made in 1995, when the property and duties of the District were transferred to the Department of Local Affairs to continue ongoing operation and maintenance of the tunnel and its "pioneer bore," through which Denver Water Board transfers west slope water.<sup>65</sup>

The "Rail District Act of 1982"<sup>66</sup> was enacted to allow the organization of a rail district in the Town of Limon, to refurbish, operate and maintain the old Cadillac and Southern rail line from Limon to Calhan as a tourist attraction. The district was never formed, and no rail district has ever been organized, but the law is still in effect.

Similarly, a state law was enacted in 1987 to allow the organization of tunnel districts in the same way that fire protection and sanitation districts are organized.<sup>67</sup> This was done at the urging by people from Grand County who were interested in boring a tunnel under Berthoud Pass. No tunnel district has ever been organized under this statute.

### ***Public Highway Authorities***

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In 1987 the state enacted the "Public Highway Authority Law," allowing the construction and maintenance of public highways in the metropolitan area of the state, within more than one county and/or municipality by intergovernmental contract between the cities and counties.<sup>68</sup> The law allows a public highway authority to issue bonds, and finance the debt service and general operations with tolls. An additional vehicle registration fee of not more than \$10 may also be imposed on all motor vehicles within the boundaries of the authority. In addition, the

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<sup>62</sup> *Colorado – A History of the Centennial State*, Abbott, Carl, Stephen Leonard, and Thomas Noel; University Press of Colorado, Boulder 2005, p. 269.

<sup>63</sup> SB 22-3, passed in the 23rd General Assembly's Extraordinary Session called by the Governor.

<sup>64</sup> Denver, Grand, Moffat, Routt, and portions of Eagle, Gilpin, Boulder, Adams and Jefferson counties.

<sup>65</sup> SB 96-233.

<sup>66</sup> 32-12-101, C.R.S.

<sup>67</sup> 32-1-103(22.5), C.R.S.

<sup>68</sup> 43-4-501, C.R.S.

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board of directors may establish local improvement districts within the authority to pursue the financing, construction, operation and maintenance of specific highway projects.

In the absence of any funds or prospects for funding from the state and federal sources, Adams, Arapahoe, and Douglas counties joined together to form the E-470 Authority through an intergovernmental Memorandum of Understanding on February 26, 1985. When the original E-470 Authority was created, no state statute existed to grant the authority the combination of powers and revenue sources it needed to build the highway. Through E-470's initiative and lobbying efforts, the needed legislation was enacted by the state legislature.<sup>69</sup>

In 1986, the E-470 Authority issued revenue bonds totaling \$722 million, before the effective date of a federal tax reform provision limiting the amount of interest that tax-exempt bond proceeds could earn (arbitrage). The Authority built an initial stretch of highway from I-25 to Parker, letting the rest of the bond proceeds collect interest until construction began on Phase 1 in 1991. The toll from I-25 to Parker, first charged in July 1991, was 25¢.

When the 27-mile beltway was finally completed in January 2003, it connected C-470 at I-25 in the southeast metro area to I-25 near 160<sup>th</sup> Ave in the north. Tolls were gradually raised to their current rates, which vary between \$.75 and \$2.00 for each segment, based roughly on the length of travel. If one were to travel from I-25 in Douglas County, the entire length of the highway to its terminus in Adams County, the total paid in tolls would be \$9.75.

Following on the relative success of E-470, the Northwest Parkway Public Highway Authority was organized in 1999 to build a highway connecting E-470 and the Boulder Turnpike (US 36) at I-25 and 157<sup>th</sup> Ave. The Authority was formed by contract between the general-purpose governments of the City and County of Broomfield, Town of Lafayette and Weld County, and is supported by toll revenue. The total cost of tolls to travel its full length is \$2.00. The \$416 million, 11-mile parkway from Broomfield to E-470 has attracted just half the traffic projected since it opened in 2003.

### ***Regional/Rural Transportation Authorities***

The "Rural Transportation Authority Law" was enacted in 1997, at the behest of officials from outside the metro area, in the hope of funding needed projects with a special authority. The statute was known as the "Rural Transportation Authority Law" until January 1, 2006, after which time it's called the "Regional Transportation Authority Law."<sup>70</sup>

The current law allows for two types of entities to be formed: 1) Regional Transportation Authorities within the boundaries of the RTD, or 2) Rural Transportation Authorities elsewhere (both called RTAs below). Either type of RTA is a distinct political subdivision of the state, and can be formed by any combination of two or more municipalities and/or counties by contract, but the voters within the boundaries of the authority must approve the contract. The Colorado Transportation Commission may also join in the contract. Both variations of RTA have virtually

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<sup>69</sup> "Facts About E-470," <http://www.e470.com/Default.aspx?tabid=80>

<sup>70</sup> 43-4-601, C.R.S.

the same operational authority as does a Public Highway Authority (see above), with the additional powers to:

- Impose a “visitors benefit tax” of no more than 2% on persons who purchase overnight accommodations within the boundaries of the RTA, and
- Impose a sales and/or use tax within the RTA’s boundaries with voter approval; such sales and/or use tax may be in different rates within the different territories of the contracting governments.

RTAs have essentially the same powers for raising revenue as do Public Highway Authorities. Four have been organized to date, building highway interchanges and other road/highway projects. The four RTAs in existence today include:

- **Baptist Road RTA (El Paso County)** - Organized by El Paso County and the Town of Monument, the purpose of this RTA is to design, plan, finance, and construct road improvements, including medians, curb and gutter, sound walls, storm drainage, sidewalks and landscaping, in a number of planned developments nearby. A 1999 election approved a 1% sales tax, which can pay for a debt up to \$25 million; the 2003 budget was \$295,000, with revenue consisting of residential and commercial impact fees on proposed development
- **Roaring Fork RTA (RFTA)** - Supported by a sales tax of 0.2% in Basalt, 0.4% in Glenwood Springs, 0.5% in Carbondale and Eagle County, and 0.7125% in Pitkin County, RFTA’s 2003 budget was \$16 million to operate transit services in the Roaring Fork Valley.
- **Gunnison Valley RTA** - Formed by the City of Gunnison, the towns of Crested Butte and Mt. Crested Butte and Gunnison County, the service provided is transit for tourists and local residents. Financing comes from a 0.6% sales tax in all jurisdictions except the City of Gunnison, where a 0.35% sales tax is levied; the 2003 budget was \$829,080.
- **Pikes Peak RTA** - This RTA was formed in 2004 to construct, maintain, and operate roads and bridges and improve transit service within El Paso County, the Cities of Colorado Springs and Manitou Springs, and the Town of Green Mountain Falls. A 1% sales tax for ten years will be reduced to 0.45% thereafter; the annual budget is about \$70 million.



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## TRANSPORTATION REVENUE

Revenues to pay for transportation are collected by the federal, state, and local governments. Each level of government imposes taxes and fees to sustain its role in building and maintaining transportation infrastructure.

### Federal Sources of Revenue

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Federally imposed taxes and fees are deposited in the Federal Highway Trust Fund. Tax sources for the fund include a 18.4 cent tax on motor fuels as well as excise taxes on truck tires, sales of trucks and trailers, and heavy vehicle use. The Mass Transit Account and the Leaking Underground Storage Tank Trust Fund both receive a relatively small portion of federal motor fuel taxes. The General Fund receives revenues equivalent to 2.5 cents per gallon of the tax on gasohol and some other alcohol fuels plus an additional amount equaling 0.6 cent per gallon for fuels that are at least 10 percent ethanol. The trust fund's Highway Account receives the remaining portion of the fuel tax proceeds. Colorado received \$425.4 million in federal funds during FY 2006. Federal funds received by Colorado from FY 1991 through FY 2006 are shown in the chart below.

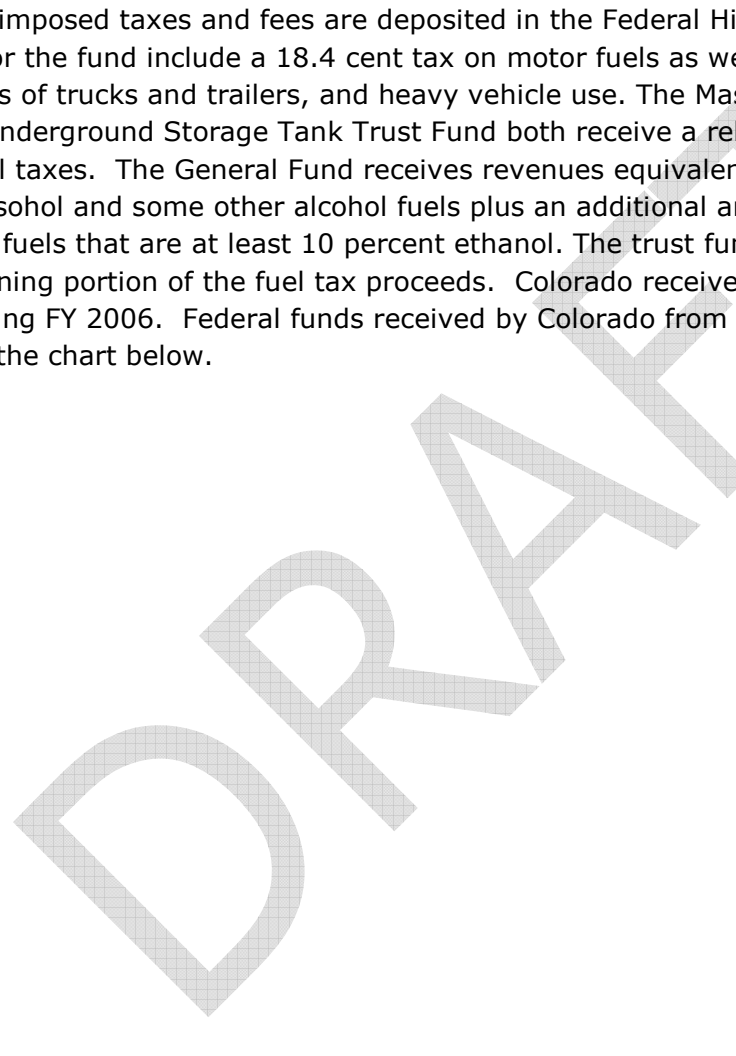
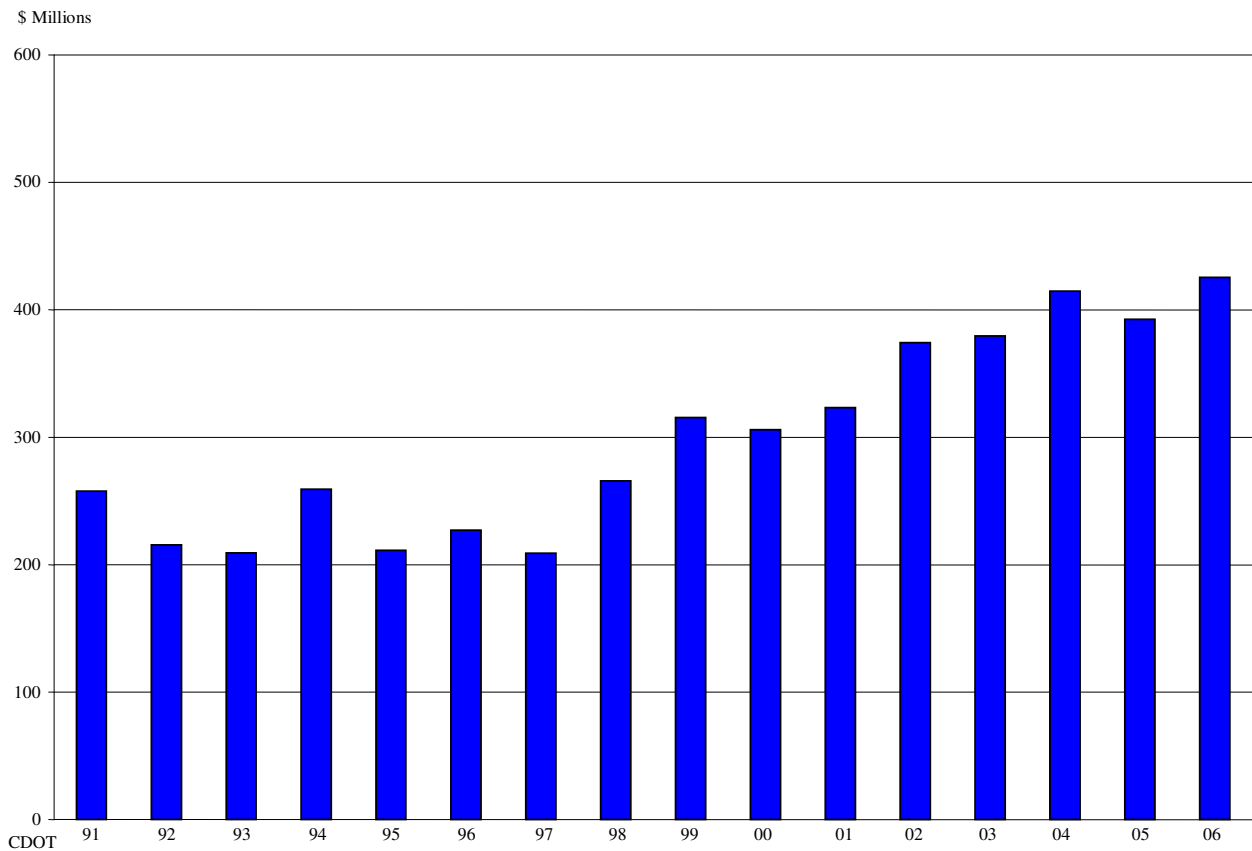


Figure 16: Federal Highway Funds Apportioned to Colorado



## State and Local Sources of Revenue

Many of the milestones in highway finance occurred only after local governments spent long hours lobbying the state for money to build and maintain roads, bridges and streets. Their position has always been that the state’s transportation system is best managed by the state in partnership with its local governments, and that the state’s highway system connects local road and street systems. No level of government alone can create the unified surface transportation system its citizens need.

