

MEMORANDUM

TO: Joint Budget Committee

FROM: Patrick Brodhead, JBC Staff (303-866-4955)

SUBJECT: Capital Construction Supplemental Requests

DATE: January 14, 2011

This memorandum addresses six FY 2010-11 capital construction supplemental requests that were submitted by the Office of State Planning and Budgeting (OSPB) and four staff-initiated supplementals. Staff has organized these requests into four groups as follows: (1) five requests related to the Ports of Entry within the Department of Revenue; (2) a request to transfer funds from the Higher Education Federal Mineral Lease Maintenance and Reserve Fund to the General Fund; (3) a staff-initiated supplemental to account for lower than anticipated tobacco settlement funds for the Fitzsimons medical campus COP payments; and (4) staff-initiated supplementals to correct technical errors in the FY 2010-11 Long Bill. These requests are summarized below.

1. The first grouping includes five supplemental requests from the Department of Revenue for Ports of Entry. The following table summarizes these requests. All of the requested funds are from the Highway Users Tax Fund (HUTF) "Off the Top."

Supplemental Requests for Department of Revenue - Ports of Entry		
Title	Request	Summary
Fort Collins Parking Lot Repair	\$643,500	Removal and replacement of various distressed concrete slabs at the Fort Collins Port of Entry northbound and southbound parking lots. Both parking lots have many concrete slabs with severe cracks, pits, and holes. This deteriorated condition allows water to infiltrate and further erode the pavement, scale lane, and fixed scale at an accelerated pace. The parking lots at the Fort Collins facility were last paved in 1988.

Supplemental Requests for Department of Revenue - Ports of Entry		
Title	Request	Summary
Portable Scale Replacement	352,773	Fund the second phase of its portable scale replacement plan. This request marks the next step in the capital construction project for the Ports of Entry Mobile Scales program. The Program utilizes ten mobile scale units. The Department received an appropriation for the first year replacement plan in FY 2010-11. This request represents an additional three 2-piece semi-portable scales and six 8-piece portable scales. They are a critical element of the State's commercial motor vehicle size and weight enforcement efforts on secondary traffic routes. Mobile scale units account for approximately 48% of the POE programs total revenue.
Fort Morgan Port-of-Entry, Eastbound Scale Pit Replacement	174,730	Completes the scale pit replacement project at the Fort Morgan eastbound fixed port facility. Movement of the eastbound scale exit lane into the eastern most wall of the scale pit has caused the east wall of the scale pit to move inward far enough to bind against the scale deck, preventing accurate weighing of vehicles at this port. This project was initially approved and funded in FY 2007-08 through a supplemental appropriation; however, the project was discontinued due to the States freeze on capital construction projects in FY 2008-09.
Monument Southbound Building Replacement	544,441	Construct a new southbound Monument port building. Originally constructed in 1974, the southbound Monument Port of Entry is the third oldest facility within the Port of Entry inventory and has surpassed its useful life. The current structure is not conducive for Commercial Motor Vehicle size and weight enforcement for approximately 500,000 vehicles cleared annually. The buildings sub-flooring and electrical elements are now a considerable safety concern for staff housed in the facility.
Monument Northbound Scale Pit Replacement	<u>270,832</u>	Replace the scale pit at the Monument northbound fixed port facility. The scale pit and lane was restored in 1990, with an anticipated lifespan of 30 years. However, due to the immediate incline of Monument Hill, commercial motor vehicles traveling northbound from the fixed port must accelerate more quickly than at other locations, causing tremendous stress on the scale pit. Additionally, cracks in the foundation and other concerns will lead to scale misalignment, which, if not addressed, will result in scale inoperability.
Total	\$1,986,276	

Staff Recommendation: Staff recommends that the Committee approve the requested capital construction projects totaling \$1,986,276 cash funds (from the HUTF "Off the Top").

Staff Analysis: These capital construction requests were originally submitted as FY 2011-12 requests. However, they were withdrawn and submitted as FY 2010-11 supplementals due to projections for the HUTF "Off the Top." The appropriations from the HUTF "Off the Top" are allowed to grow at 6.0 percent each year. In order to maximize the available appropriations, the Departments of Revenue and Public Safety attempt to request appropriations as close to the 6.0 percent limit as possible. The following table shows the HUTF "Off the Top" requested and approved appropriations for FY 2010-11:

FY 2010-11 Requested and Approved Appropriations from HUTF "Off the Top"	
Request	Amount
<u>Operating</u>	
Colorado State Patrol	
Total Appropriation	\$97,184,498
Supplemental Requests	<u>78,202</u>
Subtotal - Colorado State Patrol	\$97,262,700
Department of Revenue	
Total Appropriation - Ports of Entry	\$12,321,924
Early Supplemental Requests - Motor Vehicle	<u>1,155,689</u>
Subtotal - Department of Revenue	\$13,477,613
Subtotal - Operating	\$110,740,313
<u>Capital Construction</u>	
Colorado State Patrol	\$0
Ports of Entry (H.B. 10-1376)	2,329,036

