



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 11-0305 **Date:** April 20, 2011
Prime Sponsor(s): Rep. Beezley; DelGrosso **Bill Status:** House Finance
 Sen. Brophy **Fiscal Analyst:** Kate Watkins (303-866-6289)

TITLE: CONCERNING THE USE OF MONEYS IN THE STATE GENERAL FUND ABOVE A NEWLY ESTABLISHED LIMIT ON TOTAL STATE GENERAL FUND APPROPRIATIONS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013	FY 2013-2014
State Revenue			
State Transfers or Diversions Transfer from the General Fund to the: State Rainy Day Cash Fund Highway Users Tax Fund Capital Construction Fund	See the State Transfers section		
State Expenditures General Fund	See the State Expenditures section		
FTE Position Change			
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.			
Appropriation Summary for FY 2011-2012: None required.			
Local Government Impact: See Local Government Impact section.			

Summary of Legislation

Under current law, General Fund appropriations are limited to an amount equal to 5 percent of Colorado personal income. Beginning in FY 2011-12, this bill limits General Fund appropriations growth to 6 percent over the prior year's appropriations. The bill also requires year-end surplus revenue above the new limit, net any statutory or constitutional requirements,¹ be transferred to the newly created State Rainy Day Fund. During economic downturns the General Assembly may appropriate or transfer moneys from the fund with a two-thirds majority vote in both houses.

¹These include required TABOR refunds, the General Fund reserve, and Senate Bill 09-228 transfers.

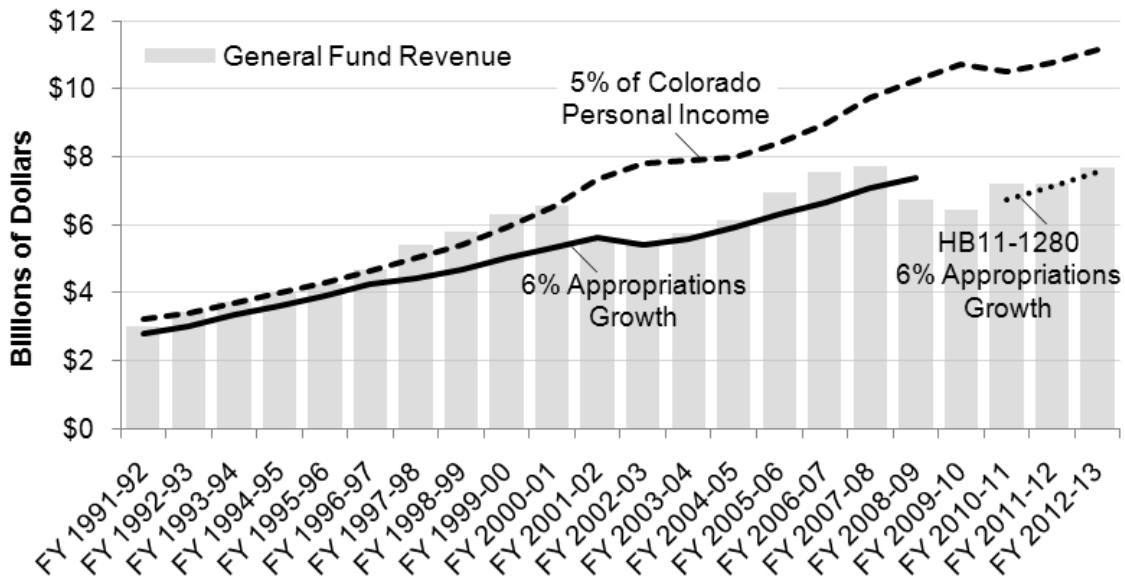
Once the State Rainy Day Fund reaches an amount equal to 8 percent of General Fund appropriations, remaining surplus revenue is required to be transferred as follows:

- two-thirds to the Highway Users Tax Fund (HUTF) to be distributed 60 percent to the State Highway Fund, 22 percent to counties, and 18 percent to cities; and
- one-third to the Capital Construction Fund (CCF).