In addition, there has always been sharp competition between the counties and municipalities for any money that the state chooses to share locally. Intergovernmental transfers between all these jurisdictions present a web of complexity, the detail of which is difficult to grasp. What follows is a simplified presentation of these relationships.

In 1930 Colorado joined a number of other states in developing a highway-user revenue shareback formula with local governments. This formula, as detailed in Table 32, has changed over the years.

**Table 32: History of State-Local Shareback Formulas**

Year	State	County	Municipal	Sources
1930	70%	27%	3%	Fuel taxes
1953	65%	30%	5%	Fuel taxes, driver's license fees, vehicle registration fees, and penalty assessments (traffic fines)
1959	65%	26%	9%	All sources, after 1979 referred to as "old money"
1971	60%	22%	18%	"New money" formula applied to rural-urban shareback of a portion of vehicle registration fees, based on where vehicle was registered; increased driver's license fees.
1979	60%	22%	18%	Fuel taxes >7¢/gal. and sales taxes on auto products considered "new money"; "old money" still on 65/26/9 formula

### State Sources of Revenue

The early period of ad hoc state funding of transportation projects came to an end in 1929, when the state agreed to share the newly-increased gas tax: 27% to counties and 3% to municipalities beginning the following year. Still, there were complaints that all the revenues automobiles were generating for the state were not going into the roads and highways, and the surface transportation system needed to be improved. The system was dramatically changed with a 1934 citizen-initiated amendment to the state constitution:

On and after July 1, 1935, the proceeds from the imposition of any license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state.<sup>71</sup>

The courts ruled that the highways of the state were, "in effect, made the producers of a special fund,"<sup>72</sup> and the revenue produced by the licenses, fees or other charges went into a special fund to pay for the cost of constructing and maintaining the state road and highway system. This practice was formally codified in 1953 with the creation of the Highway Users Tax Fund.

### Highway Users Tax Fund

The Highway Users Tax Fund (HUTF) was created in statute by the Legislature in 1953<sup>73</sup> to account for state highway revenue,<sup>74</sup> and is the primary source of state operating and

<sup>71</sup> Art. X, §18, Colo. Const. Note: this provision was amended by referred measure in 1974, adding exemptions for aviation fuel.

<sup>72</sup> Johnson v. McDonald, 97 Colo. 324, 49 P.2d 1017 (1935)

<sup>73</sup> 43-4-201, C.R.S.

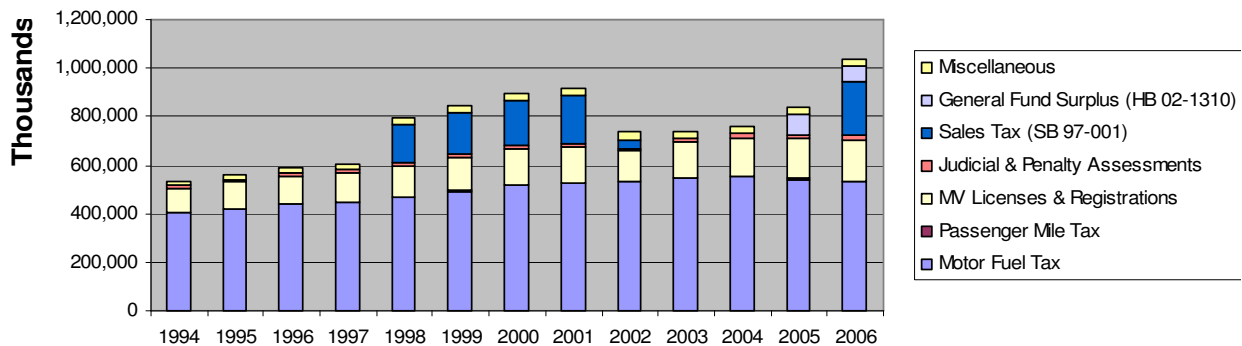
maintenance funding for transportation. Originally, revenue from motor fuel excise taxes, annual vehicle license and registration fees, and passenger-mile taxes (on vehicles with a capacity of over 15 passengers) were credited to the HUTF. Over the years a variety of additional revenue sources have been earmarked for the HUTF, and some have been rescinded. They include:

- Motor vehicle registration fees
- License plate fees
- Passenger-mile tax
- Traffic offense fines
- DUI fines
- Motor vehicle penalty assessments
- Gross ton-mile tax (1955-1988)
- Sales and use taxes on automobiles and associated goods (1979-1985)
- A portion of the state sales tax (SB 97-001)
- A portion of revenues above the state's 4% reserve requirement (HB 02-1310)

Each of these sources will be dealt with in more detail below.

The years 2000-2002 saw a number of legislative bills adjusting revenues and/or expenditures in the HUTF. Bills in the '00 session were initiated primarily to deal with the excess state revenues of the early TABOR period (1993-2000), and bills in '01 and '02 were intended to handle the state's declining fiscal position during that recessionary period. In all, they combined to complicate the HUTF system to an extraordinary extent. The bills having a major

**Figure 17: HUTF Collections 1994-2006**



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impact will also be discussed in detail below.

Four state departments share responsibilities for administration of the HUTF:

- The Office of the State Treasurer manages the Fund and is responsible for the annual calculations by which monthly distributions from the Fund are made.
- The Judicial Department and State Court’s Administrators Office collect various court fines and fees, and deposits them into the Fund.
- The Department of Revenue collects fees for motor carrier registrations, the passenger mile tax, fuel taxes, and driver’s license and vehicle registration fees. The Motor Vehicle Division also must send to the State Treasurer the number of vehicles registered to each municipality and county, as certified by each county clerk and recorder.
- The Department of Transportation annually provides the State Treasurer data on county and municipal road and street mileage, as well as bridge deck square footage, derived directly from the local jurisdictions.

The Revenue and Judicial Departments each are responsible for collecting dollars that are eventually spent on roads: the motor fuel tax, motor vehicle registration and driver’s license fees and charges, the passenger mile tax, and collections for various penalties and assessments for traffic-related offenses. The state’s fuel tax contributes the lion’s share, and a number of smaller transportation-related revenue sources have been dedicated to the system for a number of years. Annually the state’s General Fund may also provide considerable additional support by means of various direct transfers. The size of these transfers varies significantly depending upon the strength of the economy and the levels of revenue the state collects.

### ***Motor Fuel Tax***<sup>75</sup>

The largest source of revenue dedicated to the HUTF, the state Motor Fuel Tax is levied on gasoline, gasoline blends and special fuels, which include diesel, kerosene, liquefied petroleum gases and natural gas. The rate of tax is 22¢ per gallon on gasoline and 20.5¢ per gallon on all other (special) fuels, and is imposed on retail purchasers of the fuel.<sup>76</sup> These levels of taxation have been in effect since 1991 and 1992 respectively, with gradual increments added since their inception in 1919. The rate of tax per gallon on all fuels was the same until 1983, when the tax on gasoline was increased at different times and rates from other fuels.<sup>77</sup>

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<sup>75</sup> 39-27-101, C.R.S.

<sup>76</sup> There are certain exemptions from this tax, notably fuel used exclusively for farm use and fuel used by state and local government vehicles.

<sup>77</sup> 39-27-101, C.R.S.

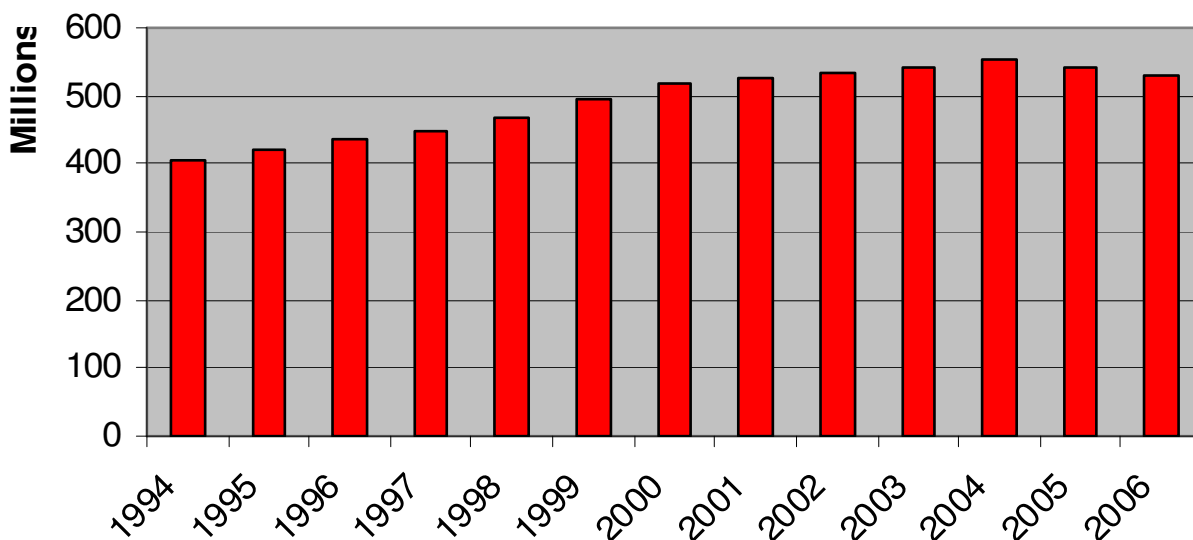
**Table 33: Motor Fuel Tax History**

Category	Rate	Effective Date
Gas and Special Fuel Tax	1 ¢	1919 through 1922
	2 ¢	1923 through 1926
	3 ¢	1927 through 1928
	4 ¢	1929 through 1933
	5 ¢	1934
	4 ¢	1935 through 1946
	6 ¢	1947 through 7/31/1965
	7 ¢	8/1/1965 to 8/31/1966 <sup>78</sup>
	6 ¢	9/1/1966 through 6/30/1969
	7 ¢	7/1/1969 to 7/1/1981
	9 ¢	7/2/1981 to 6/30/1983
Gas Tax	12 ¢	7/1/1983 to 6/30/1986
	18 ¢	7/1/1986 to 7/31/1989
	20 ¢	8/1/1989 to 12/31/1990
	22 ¢	1991 to present
Special Fuel Tax	13 ¢	7/1/1983 to 6/30/1986
	20.5 ¢	7/1/1986 to 6/30/1989
	18.5 ¢	7/1/1989 to 7/30/1989
	20.5 ¢	8/1/1989 to 12/31/1989
	18 ¢	1/1/1990 to 12/31/1991
	20.5 ¢	1/1/1992 to present

Collections of motor fuel taxes steadily grew as usage increased through state Fiscal Year 2004. Since that time, however, rising cost per gallon, improved fuel efficiency and the associated slowing in consumption growth, has put a damper on sales. Since fuel taxes are based upon a unit cost (per gallon) rather than the monetary cost like sales taxes (per dollar purchased), the fuel tax revenue actually declined in FY 2005 and 2006, even though the cost of fuel increased dramatically.

<sup>78</sup> A 1 cent emergency motor fuel tax for 1965 flood disaster relief was passed effective August 1, 1965 through August 31, 1966.

