Transportation Finance

Background

Transportation finance issues have received a significant amount of attention in recent years. Much of the debate was framed in the context of the 1995 report from the Colorado Department of Transportation (CDOT) on the 20-year outlook for state and local transportation needs. The report indicated that Colorado was facing a transportation funding shortfall of $13 billion ($8 billion for state transportation and $5 billion for local transportation) for the 1995 to 2015 time period. The General Assembly took several steps during the next five years to address the shortfall. The General Assembly enacted Senate Bill 97-1, which diverts a portion of the state's sales and use tax revenues for highway construction; referred a measure to the voters in 1999 to allow CDOT to borrow against future payments from the federal government, and transferred money from the General Fund to the Capital Construction Fund for transportation purposes.

In 2000, CDOT released a new 20-year outlook for state and local transportation needs. Based on their most fiscally constrained plan for transportation needs, the new estimate placed the shortfall at $1.9 billion for the 2000 to 2020 time period. During the 2002 regular legislative session, the General Assembly enacted Senate Bill 02-179 and House Bill 02-1310, identical bills intended to further reduce the shortfall with measures addressing both highway and transit funding. The bills addressed highway funding by directing that two-thirds of the excess General Fund reserve be transferred to CDOT each year and creating a statewide tolling enterprise authorized to issue revenue bonds and levy tolls to finance the construction of toll highways or new toll lanes on existing highways. To address transit funding, the bills authorized the Regional Transportation District (RTD) to ask voters in their district for an increase in the RTD sales tax rate, allowed counties within the RTD to contribute government monies to transit projects, and directed that 10 percent of the Senate Bill 97-1 diversion be required, rather than merely allowed, to be used for transit purposes.

The remainder of this briefing paper focuses on how highways and transit projects are funded in Colorado, the outlook for future transportation revenues, and the administration of Colorado's transportation funds.

How are Highways Funded?

Colorado's highways are funded through five primary sources. They include the Highway Users Tax Fund (HUTF), a portion of the state's sales and use taxes (the Senate Bill 97-1 diversion), the General Fund, federal highway funds, and proceeds from the sale of Transportation Revenue Anticipation Notes. In addition, the Colorado Tolling Enterprise was recently created by the Colorado Transportation Commission and is authorized to finance new toll highways and lanes. Each of these sources is discussed below.

Highway Users Tax Fund. The HUTF is the primary source of highway funds in Colorado, bringing in a total of $739.7 million in FY 2001-02. About 74 percent of the HUTF comes from motor and diesel fuel tax revenue, 20 percent comes from vehicle registration fees, and the remainder comes from driver's license fees, court fines, and interest earnings.

In Colorado, motor and special fuel taxes are levied on a per-gallon basis. The motor fuel tax rate is 22 cents per gallon (in addition to the federal tax of 18.4 cents), while the diesel fuel tax rate is 20.5 cents per gallon (in addition to the federal tax of 24.4 cents). Registration fees are based on the age and weight of a vehicle. These fees differ from the *specific ownership tax* which is levied in lieu of the local property tax and is distributed to local governments.

The money in the HUTF is used to fund the construction and maintenance of both state and local roads, and the distributions of HUTF monies to the state, counties, and cities are statutorily determined. Table 1 illustrates the distribution formula for the fuel taxes. The majority of vehicle registration fees and other HUTF revenues are distributed the same as the first seven cents of the fuel tax after the off-the-top deductions. In FY 2001-02, the state received $404.3 million from the HUTF, the counties received $152.7 million, and the cities received $100.4 million.

Table 1
Distribution of Fuel Taxes

First 7 cents
A. "Off-the-top" deductions B. Remaining funds: 65% to State Highway Fund 26% to counties 9% to cities
Above 7 cents
A. All funds: 60% to State Highway Fund 22% to counties 18% to cities

The "off-the-top" deductions noted in Table 1 are appropriations to the Ports of Entry (Department of Revenue) and the State Patrol (Department of Public Safety) for highway-related administrative functions. The off-the-top deductions occur before distributions to state and local governments and totaled $82.1 million in FY 2001-02.

