COLORADO MUNICIPAL LEAGUE

303 831 6411 / 866 578 0936
303 860 8175
www.cml.org
1144 Sherman St., Denver, CO 80203

To: Managers, Clerks, Finance Directors
From: Meghan MacKillop, Legislative and Policy Advocate
Date: August 30, 2021
Subject: Highway User Tax Fund Revenue Estimates

Each year, the CDOT Office of Financial Management and Budget (OFMB) prepares a forecast of expected revenues in the Highway Users Tax Fund (HUTF) for upcoming years. CML and 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.

As you might imagine, the challenges of preparing revenue estimates are difficult even in the most stable of times. There is still a great deal of uncertainty in our state due to the lingering COVID-19 pandemic and its effect on the economy and commuting patterns going forward. Forecasting the 2022 HUTF revenue was made more complex with the passage and enactment of Senate Bill (SB) 21-260, Sustainability of the Transportation System. Beginning July 2022, fee revenue outlined in the bill will increase revenue for the HUTF.

2022 HUTF Annual Revenue Forecast

For 2022, the OFMB used baseline data from 2019 to build a model to project future revenues for the HUTF. Forecasters believed that because 2020 data were impacted so heavily by the COVID pandemic, it was unreliable for purposes of predicting future revenue.

The annual revenue forecast predicts that while the state will rebound in a strong fashion from the 2020 slowdown, for FY21-22 and FY22-23 there will still be a slight decrease (-2.5%) in gasoline sales over 2019 numbers. This slight decrease from 2019 is largely due to continued COVID-19 impacts on the economy and commuter patterns. People are still working from home, for the most part, but we will see an increase in vehicle miles traveled as students return to school this fall and as the workforce returns to the office. Although the modeling shows a decrease in gasoline sales from 2019, OFMB notes that 2021 revenue recovered much quicker than anticipated, partly due to increased diesel fuel sales. The increase in diesel fuel sales is most likely due to an increase in truck deliveries as people shopped online for everyday needs, groceries, and other retail goods during the lockdown orders.

The good news for cities and towns is that even though the models show a slight decrease in gas sales from 2019, the new revenue from SB21-260 fees on fuel and retail delivery services, as well as increased fees for electric vehicles, will more than make up for that dip in projected gas sales. The HUTF forecast from OFMB predicts a roughly $8 million increase from 2021 in municipal HUTF revenues for 2022.

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.

It should also be noted that SB21-260 provides for a temporary reduction in FASTER fees beginning at the end of FY20-21 through FY22-23. While this will impact municipal HUTF revenue generation, the act provides for a local government reimbursement of this lost revenue using American Rescue Plan Act (ARPA) dollars. The act directs the state to transfer $15.8 million in ARPA funds to the HUTF for distribution to municipalities to account for this lost revenue. The timing of the transfer is not certain, and we are still waiting on clarification from CDOT, OFMB, and the Office of State Budget and Planning on the logistics of these transfers. Look out for further details on this distribution.

CML and CCI will continue to work closely with the OFMB office to monitor any unforeseen circumstances and resulting data, including updated adjustments to the forecast if necessary. We will update municipalities as quickly as possible if this happens.. We appreciate your patience and understanding during these unprecedented circumstances.

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**: SB 95-047 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:** SB 09-108 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 above 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 five percent (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 five percent.

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 provides 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 only. 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. Additionally, the act increases the registration fees for electric vehicles, 60 percent of which is credited to the HUTF, with 18 percent distributed to municipalities. The act also assesses a new fee on retail deliveries, 40 percent 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 percent of the distribution is based on the number of vehicles registered and 20 percent 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 Department of Revenue 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.).

HUTF Revenue Estimates

Revised 2021 HUTF Revenue Estimate – last six months. Revenue Estimate 1 is an estimate of July through December 2021 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 2021 HUTF revenue estimate.

2022 HUTF Revenue Estimate. Revenue Estimate 2 is the aggregate municipal HUTF revenue estimate for January through December 2022. 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 Jul-Dec 2021	**Estimate 2** Jan-Dec 2022
Basic Fund	$9.4	$18.3
Additional Revenue (1981, 83, 86, 89, SB95-047, SB09-108)	$60.0	$119.0
SB21-260 Fee Revenue	$0.00	$7.3
Total HUTF to Municipalities	**$69.4**	**$144.6**

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. Please keep in mind that these are only estimates and are based on the Colorado Department of Transportation's revenue projections.

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.