**Figure 18: Motor Fuel Tax Collections 1994-2006**



**Motor Vehicle Registration and Driver’s Licenses Fees**

All motor vehicle registration fees are deposited into the HUTF. Registration and license fees together represented about 17% of all HUTF revenue in 2006, down from their historic high in 2004 of 21%. How the fee revenue is charged, however, is not so simple.

In 1960, a special registration fee of \$1.50 was imposed due to an immediate need for additional highway funding, and was set to expire in 1961. Its sunset was delayed, however, and was made permanent in 1973.<sup>79</sup> House Bill 71-1038 apportioned \$2.50 of each regular registration fee to the county or municipality in which the vehicle is registered.<sup>80</sup>

Under HB 00-1227, vehicle registration fees are imposed in different amounts in different years, depending upon the state’s position relative to the TABOR limit on “fiscal year spending.”<sup>81</sup> Each year the Legislative Council staff prepares quarterly revenue forecasts, and the March forecast is used to gauge the state’s budget position for the following year. If that estimate indicates that the state will receive revenue in excess of \$330 million over the TABOR limit, then the Department of Revenue is required to lower vehicle registration fees as a measure of relief to the payers of those fees in the coming year. This eliminates some of the state refund, which would be returned to others than those who paid it, in the form of various statutory refunds of TABOR “excess revenues.”

<sup>79</sup> 42-3-310(1) and (2), C.R.S.

<sup>80</sup> 42-3-129, C.R.S. 1973, now relocated to 42-3-310(4), C.R.S.

<sup>81</sup> Art. X, §20, Colo. Const.

There are a number of registration fee schedules, based on the type of vehicle, each of which is adjusted in this way. To use a common type, for example, the annual fee on a passenger car in years when there is not expected to be surplus TABOR revenue is based on two factors:

- Vehicles weighing 2,000 pounds or less, \$6; 4,500 pounds or less, \$6 plus \$.20 per 100 pounds, or fraction thereof, of weight over 2,000 pounds; more than 4,500 pounds, \$12.50 plus \$.60 per 100 pounds, or fraction thereof, of weight over 4,500 pounds.<sup>82</sup>
- An additional registration fee is imposed, based on the age of the motor vehicle: motor vehicles less than seven years old, \$12; seven years old but less than 10 years old, \$10; 10 years old or older, \$7.

In other words, a car weighing less than one ton and 7-10 years old would cost \$16.00 to register in those years. When a TABOR surplus is expected in the upcoming year, the fee would be two dollars and fifty cents, which takes the place of the weight factor, plus the same additional registration fee based on its age as in the non-TABOR-refund years.<sup>83</sup> The additional fee based on weight is not applied, so the same hypothetical vehicle would cost only \$12.50 to register in those years.

The current Driver's license fee is \$15, but an additional \$.60 is added to all registration fees for the Identification Security Fund,<sup>84</sup> and \$2.00 is added to any license with a motorcycle endorsement for the Motorcycle Operator Safety Training Fund.<sup>85</sup> For all licenses issued by a county clerk and recorder, that office keeps \$6 of the fee, and the \$9 balance is forwarded to the Department of Revenue and then to the State Treasurer for deposit into the Highway User Tax Fund.

Total registration and license fee revenue, which is how these data are reported to the State Treasurer, has remained fairly stable. In 2002 and 2003, years in which Colorado was experiencing an economic downturn, and there was insufficient General Fund revenue for a positive budget position, the higher registration fees were levied.

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<sup>82</sup> There is an exception to this scale for motor homes.

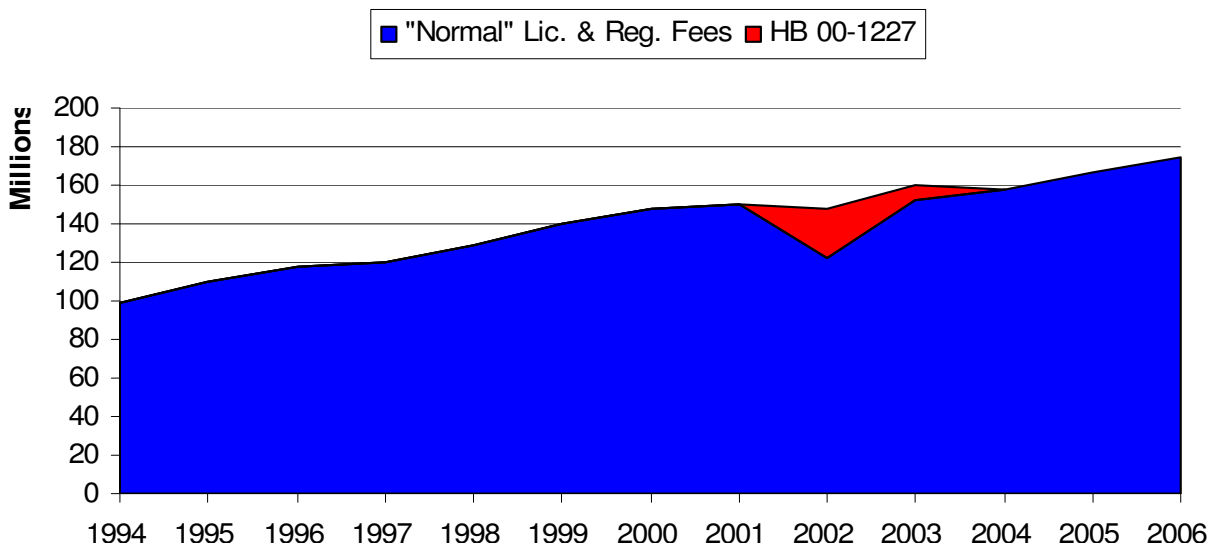
<sup>83</sup> 42-3-305(2)(b)(I), C.R.S.

<sup>84</sup> 42-1-220, C.R.S.

<sup>85</sup> 43-5-504, C.R.S.



**Figure 19: Motor vehicle registration and driver's license fees 1994-2006**



As Figure 19 shows, the operation of HB 00-1227 smoothed out the curve, shoring up the revenue stream, and raising the total of these fee revenues to normal levels in those years.

### ***Passenger Mile Tax***

The passenger-mile tax figured prominently in the early days of earmarking revenue for transportation. It was mentioned often in the campaign for the 1934 initiative, and was one of the original sources of funds earmarked when the HUTF was created in 1953. This may have been due to the propensity for people to travel by bus at that time. Since the 1960s, the passenger-mile tax has declined in importance as a source of funding, and the HUTF has seen increased dependence on automobile transportation and associated taxes and fees.

The tax of one mill per passenger-mile (number of revenue passengers times number of miles) traveled was first imposed in 1931.<sup>86</sup> Today, passenger buses pay on the following basis:

- Seating capacity of 14 or less - \$25 plus \$1.70 for each seat
- Seating capacity of more than 14 - \$25 plus \$1.25 for each seat in excess of fourteen
- Privately-owned buses for school pupils with a juvenile seating capacity (14" of lineal seat space) of 25 or less - \$15
- Privately-owned buses with a juvenile seating capacity of 25 or more - \$15 plus \$.50 for each seat over 25.<sup>87</sup>

<sup>86</sup> 42-3-134(21)(a), C.R.S.; (mass transit within a municipality is exempt from this tax)

As with the registration fees, buses pay the passenger-mile tax at a different rate in those years when a TABOR surplus is not expected, which are the figures cited above. When a TABOR surplus is expected, the passenger-mile tax rates are lowered:

- Seating capacity of 14 or less - \$18.75 plus \$1.25 for each seat
- Seating capacity of more than 14 - \$18.75 plus \$.95 for each seat in excess of fourteen
- Privately-owned buses for school pupils with a juvenile seating capacity (14" of lineal seat space) of 25 or less - \$11.25
- Privately-owned buses with a juvenile seating capacity of 25 or more - \$11.25 plus \$.40 for each seat over 25<sup>88</sup>

The passenger-mile tax generated \$535,924 in FY 2006, about one-half of one percent (.05%) of all HUTF revenue. The higher rate paid in 2002 and 2003 shored up this minor revenue stream, as with the registration fees, but the revenue has not yet recovered to the 2001 level.

**Table 34: Passenger Mile Tax 1997-2006**

Year	Revenue
1997	\$458,470
1998	\$485,222
1999	\$561,553
2000	\$618,394
2001	\$636,155
2002	\$584,235
2003	\$570,618
2004	\$536,966
2005	\$555,798
2006	\$535,924

***Judicial Collections and Penalty Assessments***

The Justice of the Peace Act, passed in 1861, called for all fines collected to be paid over to the County Treasurer, and in 1876, the first school law required all fines, penalties and forfeitures to be paid to the school district or county. Thus, there is a long tradition of all such collections being earmarked for a specific purpose.

<sup>87</sup> 42-3-305(2)(c), C.R.S.

<sup>88</sup> 42-3-306(2)(c), C.R.S.

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The original Uniform Motor Vehicle Law, passed in 1931, had five parts:

- Motor Vehicle Department
- Registration
- Operators and Chauffeur's Licenses
- Operation of Vehicles on the Highway
- Coordination

In 1935, after the initiated HUTF amendment earmarking all highway-related revenue for highways, streets and roads, this law was amended to require that all fines and forfeitures collected for violations under Parts III and IV of the act were to be sent 50% to the state and 50% to the county.<sup>89</sup>

Over the years, a variety of fines, fees and forfeitures have been specifically added, creating a long list of such revenue that is transferred by the judge<sup>90</sup> or clerk of the court to the Colorado Judicial Department, whence it is credited to the HUTF and distributed by the State Treasury. These include violations of laws covering emissions inspections, insurance, Ports of Entry clearance, using seat belts, driving under the influence of alcohol (DUI), defacing property, speeding, and other traffic offenses. A few have unique distribution requirements:

- Air pollution inspection violations fines are retained by the law enforcement agency that issued the citation.
- Automobile insurance fines are retained 50% by the law enforcement agency that issued the ticket, and 50% transferred to the county treasurer.<sup>91</sup>
- Bond forfeiture in traffic cases are transferred 100% to the HUTF, but in DUI cases, 50% is given to the city or county.<sup>92</sup>
- Driver's license violations fines are transferred to the state General Fund, except that fines for Class A or B traffic infractions and Class 1 or Class 2 misdemeanor traffic offenses are credited to the Victim's and Witnesses Assistance and Law Enforcement Fund.<sup>93</sup>

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<sup>89</sup> These parts were renamed the "Uniform Safety Code of 1935," whereas the rest of the Act was named the "Uniform Motor Vehicle Law."

<sup>90</sup> The Justice of the Peace Act was eliminated in 1962, and all their duties were transferred to county court judges.

<sup>91</sup> 42-4-1409 and 1701((5)(a), C.R.S., respectively.

<sup>92</sup> 42-4-1301, C.R.S.

<sup>93</sup> 42-1-217(4), C.R.S.

- Fines and penalties for failing to get valid clearance at a Port of Entry are transferred directly into the State Highway Fund, unless the citation is issued by a local law enforcement officer, in which case 50% is transferred to that jurisdiction.<sup>94</sup>
- Failure to use a seat belt fines are 100% transferred to the locality that issued the citation, unless the citation was issued by a State Patrol officer, in which case it goes to the HUTF.<sup>95</sup>
- The double fines for speeding in a construction zone are credited to the Highway Construction Workers Safety Account in the HUTF for work zone safety equipment, signs, and law enforcement <sup>96</sup>

### **Gross Ton Mile Tax**

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In 1955, the state initiated the Gross Ton Mile Tax (GTM), a tax levied on motor carriers on the weight of their loads and miles traveled. After altering the original tax rates to a minimum of \$150 in 1986, the legislature abolished this tax in 1989, replacing the lost revenue by increasing the registration fees on trucks.<sup>97</sup>

### **Sales Tax**

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Sales and use taxes on automobiles and associated goods were earmarked for the HUTF in 1979 legislation known as the "Noble Bill," named for its prime sponsor in the Senate, Majority Leader Dan Noble of Norwood.<sup>98</sup> This policy followed the principle laid down in the 1930s, whereby state revenue derived from vehicles, at that time gas tax and vehicle registration fees were earmarked by the voters for roads, bridges, highways and associated costs. At the time that initiative passed, there was no state sales tax, although one was enacted only two years later.

The Noble Bill was designed to direct additional money to the state-local shareback system for highways, roads and streets. This sales and use tax distribution ended in 1988, when the Noble Bill was repealed. Weak state revenue growth prompted the legislature to phase out and repeal sales tax dollars that were shared with local governments.