Senate Bill 97-1 Diversion of Sales and Use Taxes. Senate Bill 97-1 diverts 10.355 percent of state sales and use tax revenue from the General Fund to the HUTF. Each year, the diversion occurs only if there is enough money available to fund General Fund appropriations at a 6 percent growth rate (i.e., meet the Arveschoug-Bird /6 percent limit) and to fund the 4 percent statutory General Fund reserve. Between FY 1997-98 and FY 2001-02, $746.1 million was diverted to the HUTF. Because of the state's budget problems, only $35.2 million was diverted in FY 2001-02.

Unlike other HUTF revenues, the Senate Bill 97-1 diversion is not shared with local governments. Colorado law requires that 90 percent of these monies be spent on a specific list of prioritized state highway projects, referred to as the "Seventh Pot," and that 10 percent be spent on transit projects.

General Fund. Per Senate Bill 02-179 and House Bill 02-1310, two-thirds of the excess General Fund reserve will be transferred to the HUTF each year. The excess General Fund reserve is made up of whatever money is left over after the TABOR refund, General Fund appropriations, the Senate Bill 97-1 diversion, and other smaller obligations are fully funded. The Capital Construction Fund will receive the remaining one-third.

Prior to Senate Bill 02-179 and House Bill 02-1310, monies from the General Fund have come in the form of appropriations within the 6 percent limit and transfers to the Capital Construction Fund outside of the 6 percent limit. CDOT received a total of $400.4 million of General Fund money between FY 1995-96 through FY 2000-01, of which $45.0 million was appropriated from within the 6 percent limit.

If these transfers are used in the future, they will be made prior to the distribution of the excess General Fund reserve between the HUTF and the Capital Construction Fund.

Federal Funds. Colorado receives money each year from the federal government, which collects taxes on gasoline and special fuels and redistributes them to the states under the Transportation Efficiency Act for the 21st Century (TEA-21). Colorado received an average of $317 million each year between FY 1997-98 and FY 2001-02, and will receive at least $295 million in FY 2002-03, after which TEA-21 is scheduled to end. Before Colorado can continue receiving federal funds after FY 2002-03, Congress must reauthorize the TEA-21 legislation.

Transportation Revenue Anticipation Notes (TRANs). In 1999, Colorado voters approved Referendum A, which authorized CDOT to borrow up to $1.7 billion by selling Transportation Revenue Anticipation Notes (TRANs), with a maximum repayment cost of $2.3 billion. Debt service on the notes is paid with money from the federal government and state matching funds. TRANs proceeds are exempt from the TABOR revenue limit and can be used only for a list of 28 prioritized statewide projects, referred to as the "Seventh Pot." In effect, the use of TRANs is allowing CDOT to accelerate construction on the Seventh Pot projects by pre-spending payments from the federal government. Using TRANs, CDOT has raised $1.3 billion thus far to spend on the Seventh Pot projects, including $56.7 million in bond premiums. To do so, CDOT has issued $1.24 billion of TRANs in three installments toward the $1.7 billion limit, with a repayment cost of just under $2.0 billion. In addition, CDOT refinanced portions of the first two issues in August 2002, cutting debt service by $14.7 million. In FY 2002-03, CDOT expects to raise approximately $200 million more before nearly reaching the $2.3 billion limit on total debt service.

Colorado Tolling Enterprise. Per Senate Bill 02-179 and House Bill 02-1310, the Transportation Commission created the Colorado Tolling Enterprise in October 2002. The enterprise, which functions as a division of CDOT, is authorized to issue revenue bonds to finance the construction of toll highways or new toll lanes on existing highways. The commission is responsible for setting the toll rates to pay the debt service on the bonds. When the bonds have been paid off, the commission is directed to adjust the toll rates to a level sufficient to pay the toll highway's operating and maintenance costs. According to CDOT, plans are in the very early stages for new toll lanes on Interstate-70 and Colorado-470.

How is Transit Funded?

