
Highway Users Tax Fund

Overview

Background

The Highway Users Tax Fund (the Fund or HUTF) was statutorily created in 1953 to account for state highway revenue. According to Section 43-4-204, C.R.S., all moneys in the HUTF are appropriated for:

The acquisition of rights-of-way for, and the construction, engineering, safety, reconstruction, improvement, repair, maintenance, and administration of, the state highway system, the county highway systems, the city street systems, and other public roads and highways of the state. . .

Since its creation, revenue from motor fuel excise taxes, annual vehicle license and registration fees, and passenger-mile taxes on vehicles have been credited to the Fund. Over time however, additional revenue sources, such as court fines from traffic infractions and specialty license plate fees have been statutorily earmarked for the Fund.

The single largest source of Fund revenue is the motor fuel tax, which is currently set at 22 cents per gallon. The table on the following page shows the Fund's various revenue sources and the dollar amounts of each for Fiscal Years 2002 and 2003. As the table indicates, in both fiscal years, fuel taxes and motor vehicle license and registration fees were the largest revenue sources to the Fund. Together, these two sources represented about 94 percent of total Fund revenues in each year.

Highway Users Tax Fund Revenue		
Fiscal Years 2002 and 2003		
(In Millions)		
Revenue Source	2002	2003
Motor Fuel Excise Tax	\$544.6	\$542.0
Motor Vehicle License and Registration Fees	151.4	151.0
Drivers' License Fees	23.4	21.1
Court Fines and Fees	7.5	7.6
Motor Vehicle Penalty Assessments	5.7	6.7
Miscellaneous Fees ¹	6.6	6.9
Passenger Mile Tax	.6	.6
TOTALS	\$739.8	\$735.9
Source: Office of the State Auditor analysis of COFRS and Office of the State Treasurer data. ¹ Miscellaneous fees include specialty license plate fees, motorist insurance identification database, and interest earned on the Fund.		

Agencies with HUTF Responsibilities

Several state agencies have statutory responsibility for the revenue collection and distribution processes related to the Highway Users Tax Fund. Specifically, statutes charge the Department of Revenue and Judicial Department with the collection of revenue that is deposited into the Fund. In addition, the Departments of Revenue and Transportation are charged with compiling and providing information for use in the HUTF distribution formula. The Highway Users Tax Fund is statutorily located within the Office of the State Treasurer which has overall responsibility for administering the Fund. The Office of the State Treasurer is responsible for apportioning money from the Fund according to the statutory distribution formula and for obtaining the necessary information from the Departments of Transportation and Revenue for use in the monthly allocations. In the following sections we describe in greater detail the roles of the various state agencies in the HUTF process.

Office of the State Treasurer

The Office of the State Treasurer (Treasury) manages the Highway Users Tax Fund and is responsible for the annual calculations used to determine monthly distributions from the Fund to the recipient entities.

Judicial Department

A portion of various court fines related to highway traffic infractions, such as fines for Driving Under the Influence (DUI), are deposited in the Highway Users Tax Fund, per Section 42-1-217, C.R.S. The State's county courts collect the applicable fines and transfer them to the State Court Administrator's Office (SCAO) located within the Judicial Department. As part of its duties as the central accounting office for the courts, the SCAO is responsible for depositing this revenue into the HUTF.

Department of Revenue

Within the Department of Revenue (Revenue or DOR) two divisions have responsibilities related to the Highway Users Tax Fund. These are the:

Motor Carrier Services Division - operates 10 ports of entry and 10 mobile port units in the State. The Division registers interstate motor carriers and collects the associated registration fees. The Division also collects the passenger mile tax and the fuel taxes from fuel distributors, the latter being the primary source of HUTF revenue. Additionally, the Ports of Entry Program within the Motor Carrier Services Division is funded by the Highway Users Tax Fund.