Background

Senate Bill 09-228. From FY 1991-92 to FY 2008-09, General Fund appropriations were limited to the lesser of a 6 percent increase from the prior year's appropriations level or 5 percent of Colorado personal income. This limit is commonly referred to as the Arveschoug-Bird limit, named after the sponsors of the bill that imposed the limit. Historically, the 6 percent appropriations growth limit has been the smaller amount. During the 2009 legislative session, Senate Bill 09-228 repealed the 6 percent limit on General Fund appropriations, thereby limiting appropriations to 5 percent of Colorado personal income starting in FY 2009-10. For illustrative purposes, Figure 1 shows the appropriations limit under current law and House Bill 11-1280 relative to General Fund revenue.

Figure 1
Appropriation Limits Under Current Law and House Bill 11-1280



Note: From FY 1991-92 through FY 2008-09, the appropriations limit was equal to the lesser of the 6 percent appropriations growth or 5 percent of personal income. The 6 percent appropriations growth limit was repealed by SB09-228 starting in FY 2009-10. Projections for FY 2010-11 through FY 2012-13 are from the March 2011 Legislative Council Staff Forecast.

Starting in FY 2009-10, Senate Bill 09-228 also repealed certain transportation and capital construction funding mechanisms, including the House Bill 02-1310 transfers to the HUTF and CCF. House Bill 02-1310 transfers consisted of "surplus" General Fund moneys that exceeded the Arveschoug-Bird appropriations limit and was not required to meet the statutory General Fund reserve requirement or be distributed as a TABOR refund to taxpayers. House Bill 02-1310 transfers were distributed two-thirds to the HUTF and one-third to the CCF.

Senate Bill 09-228 established a new transfer mechanism for the CCF and the HUTF, where, starting in FY 2012-13, annual Colorado personal income growth of 5 percent triggers a five-year block of General Fund transfers in an amount equal to:

- 2 percent of General Fund appropriations each year for five years to the HUTF; and
- 0.5 percent of General Fund appropriations in the first two years and 1 percent of General Fund appropriations in the following 3 years to the CCF.

Senate Bill 09-228 also requires that the statutory General Fund reserve increase over time up to an amount equal to 6.5 percent of General Fund appropriations subject to the 5 percent personal income growth trigger. The Senate Bill 09-228 HUTF and CCF transfers and the required increase in the reserve do not change under House Bill 11-1280.

Beginning in FY 2011-12, House Bill 11-1280 establishes a limit of 6 percent appropriations growth that is lower than the current limit of 5 percent of personal income. The bill also requires transfers similar to the House Bill 02-1310 transfers, where, once the State Rainy Day Fund reaches an amount equal to 8 percent of General Fund appropriations, surplus revenue is transferred two-thirds to the HUTF and one-third to the CCF.

