

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2010-11

DEPARTMENT OF HIGHER EDUCATION

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

**Prepared By:
Eric Kurtz, JBC Staff
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For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

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Prioritized Supplementals

**Supplemental Request, Department Priority #1
 General Fund Reduction and ARRA Proportionality**

	Request	Recommendation
Total	\$60,644,975	Pending
FTE	<u>0.0</u>	
General Fund	63,197,164	
Reappropriated Funds	60,644,975	
Federal Funds	(63,197,164)	

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.]	PENDING
<i>Pending</i>	

Department Request: The Department requests refinancing a portion of the General Fund appropriation for the Department of Education with one-time federal funds from the Education Jobs Fund. Reducing General Fund for K-12 education would require a reallocation of federal funds from the American Recovery and Reinvestment Act of 2009 (ARRA) between higher education and K-12 education to comply with proportionality provisions of ARRA. The Department requests that the reduction in federal ARRA funds for higher education necessary to implement the Governor's proposal regarding K-12 education be backfilled with an increase in General Fund for higher education. See the supplemental presentation for the Department of Education for more detail.

Staff Recommendation: The staff recommendation regarding this request will be discussed during the supplemental presentation for the Department of Education, and any decisions by the JBC during that presentation will be reflected in the supplemental bill for the Department of Higher Education accordingly.

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**Supplemental Request, Department Priority #2
 College Opportunity Fund Private Stipend Supplemental Request**

	Request	Recommendation
General Fund	248,310	248,310

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
<i>JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made. Specifically, the number of stipend-eligible students enrolled at participating private institutions is running higher than originally forecast.</i>	

Department Request: The Department requests additional General Fund for higher-than-expected enrollment by stipend-eligible students at participating private institutions. Pursuant to statute, students with income and assets low enough to qualify for the federal Pell grant who attend a participating private institution are eligible to receive a stipend payment equal to half of the stipend for students attending public institutions. In FY 2010-11 the private stipend amount is \$31 per credit hour, or \$930 for a full-time student. Enrollment is projected to be 1,160 student FTE, compared to the assumption in the appropriation of 893 student FTE.

Participating private institutions include the University of Denver, Regis, and Colorado Christian University. To participate a private institution must be based in Colorado, operate on a not-for-profit basis, offer baccalaureate degrees in arts and sciences, and be appropriately accredited. The private institution must also agree to a performance contract with the Department that includes administrative and reporting requirements.

The Department's projection during figure setting last year of the number of stipend-eligible students enrolling at participating private institutions was off by nearly 30 percent primarily due to uncertainty about enrollments at Colorado Christian University. Colorado Christian University began participating in the stipend program in FY 2009-10 after winning a law suit. The Department's estimate for FY 2010-11 increased after a full year of data from Colorado Christian University.

Staff Recommendation: Staff recommends that the Committee approve the requested **\$248,310 General Fund**. Eligibility for the stipend is determined by statute. More students enrolled than expected, and so more funding is required. For public institutions the General Assembly's practice the last few years has been to reduce fee-for-service contracts to pay for increases in stipends, but private institutions do not receive fee-for-service contracts.

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**Supplemental Request, Department Priority #3
 Academic and Academic Facility Fee Supplemental Spending Authority**

	Request	Recommendation
Total Cash Funds for fees	<u>\$2,593,340</u>	<u>\$2,593,340</u>
Western State College	1,157,393	1,157,393
University of Northern Colorado	323,689	323,689
Pueblo Community College	646,401	646,401
Community College of Denver	465,857	465,857

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.]	NO
<i>JBC staff and the Department do not agree that the JBC's supplemental criteria have been met. The Department states that this request is the result of new data about fee increases approved after the Long Bill was adopted, but staff believes the request is the result of governing boards failing to adhere to the limitations placed on fees in the Long Bill and approving increases in excess of those limits. However, staff recommends approval of the request for reasons described below, despite the lack of compliance with the JBC's supplemental criteria.</i>	

Department Request: The Department requests cash funds spending authority for fee increases approved after the Long Bill was adopted. The table below summarizes the specific fee requests. Note that \$324.60 of the total fee per student full-time equivalent (SFTE) for Western is just replacing existing fees of equal value, and therefore does not represent an increase in total charges to the students. The fees that are being replaced are currently not appropriated, because they are related to auxiliary functions rather than academic functions. Because the auxiliary fees are being replaced by a new multi-purpose fee that includes funding for academic functions, the Department requested spending authority for the entire amount in the Academic and Academic Facility Fees line item.