Motor Vehicle Division - oversees the State's programs for licensing drivers and titling and registering intrastate and other motor vehicles. The Division is also responsible for collecting all taxes and fees assessed on motor vehicles in Colorado. By statute, the Department must annually certify to the Treasury the number of vehicles registered in each county and municipality. The Motor Vehicle Division uses the Colorado State Titling and Registration System (CSTARS) to record this information, and statutes require that this information annually be certified by the clerk and recorder in each county. After the information is certified, the Division sends it to Treasury for input into the HUTF distribution formula.

Department of Transportation

In addition to receiving the largest portion of HUTF revenue each year, the Colorado Department of Transportation (CDOT) annually provides Treasury with data on jurisdictional roadway mileage and statewide bridge deck square footage. These data are statutory components in the HUTF distribution formula for the county and municipality allocations.

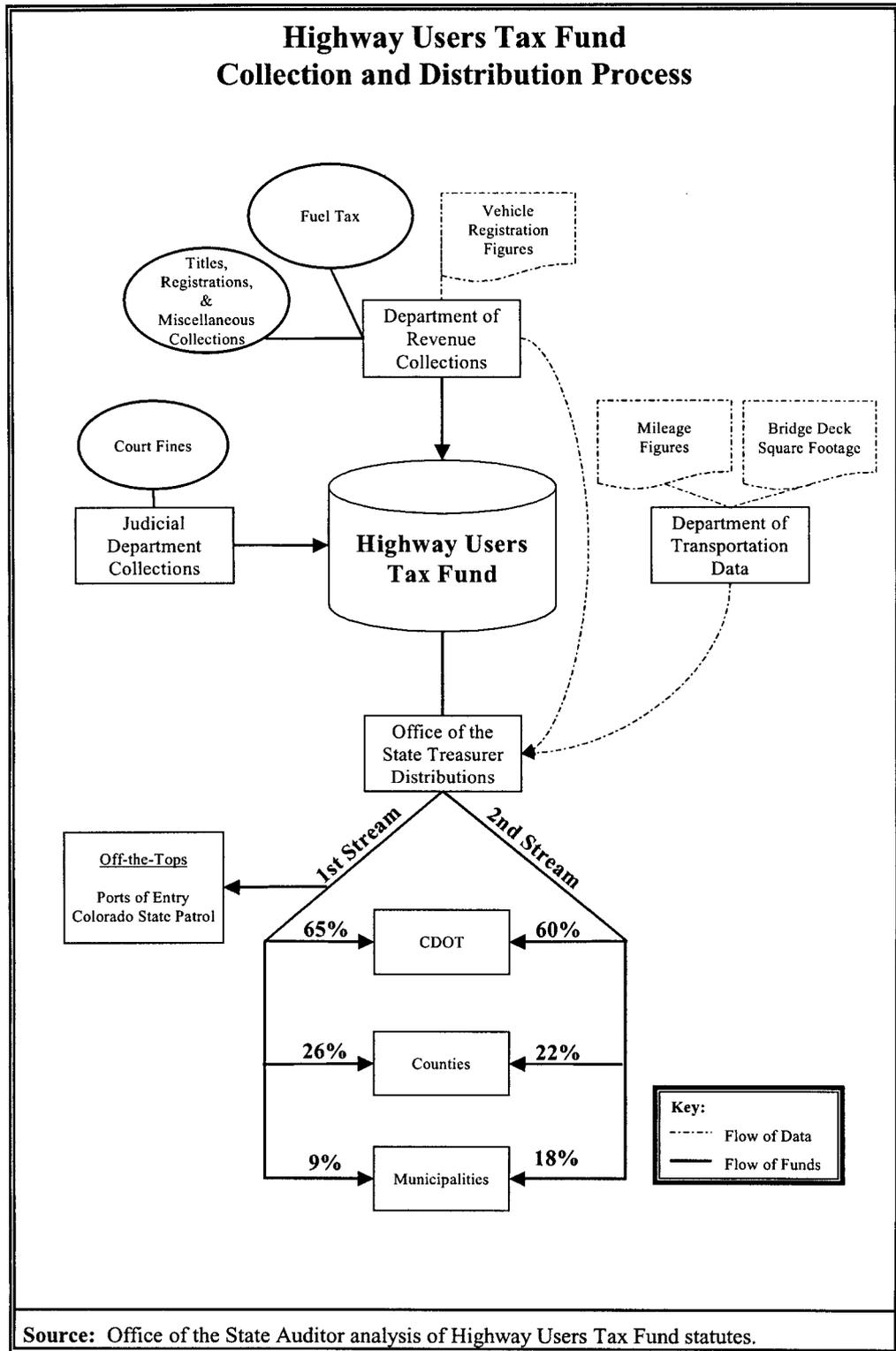
The HUTF Formula

Statutes governing the Highway Users Tax Fund prescribe the revenue collection and distribution process. Revenue flows into the Fund based on statutorily-set timetables and amounts. Moneys flow out of the Fund for distribution to the recipient entities, also based on a formula prescribed in statute. In the following sections, we provide a brief description of the HUTF distribution formula. In subsequent report chapters, we provide details about the revenue and information flowing into the Fund.

As the chart on the next page illustrates, after certain “off the top” allocations, there are two distinct revenue distribution streams within the HUTF:

First Stream. The source of revenue for the first distribution stream is the first 7 cents of the excise tax on motor fuel. The first stream also includes miscellaneous collections from motor vehicles, drivers’ licenses, and court fines. The first distribution is currently apportioned at 65 percent to CDOT, 26 percent to 62 of 64 Colorado counties, and 9 percent to about 270 municipalities throughout the State. (Note: The Cities and Counties of Denver and Broomfield are statutorily classified as municipalities for purposes of the HUTF distribution.)