Of the funding required to meet the most conservative estimate for transportation needs in CDOT's most recent estimate, 36 percent is for transit projects. The state is not a primary funding source for transit projects. However, per Senate Bill 02-179 and House Bill 02-1310, 10 percent of the Senate Bill 97-1 diversion is now required to be spent on transit projects. Primary funding sources for transit include fares, local governments, dedicated taxes, and the federal government. In its 2020 Plan, CDOT identified 90 separate transit providers in the state of Colorado, including 11 urban service providers, 10 rural service providers, 5 intercity service providers, 14 that provide services for specific resorts, and 50 that provide specialized services for the elderly or disabled. The extent to which a particular transit provider relies on each funding source varies among providers.

Colorado's largest transit provider is the Regional Transportation District (RTD). The RTD includes all of Denver, Boulder, and Jefferson counties, and parts of Broomfield, Adams, Arapahoe, and Douglas counties. Although the RTD receives substantial funding from passenger fares and the federal government, most of its revenue comes from a sales tax levied on purchases made within the district. Senate Bill 02-179 and House Bill 02-1310 authorized the RTD to, upon receiving a valid petition, ask voters within their district for an increase in the RTD sales tax rate from 0.6 percent to 1.0 percent and to allow the RTD to increase its debt to pay for new transit construction. At this time, RTD has not decided on when to pursue an election. In addition, the bills allowed counties within the RTD to contribute government revenues to transit. Prior to the bills, they were specifically prohibited from doing so.

Outlook for Future Transportation Revenues

The outlooks for the five major transportation revenue sources (HUTF, Senate Bill 97-1, General Fund, TRANs, and federal funds) are shown in Table 2. Table 3 shows how these revenues will be distributed.

The Legislative Council Staff (LCS) provides quarterly estimates of the fuel tax and other HUTF monies as part of its overall forecast of state revenues. HUTF revenue growth will slow from the strength of recent years, but will remain healthy. After increasing 3.0 percent in FY 2001-02, HUTF revenues will increase 2.5 percent in FY 2002-03, and 3.4 percent in FY 2003-04. Fuel tax revenues will increase 2.0 percent in FY 2002-03 and 3.8 percent in FY 2003-04, while registration fees will increase 0.8 percent in FY 2002-03 and 4.5 percent in FY 2003-04.

The Senate Bill 97-1 diversion was capped at $35.2 million in FY 2001-02 because of budget shortfalls. Based upon current forecasts, General Fund revenues will not be sufficient to fund a Senate Bill 97-1 diversion in FY 2002-03 through at least FY 2007-08, the end of the forecast period. A statutory trigger reduces the Senate Bill 97-1 diversion dollar-for-dollar when General Fund revenues fall short of fully funding the 6 percent limit on appropriations. The Senate Bill 97-1 diversion was $197.2 million in FY 2000-01, the last year a full diversion was made. Likewise, General Fund revenues will not be sufficient to allow any transfers from the excess General Fund reserve to the HUTF over the duration of the forecast period. However, depending upon future budgeting decisions, both transfers could begin earlier.

CDOT issued the third TRANs series in June 2002 for $220.4 million, and expects to raise approximately $200 million more in a fourth issue during FY 2002-03. In August, CDOT refinanced portions of the first two issues made in 2000 and 2001. The refinance reduced total debt service costs by $14.7 million, but did not increase the amount available to be spent on programs. Meanwhile, based on information from CDOT, at least $971.0 million will be received from the federal government between FY 2001-02 and FY 2003-04, assuming TEA-21 is reauthorized.

Table 2
Major Colorado Transportation Revenues Prior to Distribution
(millions of dollars)

	Actual FY 2001-02	Estimated FY 2002-03	Estimated FY 2003-04
Total HUTF	$739.7	$758.0	$784.1
Senate Bill 97-1	$35.2	$0.0	$0.0
General Fund	$0.0	$0.0	$0.0
TRANs Proceeds	$220.4	$200.0	$0.0
Federal Funds /A	$372.0	$295.1	$304.0
TRANs Debt Service	($66.8)	($71.1)	($77.8)
TOTAL	**$1,300.5**	**$1,182.0**	**$1,010.2**

Totals may not sum due to rounding.
Source: Colorado Legislative Council Staff, Colorado Department of Transportation.
/A Implementing legislation for federal funds (TEA-21) will expire in FY 2002-03. Estimates for FY 2003-04 assume that Congress will continue current practices.

