

MEMORANDUM

TO: Members of the Joint Budget Committee
FROM: David Meng
SUBJECT: Interim Supplemental - Loma Port of Entry Staffing
DATE: July 11, 2011

Attached to this memo is the JBC Staff write-up for the Interim Supplemental Requests from the Department of Revenue that the JBC considered on June 20, 2011. At issue for this meeting is the potential reconsideration of Interim Supplemental #1 - Loma Port Staffing. At the June 20, 2011 meeting, the JBC voted on this supplemental, but the motion to pass failed on a tie vote of three to three.

Staff's recommendation in the write-up remains to approve the Department's request for an interim supplemental request of \$193,171 cash funds and 4.0 FTE from the Highway Users Tax Fund "off-the-top" for FY 2011-12. This appropriation will fund the operations of the westbound Loma port of entry (I-70 west of Grand Junction) for all but one eight-hour shift per week.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



INTERIM SUPPLEMENTAL REQUEST FOR FY 2011-12

DEPARTMENT OF REVENUE

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
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June 20, 2011**

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DEPARTMENT OF REVENUE

**FY 2011-12 INTERIM SUPPLEMENTAL REQUEST
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TABLE OF CONTENTS

	Narrative Page	Numbers Page
Interim Supplemental #1 - Loma Port Staffing	1	4
Interim Supplemental #2 - State Sales Tax Refunds Pursuant to H.B. 10-1285	2	5
Totals for All Interim Supplementals	3	N.A.

DEPARTMENT OF REVENUE

**FY 2011-12 INTERIM SUPPLEMENTAL REQUEST
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

**Interim Supplemental Request #1
Loma Port Staffing**

	Request	Recommendation
Total	\$193,171	\$193,171
FTE	<u>4.0</u>	<u>4.0</u>
Cash Funds (HUTF)	193,171	193,171

<p>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p>	YES
<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]</p>	YES
<p>JBC staff and the Department agree that (1) this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and (2) this request is the result of an unforeseen contingency.</p>	

Department Request: The Department requests an increase of \$193,171 cash funds from the Highway Users Tax Fund "off-the-top" moneys and 4.0 FTE for FY 2011-12 to staff the westbound Loma Port of Entry (Interstate 70 at the Utah State line). Utah, which had been staffing the port pursuant to a joint agreement, informed the Department that they were terminating the agreement effective May 12, 2011.

Staff Recommendation: Staff recommends that the Committee approve the Department's request for an appropriation of \$193,171 cash funds and 4.0 FTE for FY 2011-12.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis: On April 11, 2011, the State of Utah informed the Department of Revenue that it was terminating the joint Port of Entry Operating agreement between the states effective May 12, 2011. The reason given in a newsletter from the Utah Motor Carrier Division is that "New Colorado

DEPARTMENT OF REVENUE

FY 2011-12 INTERIM SUPPLEMENTAL REQUEST JBC WORKING DOCUMENT - SUBJECT TO CHANGE

legislation made it very difficult for port operations to fully address the mission of the division to protect the infrastructure, enhance safety and facilitate commerce." House Bill 10-1113, which is the bill Utah is referring to, transferred the Motor Carrier Safety Assistance Program from the Department of Revenue to the Department of Public Safety, Colorado State Patrol and authorized a third-party study to determine which department in State government should be responsible for the ports of entry program.

Under the agreement with Utah, Colorado operated the eastbound port for commercial vehicles entering Colorado, while Utah operated the westbound port for commercial vehicles entering Utah. Even though the westbound port was operated by Utah, it is physically located in Colorado. Both states acted as agents for the other state, collecting fees and penalties and enforcing motor carrier rules. The Department has been operating the westbound port since May 12 on a limited basis with temporary staff, however, it does not have the resources to continue with this arrangement in FY 2011-12.

The Loma port is one of two ports of entry for westbound traffic that originates west of the continental divide (the other is in Cortez, which serves far fewer commercial vehicles on an annual basis than the Loma port on the I-70 corridor). In order to fulfill its obligation to enforce Colorado law, the Department states that westbound commercial traffic would be required to exit the highway to use the eastbound facility. The eastbound facility already handles 316,000 vehicles per year, so without infrastructure and staffing improvements, adding the 177,000 westbound vehicles per year would significantly delay commercial vehicles, especially at peak hours.

The additional staff would allow the Department to keep the westbound port open (except for one 8 hour shift per week). The duties of the additional staff include:

- Weighing and clearing commercial vehicles;
- visual inspection of commercial vehicles and loads;
- review and inspect required documents
- collect taxes, fees, district warrants, and fines; and
- issue penalty assessments for violations of weight, size, length, width, vehicle registrations, and extra legal permits.

According to the Department, the westbound port collects approximately \$336,000 in fees and fines and another \$148,000 in specific ownership tax distributions. In addition, the Department has estimated that maintaining the westbound Loma port would prevent approximately \$870,000 annually in road damage related to oversize and overweight commercial vehicles.