So-called state "surplus revenue," as it is often referred to, is either (a) revenue that has to be refunded to the citizens, or (b) revenue caught between two different state spending limits. In the first case, the money is refunded to the taxpayers, but the second case is more complex, and requires an understanding of the two separate spending limits.

The best known of these two limits is in the Taxpayer's Bill of Rights, or TABOR, which limits spending in each year to a percentage increase over the previous year's spending of inflation

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<sup>94</sup> 42-8-109(2), C.R.S.

<sup>95</sup> 42-1-217(1)(e), C.R.S.

<sup>96</sup> 42-4-1701(4)(c)(II)(C), C.R.S.

<sup>97</sup> 42-3-123(14), CRS (1984 Repl. Vol.), repealed by SB 89-159.

<sup>98</sup> SB 79-536, codified at 39-26-123, C.R.S. (1984 Repl. Vol.)

plus population growth.<sup>99</sup> The other is a limit the state legislature imposed by statute, legally called the 6% General Fund appropriation limit, but more commonly referred to as the “Arveschoug-Bird” limit.<sup>100</sup> The General Fund is commonly considered the state’s regular operating fund. Other funds called “cash funds” finance specific programs, or are earmarked for specific purposes, either as a matter of law or accounting practice. Since both of these are spending limits, they appear to be similar, but in fact are two separate limits, each from a different view of state government finances. An initial complication arose when funds collected in excess of the 6% limit were not in excess of the TABOR limit, which happened in each year from 1994 through 1996. Those revenues are a “surplus” in the General Fund, but not a TABOR surplus subject to a taxpayer refund. So, the state was allowed to keep and spend the money under TABOR, but could not spend it on general state operations.

The initial response to this dilemma was devised in SB 97-01, which defined how the “extra” General Fund money would be distributed. The bill stated that 10% of all state sales and use tax collected was from sales and use tax on motor vehicles and related items,<sup>101</sup> and would go to the HUTF for five years.<sup>102</sup> An exception to this transfer was if there was not sufficient money to spend up to the General Fund appropriation (6%) limit, after covering 1) required expenditures, including required transfers to the Capital Construction Fund, 2) the required General Fund 4% reserve, and 3) the 10% of sales tax HUTF allocation. In that case, the HUTF allocation would be reduced to fully fund the other requirements.

Moreover, the bill declared that the amount of sales and use taxes transferred to the HUTF pursuant to its provisions would all be credited directly to the State Highway Fund, thus bypassing “off-the-top” and local share distributions,<sup>103</sup> and could only be used for projects designated by the Transportation Commission in the “Strategic Transportation Investment Program.” HB 98-1202 extended this scheme for six more years and HB 99-1206 eliminated the time limit, as well as the required transfer to the Capital Construction Fund.

The 2000 legislative session was a busy one for this SB 97-01 system: HB 00-1259 took 0.34% from the General Fund and added that amount to the HUTF.<sup>104</sup> Also in that year, HB 00-1162 moved another .015% from the General Fund to the HUTF, SB 00-011 increased the HUTF allocation by \$67,000 (to be shared with counties and municipalities 26% and 9% to pay for the various provisions of that bill<sup>105</sup>), and HB 00-1227 increased the HUTF allocation to offset any shortage created by lower fees in good economic years.<sup>106</sup>

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<sup>99</sup> Art. X, §20(7)(a), Colo. Const.

<sup>100</sup> 24-75-201.1(1)(a)(II), C.R.S.

<sup>101</sup> 39-26-123, C.R.S.

<sup>102</sup> The bill directed other money to objects that were not transportation-related.

<sup>103</sup> These are fully discussed below.

<sup>104</sup> This was \$50,4598 and 0.6 FTE.

<sup>105</sup> See [Distribution of Funds](#), “Old Money,” below.

<sup>106</sup> See [Motor Vehicle Registration and Driver’s Licenses Fees](#), above

As the economy entered a recession in 2001, SB 01S2-023<sup>107</sup> limited the annual transfer to \$35.2 million. Then in 2002, the poor economy and resulting drop in state revenue caused the legislature to pass HB 02-1389<sup>108</sup> which transferred all the money from sales and use tax that would have gone to the HUTF into the General Fund. Additional adjustments were made to cover the revenue losses in the General Fund and the net result of all these actions is that there were no<sup>109</sup> SB 97-01 funds for transportation during the years 2003, 2004 and 2005.

Although the SB 97-01 statute codifying this approach<sup>110</sup> has been somewhat torturously amended, it essentially remains the same: if there is sufficient revenue expected in the Legislative Council estimates<sup>111</sup> to fully fund up to the 6% General Fund appropriations limit and required 4% reserve, then various amounts will be transferred to the HUTF in various formulae and amounts, then distributed directly to the State Highway fund.<sup>112</sup> It has proved to be a volatile revenue source, however, and its undependability has proved troublesome for highway finance and planning.

### ***The Population Adjustment ("Growth Dividend")***

HB 02-1310 delineated how any excess General Fund revenue that results from the 2000 Census population adjustment will be allocated. As noted previously, the primary limit imposed by TABOR on state government is on "fiscal year spending," which allows a percentage increase based on inflation and population increases. TABOR requires the use of "annual federal census estimates and such number shall be adjusted every decade to match the federal census."<sup>113</sup> When the 2000 decennial adjustment happened, the inaccuracy of the estimated numbers used since the 1990 census became clear. After the final numbers for the 2000 Census were in, the intercensal estimates turned out to be low, lowering the amount the state was able to retain in each year, and thereby keeping TABOR refunds artificially high.

The legislature declared in HB 02-1310 that the difference between (a) the amount of the state's spending in each of those years and (b) the amount that the state should have been allowed to spend under TABOR, or the "over-refunds" in those years,<sup>114</sup> be recouped as "lost revenues."<sup>115</sup> The stated purpose of this adjustment was "to fund transportation projects and other projects and services needed to meet the demands of the state's growing population."

HB 02-1310 also required that, after fully funding the 4% reserve and TABOR refunds, 2/3 of this "growth dividend" go to the HUTF, distributing the other third to the Capital Construction Fund. Since 2004, HB 02-1310 has directed \$152 million into the HUTF:

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<sup>107</sup> The prefix denotes the Second Extraordinary (Special) Session in 2001 as the origin of this bill.

<sup>108</sup> Codified at 24-75-218, C.R.S.

<sup>109</sup> House Bills 02-1209, 02-1445 and 02-1478, to name few.

<sup>110</sup> 39-26-123(3) and

<sup>111</sup> See Motor Vehicle Registration and Driver's Licenses Fees, above.

<sup>112</sup> Codified at 39-26-123(4), C.R.S. for the sales tax, and 43-4-206, C.R.S. on how the state allocation from the HUTF is used.

<sup>113</sup> Art. X, §20(7)(a), Colo. Const.

<sup>114</sup> 24-77-103(2)(a)(III)(C), C.R.S.

<sup>115</sup> 24-77-103(2)(a)(III)(D), C.R.S.

**Table 35: Amount Directed into HUTF**

Year	Amount Directed into HUTF
2004	\$5.60
2005	\$81.20
2006	\$65.30

Note: All values in millions

The Legislative Council forecasts over \$291 million will be diverted in FY2007.

Other minor sources of funds in the HUTF, deposited by the Department of Revenue, include:

- The Driver's License Administrative Revocation Account. The law provides that anyone whose license is suspended, cancelled or revoked due to violations of any traffic-related offense, must pay a \$60 restoration fee for reinstatement of their driver's license.
- Special License Plate Fees, paid when certain special plates are issued.<sup>116</sup>

**Capital Construction Fund**

The primary responsibility of the Capital Development Committee (CDC), established by House Bill 85-1070<sup>117</sup>, is to review and make recommendations concerning capital construction and controlled maintenance requests and proposals for the acquisition of capital assets of each state department and higher education institution in Colorado. The CDC forwards its recommendations to the Joint Budget Committee (JBC). House Bill 04-1465 extended the CDC to July 1, 2009, and SB 06-056 declared that, if the CDC statute were to be repealed, the authority to make capital expenditure priorities would devolve to the JBC.<sup>118</sup>

It is the CDC's statutory responsibility to review and hear funding requests for capital construction and controlled maintenance projects submitted by state departments and higher education institutions. The committee must study the capital construction request from the Transportation Commission for state highway reconstruction, repair, and maintenance, and determine the projects that may be funded from money available in the Capital Construction Fund (CCF).<sup>119</sup>

Revenue to the CCF for fiscal years 2001 through 2005 totaled \$417.7 million.<sup>120</sup> This was only about 25% of the total for the previous five-year period (FY 1995-96 through FY 1999-00), which totaled \$1.7 billion. This decrease reflected declining state revenue during the latter period, making less money available for Capital Construction, as well as the HUTF. Also fewer

<sup>116</sup> HB 02-1044, for example.

<sup>117</sup> 2-3-1301, C.R.S.

<sup>118</sup> Legislative Council Report on the Capital Development Committee, October 2004.

<sup>119</sup> 2-3-1304(1)(a.5), C.R.S.

<sup>120</sup> This is the latest year in which the CDC issued a Final Report.

Capital Construction dollars meant there was less spent for specific highway projects by the CDC. [A table showing these amounts can be found in Appendix G.]

Of the \$417.7 million allocated to Capital Development, \$210.5 million was appropriated for state departments that were not colleges and universities. CDOT's share of this subtotal was \$51.6 million, or 24.5 percent, over the five-year period. These Capital Development funds for highways are in addition to the HUTF transfers to the State highway Fund. By comparison, during the previous five-year period, FY 1996-2000, CDOT received \$209.5 million in Capital Development Funds for highway projects.

### ***Gaming Funds***

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The state Gaming Commission hears applications for grant funds to pay for projects that will ameliorate gaming-related impacts in the communities surrounding the gaming cities of Black Hawk, Central City, Cripple Creek, Ignacio and Towaoc. In each year, beginning in 1994, CDOT has applied for grant funds to help pay for construction and maintenance of the roads and highways surrounding the five gaming communities, namely:

- U.S Highway 6 and State Highway 119 to Black Hawk and Central City;
- U.S Highway 24 and State Highway 67 to Cripple Creek;
- U.S. Highway 550 and State Highways 72, 151 & 172, to Ignacio;
- U.S. Highways 160 & 666 to Towaoc; and
- Select local surrounding roads.

CDOT has received a total of \$32.4 million from the Gaming Commission for these projects from FY1995 through FY2007. CDOT's capital plan includes a FY2008 request of \$14.3 million.

### **Local Sources of Revenue**

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Local government revenue that contributes to transportation funding includes property tax, sales tax, use tax, specific ownership tax and impact fees. Each type of revenue is legally restricted in different ways, depending upon its use in different types of local jurisdictions.

### ***Property Tax***

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Counties must levy a special property tax for road and bridge purposes, which is credited to the Road and Bridge Fund. A 1971 law requires that each county share back to a municipality one-half of the revenue derived from the road and bridge levy on property within the municipality's jurisdiction.<sup>121</sup> Therefore, the county property tax is an important indirect

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<sup>121</sup> 43-2-202(2), C.R.S.



source of revenue for municipalities, in financing the construction and maintenance of their streets.

As noted previously, the property tax is a major source of general revenue for counties, and the portion that they retain of their road and bridge levy is the prime source of funding for their roads and bridges. The municipal shareback requirement provides a strong incentive for counties to keep the road and bridge portion of their mill low. In fact, in eight counties, the special Road & Bridge Levy in 2003 was zero, and another fifteen levied less than one mill. By keeping the Road & Bridge levy low, counties can keep more revenue from the property tax levy, but shortfalls in the road and bridge funds have to be made up from general revenue.

In 2003, county property tax revenue of \$999 million represented just over 34% of their total revenue, while municipalities received \$394 million from their mill levies in that year, about 10% of total municipal revenue.<sup>122</sup>

**Table 36: - Percentage of Total Local Revenue Derived from Property Tax**

	1975	1980	1990	2000	2003
Counties	37.8%	36.5%	40.5%	36.2%	34.3%
Municipalities	17.8%	14.4%	13.8%	12.6%	10%

### **Sales and Use Tax**

Sales and use taxes are levied by counties, but municipalities depend more upon them for ongoing operating revenue. Sales taxes are levied as a percentage of sales of tangible personal property and a limited number of services. Use tax is paid when such goods are sold without paying the sales tax on the transaction, when the property is stored, used or consumed in a particular location.<sup>123</sup> Although separate taxes that must be imposed separately, sales and use tax is usually considered a single revenue source, and is rarely discussed separately. (Some jurisdictions impose a sales tax but not a use tax.)

