

MEMORANDUM

TO: Joint Budget Committee

FROM: Amanda Bickel

SUBJECT: History Colorado Comebacks

DATE: March 13, 2015

Staff recommends four adjustments to the Committee's previous action for History Colorado

Continuous Spending Authority Issue and Grants Line Item

Staff has learned that the Controller's Office has been treating the History Colorado line item associated with State Historical Fund Grants, which through FY 2014-15 also included appropriations for administration of the grants, as continuously appropriated. This has apparently been occurring for many years—likely back to 1991. This surprised staff, since, based on conversations with the Office of Legislative Legal Services (OLLS) in 2013, staff had understood that all funding for History Colorado was subject to annual appropriation. History Colorado provided staff with a memo from the Attorney General's Office, dated December 17, 1991, interpreting statutory provisions at 12-47.1-701 (1) (b) [concerning establishment of the Limited Gaming Fund in the Department of Revenue] and 12-47.1-1201 (3) [concerning the Historical Society's use of the State Historical Fund] as providing continuous spending authority.

Staff thinks it may be reasonable to provide History Colorado with continuous spending authority for the statewide grants program authorized by the Constitution. However, *staff does not believe grants administration should be treated as continuously appropriated and is very uncomfortable that the AG/Controller and OLLS can have such different interpretations of existing statute.* **Thus, staff believes the bill the JBC has already voted to carry to clean up the History Colorado fund structure should clearly articulate whether or not any of the funding for History Colorado in the State Historical Fund is subject to annual appropriation or not. In staff's opinion, these moneys should be subject to annual appropriation with the sole possible exception of amounts appropriated for grants. Staff requests permission to include associated changes in the bill draft being prepared for the Committee, using whichever approach the Committee prefers.**

Option 1: If the Committee is comfortable treating grants as continuously appropriated, staff recommends reducing the appropriation for the Historical Fund Program Grants line item to an amount based on new moneys anticipated to be available for FY 2015-16. This option would reduce the appropriation from \$9,500,000 to \$7,500,000 and include an "(I)" notation on the Grants line item, indicating it is shown for informational purposes only because it is continuously appropriated (the way the Controller has been treating it). The highest recent estimate for gaming revenue (OSPB December forecast) indicates a total of \$9,458,880 available for the grant program and related administration. Staff anticipates that, of this amount, about \$2.0 million would be used for administration.

Options 2: If the Committee is not comfortable treating grants as continuously appropriated and wishes to clarify this in statute, staff recommends keeping the total line item at the \$9.5 million level but including a footnote to clarify that, of the total, approximately \$7.5 million is anticipated to be from new funds available in FY 2015-16 and \$2.0 million is anticipated to be from amounts previously received and committed to projects but not yet spent.

The Committee previously approved a related footnote. This footnote reflects an expectation that grant appropriations might be appropriated in one year and then rolled forward for multiple years. *Based on further consultation with the Controller's Office, staff believes this may create unnecessary complications. Thus staff recommends one of the following two footnotes, depending upon whether the Committee wishes to use Option 1 or 2 described above.*

Option 1 Footnote:

N Department of Higher Education, History Colorado, State Historical Fund, Grants – ~~Of this amount, \$7,000,000, estimated to be the new “majority share” gaming revenues available in FY 2015-16 after administration and transfers, remains available until June 30, 2018. The balance of moneys in the line item reflects spending authority for amounts encumbered in prior years. [Note: language for this footnote is anticipated to be modified after further consultation with the Controller's Office]~~ THIS AMOUNT REPRESENTS AN ESTIMATE OF THE NEW GRANT FUNDS AVAILABLE TO BE AWARDED DURING THE FISCAL YEAR. FUNDING FOR NEW GRANTS MAY BE REDUCED BASED ON TRANSFERS AUTHORIZED BY THE GENERAL ASSEMBLY FOR STATE CAPITOL RENOVATIONS. FURTHER, ACTUAL EXPENDITURES IN THIS LINE ITEM MAY BE HIGHER OR LOWER THAN THE AMOUNT SHOWN, BASED ON EXPENDITURE OF GRANT FUND AMOUNTS THAT FIRST BECAME AVAILABLE IN PRIOR YEARS AND ARE BEING EXPENDED OVER MULTIPLE YEARS.

Option 2 Footnote:

N Department of Higher Education, History Colorado, State Historical Fund, Grants – Of this amount, ~~\$7,000,000~~, \$7,500,000, is estimated to be the new “majority share” gaming revenues available in FY 2015-16. ~~after administration and transfers, remains available until June 30, 2018.~~ The balance of moneys in the line item reflects spending authority for amounts RECEIVED AND encumbered OR COMMITTED in prior years THAT ARE BEING SPENT OVER MULTIPLE YEARS. ~~[Note: language for this footnote is anticipated to be modified after further consultation with the Controller's Office]~~

Enterprise Services Cash Fund [Bill Drafting Question]

During meetings with History Colorado regarding the proposed History Colorado Fund Clean-up Bill, History Colorado requested that, as part of the bill, the Committee adjust the reserve cap for the Enterprise Services Cash Fund. Staff anticipates that the bill will more formally create this fund in statute and will require that all History Colorado earned revenue (e.g., from museum admissions and gift shop sales) be deposited to and spent from this fund. Current earned revenue appropriations for History Colorado are set at \$4.4 million, though it remains to be seen whether

History Colorado can earn that much. In FY 2013-14, History Colorado exceeded the 16.5 percent reserve cap on the fund and thus spent down some of the fund balance. **The agency proposes that the reserve cap for this fund be raised to 50 percent of annual appropriations. Given that this represents earned revenue—rather than fees—and that History Colorado must establish an effective business operation to be viable, staff believes this additional flexibility is appropriate and recommends this change be included in the bill now being drafted.**

Recommended Further Change to Previously Approved HC Long Bill Footnote

During figure setting for History Colorado, staff recommended cuts to FY 2015-16 spending authority based on gaming revenue anticipated to be received. As indicated in the presentation, the cuts were actually less than might be warranted by History Colorado ‘s revenue but were designed to give History Colorado some flexibility in ramping down its spending if it is unable to identify new revenue.

Staff did not include cuts to the FY 2014-15 budget, recognizing that the state budget represents a ceiling and not a floor. However, staff assumed that History Colorado would start working proactively to reduce spending. Staff has become increasingly concerned that History Colorado may be—incorrectly—viewing the lack of a cut in FY 2014-15 as implied approval of ongoing spending at current levels. **To ensure there is no misunderstanding on this point, staff recommends the following adjustment to the footnote previously approved.**

N Department of Higher Education, History Colorado – Appropriations for History Colorado incorporate reductions to align appropriations with available limited gaming revenue, based on current gaming revenue projections. In the event History Colorado is able to compensate for declines in gaming revenue with increased earned revenue or additional gaming receipts, this will represent information not available at the time the appropriation was made and will thus be consistent with supplemental request criteria. **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT HISTORY COLORADO WORK AS QUICKLY AS POSSIBLE TO ALIGN EXPENDITURES WITH REVENUES SO THAT THE INSTITUTION REMAINS SOLVENT AND VIABLE INTO THE FUTURE.**

Technical Adjustment: FTE

History Colorado has requested that 2.0 FTE be moved from one line to another in its Long Bill reorganization. The table below shows the revision proposed. Staff recommends this.

	3/3/15 FTE approved	Proposed Change	Revised FTE
(B) History Colorado Museums			
History Colorado Center	58.4	(2.0)	56.4
(C) Office of Archeology and Historic Preservation			
	21.0	2.0	23.0