	Per Credit Hour Increase	Average Per SFTE Increase
<u>University of Northern Colorado</u>		
<i>Library fee (varies by program)</i>	\$0.14	\$4.11
<i>Nursing*</i>	\$17.00	\$306.00
<i>Performing & Visual Arts*</i>	\$12.00	\$216.00
<i>Miscellaneous course-related fees</i>	\$10.55	\$3.22
<i>Average: all fee increases/all students</i>	\$1.06	\$31.93

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	Per Credit Hour Increase	Average Per SFTE Increase
<u>Western State College</u>		
<i>Total new fee</i>	\$10.00	\$300.00
<i>Field House/Recreation Center; Student Apartments</i>	\$7.00	\$210.00
<i>Financial Aid</i>	\$2.00	\$60.00
<i>Controlled Maintenance</i>	\$1.00	\$30.00
<i>Replacement of existing off-budget fees</i>	\$10.82	\$324.60
<i>College Center Bond Fee</i>	\$10.40	\$312.00
<i>Campus Development Fee</i>	\$0.42	\$12.60
<u>Pueblo Community College</u>		
<i>Capital Fee</i>	\$7.00	\$210.00
<u>Community College of Denver</u>		
<i>Capital Fee</i>	\$2.00	\$60.00
* Assumes full-time students take 18 credit hours per year at the differential fee rates.		

Staff Recommendation: Staff recommends that the Committee approve the requested spending authority for the following reasons:

- Holding higher education institutions to strict limits on academic fees would be inconsistent with the delegation of tuition authority to the governing that occurred in S.B. 10-003;
- Some of the fees are related to capital construction projects approved by the Capital Development Committee, and that project approval may imply approval of the associated fees as well;
- The fees are already in place; and
- The JBC and General Assembly have previously approved fees that higher education institutions implemented after the Long Bill was passed.

However, staff has concerns about the continuing lack of compliance by governing boards with legislative limits on academic fees, lax oversight by the Department and the Colorado Commission on Higher Education of fees in general, and insufficient reporting by higher education institutions of fees.

What are Academic and Academic Facility Fees?

Academic and Academic Facility Fees are a subset of all fees charged by the higher education institutions. The majority of fees charged by institutions are related to self-supporting auxiliaries,

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such as parking, housing, food services, or student government, and are not appropriated by the General Assembly. However, fees related to the academic mission of the institutions are appropriated in the Long Bill. Examples of fees related to the academic mission of the institutions include course-specific fees, technology fees, and capital fees that pay for construction or maintenance of academic buildings.

Why are Academic and Academic Facility Fees appropriated, but not other fees?

The logic for appropriating academic fees is that these fees could serve as a direct substitute for tuition. In FY 2010-11 the General Assembly limited tuition rate increases for undergraduate students who are residents of Colorado to 9.0 percent but, as seen in the table below, the actual increases in charges to students impacted by the fees in this supplemental request were in some cases much larger.

	FY 2009-10			FY 2010-11					Fee		Total with	
	Academic Academic			Academic Academic					Supplemental		Supplemental	
	Tuition	Fees	Charges	Tuition	Fees	Charges	Increase	Percent	Increase	Percent	Increase	Percent
University of Northern Colorado	4,296	442	4,738	4,680	447	5,127	389	8.2%	32	0.7%	421	8.9%
<i>Nursing</i>	5,043	442	5,485	5,499	447	5,946	461	8.4%	306	5.6%	767	14.0%
<i>Performing & Visual Arts</i>	4,683	442	5,125	5,103	447	5,550	425	8.3%	216	4.2%	641	12.5%
Western State College	3,140	1	3,141	3,422	61	3,483	342	10.9%	300	9.6%	642	20.4%
Pueblo Community College	2,649	316	2,965	2,888	316	3,204	239	8.1%	210	7.1%	449	15.1%
Community College of Denver	2,649	93	2,742	2,888	93	2,981	239	8.7%	60	2.2%	299	10.9%

Notes:

Tuition = CO resident, undergraduate, full-time (30 credit hours per academic year)

Academic Fees = average per student FTE; there may be significant variation between individual students, primarily based on the specific courses selected
Nursing, Performing & Visual Arts = assumes full-time students in these programs take 18 credit hours per year at the differential tuition and fee rates

There is no current statutory requirement that the General Assembly appropriate academic and academic facility fees. It has been the General Assembly's practice to appropriate these fees since FY 2005-06, when the method of appropriating funds for higher education institutions was adjusted to implement the College Opportunity Fund Program. Prior to FY 2005-06 the General Assembly appropriated a different subset of higher education expenditures that included fees where the revenue was subject to TABOR, but excluded fees exempt from TABOR because they were related to an enterprise. Most academic fees were appropriated under this old methodology, but a much wider variety of miscellaneous governing board revenues, such as interest, fines, and rentals, were also appropriated.