FY 2010-11 Requested and Approved Appropriations from HUTF "Off the Top"	
Request	Amount
Ports of Entry - Supplemental Requests	1,986,276
Subtotal - Capital Construction	\$4,315,312
Total - Requested and Approved Appropriations	\$115,055,625
6.0 Percent Growth Over FY 2009-10	115,447,952
Amount Over/(Under) 6.0 Percent Limit	(\$392,327)

2. The second grouping includes a request to transfer funds from the Higher Education Federal Mineral Lease Maintenance and Reserve Fund (M&R Fund) to the General Fund. Specifically, the request seeks to transfer \$8,362,413 from the M&R Fund to the General Fund in FY 2010-11. **The transfer of these cash funds to the General Fund would require separate legislation.**

Staff Recommendation: Staff recommends that the Committee approve a transfer of \$1,122,581 from the Higher Education Federal Mineral Lease Maintenance and Reserve Fund to the General Fund in FY 2010-11. This amount represents the balance in the M&R Fund as of January 12, 2011.

Staff Analysis: The fund balance in the the M&R Fund is typically used to generate interest, which can then be used to fund controlled maintenance projects for higher education institutions. However, current law also allows the transfer of the balance when the Legislative Council Staff Revenue Forecast indicates that there is not enough General Fund revenue to maintain a 4.0 percent reserve. The following table shows OSPB's projected balance of the M&R Fund.

Higher Education Federal Mineral Lease Maintenance and Reserve Fund					
Fiscal Year	Prior Balance	Spillover Projection	Projected Interest	Reduction	Accruing Total
FY 2010-11	\$403,506	\$7,794,938	\$163,969	(\$8,362,413)	\$0
FY 2011-12	0	8,019,401	160,388	0	8,179,789
FY 2012-13	8,179,789	8,497,597	333,548	0	17,010,934

Although the OSPB projection shows enough revenue in the M&R Fund to support the requested transfer, the statute allowing the transfer (Section 23-19.9-102, C.R.S.) requires that the Legislative Council Staff revenue forecast be used in determining the amount of transfer. Legislative Council Staff's projection for the M&R Fund is shown in the following table.

Higher Education Federal Mineral Lease Maintenance and Reserve Fund					
Fiscal Year	Prior Balance	Spillover Projection	Projected Interest	Bonus Payments	Accruing Total
FY 2010-11	\$403,506	\$0	\$28,770	\$2,158,953	\$2,726,428
FY 2011-12	2,726,428	0	105,050	3,834,451	6,721,267
FY 2012-13	6,721,267	0	229,737	6,558,080	13,612,895

Federal mineral lease revenues, like state severance taxes, have historically varied widely from month to month and year to year, mostly with volatility in energy prices. This has made them notoriously difficult to project. Predicting bonus payments, which is the subset of total federal mineral lease revenues that would go to the M&R Fund, seems an even more difficult task. For these reasons, staff recommends only transferring the actual balance in the M&R Fund rather than the projected balance.

3. The third grouping includes a staff-initiated supplemental to account for lower than anticipated tobacco settlement funds for the Fitzsimons medical campus COP payment. For FY 2010-11, the General Assembly appropriated \$7,698,527 cash funds from the Fitzsimons Trust Fund, which receives funding from the Tobacco Master Settlement Cash Fund, to fund a portion of the annual Fitzsimons medical campus COP payment (the remaining \$1,996,149 of the COP payment was funded through the Capital Construction Fund). However, the actual amount of tobacco settlement funds available in FY 2010-11 to support the Fitzsimons medical campus COP payment is only \$7,566,964, which is \$131,563 less than what was appropriated. As a result, the cash funds appropriation from the Fitzsimons Trust Fund will need to be reduced, and additional capital construction funds will need to be appropriated to support the full COP payment. The Capital Construction Fund has sufficient interest earnings in the current fiscal year to support the increased appropriation. Therefore, no additional General Fund transfer is necessary.

Staff Recommendation: Staff recommends that the Committee approve reducing the cash funds appropriation for the Fitzsimons COP payment by \$131,563 and increasing the capital construction fund appropriation by the same amount.

4. The fourth grouping includes three staff-initiated supplementals to correct technical errors in the FY 2010-11 Long Bill. These supplementals include: (1) a letternote correction for the Colorado State University at Fort Collins Snow Mountain Ranch Conservation Easements capital construction project to indicate that it is a S. B. 92-202 project (meaning it is constructed from auxiliary funds and will never be eligible for state funds for operating or maintenance expenses); (2) a letternote correction for two projects for the Department of Public Health and Environment to provide appropriate cash funds spending authority; and (3) a reduction of \$335,000 capital construction funds to the Emergency Controlled Maintenance line item for the Department of Personnel and Administration to account for H.B. 10-1327 (Cash Funds Transfers to Augment General Fund).

Staff Recommendation: Staff recommends that the Committee approve these three staff-initiated supplementals to correct technical errors in the FY 2010-11 Long Bill.