COLORADO MUNICIPAL LEAGUE

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To: Managers, Clerks, Finance Directors
From: Meghan MacKillop, Legislative and Policy Advocate
Date: August 23, 2022
Subject: Highway User Tax Fund Revenue Estimates

Each year, the Colorado Department of Transportation (CDOT) Office of Financial Management and Budget (OFMB) prepares a forecast of expected revenues in the Highway Users Tax Fund (HUTF) for upcoming years. The Colorado Municipal League (CML) and Colorado Counties, Inc. (CCI) utilize these HUTF forecasts to assist local governments in developing their annual road and bridge budgets. We and the OFMB also utilize updated information from the Department of Revenue on lane miles, bridge deck area, vehicle miles traveled, and vehicle registrations.

After nearly three years of uncertainty and volatility in our state due to COVID-19, our state partners at CDOT predict that HUTF revenues have mostly recovered from the impacts of the pandemic. This recovery is largely due to vehicle miles traveled (VMT) rising to pre-pandemic levels and an increase in gas sales. Despite overall increases in HUTF revenue, the implications of Senate Bill 21-260, Sustainability of the Transportation System, remain difficult to forecast. The impacts of the various fees created in SB21-260 have yet to be seen, in part because those fees only recently went into effect, but also because the General Assembly has delayed implementation of the road usage fee.

## 2023 HUTF Annual Revenue Forecast

For FY2022-23, the OFMB used baseline data from 2021 and 2022 to build a model to project future revenues for the HUTF. The HUTF forecast predicts a roughly $3 million increase from 2022 in municipal HUTF revenues for 2023. These revenues should trend upward over the next few years as the fees in SB21-260 increase, regardless of trends in vehicle miles traveled and gasoline sales. During the 2022 legislative session, the General Assembly passed legislation that delayed the implementation of the road usage fee, created in SB21-260, and extended the reduction in FASTER fees through 2023. To make up for this loss in revenue, the state allocated funds to cities and counties in the form of a one-time deposit into the HUTF.

The rebound HUTF revenues saw in 2022 is predicted to continue in the next fiscal year and years to follow. Vehicle miles traveled (VMT) has returned to pre-pandemic levels; however, analysts found that people traveling are not necessarily following exact patterns that they did before COVID-19. People are still working from home and are therefore making more dedicated and discretionary trips.

Rather than going to the grocery store or completing other errands on the way to and from work, Coloradans make these trips separately, contributing to the increase in road usage. Also attributing to the increase in VMT is an uptick in overall population, increased tourism, a steady increase in delivery trucks, and more people taking driving vacations rather than flying.

Although revenue from gasoline consumption has seen a steady increase since 2019, OFMB analysts predict that this revenue source will decrease over time. However, cities and towns can expect other revenue that is generated from SB21-260, namely the newly created electric vehicle registration fee, will compensate for this decrease. As people transition from fuel dependent vehicles to electric vehicles, revenue from the electric vehicle registration fee will replace the lost revenue from fees and taxes on fuel.

## HUTF Revenue Estimates

**Revised 2022 HUTF Revenue Estimate – last six months**. Revenue Estimate 1 is an estimate of July through December 2022 municipal HUTF revenues and is provided to assist in revising your current year HUTF estimate. We recommend adding your first six months of actual revenues to the Revenue Estimate 1 for a revised 2022 HUTF revenue estimate.

**2023 HUTF Revenue Estimate**. Revenue Estimate 2 is the aggregate municipal HUTF revenue estimate for January through December 2023. Please note that your municipality's HUTF revenue may not track the growth of the total fund. Each municipality's HUTF share is based on the number of vehicles and center lines miles in each community relative to the same statistics in other municipalities. These figures are recalculated annually. Consequently, your municipality's percentage share may change whether the municipality's own statistics change.

The following table lists the sources of the municipal HUTF Revenue Estimates:

**Aggregate HUTF Revenue Estimates Distributed to Municipalities**

| | **Estimate 1**<br>Jul-Dec 2022 | **Estimate 2**<br>Jan-Dec 2023 |
|---|---|---|
| Basic Fund | $9.1 | $17.8 |
| Additional Revenue<br>(1981, 83, 86, 89, SB95-047, SB09-108) | $55.9 | $114.6 |
| SB21-260 Fee Revenue | $3.6 | $13.6 |
| HB22-1351 Distribution | $14.1 | $0 |
| **Total HUTF to Municipalities** | **$82.9** | **$146** |

*Estimates provided by CDOT OFMPB are for each Fiscal Year, and CML staff calculates the estimates for a Calendar Year.*

**Estimates for each municipality are attached to the email this document came with**. Please keep in mind that these are only estimates and are based on CDOT's revenue projections.

## Legislation Impacting HUTF Revenue

As mentioned above, the General Assembly passed legislation that extended the reduction to the FASTER road safety surcharge into 2023. House Bill 22-1351 reduces the surcharge to $11.10 per registration, a reduction that was set to end in December of 2022. The bill also delayed the implementation of the SB21-260 road usage fee to April 2023. To offset these reductions, the bill transfers $31.4 million from the General Fund to the HUTF, which is split 55% to counties and 45% to municipalities. The reduction in the FASTER and SB21-260 forecasts are reflected in the estimates provided, and the one-time transfer of $14.1 million is reflected in Estimate 1 (see table on page two).