Staff is not aware of the General Assembly ever appropriating spending authority for fees related to self-supporting auxiliary programs. Self-supporting auxiliaries are frequently viewed as stand-alone businesses, which may justify some autonomy in setting their fees. Some of these fees are optional, like a food service fee that only students who choose to participate in the on-campus meal plan would pay, which may be why the General Assembly has not bothered controlling them. Others are campus-wide mandatory fees, which staff believes weakens the stand-alone business metaphor, but

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the General Assembly has still not attempted to appropriate these fees. Some of the auxiliary fees are under the control of the student government and limiting them may be viewed as impinging on the jurisdiction of the students. Staff can only speculate that these, along with the usual debate about legislative versus governing board responsibilities, are among the reasons the General Assembly has never attempted to control fees charged by auxiliary programs.

Why do schools and the Department report different fees than the Academic and Academic Facility Fees, and what is the most accurate representation of the total fees?

The schools, the Department, and many federal and private national reporting agencies provide annual standardized data on a different subset of fees called "Mandatory Fees." Mandatory Fees are campus-wide fees that all students must pay. Some Academic and Academic Facility Fees are also Mandatory Fees, but other course-specific fees, or fees charged to a certain category of students (such as a matriculation fee charged to freshmen, or a cap and gown fee charged to seniors), are not considered Mandatory Fees, even though in many cases students could not navigate their way to a degree without incurring these fees. In this respect staff believes that Mandatory Fees are misnamed, because they don't include all fees that are mandatory to graduate. Campus-wide fees would be a more accurate description, but "Mandatory Fees" is the accepted terminology. Large portions of the Mandatory Fees are not related to academics and support auxiliaries such as parking, athletics, or student government.

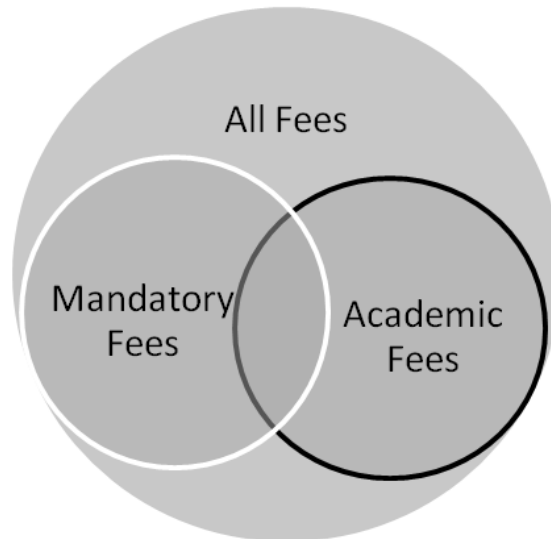
Mandatory Fees are generally considered more representative of the total cost of fees to students than Academic and Academic Facility Fees, and data about Mandatory Fees is available from other institutions around the country for comparison. However, the use of fees that don't meet the definition of Mandatory Fees, such as course-specific fees, varies widely between institutions, and so the ability of the reported Mandatory Fees to estimate and capture the full cost of fees to students also varies.

Academic and Academic Facility Fees better represent the funds available to schools to pay for education costs than Mandatory Fees. However, frequently the largest Academic and Academic Facility Fees are earmarked for bond payments on construction projects, and so if the question deals with how much is available to schools to pay for professor salaries and other day-to-day operating expenses, as opposed to construction costs, then further sorting and analysis is necessary. The primary purpose of tracking Academic and Academic Facility Fees is to determine whether schools are circumnavigating the tuition policies of the General Assembly, rather than as a descriptor of student costs, or of funds available to the institutions to cover academic operating expenses.