Second Stream. The second distribution stream is comprised of revenue from fuel taxes in excess of 7 cents per gallon. That is, the second stream consists of the next 15 cents of the 22 cents per gallon gasoline tax and the next 13.5 cents of the 20.5 cent per gallon special fuels tax. The second stream also includes miscellaneous revenue from a portion of drivers’ license fees and motor vehicle registrations. The second distribution stream is apportioned at 60 percent to CDOT, 22 percent to the counties, and 18 percent to the municipalities.



Fund Distributions

Currently, the Departments of Public Safety and Revenue also receive a portion of HUTF revenue. However, as discussed below, the majority of the revenue is distributed to the Department of Transportation, counties, and municipalities within the State. Statutes governing the Highway Users Tax Fund are specific regarding the ways in which the Fund is to be distributed. In the initial distribution established in 1953, after funding was provided to the Colorado State Patrol, 65 percent of the Fund was apportioned the Department of Transportation, 30 percent to the counties, and 5 percent to the municipalities. Over time and through numerous legislative changes, the distribution became more involved, as described in the following sections.

Off-the-Top

The first distributions from the Highway Users Tax Fund are commonly referred to as the “off-the-top” appropriations because they are made before any other appropriations from the HUTF. The General Assembly annually makes the off-the-top appropriations for highway-related functions of state government as required by Section 43-4-201, C.R.S. Historically, the General Assembly made these statutory distributions as needed to various state agencies such as the Office of Transportation Safety, the Department of Labor and Employment for the oil inspection program, and the Department of Corrections for costs related to the production of license plates. Beginning in Fiscal Year 1996, however, the majority of the off-the-top distributions were phased out.

Currently the off-the-top appropriations are limited to the Department of Public Safety for the Colorado State Patrol and to the Department of Revenue for the Ports of Entry Program and the Motor Vehicle Division. By statute, the distributions to these two Departments cannot increase more than 6 percent annually. In Fiscal Year 2003 approximately \$88 million or 12 percent of the total Highway Users Tax Fund was appropriated for off-the-top distributions.