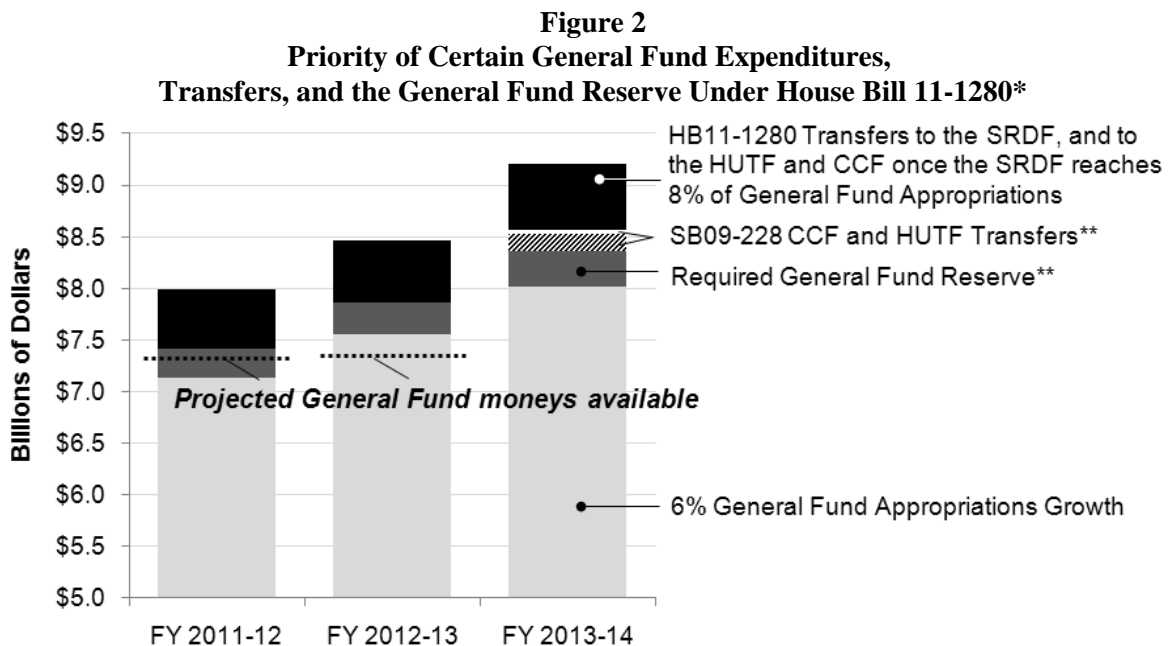
State Transfers

The bill requires that year-end surplus revenue above the new 6 percent appropriations limit, net statutory or constitutionally required reserves, TABOR refunds, and transfers, be transferred to a newly created State Rainy Day Fund. Once the State Rainy Day Fund balance reaches and exceeds an amount equal to 8 percent of General Fund appropriations, two-thirds of surplus funds will be transferred to the HUTF and the remaining one-third of surplus funds will be transferred to the CCF.

For illustrative purposes, Figure 2 shows the priority of certain expenditures and transfers under the bill over the next three fiscal years. The figure also illustrates the amount of General Fund moneys needed for there to be any surplus funds available for the State Rainy Day Fund or other House Bill 11-1280 transfers. Based on the March 2011 Legislative Council Staff Forecast, General Fund moneys will not be sufficient for House Bill 11-1280 transfers to occur through at least FY 2012-13, the last year of the forecast period. The dotted lines in the figure shows projected General Fund moneys available relative to the amount required for the House Bill 11-1280 transfers to occur.

Should revenue exceed the TABOR limit, the TABOR refund supercedes all other spending priorities. Because a TABOR surplus is not expected over the next several years, TABOR refunds are not shown in Figure 2.

The light grey bars in Figure 2 shows appropriations growing by 6 percent each year. If General Fund revenue is not sufficient to allow appropriations to grow 6 percent, the 6 percent limit will "ratchet-down" because it is based on the prior year's appropriations. Based on the March 2011 forecast, this is expected to be the case in both FY 2011-12 and FY 2012-13. Therefore, the light grey bars in Figure 2 likely overstate allowable General Fund appropriations under the 6 percent limit.



Note: Should revenue exceed the TABOR limit, the TABOR refund supercedes all other spending priorities.

* Projections based on the March 2011 Legislative Council Staff forecast.

** The March 2011 forecast assumes that Colorado personal income will grow by at least 5% in 2013, which will trigger the SB09-228 CCF and HUTF transfers and require that the General Fund reserve to increase to 4.5% in FY 2013-14. SRDF = State Rainy Day Fund. CCF = Capital Construction Fund. HUTF = Highway Users Tax Fund.

State Expenditures

By establishing a 6 percent appropriations growth limit, this bill may reduce the amount of General Fund expenditures in years when General Fund moneys are sufficient to grow appropriations by more than 6 percent. Historically, 6 percent appropriations growth has been a lesser amount than 5 percent of Colorado personal income. This fiscal note assumes that this will continue to be the case into the future.

This bill also changes how General Fund moneys are allocated by requiring transfers to certain cash funds. This may change the timing of expenditures and where moneys are spent.

Local Government Impact

This bill may increase the amount of HUTF distributions to cities and counties if and when General Fund moneys are sufficient to reach and exceed the target State Rainy Day Fund amount of 8 percent of General Fund appropriations. This is not expected to occur within the next five fiscal years or more based on current law and the March 2011 Legislative Council Staff forecast.

Departments Contacted

Transportation
Revenue

Personnel and Administration
Legislative Council Staff

Treasury