



Colorado  
Legislative  
Council  
Staff

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**MEMORANDUM**

December 5, 2011

**TO:** Capital Development Committee

**FROM:** Bo Pogue, Research Associate, 303-866-5390

**SUBJECT:** Projected Revenue from HUTF Off-the-Top Distributions for FY 2012-13

This memorandum summarizes off-the-top distributions projected to be available from the Highway Users Tax Fund (HUTF) in FY 2012-13. Appended is an overview of the HUTF off-the-top distributions currently projected for FY 2012-13 (Attachment A). Based on current projections, there will be about \$14.1 million available to fund capital construction projects from off-the-top distributions this year.

**Background**

HUTF off-the-top appropriations fund the capital and operating expenses associated with the Department of Revenue, Ports-of-Entry Division, and Department of Public Safety, Colorado State Patrol.<sup>1</sup> Revenue accrues to the HUTF from the state motor fuel tax, vehicle registration fees, drivers' license fees, and court fines. Off-the-top distributions are funded from the motor fuel tax, which is divided into two pots prior to distribution: the first 7 cents of the tax rate and everything else above 7 cents.

Off-the-top distributions are made from revenue received from the first 7 cents of the motor fuel tax rate. After off-the-top distributions are made, the remainder of the revenue above the first 7 cents is distributed 65 percent to the Colorado Department of Transportation, 26 percent to counties, and 9 percent to cities.<sup>2</sup>

Off-the-top distributions are limited to 6 percent growth over the prior year's appropriation. For example, in FY 2012-13, the projected appropriation limit is \$129.7 million, 6 percent more than the FY 2011-12 expected expenditure of \$122.4 million. To date, only \$110.8 million of the available \$122.4 million for FY 2011-12 has been appropriated. Staff anticipates that the remaining available FY 2011-12 balance of \$11.6 million will be requested and appropriated through the regular supplemental process.

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<sup>1</sup> Section 43-4-201 (3)(a)(I)(B), C.R.S.

<sup>2</sup> Section 43-4-205 (5), C.R.S.

## **FY 2012-13 Projections**

Assuming that the remainder of the available FY 2011-12 off-the-top moneys are fully expended, the FY 2012-13 operating requests for the departments of Public Safety and Revenue, as projected by Joint Budget Committee (JBC) staff, plus the requested funding for FY 2012-13 capital projects for the Department of Revenue's ports-of-entry operations, is under the available 6 percent growth limit by about \$11.8 million. If no further appropriations are made from the remaining FY 2011-12 off-the-top balance, thus reducing the base for FY 2012-13, the FY 2012-13 off-the-top appropriations limit will be \$117.4 million, leaving the FY 2012-13 capital projects underfunded by about \$0.5 million.

## **Committee Action Required**

Assuming that a sufficient portion of the available FY 2011-12 off-the-top moneys are appropriated, the Capital Development Committee may choose to recommend funding for the four ports-of-entry projects requested by the Department of Revenue as part of its cash-funded recommendation to the JBC.

## FY 2012-13 HUTF Overview

	FY 2011-12 Appropriation	FY 2012-13 Request
1 <b>HUTF BASE</b>	\$115,447,952	\$122,374,829
2 Allowable Growth (6%)	1.06	1.06
3 <b>APPROPRIATIONS LIMIT</b>	<b>\$122,374,829</b>	<b>\$129,717,319</b>
4 <b>OPERATING</b>		
5 <i>Department of Public Safety Subtotal</i>	98,643,404	105,548,600
6 <i>Department of Revenue Subtotal</i>	12,147,963	10,085,177
7 <b>TOTAL OPERATING</b>	<b>\$110,791,367</b>	<b>\$115,633,777</b>
8 <b>CAPITAL CONSTRUCTION</b>		
11 <i>Department of Revenue</i>		
16 Northbound Scale Pit Repair, Monument Port-of-Entry		270,832
17 Lot Pavement Repair/Replacement, Fort Collins Port-of-Entry		1,192,851
18 Eastbound Lane and Scale Pit Repair, Fort Morgan, Port-of-Entry		255,094
19 Southbound Building, Monument Port-of-Entry		544,441
20		
23 <b>TOTAL CAPITAL</b>	<b>-</b>	<b>2,263,218</b>
24 <b>TOTAL - OPERATING AND CAPITAL</b>	<b>\$110,791,367</b>	<b>\$117,896,995</b>
25 <b>OVER (UNDER) HUTF OFF-THE-TOP APPROPRIATIONS LIMIT</b>	<b>(\$11,583,462)</b>	<b>(\$11,820,324)</b>

*\*This projection is based on the assumption that the FY 2011-12 HUTF off-the-top balance will be spent in full. If no further appropriations are made during the regular supplemental process from the remaining FY 2011-12 HUTF off-the-top balance, the FY 2012-13 appropriations limit will be \$117,438,849, which will result in a shortfall of \$458,146 for the total FY 2012-13 operating and capital request.*