In 2003, municipalities received over \$1.7 billion from their sales and use taxes, nearly 44% of total municipal revenue, while counties, received \$335 million, which was about 13% of total county revenue.

**Table 37: Percentage of Total Revenue Derived from Sales Tax**

	1975	1980	1990	2000	2003
Counties	2.3%	2.9%	7.8%	14.7%	13.2%
Municipalities	27.7%	35.0%	42.7%	39.0%	43.9%

<sup>122</sup> Property tax here includes Specific Ownership tax.

<sup>123</sup> Colorado Tax Handbook, Colorado Legislative Council Research Publication No. 498, August 2002.

As discussed previously, RTD has levied 0.5% sales tax on taxable sales for most of the last 35 years. HB 02-1310 allowed the RTD Board of Directors to place a measure on the ballot to increase the levy another 0.6%, for construction and operation of the FasTracks rail system. The measure was approved in 2005, and RTD's total levy is now 1.1%.

### ***Specific Ownership Tax***

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Commonly referred to as the S.O. tax, this money derives from the tax paid when vehicles are registered. Based upon the class of vehicle and its age, the tax is structured to reflect the value of the vehicle as personal property. It is often considered a property tax in general summaries of the state tax structure.<sup>124</sup>

The S.O. tax is collected by the county clerk and recorder for most motorized vehicles and trailers, and by the Department of Revenue for tractor trailers and other large equipment. The S.O. tax is then apportioned to each local jurisdiction levying a property tax, on a pro rata share based upon the amount of property tax levied as a percentage of such tax countywide.<sup>125</sup> The amount of S.O. tax received by the county may be credited to the Road and Bridge Fund,<sup>126</sup> but there is no restriction on its use by any local taxing jurisdictions.

### ***Impact Fees***

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General purpose local governments (i.e., counties and municipalities) have the ability in statute to impose an impact fee, or development charge, to fund expenditures required by the local government for capital facilities needed to serve new development.<sup>127</sup> Such fee or charge is restricted in some ways, mostly so that each applicant is treated fairly and uniformly under the law. The statute granting this authority specifically states that it is a matter of "statewide concern," so the limitations apply to home rule cities and towns, as well as other types of jurisdictions.

A number of such fees or charges are imposed in Colorado, but only anecdotal information exists, since a central collection effort has not been undertaken to date. Many of the fees/charges imposed are for transportation-related improvements, taking the form of acceleration/deceleration lanes near subdivisions, road paving projects near new development, and intersection improvement.

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<sup>124</sup> The S.O. tax follows a different course, however. It is collected by the Department of Revenue and the county clerks and recorders, then redistributed to the property taxing jurisdictions. Other property tax is collected by county assessors and distributed.

<sup>125</sup> 42-3-107(24)(a), C.R.S.

<sup>126</sup> City of Aurora v. Bd. of County Comm'rs, 919 P.2d 198 (Colo. 1996)

<sup>127</sup> 29-20-104.5, C.R.S.

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## DISTRIBUTION OF TRANSPORTATION FUNDS

### HUTF

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As discussed above, revenues from a number of different sources are transferred into the HUTF, and they are disbursed according to different formulas and to different agencies from the fund. Many of these arrangements represent political compromises made over the years when increases in specific taxes or fees were proposed.

In June 2004, the Office of the State Auditor released a Performance Audit, examining the HUTF. The Report included a graphic representation of the HUTF, showing how each agency contributes to the administration of the HUTF, and how the funds flow in and out of the HUTF. This drawing has been used often since that time to explain how the HUTF operates.

The picture shows two streams of distributions out of the fund, according to two formulas for distributing funds between the state, the counties, and municipalities. Perhaps because state revenues were down in the years immediately preceding the Audit, and no direct distributions were made into the State Highway Fund, the picture did not represent a third stream of distribution which bypasses those formulas. The picture is an excellent depiction of the flow of funds into the HUTF, and is reproduced in Appendix F. For it to be a complete representation of the HUTF distribution process, however, it would need to have a third stream added, showing direct transfers into the State Highway Fund, for use by CDOT.

### “Off- the-top”

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Before any funds are expended from the HUTF, there are transfers made for specific state purposes. Over the years a number of agencies have received funds for work that was perceived as highway-related. The Office of Transportation Safety, the Department of Labor for the oil inspection program, and the Department of Corrections for the costs of producing license plates have received funds in the past.

SB 95-047 placed restrictions on using the HUTF for off-the-top purposes, and in 1996 most of these off-the-top diversions were phased out.<sup>128</sup> Currently, off-the-top spending is limited to the Colorado State Patrol (Department of Public Safety) and the Ports of Entry program (Department of Revenue), as well as a few other minor programs.<sup>129</sup> Presumably, all these purposes for which HUTF money is used meet the required constitutional standard of “costs of administration... and supervision of the public highways of this state,” although there has not been a judicial interpretation to test these annual appropriations.<sup>130</sup> The SB 95-047 limits removed most of the uses that might have been questionable.

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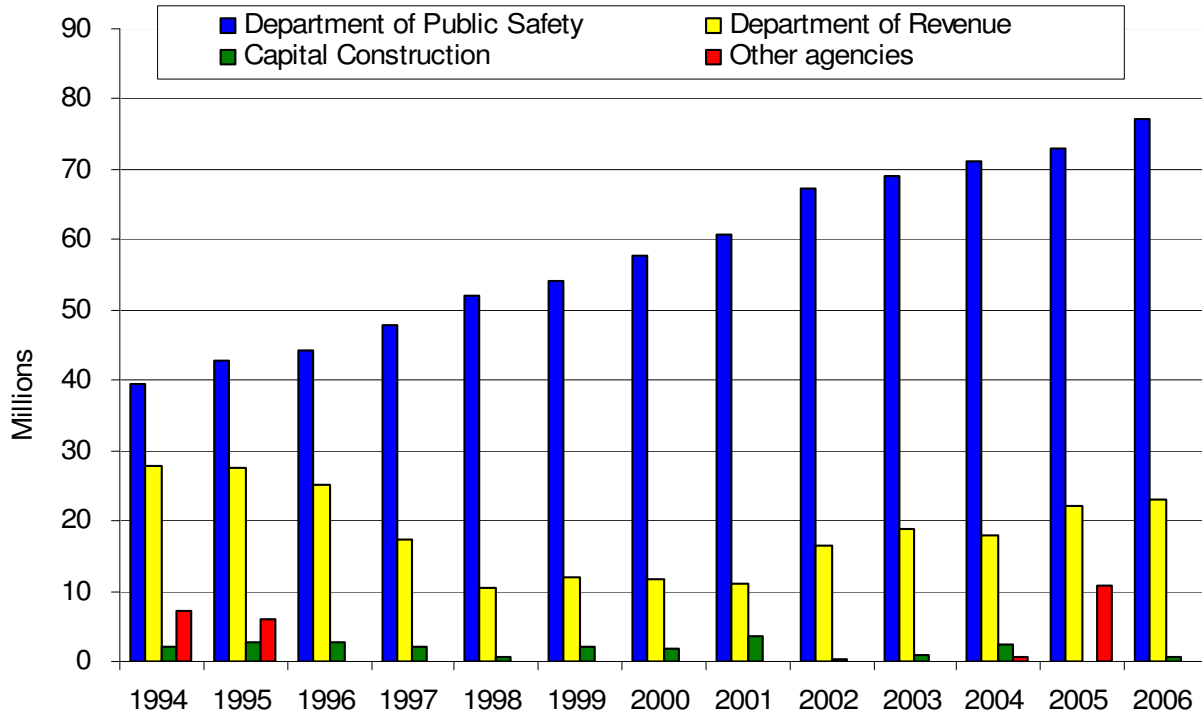
<sup>128</sup> A complete list of 1994-2006 off-the-top appropriations can be found in Appendix C.

<sup>129</sup> 43-4-201(3)(a)(1), C.R.S.

<sup>130</sup> Art. X, §18, Colo. Const., cited above; the initial court test of the HUTF ballot initiative discusses issues tangential to this. [Johnson v. McDonald, 97 Colo. 324, 49 P.2d 1017 (1935)]

The statute limits the off-the-top expenditures for highway supervision to 23% of the “net revenue” to the HUTF and 6% annual growth, regardless of any increase or decrease in any highway-related revenues.<sup>131</sup> This growth limit is calculated based on the previous year’s off-the-top supervision expenditures. It is not a proportion of revenues to, or distributions from, the HUTF, and there is not any other more specific monetary cap.<sup>132</sup>

**Figure 20: "Off-the-top" Diversions 1994-2006**



The Department of Public Safety (Colorado State Patrol) and Department of Revenue (Ports of Entry) receive off-the-top money before any other distributions are made for construction or maintenance. Each of those agencies also receives occasional transfers for capital needs. Other smaller amounts are diverted, including:

- The Department of Revenue receives some off-the-top money for its “express consent” program. Essentially, every motorist, by driving on the streets, roads or highways is considered to have given their expressed consent to be tested for alcohol consumption.<sup>133</sup> Fines for convictions and bond forfeitures under this law are given to

<sup>131</sup> 43-4-201(3)(a)(I)(A) and (B), C.R.S.

<sup>132</sup> 2004-05 Joint Budget Committee Appropriations Report, page 511

<sup>133</sup> 42-4-1301.1, C.R.S.

the Department of Revenue off-the-top, and any excess is sent back to HUTF for distribution to the state, counties & municipalities.

- Drivers must also pay a \$60 fee to restore a revoked driver's license, which is transmitted to the Department of Revenue and deposited into the Driver's License Administration Revocation Account. Any unused portion of that Account at the end of the fiscal year is transferred into the HUTF.<sup>134</sup>

Motorists Insurance ID database, added to the statutes in 1997, upon the recommendation of the Transportation Legislation Review Committee, to help reduce the uninsured motorist population.<sup>135</sup> The Department to Revenue contracts with a private agent to monitor compliance with the insurance requirements, and the costs are paid out of an off-the-top transfer.

After the off-the-top amounts are deducted each year, the balance in the HUTF is divided into areas that are apportioned by different formulas. There are three streams that different portions of the money follow, and each is distributed by a different formula. The so-called "old money" follows the 1<sup>st</sup> Stream, the "new money" follows the 2<sup>nd</sup> stream, and the 3<sup>rd</sup> stream is money that goes 100% to the State Highway Fund. (The first two of these streams are depicted in the graphic representation of the HUTF process in Appendix F.)

### ≤7¢ ("Old Money" – the 1<sup>st</sup> stream)

As noted in Table 32, the formula used by the state to share HUTF money back to local governments has changed a number of times over the years. 1953 was a major turning point, when three changes in the system were introduced:

- Municipalities were allocated 5 percent of all highway user revenues,
- The state took over construction and maintenance of all municipal links to state highways, and
- The HUTF was created, with a 65% state, 30% county, and 5% municipal allocation formula.

In 1958 the Governor called<sup>136</sup> for an increase to the municipal share of this allocation formula, which was enacted in 1959. The new split was 65% to the state, 26% for counties and 9% for municipalities.

<sup>134</sup> 42-2-132(4)(b), C.R.S.

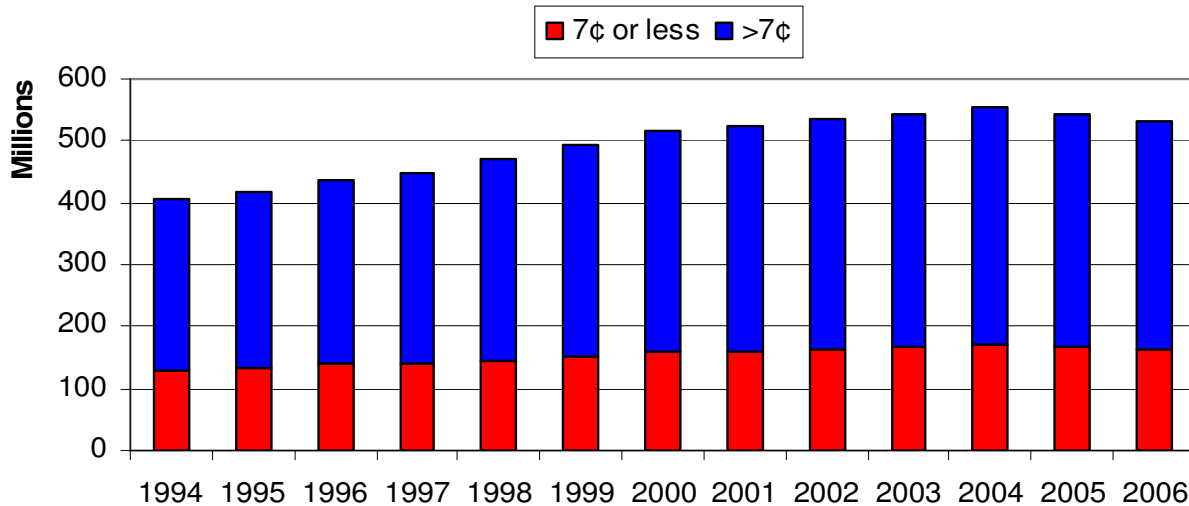
<sup>135</sup> 42-7-604, C.R.S.

