

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUESTS FY 2014-15, FY 2015-16, AND FY2017-18 CAPITAL CONSTRUCTION

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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INTERIM SUPPLEMENTAL REQUESTS

INTERIM SUPPLEMENTAL #1 (FY 2014-15), CAPITAL CONSTRUCTION, DEPARTMENT OF HIGHER EDUCATION, HISTORY COLORADO, PEARCE MCALLISTER RENOVATION

	REQUEST	RECOMMENDATION
TOTAL	\$0	\$0
Capital Construction Fund/General Fund	0	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? **NO**
 [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.]

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**
 [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.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made. However, the original appropriation was approved in 2014 and changed circumstances should have been addressed through the regular supplemental process in the three years since that approval. Any unforeseen circumstances arose prior to the conclusion of the 2017 legislative session and did not arise while the General Assembly was not in session. However, statute refers to an overexpenditure; the request is not for additional spending authority but rather for a time extension of existing spending authority.

DEPARTMENT REQUEST: The Department requests a change of scope for the project and an extension of spending authority through FY 2019-20.

CDC APPROVAL: The Capital Development Committee approved the request for a change of scope and extended spending authority through FY 2019-20.

STAFF RECOMMENDATION: Staff cannot recommend approval of the request as it fails to satisfy statutory interim supplemental criteria regarding when History Colorado was or should have been aware that its spending authority would expire. However, the request does not include a request for overexpenditure as is specified in the interim supplemental criteria. If the Committee approves the request, staff recommends limiting an extension of spending authority for two additional years, through FY 2018-19.

STAFF ANALYSIS: The supplemental budget request states that an architect was hired in October 2014 and determined that deferred maintenance was greater than originally anticipated. History Colorado determined that a comprehensive assessment should be completed prior to proceeding with construction. The original architect retired and a new architect was hired in March 2016 and completed an assessment for review in January 2017. History Colorado states that as of the

assessment, they realized there was not enough time left in the appropriation to bid the job and get a contract approved and funds encumbered by June 30, 2017, leading them to request a three-year extension of spending authority at this time through the interim supplemental process.

Staff believes that History Colorado should have known that their spending authority for the appropriation would expire on June 30, 2017, regardless of recommendations anticipated or included in the January 2017 assessment review.

The CDC has approved the change in scope for the project and staff supports the concept of spending the approximately \$770,000 remaining of the original \$844,000 appropriation to address critical facility maintenance needs for this building. However, the changed circumstances related to the project were foreseeable and afforded History Colorado the opportunity to make this request while the General Assembly was in session. Additionally, History Colorado has the opportunity to submit a new request in FY 2018-19 for the remaining funds for the project with funding that will otherwise be reported as reversion.

While an initial capital construction appropriation receives a three-year period of spending authority through authority provided in headnotes for the capital construction section of the budget, it is relatively rare that even large, new building construction projects require extensions beyond the three years provided in the Long Bill. Staff believes that a relatively small, controlled maintenance-type renovation project, as this project has become, should be completed within one to two years with most funds encumbered in the first year. Should the Committee approve an extension of spending authority, staff would recommend an extension of no more than two additional years.

INTERIM SUPPLEMENTAL #2 (FY 2015-16), CAPITAL CONSTRUCTION, DEPARTMENT OF HIGHER EDUCATION, UNIVERSITY OF COLORADO AT BOULDER, SYSTEMS BIOTECHNOLOGY BUILDING, ACADEMIC WING

	REQUEST	RECOMMENDATION
TOTAL	\$10,903,585	\$10,903,585
Capital Construction Fund/General Fund	0	0
Cash Funds	10,903,585	10,903,585
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? **YES**
 [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.]

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**
 [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.]

Explanation: JBC staff and the Department agree that this request is the result of an unforeseen contingency related to increased costs relative to project planning begun in 2006 and the budget estimate completed in 2010.

DEPARTMENT REQUEST: The Department requests an additional \$10,903,585 in cash funds spending authority for this project.

CDC APPROVAL: The Capital Development Committee approved the request for additional cash funds spending authority for the project.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS: The University states that a funding shortfall has resulted from construction inflation and delays in the project's schedule. The University also states that construction demand in the Denver region has doubled over the last few years, resulting in labor shortages. In addition, the planning process for the project began in 2006, and the most recent budget estimate for the Academic Wing was completed in 2010, which estimate is below actual costs in 2017.

The project constructs a 57,347-GSF academic wing on the Jennie Smoly Caruthers Biotechnology Building, construction of which was completed in 2014 at CU Boulder's research campus using mostly cash and federal funds. When completed, the academic wing will provide classroom space and teaching laboratories for several growing science disciplines, and the entire building will consist of five multi-story wings supporting the advancement and application of the university's interdisciplinary biotechnology program. Project design and construction for the academic wing was initiated using cash funds.