DEPARTMENT OF REVENUE

**FY 2011-12 INTERIM SUPPLEMENTAL REQUEST
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

**Interim Supplemental Request #2
State Sales Tax Refunds Pursuant to H.B. 10-1285**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

<p>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p>	YES
<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]</p>	YES
<p>JBC staff and the Department agree that (1) this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and (2) this request is the result of a technical error in calculating the original appropriation.</p>	

Department Request: The Department requests an appropriation of \$81,434 cash funds from the Commercial Vehicle Enterprise Tax Fund in FY 2011-12 for a new line item in the Taxation Business Group, Special Purpose Division for the Commercial Vehicle Enterprise Sales Tax Refund.

Staff Recommendation: Staff recommends that the Committee approve the Department's request for an appropriation for FY 2011-12 of \$81,434 cash funds from the Commercial Vehicle Enterprise Tax Fund for the Commercial Vehicle Enterprise Sales Tax Refund.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

DEPARTMENT OF REVENUE

**FY 2011-12 INTERIM SUPPLEMENTAL REQUEST
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Staff Analysis: House Bill 10-1285 was enacted to provide refunds for state sales taxes and credits for state income taxes associated with purchasing or leasing, licensing, and registering certain types of commercial vehicles in Colorado. The income tax credit is handled like any other credit, in that taxpayers claim the credit on their income tax returns. However, H.B. 10-1285 requires that the sales tax refund be appropriated annually by the General Assembly.

The provision of the bill that the sales tax refund be part of the annual appropriation was not discovered by the Department in time to put into the FY 2011-12 Long Bill. Therefore, the Department requests the supplemental appropriation to allow it to make the refunds required in the bill. If this supplemental is not approved, the Department will be unable to carry the sales tax refund provisions in H.B. 10-1285.

	FY 2010-11	FY 2011-12	Fiscal Year 2011-12 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF REVENUE					
Executive Director - Roxy Huber					
Interim Supplemental #1 - Loma Port Staffing					
<i>(1) Executive Director's Office</i>					
Utilities	<u>247,119</u>	<u>247,119</u>	<u>5,700</u>	<u>5,700</u>	<u>252,819</u>
Cash Funds	143,703	143,703	0	0	143,703
HUTF	103,416	103,416	5,700	5,700	109,116
<i>(2) Central Department Operations</i>					
Postage	<u>2,633,336</u>	<u>3,090,752</u>	<u>528</u>	<u>528</u>	<u>3,091,280</u>
General Fund	2,381,067	2,744,148	0	0	2,744,148
Cash Funds	238,360	332,695	0	0	332,695
HUTF	13,909	13,909	528	528	14,437
<i>(6) Motor Carrier Services Division</i>					
Personal Services	6,907,329	6,933,538	164,331	164,331	7,097,869
FTE	<u>129.3</u>	<u>120.1</u>	<u>4.0</u>	<u>4.0</u>	<u>124.1</u>
General Fund	555,525	559,056	0	0	559,056
Cash Funds	4,168	0	0	0	0
HUTF	6,337,156	6,374,482	164,331	164,331	6,538,813
Reappropriated Funds	10,480	0	0	0	0
Operating Expenses	<u>515,305</u>	<u>515,305</u>	<u>22,612</u>	<u>22,612</u>	<u>537,917</u>
General Fund	38,045	38,045	0	0	38,045
HUTF	477,260	477,260	22,612	22,612	499,872

	FY 2010-11	FY 2011-12	Fiscal Year 2011-12 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Total for Supplemental #1	10,303,089	10,786,714	193,171	193,171	10,979,885
FTE	<u>129.3</u>	<u>120.1</u>	<u>4.0</u>	<u>4.0</u>	<u>124.1</u>
General Fund	2,974,637	3,341,249	0	0	3,341,249
Cash Funds	386,231	476,398	0	0	476,398
HUTF	6,931,741	6,969,067	193,171	193,171	7,162,238
Reappropriated Funds	10,480	0	0	0	0
Interim Supplemental #2 - State Sales Tax Refunds Pursuant to H.B. 10-1285					
<i>(4) Taxation Business Group, (E) Special Purpose</i>					
Commercial Vehicle Enterprise Sales Tax					
Refund - General Fund	0	0	81,434	81,434	81,434
Totals					
DEPARTMENT OF REVENUE					
TOTALS for ALL Departmental line items	726,962,619	292,804,713	274,605	274,605	293,079,318
FTE	<u>1,521.5</u>	<u>1,365.4</u>	<u>4.0</u>	<u>4.0</u>	<u>1,369.4</u>
General Fund	70,682,233	70,546,702	81,434	81,434	70,628,136
Cash Funds	640,449,673	208,112,073	0	0	208,112,073
HUTF	13,477,613	12,078,388	193,171	193,171	12,271,559
Reappropriated Funds	1,537,481	1,343,849	0	0	1,343,849
Federal Funds	815,619	723,701	0	0	723,701

Key:

"N.A." = Not Applicable or Not Available