<sup>136</sup> Until 1984, the legislature pursued its own agenda in odd-numbered years; in even-numbered years, the Governor defined the subjects of the bills that could be enacted in his "call." [Art. V, §7, Colo. Const., as amended by Amendment 4 in 1982.]

The gas tax (at that point 6¢ per gallon, increased to 7¢ in 1969), driver’s license and motor vehicle licenses and registration fees, and penalty assessments were the sources of revenue for the HUTF. The formula of 65/26/9 is still used today for distributing those specific revenue streams, which does not include any of the increases in those sources, or any new sources, since that time. This is what is referred to as “old money” in the jargon of Colorado highway finance.

The fuel tax from 7¢ or less has stayed relatively constant, since additions to the revenue stream have mostly come from tax increases. For example, Figure 21 shows what this “old money” gas tax revenue has been since 1994.

Figure 21: Motor Fuel Tax Revenue 1994-2006



An unusual adjustment to the “old money” is required to be made under SB 95-047: An amount is moved from the “old money” distribution formula of 65/26/9 to the “new money” formula.<sup>137</sup> This amount has been \$36,921,411 since 1998, and is based upon the total “off-the-top” money that was distributed to state agencies in state FY1995. The effect of this is to distribute less to CDOT and the counties under the 65/26/9% (“old money”) formula, and more to municipalities under the 60/22/18% formula (“new money”).

### >7¢ (“New Money”) – the 2<sup>nd</sup> Stream

In 1979, when the Noble Bill was enacted,<sup>138</sup> and a portion of the sales tax was transferred to the HUTF, the disbursement formula of 60% state, 22% county and 18% municipality formula began for this so-called “new money.” When the Motor Fuel Tax was increased to 9¢ in 1981,

<sup>137</sup> 43-4-201(3)(a)(III), C.R.S.

<sup>138</sup> SB 79-536, codified at 39-26-123, C.R.S. (1980 Cum. Supp.)

the new revenue resulting from the increase also became subject to the “new money” formula of 60/22/18.

The 1959 and 1989 imposition of additional vehicle registration fees and the 1989 additional driver’s license fee were also designated for distribution under the 60/22/18 formula. This arrangement continues to this day, using the 1981 formula to distribute, Motor Fuel Tax over 7¢ per gallon, as well as the additional motor vehicle registration and driver’s license fees.

The various amounts of “old money” and “new money” go into separate pots, one for the state, one for counties, and one for municipalities, which are disbursed monthly, but each of which in a different way.

## State

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The state share is disbursed directly to the State Highway Fund for allocation to CDOT. State dollars are made up first of all revenue allocated under various special bills (e.g., the sales and use tax revenue by SB 97-01), and the state share allocated as 65% of “old money” and 60% of “new money.”<sup>139</sup> In 2004, CDOT received \$398.4 million, 54% of the total HUTF, through the State Highway Fund.<sup>140</sup> This grew to \$488 million in FY2005, and \$683 million in FY2006.

The SB 97-01 payments directly into the State Highway Fund originally were restricted by a requirement that at least 80% had to be spent on “base corridors” and not more than 20% could be spent on “major investment study corridors.”<sup>141</sup> HB 00-1490 then modified this to require all the funds to be spent on the Commission’s Strategic Transportation Project Investment Program, and at least 90% of the money be spent on “highway purposes or highway-related capital improvements.” Then HB 02-1310 changed this to read no more than 90% could be expended for highway-related purposes, and at least 10% must be spent on transit.<sup>142</sup>

## Counties

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Each county receives a share of the county portion of the HUTF (i.e., 26% of “old money” and 22% of “new money”), based upon a three-tier funding formula adopted by the legislature in 1989:<sup>143</sup> The first tier, referred to as the “hold harmless” provision, consists of exactly \$69,700,000, which is distributed to all counties in the same amount received in the state 1988-89 fiscal year. Once that is distributed (usually in April), the second tier provides that the next \$17 million be distributed to the following 17 counties in the following proportions:

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<sup>139</sup> See *Surplus Revenue*, p. 24.

<sup>140</sup> “Highway Users Tax Fund Performance Audit,” Report of the State Auditor, June 2004.

<sup>141</sup> §1 of the bill, codified at 43-4-206(2)(a)(I) and (II), C.R.S.

<sup>142</sup> §9 of the bill.

<sup>143</sup> 43-4-207, C.R.S.

County	Proportion
Adams	9.57%
Alamosa	1.16%
Arapahoe	12.66%
Boulder	7.36%
Douglas	3.51%
El Paso	13.06%
Jefferson	14.97%
La Plata	2.07%
Larimer	8.00%
Lincoln	1.89%
Logan	2.03%
Mesa	4.33%
Morgan	2.99%
Otero	1.65%
Pueblo	4.61%
Rio Grande	1.34%
Weld	8.78%

These counties were chosen to receive funding based on their proportion of population and vehicle registrations in 1989.

Finally, if the available county share of HUTF funds exceed \$86.7 million, the third tier is distributed on the following basis: 15% on the proportion of vehicle registrations in the unincorporated portion of the county only, 15% in proportion to the vehicle registrations in the entire county, 10% on the square feet of bridge deck for bridges greater than 20 feet in length, and 60% by "adjusted" lane miles of road. The adjustment used for lane miles of road is a factor of 1.75 for all "plains rolling and irrigated" miles, and 3.00 for "mountainous." All other roads fit into the "plains" category, which has a factor of 1.00 applied, in other words, simply the actual lane miles.

In state FY 2003, counties received \$150.2 million, 20% of the total HUTF.<sup>144</sup>

## Municipalities

Although registration fees have been earmarked to the HUTF ever since the 1935 constitutional change, there had been complaints from municipal officials that the distribution was unfair. Their 5% and even 9% share cut them short, they claimed, because most of the vehicle

<sup>144</sup> "Highway Users Tax Fund Performance Audit," Report of the State Auditor, June 2004.



registrations originated within municipal boundaries, where most of the people in the state lived.<sup>145</sup> They were finally successful by seeing the enactment of HB 71-1038 in 1971 that allocated vehicle registration fees based on the registration address of the vehicle. This urban-rural split continues to this day.

Each municipality (including Denver and Broomfield) receives a share of the municipal allocation of the HUTF based upon 2 formulas:

80% of the municipal allocation of "old money" (the 9% share) is allocated in proportion to the "adjusted urban motor vehicle registration in each city and incorporated town."<sup>146</sup> (The Division of Motor Vehicles in the Department of Revenue certifies these numbers to the State Treasurer each year, which office is responsible for the allocation formula.) The "adjusted" figure is derived by applying a factor to the actual number of registrations, which is designed to reflect the increased standards and costs of construction that result from a higher concentration of vehicles in a particular municipality:

**Table 38: Adjustment Factor for Vehicle Registrations - Old Money**

<b>Actual registrations</b>	<b>Factor</b>
1 – 500	1.0
501 -- 1,250	1.1
1,251 -- 2,500	1.2
2,501 -- 5,000	1.3
5,001 -- 12,500	1.4
12,501 -- 25,000	1.5
25,001 -- 50,000	1.6
50,001 -- 85,000	1.7
85,001 -- 130,000	1.8
130,001 -- 185,000	1.9
185,001 and over	2.0

80% of the funds in the HUTF that come from "new money" (i.e., the 18% share) are allocated under a similar method and purpose, but using different factors:

<sup>145</sup> The 1961 Highway Needs Study, endorsed by the Governor and the Long Range Highway Planning Committee, documented over 65% of highway-user revenue coming from municipal residents. Municipal interests used this datum to argue for an increase to the 9% municipal share.

<sup>146</sup> 43-4-208, C.R.S.

**Table 39: Adjustment Factor for Vehicle Registrations - New Money**

Actual registrations	Factor
1 – 500	1.0
501 -- 1,250	1.1
1,251 -- 2,500	1.2
2,501 -- 5,000	1.3
5,001 -- 12,500	1.4
12,501 -- 25,000	1.5
25,001 -- 50,000	1.6
50,001 -- 85,000	1.7
85,001 -- 125,000	1.8
125,001 -- 165,000	1.9
165,001 -- 205,000	2.0
205,001 -- 245,000	2.1
245,001 -- 285,000	2.2
285,001 -- 325,000	2.3
325,001 -- 365,000	2.4
365,001 -- 405,000	2.5
405,001 -- 445,000	2.6
445,001 -- 485,000	2.7
485,001 -- 525,000	2.8
525,001 -- 565,000	2.9
565,001 -- 605,000	3.0

In state FY 2003, municipalities received \$99.3 million from “new money,” 14% of the total HUTF.<sup>147</sup>

### Other Transfers – the 3<sup>rd</sup> Stream

Since 1997, the HUTF has received SB 97-01 funds, which are diverted directly into the State Highway Fund, for use by the Department of Transportation for Strategic Transportation Project Investment Program projects. These funds are not subject to off-the-top diversions or shared with counties and municipalities. The funds are not considered “off-the-top” money, since they are not for administration or supervision of the highways in the state. By not being in that category, they avoid the off-the-top limits of 23% and 6%. SB 97-01 funds have bolstered CDOT’s resources considerably in those years when “excess” General Fund money was available, totaling almost one billion dollars in those six years:

<sup>147</sup> “Highway Users Tax Fund Performance Audit,” Report of the State Auditor, June 2004.

**Table 40: - SB 97-01 State Highway Fund Revenue**

Year	Revenue
1998	153,082,927
1999	170,361,700
2000	184,929,178
2001	199,934,983
2002	35,179,062
2003	0
2004	0
2005	0
2006	218,510,998
Total	961,998,848

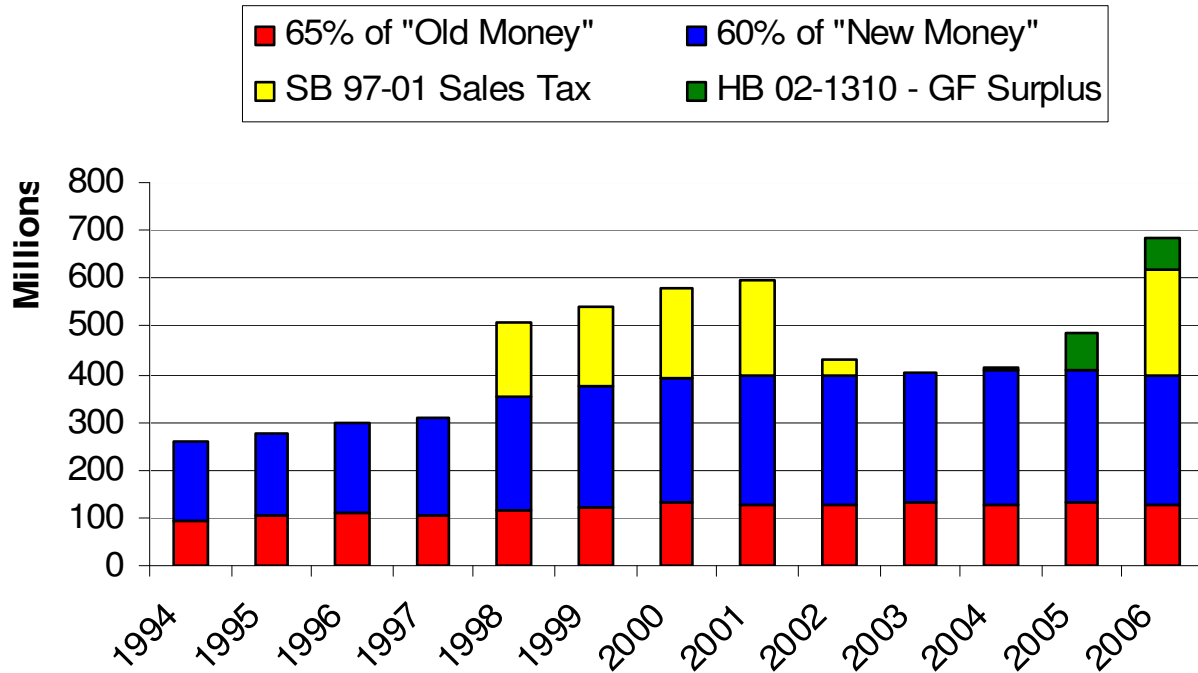
Direct transfers to the State Highway Fund increased in 2005 and 2006, due to HB 02-1310's requirement that 2/3 of the "General Fund Surplus" be transferred to the HUTF, then passed directly to the State Highway Fund. These amounts were \$5.6 million in 2004, \$81.2 million in 2005 and \$65.3 million in 2006.<sup>148</sup>

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<sup>148</sup> 24-75-218, C.R.S.