FUNDING HISTORY AND BACKGROUND ON BUILDING PHASING

The Systems Biotechnology Building was originally conceived as a single, three-phase project, with Phase I being cash-funded and the subsequent phases being a combination of state and cash funding. Due to the limited availability of state funds for capital construction and the fact that cash funding was available, CU Boulder re-scoped the project to separate the cash-funded portion of the building's construction from the state-funded portion. The University received \$148.0 million in cash funds spending authority for the first two phases of the building's construction, which planned and constructed a one-story auditorium and four wings of the building under a separate project. A \$15.0 million American Recovery and Reinvestment Act (ARRA) grant from the National Institutes of Health allowed the university to finish and equip shelled laboratory, office, and accessory spaces in the building's main portion. An additional \$6.0 million in state funds allowed the University to complete the additional existing shelled space, while \$4.0 million cash funds spending authority approved in February 2014 was used to design and initiate construction of the academic wing. The University received \$15.0 million in state funds and \$13.2 million cash funds spending authority for FY 2015-16 to complete and equip the Academic Wing. This supplemental request would complete the project.

The source of cash funds for the supplemental request is indirect cost recoveries, gifts and bequests, and cash reserves.

INTERIM SUPPLEMENTAL #3 (FY 2017-18), CAPITAL RENEWAL AND RECAPITALIZATION, DEPARTMENT OF CORRECTIONS, OUTDOOR RECREATION YARDS, CENTENNIAL CORRECTIONAL FACILITY SOUTH

	REQUEST	RECOMMENDATION
TOTAL	\$636,000	\$0
Capital Construction Fund/General Fund	636,000	0
Cash Funds	0	0
Federal Funds	0	0

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.] **YES**

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.] **YES**

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests \$636,000 Capital Construction Fund for the construction of outdoor recreation yards for Centennial Correctional Facility South.

STAFF RECOMMENDATION: Staff recommends that the Committee deny the request.

STAFF ANALYSIS:

PROJECT SUMMARY

The project constructs six outdoor recreation yards at Centennial Correctional Facility South. The facility, completed in 2010, does not currently house any offenders. The recreation yards will range from 7,676 to 9,266 square feet and will each contain a half-court basketball court, a concrete exercise pad, a walking track, a table and covered seating, upgraded lighting, and security cameras and fencing. The yards will be built in pairs with a raised observation station between two recreation yards. The project also makes site improvements such as grading, constructing ADA ramps, and adding concrete sidewalks connecting the building to the new recreation yards.

DEPARTMENT REASON FOR REQUEST

The Department has submitted this capital request along with its interim supplemental operating request to address increasing offender populations that have exceeded a variety of projections provided prior to the 2017 legislative session.

STAFF CONCERN

New capital construction projects should not be initiated through the interim supplemental process. While this is not a statutory restriction, this is a good government budgeting principle. While there

may be exceptions to this general rule, such as court orders or disaster emergencies or other acts of God, capital construction should be planned at least a year in advance and follow the standard vetting process alongside all other statewide capital construction needs. In the case of such an emergency, such emergency funding would remain consistent with law or previously considered policy choices regarding state agency resource and service needs.

The need for an emergency, new construction project suggests that the state agency is not adequately aware of its space and facility needs within its operating plan. It is reasonable to expect shifts in resource needs that may go counter to previous or prevailing projections of need. A state agency should follow policies that accommodate the need for additional resources and facility space on a short term basis within its operating plan.

While staff cannot address the operating needs or planning deficiencies that led to this request, from the capital construction perspective, staff is greatly concerned about recommending interim supplemental approval for a project which would enable the use of a facility that has remained vacant out of a series of broadly-determined policy choices since the facility was completed in 2010. Additionally, the request does not comport with the Department's own 2016 utilization study which considered department-wide program as well as capacity issues. In this request, the Department's needs are expressed as expanded capacity exclusively out of a sense of emergency.

The 2016 utilization study includes the following:

- *Repurposing should be accomplished in a cost-effective manner, both in terms of required physical plant modifications to CCF South and ongoing operational costs.*
- *Repurposing should address long-term correctional system capacity and program needs.*

CCF South – Administrative Segregation. *As described above, the core issues which must be addressed in planning for utilization of the facility are the lack of outdoor recreation yards and congregate program space at the facility. The facility can be reconfigured and modified consistent with its original, designed purpose—to provide administrative segregation housing. This approach was explored in the 2013 Colorado Prison Utilization Study, which advocated building outdoor recreational yards to serve each housing unit at CCF South and then consolidating the administrative segregation population housed at CCF North and CSP at the facility. There are a number of problems with this approach. First, this alternative does not address an unmet correctional system need. The DOC already has an effective, efficient administrative segregation housing program, referred to as extended restrictive housing, available to meet its needs. Moving this program to CCF South simply adds additional segregation capacity that the DOC already maintains in another facility. Furthermore, through extensive segregation reform efforts, the DOC only requires 192 beds to meet the needs of the extended restrictive housing population. This represents far fewer beds than are available within CCF South.*

Second, this type of repurposing would require construction of multiple large outdoor recreation yards to serve each tower at CCF South. The layout of the facility on the site would require substantial work to develop these yards, at a minimum cost of approximately \$519,000 (3 yards @ 5,000 square feet [SF] each, with an estimated construction cost of \$29 per SF, plus 24 individual exercise enclosures @ \$3,500 each). Moreover, the individual movement of this population within the multi-story housing CCF South towers could be an operational and officer safety challenge.

