



Legislative
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SB 20-044

**FINAL
FISCAL NOTE**

Drafting Number: LLS 20-0803
Prime Sponsors: Sen. Lundeen
Rep. Carver

Date: October 5, 2020
Bill Status: Postponed Indefinitely
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Bill Topic: **SALES AND USE TAX REVENUE FOR TRANSPORTATION**

**Summary of
Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill would have transferred 10 percent of net sales and use tax revenue to the Highway Users Tax Fund, to be distributed in accordance with the fund's second stream formula. Beginning in FY 2020-21, the bill would have increased state expenditures and local government revenue and expenditures on an ongoing basis.

**Appropriation
Summary:**

For FY 2020-21, this bill would have required an appropriation of \$26,980 to the Department of Revenue. The State Highway Fund is continuously appropriated to the Department of Transportation and does not require an appropriation.

**Fiscal Note
Status:**

This fiscal note represents the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under SB 20-044**

| | | FY 2020-21 | FY 2021-22 |
|---------------------|------------------------|------------------------|------------------------|
| Revenue | | - | - |
| Expenditures | General Fund | \$13,930 | - |
| | Cash Funds | \$13,050 | - |
| | State Highway Fund | \$219.8 million | \$228.4 million |
| | Total | \$219.8 million | \$228.4 million |
| Transfers | General Fund | (\$366.3 million) | (\$380.7 million) |
| | Highway Users Tax Fund | \$366.3 million | \$380.7 million |
| | Total | \$0 | \$0 |
| TABOR Refund | | - | - |

Summary of Legislation

This bill transfers 10 percent of the state's net sales and use tax revenue to the Highway Users Tax Fund (HUTF), which reflects the portion of net revenue of sales and use tax revenue attributable to the sale or use of motor vehicles and related items. The additional sales and use tax funds allocated to the HUTF will be distributed in accordance with the second stream HUTF revenue allocation as follows:

- 60 percent to the State Highway Fund;
- 22 percent to counties; and
- 18 percent to municipalities.

The portion of the funding allocated to the State Highway Fund is required to be spent on the construction, reconstruction, repairs, improvement, planning, supervision, and maintenance of the state highway system and other public highways, including any county and municipal roads and highways.

Background

The transfer of sales and use tax revenue attributable to the sale and use of motor vehicles and related items to the HUTF was first enacted in 1997 under Senate Bill 97-001. The transfer occurred if General Fund revenue was sufficient to fund TABOR refunds, the statutory reserve, and a 6 percent increase in General Fund appropriations. Transfers to the HUTF began in FY 1997-98, and occurred annually but for FY 2002-03, FY 2003-04, FY 2004-05, and FY 2008-09. A total of \$1.43 billion was diverted from the General Fund to the HUTF over a total of 8 fiscal years. SB 97-001 was repealed in 2009 under SB 09-228.

Highway Users Tax Fund. The HUTF is the primary source of state highway system funding in Colorado. Preliminary estimates of revenue to the fund totaled \$1.3 billion in FY 2018-19.

- *Funding streams.* The terms "off-the-top," "first stream," and "second stream" are used to describe the distribution of HUTF revenue. Prior to the first stream distribution, appropriations are made to the Department of Revenue, for highway-related functions, and to the Department of Public Safety, for the Colorado State Patrol. These appropriations are referred to as "off-the-top" deductions. Remaining first stream revenue is distributed to the Department of Transportation (CDOT) (65 percent), counties (26 percent), and municipalities (9 percent). Second stream revenue is distributed to CDOT (60 percent), counties (22 percent), and municipalities (18 percent).
- *State Highway Fund.* The State Highway Fund is the primary account used for maintenance of the state's highway system. It is administered by and continuously appropriated to CDOT. The fund receives the state's share of HUTF distributions and federal funds; it also generates its own revenue, primarily from interest earnings on the fund balance and local government matching funds to federal transportation funding programs.

State Transfers

This bill will transfer \$366.3 million in FY 2020-21 from the General Fund to the HUTF and \$380.7 million in FY 2021-22. Transfers will occur in ongoing years, and the amount transferred will depend on the amount of sales and use tax revenue generated in the state each year. These estimates are based on Legislative Council Staff's December 2019 revenue forecast for sales and use tax revenue.

State Expenditures

This bill will increase state expenditures from the State Highway Fund by \$219.8 million in FY 2020-21 and by \$228.4 million in FY 2021-22, with similar expenditures in ongoing years, and for the Department of Revenue by \$26,980 in FY 2020-21 only.

Department of Transportation. The State Highway Fund expenditures represent 60 percent of the total amount transferred to the HUTF, and are based on Legislative Council Staff's December 2019 revenue forecast for sales and use tax revenue. Table 2 shows the revenue distributed to the SHF, counties, and municipalities for FY 2020-21 and FY 2021-22.

Table 2
HUTF Transfers and Expenditures Under SB 20-044

| | FY 2020-21 | FY 2021-22 |
|---------------------------|------------------------|------------------------|
| State Highway Fund | \$219.8 million | \$228.4 million |
| Counties | \$80.6 million | \$83.8 million |
| Municipalities | \$65.9 million | \$68.5 million |
| Total | \$366.3 million | \$380.7 million |

Department of Revenue. This bill requires that transfers be made from the General Fund to the HUTF attributable to sales tax filing periods starting on July 1, 2020. Because sales tax revenue can be collected for one filing period over a period of months or years after that filing period, programming changes are required in the GenTax and Driver License, Record, Identification and Vehicle Enterprise Solutions (DRIVES) systems, both of which are used in sales tax collections.

- *GenTax.* This bill requires a General Fund expenditure of \$13,930 to program, test, and update database fields in the Department of Revenue's GenTax software system. Programming costs are estimated at \$6,250, representing 25 hours of contract programming at a rate of \$250 per hour. Costs for testing at the department are estimated at \$3,840, representing 160 hours of contract testing at a rate of \$24 per hour.
- *DRIVES.* This bill requires a DRIVES Cash Fund expenditure of \$13,050 to program, test, and update database fields in the Department of Revenue's DRIVES software system. These costs are estimated at \$13,050, representing 58 hours of contract programming, administration, and reporting at a rate of \$225 per hour.

Local Government

This bill will increase county and municipal revenue and expenditures beginning in FY 2020-21. Under second stream HUTF allocations, counties receive 22 percent of the revenue transferred to the HUTF, while municipalities receive 18 percent. Table 2 in the State Expenditures section shows the revenue impacts for local governments. Expenditures will increase for each year by similar amounts, depending on the projects undertaken.

Effective Date

This bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on January 29, 2020.

State Appropriations

For FY 2020-21, the bill would have required an appropriation of \$13,930 from the General Fund and of \$13,050 from the Colorado DRIVES Vehicle Services Account to the Department of Revenue. The State Highway Fund is continuously appropriated to the Department of Transportation.

State and Local Government Contacts

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|----------------|----------------------------------|
| Counties | Local Affairs |
| Municipalities | Information Technology |
| Personnel | Revenue |
| Transportation | Regional Transportation District |