These two sources, along with the 65% "old money" and 60% "new money," boosted the State Highway Fund revenues considerably, as shown in Figure 22.

**Figure 22: State Highway Fund Total Revenue: 1994-2006**



## Bridge Fund

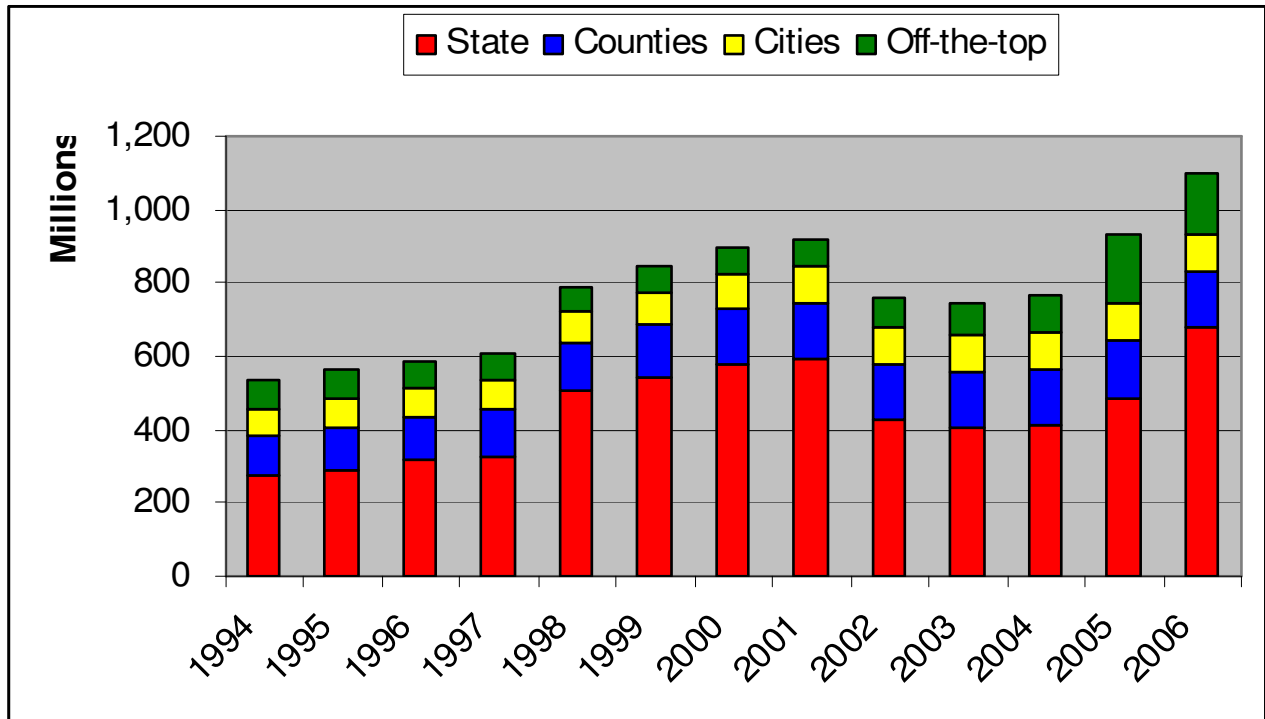
In 1981, the Bridge Fund was created to divert HUTF funds directly to state, county and municipal bridges. The Bridge Fund was abolished in 1997, although it took a few years to complete projects that were underway at that time.<sup>149</sup>

<sup>149</sup> 43-4-205(6)(a) and (7)(b), C.R.S., HB 92-1162.

## Distribution Summary

In the time period 1994-2006, a total of about \$10 billion was distributed through the HUTF. Of that, municipalities and off-the-top agencies each received about \$1.2 billion (11.8% and 11.9% respectively), counties \$1.8 billion (18%), and the state \$5.8 billion (58.3%).

**Figure 23: All HUTF Distributions 1994-2006**





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## DEBT

The 1876 Colorado Constitution stated “[t]he state shall not contract any debt by loan in any form...,”<sup>150</sup> but by 1981 the courts had declared that “discretionary” or “contingent” obligations of the state were not “debt” in the constitutional sense, and this could be evidenced by making their repayment subject to annual appropriation by the General Assembly.

State borrowings have been used to build and improve highways for many years. This is done by making use of the “special fund doctrine,” based on (a) the fact that a specific source of revenue must be identified and committed to the repayment of the bonds beyond mere annual appropriations from the general revenue fund, and (b) by identifying and dedicating this specific source of funds, the process automatically limits the total value of bonds that can be used.<sup>151</sup>

The first debt in Colorado for transportation was the Moffat tunnel \$6.7 million bond issue in 1922. After World War II, Colorado began contemplating major transportation construction projects. The Valley Highway, begun in 1948, was finally completed in 1958, using the proceeds from the 2¢ per gallon gas tax increase. In 1949, the state legislature authorized the issuance of bonds to build a 17.3 mile turnpike from downtown Denver to Boulder at a cost of \$6.3 million. The tolls on the Denver-Boulder Turnpike allowed the bonds for construction to be paid off in 1969, four years earlier than expected.

In 1999, when the voters approved a \$1.7 billion debt to implement the Strategic Corridor Program (7<sup>th</sup> Pot), the resulting Transportation Revenue Anticipation Notes (TRANS bonds) were subject to future funds being budgeted for the annual payments. The TRANS bonds were approved by the voters with no new revenue identified, pledging expected state and federal transportation money to repay the 20-year bonds. The principal and interest payments on that debt are \$168 million per year.

RTD went to the voters again in 2004 and were granted the authority to issue another \$4.7 billion in debt, secured by 0.6¢ sales tax. The resulting light rail, commuter rail and bus transit lines, called “FasTracks,” will reach into virtually every corner of the Denver metropolitan area.

Local governments have also issued a great deal of debt to improve streets and roads in recent years. Although counties do not normally borrow money for this purpose, they have been instrumental in creating Rural and Regional Transportation Authorities which have incurred debt, notably in El Paso County and the Roaring Fork valley. Cities and metropolitan districts have also borrowed funds to improve streets, although the data collected statewide does not distinguish between debt for streets and debt for other purposes, so it is not possible to summarize it for transportation only.

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<sup>150</sup> See Art. XI, §3, Colo. Const.

<sup>151</sup> State of West Virginia ex rel. Nielsen v. City of Charleston (1994)

The most recent development in transportation finance related to debt is the creation of the Statewide Tolling Enterprise in HB 02-1310. That bill grants authority to the State Tolling Enterprise to issue bonds, secured by revenues in the State Tolling Enterprise's enterprise fund.



## APPENDIX A: LOCAL GOVERNMENT UNITS

Type	Statutory Authority	Number
Home Rule City & County	Art. XX, §§7 & 10 to 13	2
County	30-1-101, C.R.S.	62
Municipality		-
Home Rule	Art XX, Colo. Const.	85
Statutory City	31-1-203, C.R.S.	14
Statutory Town	31-1-203, C.R.S.	168
Territorial Charter	Art IV, §13. Colo. Const.	1
Metropolitan District	32-1-103, C.R.S.	930
Tunnel District	32-1-103, C.R.S.	0
Intergovernmental Authority	29-1-201 to 203, C.R.S.	5
Rail District	32-12-101, C.R.S.	0
Public Highway Authority	43-4-501, C.R.S.	2
Regional Transportation Authority	43-4-601, C.R.S.	4
Regional Transportation District	32-9-101, C.R.S.	1
	Total	1274

Colorado local governmental units in 2006 that finance transportation improvements  
 (source: Division of Local Government, 2/18/2007)

APPENDIX B: FEDERAL MOTOR FUEL TAXES

Tax Rate	Effective Date
<b>Gas</b>	
1¢	6/21/1932 through 6/16/1933
1.5¢	6/17/1933 through 12/31/1933
1¢	1/1/1934 through 6/30/1940
1.5¢	7/1/1940 through 10/31/1951
<b>Gas and Diesel</b>	
2¢	11/1/1951 through 6/30/1956
3¢	7/1/1956 through 9/30/1959
4¢	10/1/1959 through 3/31/1983
<b>Gas</b>	
9¢	4/1/1983 through 11/30/1990
14.1¢	12/1/1990 to 9/30/1993
18.4¢	10/1/1993 through 12/31/1995
18.3¢	1/1/1996 to 9/30/1997
18.4¢	10/1/1997 to present
<b>Diesel</b>	
9¢	4/1/1983 to 7/31/1984
15¢	8/1/1984 to 11/30/1990
20.1¢	12/1/1990 to 9/30/1993
24.4¢	10/1/1993 to 12/31/1995
24.3¢	1/1/1996 to 9/30/1997
24.4¢	10/1/1997 to present

**APPENDIX C: HUTF REVENUE AND DISTRIBUTIONS FROM 1994 TO 2006**

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>All Collections less refunds</b>													
Motor Fuel Tax	406	420	437	450	469	493	518	525	534	543	554	543	531
Passenger Mile Tax	0.59	0.40	0.43	0.46	0.48	0.56	0.62	0.63	0.59	0.58	0.54	0.56	0.54
MV Licenses & Registrations	99	110	118	120	129	140	148	149	123	152	158	166	174
Penalty Assessments	4.1	3.7	4.0	3.7	4.2	5.0	5.6	5.8	5.7	6.7	7.2	8.8	9.4
Judicial	6.6	6.5	7.2	7.6	7.5	7.8	7.9	7.5	7.5	7.6	9.0	9.0	9.0
Judicial & Penalty Assessments	11	10	11	11	12	13	14	13	13	14	16	18	18
Sales Tax (SB 97-001)	-	-	-	-	153	170	185	200	35	-	-	-	219
General Fund Surplus (HB 02-1310)	-	-	-	-	-	-	-	-	-	-	6	81	65
Misc. Collections	16	20	19	23	24	21	24	23	23	21	17	18	15
Korean/Indian license plates (HB 02-1044)	-	-	-	-	-	(0.00004)	(0.024)	-	-	0.0021	0.0012	-	-
Miscellaneous	-	-	-	-	-	-	-	-	-	-	-	0.011	-
Prior Year Reversions	1.45	-	-	-	-	-	-	-	0.48	-	1.01	3.97	-
Prior Year Correction	(0.012)	-	-	-	-	-	-	-	-	-	-	-	-
Interest Earned	1.0	1.3	1.4	1.4	1.7	1.7	1.8	2.0	1.8	1.6	1.0	1.1	2.2
Bridge fund interest to cities and counties	-	-	-	-	-	-	-	-	-	0.75	0.07	0.03	0.17
Express Consent (Revocation >'01)	0.5	0.6	0.7	0.7	0.6	0.7	0.4	0.7	3.1	2.0	2.3	2.8	2.9
Excess Express Consent	0.11	0.05	0.02	-	0.11	0.10	0.40	0.10	-	1.25	1.45	1.06	2.32
Motorist Insurance ID database	-	-	-	-	2.6	3.9	3.1	2.0	2.0	1.6	1.7	1.6	1.6
Excess Motorist Insurance ID database	-	-	-	-	-	-	1.0	2.1	-	0.43	0.53	0.60	0.66
Miscellaneous	19	22	21	25	29	27	31	30	31	29	26	29	25
<b>Total Collections</b>	<b>535</b>	<b>563</b>	<b>588</b>	<b>606</b>	<b>793</b>	<b>844</b>	<b>896</b>	<b>918</b>	<b>736</b>	<b>739</b>	<b>759</b>	<b>837</b>	<b>1,033</b>