Costs identified as \$519,000 for three recreation yards in the 2016 study are fairly close to the requested \$636,000 for six yards in three groupings. It appears that recreation yards would have to be added in order to house offenders at any point in the future based on court rulings. However, the study appeared to suggest caution about merely adding capacity without also considering other program needs at the Department level. The 2016 study would appear to speak against this interim supplemental on a technical and planning basis.

Further, staff believes that the policy choice to open this facility requires more thorough vetting by the General Assembly and the Joint Budget Committee than is afforded by the interim supplemental process. An "emergency" funding need should not require that the Committee decide a substantial policy and program change in which the General Assembly does not concurrently have the opportunity to express its will. In this case, staff recommends that the Committee refrain from substantive policy decision-making in its desire to resolve an issue made urgent by what appears to stem from poor state agency planning. This request should properly be considered and decided through the annual legislative process.

	FY 2013-14	FY 2014-15	Fiscal Year 2014-15 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

CAPITAL CONSTRUCTION

Interim Supplemental #1 - Capital Construction, Department of Higher Education, History Colorado, Pearce McAllister Renovation

Part I, Capital Construction, Capital Renewal, and Capital Lease Purchase Payments

(4) Department of Higher Education

(M) History Colorado

Pearce McAllister Renovation	N.A.	843,876	0	0	843,876
FTE		<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Capital Construction Fund/General Fund		843,876	0	0	843,876
Cash Funds		0	0	0	0
Reappropriated Funds		0	0	0	0
Federal Funds		0	0	0	0

Totals					
CAPITAL CONSTRUCTION					
TOTALS for ALL Departmental line items	283,748,966	563,487,787	0	0	563,487,787
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Capital Construction Fund	188,069,493	387,378,747	0	0	387,378,747
Cash Funds	86,298,813	165,861,978	0	0	165,861,978
Reappropriated Funds	7,113,670	7,427,537	0	0	7,427,537
Federal Funds	2,266,990	2,819,525	0	0	2,819,525

Key:

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

	FY 2014-15	FY 2015-16	Fiscal Year 2015-16 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

CAPITAL CONSTRUCTION

Interim Supplemental #2 - Capital Construction, Department of Higher Education, University of Colorado at Boulder, Systems Biotechnology Building, Academic Wing

Part I, Capital Construction, Capital Renewal, and Capital Lease Purchase Payments

(4) Department of Higher Education

(H) University of Colorado at Boulder

Systems Biotechnology Building, Academic Wing	N.A.	28,243,179	10,903,585	10,903,585	39,146,764
FTE		<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Capital Construction Fund/General Fund		15,000,000	0	0	15,000,000
Cash Funds		13,243,179	10,903,585	10,903,585	24,146,764
Reappropriated Funds		0	0	0	0
Federal Funds		0	0	0	0

Totals					
CAPITAL CONSTRUCTION					
TOTALS for ALL Departmental line items	563,487,787	400,246,392	10,903,585	10,903,585	411,149,977
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Capital Construction Fund	387,378,747	252,223,287	0	0	252,223,287
Cash Funds	165,861,978	118,675,701	10,903,585	10,903,585	129,579,286
Reappropriated Funds	7,427,537	13,911,135	0	0	13,911,135
Federal Funds	2,819,525	15,436,269	0	0	15,436,269

Key:

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

	FY 2016-17	FY 2017-18	Fiscal Year 2017-18 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

CAPITAL CONSTRUCTION

Interim Supplemental #3 - Capital Renewal and Recapitalization, Department of Corrections, Outdoor Recreation Yards, Centennial Correctional Facility South

Part II, Capital Renewal and Recapitalization

(1) Department of Corrections

Outdoor Recreation Yards, Centennial

Correctional Facility South

N.A.

0

636,000

0

0

FTE

0.0

0.0

0.0

0.0

Capital Construction Fund/General Fund

0

636,000

0

0

Cash Funds

0

0

0

0

Reappropriated Funds

0

0

0

0

Federal Funds

0

0

0

0

Totals

CAPITAL CONSTRUCTION

TOTALS for ALL Departmental line items

247,743,578

183,391,498

636,000

0

183,391,498

FTE

0.0

0.0

0.0

0.0

0.0

Capital Construction Fund/General Fund

117,886,557

91,912,328

636,000

0

91,912,328

Cash Funds

109,922,398

69,179,429

0

0

69,179,429

Reappropriated Funds

766,231

10,000,000

0

0

10,000,000

Federal Funds

19,168,392

12,299,741

0

0

12,299,741

Key:

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