Table 3
Major Colorado Transportation Revenues After Distribution
(millions of dollars)

	Actual FY 2001-02	Estimate FY 2002-03	Estimate FY 2003-04
State /A	$965.1	$836.9	$651.9
Counties	$152.7	$155.9	$160.7
Cities	$100.4	$102.2	$105.4
Off-the-top	$82.1	$87.0	$92.2
TOTAL	**$1,300.5**	**$1,182.0**	**$1,010.2**

Totals may not sum due to rounding.
Source: Colorado Legislative Council Staff, Colorado Office of the State Treasurer.
/A CDOT revenues. Includes the state's share of the HUTF, Senate Bill 97-1 diversions, two-thirds of the excess General Fund reserve, General Fund transfers, TRANs proceeds, and federal funds less debt service on TRANs.

How are State Transportation Funds Administered?

The decision-making authority for the majority of transportation revenues received by the state rests with the 11-member Colorado Transportation Commission.

Members of the commission are appointed by the Governor and confirmed by the Senate. The commission sets budgetary priorities for and gives policy direction to CDOT. Execution of highway maintenance and construction projects is conducted by CDOT. Table 4 depicts how the estimated $1.1 billion budget will be allocated in FY 2002-03. The item labeled "Seventh Pot" refers to a prioritized list of 28 statewide projects culled from the six transportation planning districts.

The Seventh Pot projects will be funded with $86.4 million from the HUTF and $326.9 million of TRANs proceeds in FY 2002-03. Ninety percent of the Senate Bill 97-1 diversions are also earmarked for the Seventh Pot projects, but the diversion will not occur in FY 2002-03 under current revenue forecasts.

Table 4
Expenditure of State Transportation Funds, FY 2002-03
(millions of dollars)

"Seventh Pot" Projects	$413.3	37.4%
Other Construction	$76.6	6.9%
Maintenance	$188.1	17.0%
Surface Treatment	$125.0	11.3%
Operations and Administration	$81.9	7.4%
Local Projects	$221.4	20.0%
TOTAL	$1,106.3	

FY 2002-03 budget does not equal FY 2002-03 revenues because not all TRANs proceeds are used the year in which they are received.

Frequently Asked Questions Regarding Transportation

How much does one cent of the motor and diesel fuel tax rate generate? *One cent of the motor fuel tax currently generates approximately $21 million and diesel fuel tax generates approximately $5 million.*

Are transfers from the General Fund to the Capital Construction Fund for transportation purposes or the diversions of the state sales and use tax to the HUTF subject to the General Fund 6 percent appropriations limit? *No. Because the transfers from the General Fund are for capital construction purposes and the Senate Bill 97-1 monies never reach the General Fund, neither are considered General Fund appropriations.*

Can revenues in the HUTF be used for other areas of the state budget? *No. The Colorado Constitution specifically requires that the monies in the HUTF, not including the Senate Bill 97-1 diversion, be used only for the construction, maintenance, and operations of the state's highways. The requirement that 90 percent of the Senate Bill 97-1 diversion be spent on the Seventh Pot projects is contained in statute. The other 10 percent is required to be spent on transit projects.*

How much does Colorado receive in federal transportation money relative to what it pays? *The TEA-21 legislation attempts to return a minimum of 90.5 percent of the money paid to the federal government. In federal FY 1999-00, the Federal Highway Administration reported that 86.7 percent had been returned to Colorado.*

How do the Colorado motor and special fuel tax rates and collections compare to other states? *The gasoline tax in Colorado (22 cents per gallon) is the 15th highest in the nation, while the 20.5 cents per gallon diesel fuel tax is the 26th highest. As a percentage of personal income, Colorado's fuel taxes were the 32nd highest in the nation in FY 2000-01.*

Staff Contact: Natalie Mullis, Legislative Council Staff, 303-866-4778