Note: All values in millions of dollars

## APPENDICES

All Distributions	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
"Off-the-top"	77	79	72	68	63	68	71	75	84	89	98	187	166
HUTF "Old Money"	150	162	174	162	176	188	204	200	192	201	198	194	200
MFT >7%, MV & DL Fees without additional fees													
State Highways - 65%	96	105	113	105	114	122	132	130	124	131	129	133	129
Natural Resources-Capital Construction	0.75	0.60	0.45	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Counties-26%	39	42	45	42	46	49	53	52	50	52	52	53	52
Cities-9%	13	15	16	15	16	17	18	18	17	18	18	18	18
Total Hut	148	162	174	162	176	188	204	200	192	201	198	204	200
Motor Fuel Greater Than 7 Cents													
>7 Cents Plus Senate Bill 95-047	309	321	342	376	401	418	437	443	451	456	464	457	449
Less Bridge Fund	(32)	(33)	(35)	(36)	(3.6)	-	-	-	-	-	-	-	-
Net Fuel Tax >7cents	276	288	307	340	397	418	437	443	451	456	464	457	449
State Highways-60%	166	173	184	204	238	251	262	266	270	274	278	274	269
Counties-22%	61	63	68	75	87	92	96	97	99	100	102	100	99
Cities-18%	50	52	55	61	71	75	79	80	81	82	83	82	81
Total Distributed	276	288	307	340	397	418	437	443	451	456	464	457	449
Bridge Fund													
State Highways	11	12	19	20	-	-	-	-	-	-	-	-	-
Counties	11	11	7	8	-	-	-	-	-	0.02	0.02	0.02	0.01
Cities	10	10	8	9	-	-	-	-	-	0.73	0.05	0.02	0.16
Total Distributed	32	33	35	36	-	-	-	-	-	0.75	0.07	0.03	0.17
Sales And Use Tax (SB 97-001)	-	-	-	-	153	170	185	200	35	-	-	-	219
State Highways-100%	-	-	-	-	153	170	185	200	35	-	-	-	219
Total Distributed	-	-	-	-	153	170	185	200	35	-	-	-	219
Total HUTF Distributed	535	563	588	606	789	844	896	918	762	747	759	837	1,033

Note: All values in millions of dollars

**APPENDIX D: OFF-THE-TOP EXPENDITURES 1994-2006**

Off-The-Top expenditures	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Dept of Administration-Ex. Director Pots	0.009	-	-	-	-	-	-	-	-	-	-	-	-
Correctional Industries License Plates	6.2	5.2	-	-	-	-	-	-	-	-	-	-	-
Dept of Labor & Employment	0.67	0.59	-	-	-	-	-	-	-	-	-	-	-
Dept of Local Affairs	0.024	0.025	-	-	-	-	-	-	-	-	-	-	-
Dept of Public Safety-Ex Dir, Cleta, CBI, State Patrol HB 1215 HDL & HB-1458 PERA	39	43	44	48	52	54	58	60	67	69	71	73	77
Dept of Regulatory Agencies-PUC	0.24	0.24	-	-	-	-	-	0.14	-	-	-	-	-
Dept of Revenue (HU/OJ/PA >2002)	27	27	24	17	7.4	8.1	8.0	8.2	12	15	14	17	18
HB 1215 HDL & HB-1458 PERA	-	-	-	-	-	-	-	0.0028	-	-	-	-	-
OJ Special Bill HB 00-1153	-	-	-	-	-	-	-	0.064	-	-	-	-	-
Dept of Revenue MID SB-109	-	-	-	-	-	-	-	-	2.0	-	-	-	-
Dept of Revenue MID	-	-	-	-	-	-	-	-	-	1.6	1.6	1.6	1.6
Special Plates (Korean/Indian) HB 02-1044	-	-	-	-	-	-	-	-	-	0.0021	-	-	-
Dept of Transportation	0.25	0.27	0.28	0.29	-	-	-	-	-	-	-	-	-
Transportation - General fund surplus HB 02-1310 (24-75-218, C.R.S.)	-	-	-	-	-	-	-	-	-	-	5.6	81	65
Capital Construction	-	-	-	-	-	-	-	-	-	-	-	-	-
Dept of Administration	1.04	1.30	1.30	-	-	-	-	-	-	-	-	-	-
Dept of Public Safety	0.42	0.52	1.19	1.95	-	0.97	-	1.01	0.19	0.22	1.75	-	-
Dept of Revenue	0.53	0.81	0.17	0.03	0.63	1.2	1.8	2.7	0.01	0.79	0.64	-	0.60
Dept of Revenue-Driver License Revocation (Express Consent in 2006?)	0.65	0.60	0.65	0.69	0.61	0.70	0.45	0.73	1.2	1.2	2.3	1.9	1.9
Driver License Revocation-Enforcement	-	-	-	-	-	-	-	-	-	0.75	-	0.91	0.97
Dept of Revenue-Motorist Insurance ID Database	-	-	-	-	2.6	3.1	3.1	2.0	-	-	-	-	-
MI ID -HB 1215 HDL & HB 1458 PERA	-	-	-	-	-	-	-	0.0008	-	-	-	-	-
Due to ID Security Surcharge HB 01-1125	-	-	-	-	-	-	-	-	0.81	-	-	-	-
<b>Total</b>	<b>77</b>	<b>79</b>	<b>72</b>	<b>68</b>	<b>63</b>	<b>68</b>	<b>71</b>	<b>75</b>	<b>84</b>	<b>89</b>	<b>98</b>	<b>187</b>	<b>166</b>

Note: All values in millions of dollars

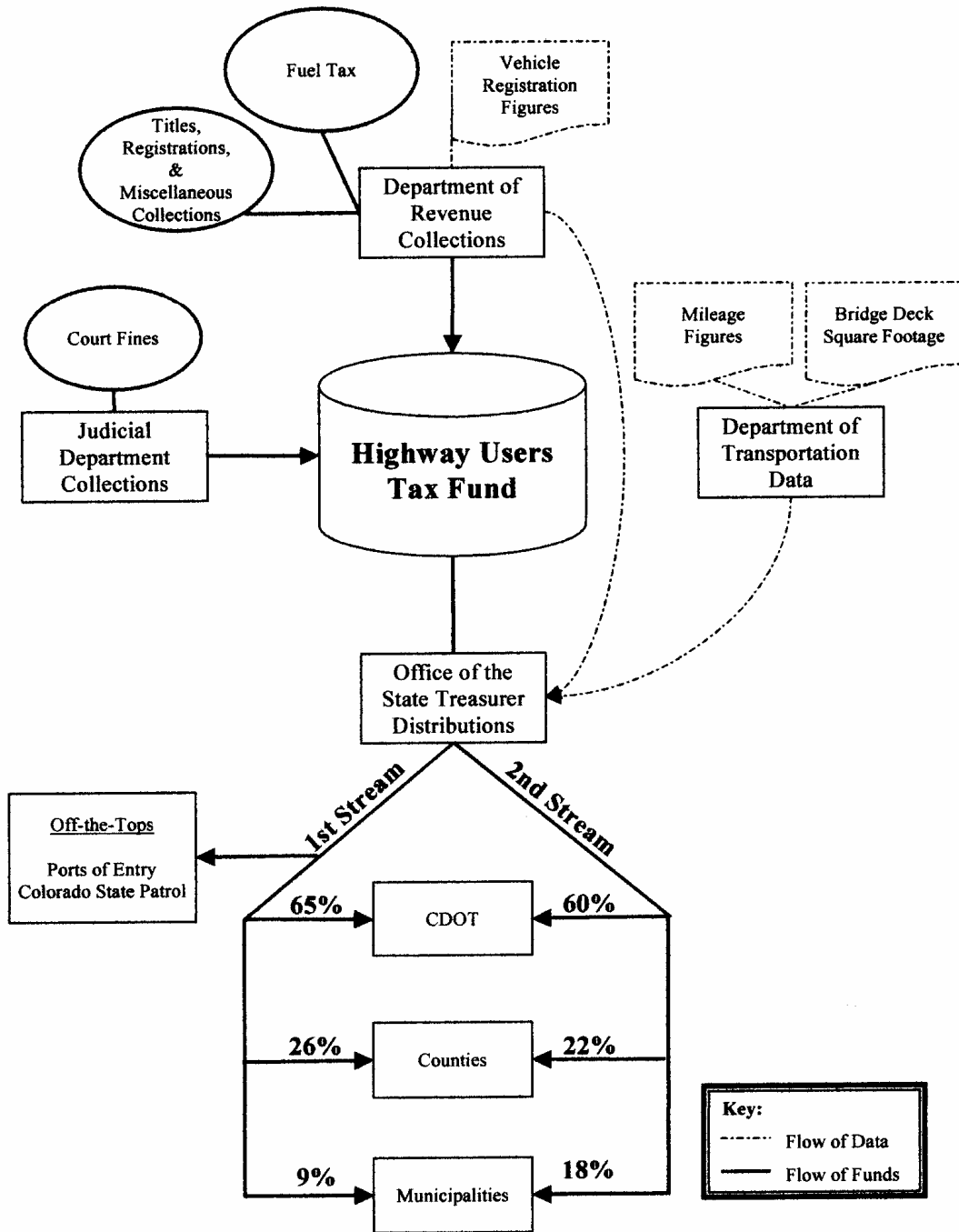
**APPENDIX E: FEDERAL FUNDS APPORTIONED TO COLORADO  
FOR HIGHWAYS**

<b>Fiscal Year</b>	<b>FHWA Formula</b>	<b>No Formula</b>	<b>Total Highways</b>
2006	351,343	74,038	425,381
2005	328,080	64,231	392,311
2004	398,530	16,086	414,616
2003	356,457	23,190	379,647
2002	348,804	25,364	374,168
2001	297,357	25,798	323,155
2000	275,046	30,992	306,038
1999	259,089	56,424	315,513
1998	255,502	10,391	265,893
1997	198,040	10,780	208,820
1996	203,938	23,288	227,225
1995	187,605	23,838	211,443
1994	197,407	61,987	259,394
1993	177,670	31,508	209,179
1992	189,998	25,513	215,511
1991	194,643	63,147	257,791
<b>Total All Years</b>	<b>4,219,510</b>	<b>566,575</b>	<b>4,786,085</b>

(Thousands of Dollars)

SOURCE: Colorado Department of Transportation, internal documents, 2/07

**APPENDIX F: THE HUTF PROCESS**



(incomplete depiction of the HUTF distribution process, since "Stream #3," direct distributions to the State Highway Fund, is not shown)

From the Highway Users Tax Fund Performance Audit – June 2004

**APPENDIX G: REVENUE TO THE CAPITAL CONSTRUCTION FUND<sup>152</sup>**

Revenue Source	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	Five-Year Total
Ongoing Statutory General Fund Transfer <sup>153</sup>	\$100,000,000	\$100,000,000	\$9,489,000	\$9,420,498	\$0	\$218,909,498
Additional General Fund Transfer <sup>154</sup>	174,526,651	(174,904,802)	(25,401,078)	69,467	(285,782)	(25,995,544)
General Fund Appropriations <sup>155</sup>	0	10,728,270	79,109,454	0	152,800	89,990,524
Interest Earnings & Reversions	37,040,456	61,137,110	2,894,136	0	4,884,000	105,955,702
Deposits Pursuant to Legislation	0	0	240,000	0	0	240,000
Tobacco Master Settlement	0	0	0	0	1,900,000	1,900,000
Flexible Federal Funds	0	0	0	23,929,023	0	23,929,023
Allocation of Excess GF Reserve Credit <sup>156</sup>	0	0	0	0	2,775,722	2,775,722
<b>Total</b>	<b>\$322,295,377</b>	<b>\$65,341,762</b>	<b>(\$12,777,942)</b>	<b>\$33,418,988</b>	<b>\$9,426,740</b>	<b>\$417,704,925</b>

The last line above the total in the figure above represents one-third of excess General Fund reserves (if any) that are credited to the CCF. The other two-thirds are credited to the Highway Users Tax Fund on each July 1 after FY2003.

<sup>152</sup> Source: Legislative Council Report on the Capital Development Committee, October 2004.

<sup>153</sup> Section 24-75-302 (2), C.R.S.

<sup>154</sup> Section 24-75-302 (2), C.R.S.; The negative transfers in FY 2001-02, FY 2002-03, and FY 2004-05 are a result of the General Assembly's decision to transfer money from the CCF back to the General Fund to help address the state's revenue shortfall. Generally, funds are transferred to the CCF.

<sup>155</sup> Within the statutory 6% limit.

<sup>156</sup> HB 02-1310



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