Department of Transportation

The portion of the Highway Users Tax Fund that is distributed to the Department of Transportation—plus interest, other miscellaneous fees, and federal reimbursements—constitutes the State Highway Fund. The State Highway Fund is to be used primarily for the maintenance of the state highway system and for matching available federal highway construction dollars. In Fiscal Year 2003, CDOT received 65 percent or about \$125 million of the first distribution stream and 60 percent or about \$273 million of the second stream. Total HUTF moneys

received by CDOT—about \$398 million—accounted for approximately 45 percent of the total revenue in the State Highway Fund.

Counties

Colorado counties receive 26 percent of the first distribution stream and 22 percent of the second stream. In Fiscal Year 2003 the counties received a total of about \$50 million of the first distribution stream and about \$100 million of the second stream, for a total distribution of about \$150 million. Statutes further divide the counties' share of the Fund into three distribution tiers.

- The first \$69.7 million of the counties' share is allocated in the same percentage as the allocation made in Fiscal Year 1988.
- The next \$17 million (\$69.7 to \$86.7 million) is allocated to 17 counties according to specifications in the HUTF statutes.
- The third tier, or all revenue in excess of \$86.7 million, is allocated on the basis of four factors: rural vehicle registrations - 15 percent; countywide vehicle registrations - 15 percent; square feet of bridge decking - 10 percent, and lane miles, adjusted for terrain type and surface type - 60 percent. The data used to establish this third tier of the county distribution are compiled and submitted to the Treasury by the Departments of Revenue and Transportation.

Municipalities

Municipalities receive 9 percent of the first distribution stream and 18 percent of the second distribution stream. In Fiscal Year 2003, the municipalities received a total of about \$17 million from the first stream and about \$82 million from the second stream, for a total distribution of about \$99 million. Statutes also allocate the local share of the Fund between the municipalities as follows:

- 80 percent on the basis of the number of urban motor vehicle registrations, adjusted to reflect the increased standards and costs of construction resulting from the concentration of vehicles in municipalities. (Note: Factors used to adjust the vehicle registrations are different for the first and second distribution streams. This allows for additional funding to municipalities with a higher concentration of motor vehicles.)
- 20 percent on the basis of the mileage of open, used and maintained streets.

As previously noted, both Denver and Broomfield are statutorily classified as municipalities for purposes of the HUTF distribution.

Distribution Amounts

The following table shows HUTF distribution amounts for Fiscal Years 2001 through 2003 and the portion of the total funds received by each category of recipient.

Total HUTF Distributions						
Fiscal Years 2001 through Fiscal Year 2003						
(In Millions)						
Recipient	2001	Percent of Total	2002	Percent of Total	2003	Percent of Total
Off-the-Top ¹	\$ 74.6	10%	\$ 82.1	11%	\$ 88.0	12%
Department of Transportation	396.3	55%	404.6	55%	398.4	54%
Counties	149.6	21%	152.7	21%	150.2	20%
Municipalities	97.9	14%	100.4	13%	99.3	14%
TOTAL	\$718.4	100%	\$739.8	100%	\$735.9	100%

Source: Office of the State Treasurer.
¹ Off-the-top distributions include those to the Departments of Public Safety and Revenue, various Long Bill appropriations including capital construction, and other legislative distributions.

Audit Scope and Methodology

Our performance audit focused on the processes used to collect revenues for the Highway Users Tax Fund, the data used to determine distributions from the Fund, and the processes used to make monthly distributions from the Fund. We interviewed staff, reviewed documentation, and analyzed data from the Judicial Department, the Departments of Revenue and Transportation, and the Office of the State Treasurer. We also contacted various county clerks and local public works departments' staff for information on motor vehicle registrations and lane mile and bridge deck measures. Audit work was conducted from December 2003 through April 2004. We would like to acknowledge the management and staff at each of the state agencies, as well as the local government staff, for their efforts and cooperation during the audit.