HB22-1254 requires people who are late registering their vehicle to pay back taxes and fees, imposes new late fees on temporary registration, and decreases the Age of Vehicle (AOV) Registration fee to offset these changes. It also annually diverts $1 from the AOV registration fee from the HUTF to the Department of Revenue (DOR). DOR is responsible for adjusting the AOV fees over time to make the bill revenue neutral, and the AOV fee reductions are repealed July 1, 2026. OFMB analysts predict that this bill will be largely revenue neutral.

## Highway User Tax Fund Background

The HUTF is a statutorily defined, state-collected, locally shared revenue that is distributed monthly to the state, counties, and municipalities. HUTF revenues are derived primarily from the following sources:

- **Basic Fund**: the first seven cents of motor fuel tax and various motor vehicle registration, title, and license fees and taxes;
- **Motor Fuel Tax Increases**: the 1981 two cents gasoline and special fuel, 1983 three cents gasoline/four cent special fuel, and 1986 six cents gasoline/seven and one-half cents special fuel tax increases;
- **1989 HUTF Increase**: a two cents per gasoline tax increase/two and one-half cents special fuels tax decrease, driver's license and motor vehicle registration fee increase, an increase of certain truck registration fees to offset the reduced special fuel tax effective in 1981; and the additional two cents per gallon gasoline tax increase effective January 1, 1991;
- **1995 HUTF Increase**: SB95-047 phased in over three years a reduction in the allowable purposes for which HUTF revenues can be allocated, which resulted ultimately in $39 million a year more in HUTF receipts being available for streets and roads; and
- **FASTER surcharges:** SB09-108 imposed a road safety surcharge to vehicle registration fees for deposit into the HUTF with an 18% municipal share. Also deposited in HUTF and shared are a daily rental car fee, an oversize vehicle permit surcharge, and an increase in the penalties for late vehicle registration.

Revenues from each of the listed sources are distributed among the state, counties, and municipalities via different formulas:

- **Basic Fund.** These revenues are distributed on a 65-26-9 percentage share basis to the state, counties, and municipalities respectively and are subject to off-the top allocations for the State Patrol, Ports of Entry, and the Department of Revenue – Motor Vehicle Business Group. Governments may spend these Basic Fund HUTF revenues for acquisition of rights-of-way, construction, engineering, safety, reconstruction, improvements, repairs, maintenance and administration of streets, roads, and highways. Administrative expenditures cannot exceed 5% (Section 43-3-208 (1), C.R.S).
- **Motor Fuel Tax, HUTF Increases, SB21-260.** These revenues are distributed on a 60-22-18 (state, county, municipal) percentage share basis and are to be spent for improvements to highways, including new construction, safety improvements, maintenance, and capacity improvements. None of these funds can be spent for administrative purposes (Section 43-4-205 (6)(b) and (13), C.R.S.).
- **FASTER.** The road safety surcharge revenues are distributed on a 60-22-18 (state, county, municipal) percentage share basis. These funds are designated for road safety projects that are defined as "a construction, reconstruction, or maintenance project that…a municipality determines is needed to enhance the safety of a city street." (Section 43-4-803 (21), C.R.S.). Administrative expenditures cannot exceed 5%.

**Impact on HUTF from SB21-260.** Although the act creates several new enterprises and impacts other existing transportation funds, most of the bill's revenue impacts occur in the HUTF. The act provided for a decrease in the road safety surcharge created under FASTER. The surcharge is decreased for all vehicles by $11.10 in 2022 and $5.55 in 2023; however, this decrease in fees was extended through 2023 through HB22-1351. The new road usage fee assessed on gas will begin at $0.02 per gallon and are increased incrementally to reach $0.08 per gallon beginning in April 2023. Additionally, the act increases the registration fees for electric vehicles, 60% of which is credited to the HUTF, with 18% distributed to municipalities. The act also assesses a new fee on retail deliveries, 40% of which is distributed to the HUTF.

**Municipal Share.** Each municipality receives a share of the municipal portion of the HUTF based on a formula that considers the number of vehicles registered and the center line miles of streets in each municipality relative to the same data in other municipalities. Generally, 80% of the distribution is based on the number of vehicles registered and 20% on the center line miles of streets in a community. Each municipality's percentage share is recalculated annually in July and is based on:

- previous year's vehicle registration figure as certified by the DOR to the State Treasurer; and
- previous year's miles of open, used, and maintained streets as certified to the Treasurer by CDOT, who uses data from each entity's Annual Certification of Condition and Mileage Report (Section 43-4-208, C.R.S.).

**Required Annual Reports**. As a condition of continuing to receive monthly HUTF payments, state law requires that municipalities annually submit two reports: Certification of Condition and Mileage Report (due March 1) and the Annual Receipts and Expenditures Report (due June 30). If these reports are not provided to the state in a timely manner, by statute (43-4-209, C.R.S.), your jurisdiction's HUTF payments will be withheld for up to six months or until the reports have been provided to the state. After six months, if the reports have not been provided, your municipality's withheld HUTF payments will be paid to your county.

Please contact Meghan MacKillop (mmackillop@cml.org) if you have questions. This memorandum is also available on the CML website.