The Venn diagram below illustrates the relationship between Academic and Academic Facility Fees (contracted to Academic Fees) and the Mandatory Fees that are typically reported by the institutions when asked about the cost of tuition and fees. The relative size and overlap of the subsets may vary significantly from one campus to the next. Neither Academic Fees nor Mandatory Fees capture all

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fees paid by students. However, the fees not captured by the two subsets are optional and students could choose not to pay the fees if they don't want the services associated with the fees, such as a membership to a recreation center.



Why don't the schools comply with the Long Bill limits on Academic and Academic Facility Fees?
Staff does not know why the schools are not complying with the limits on Academic and Academic Facility Fees. It is an endemic problem and in no way isolated to just the four institutions requesting spending authority in this year's supplemental request. Every year since the General Assembly began appropriating Academic and Academic Facility Fees some institutions have implemented increases in fees that exceeded the appropriated spending authority, and the pattern is not limited to some group of repeat offenders, but rather the institutions involved vary each year.

Some of the excuses offered by institutions in the past include:

1. Confusion about what fees are included among Academic and Academic Facility Fees and subject to appropriation;
2. Confusion about whether institutions have to comply with the limits on fees contained in the Long Bill; and,
3. Problems with timing where institutions don't know what to request because their governing boards, or the students, haven't acted prior to the introduction of the Long Bill.

Staff believes most of the excuses offered by the governing boards are flimsy. While there may be legitimate grey areas in the definition of Academic and Academic facility fees, most of the fees submitted for supplemental approval over the last few years have not been ambiguous, and the Department and CCHE can and should provide guidance to the higher education institutions where

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the definition is equivocal. With the attention paid to fees over the last few years, including numerous staff and JBC discussions, a legislative joint resolution, an audit, OSPB comebacks, and a CCHE working group, it would require a monumental breakdown in communication, bordering on willful ignorance, for any higher education institution to be unaware of the need to comply with the limits on Academic and Academic Facility Fees contained in the Long Bill. As for the timing issues, all other state departments build their budgets to fit the appropriated spending authority, rather than assuming the legislature will approve whatever the department decides to do after the fact. If governing boards want to increase fees, they should plan farther in advance to get the necessary legislative approval.

Often fee increases are described as necessary to comply with the will of the students, and from this perspective it would be premature for governing boards to request spending authority for fees before the students vote, and inappropriate for the General Assembly to deny a fee once it is approved. Therefore, the logic proceeds, there is no purpose or value in getting prior legislative approval for fee increases. However, staff would argue that student approval of a fee does not and should not guarantee legislative approval. Fees impact more than just the students voting. Frequently the students voting on a fee don't shoulder the burden of paying it, because they graduate before the fee is fully implemented. Also, families and financial aid providers may be footing some or all of the bill, and staff can imagine that the outcomes of some of the referendums might be different if these parties had a vote. Finally, fee increases can have ramifications beyond the campus for statewide policies aimed at access and economic development.

Staff finds it hard to believe that many of the academic fee increases are last minute surprises sprung by the governing board or the students such that the administration of the institutions could not anticipate the fees and request spending authority from the General Assembly through the normal budget process. Many of the fee increases are related to capital construction projects that are years in the planning and seldom urgent. Students might initiate a fee on themselves for a student purpose, but it seems unlikely they would initiate an academic purpose fee without direction, consultation, and prompting from the administration. There is little harm in getting spending authority for a potential fee increase that the institution subsequently decides not to implement, due to rejection by the students or the governing board.

Capital construction is the one area where staff admits some legitimate ambiguity about whether schools need to request permission from the JBC prior to implementing fee increases. The legislature recently changed the statutes governing the approval of cash funded capital construction projects to eliminate the role of the Joint Budget Committee. Higher education institutions can now get approval to proceed with cash funded construction projects directly from the Capital Development Committee. The statutes governing this approval process for capital construction projects are silent with regard to fees, but an argument could be made that the CDC's approval of a project extends to implementing the fees necessary to carry it out.

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What has the legislature and the Department done about the lack of compliance with the appropriated limits on fees?

After repeated problems with schools not completely and consistently reporting academic fees, and failing to request approval for fee increases in advance of implementing them, the JBC sent a letter to the Legislative Audit Committee, in 2008, suggesting that they investigate the following:

- Are there adequate controls in place to ensure that "Academic and Academic Facility Fees" do not exceed the appropriation?
- Is the term "Academic and Academic Facility Fees" applied consistently across all institutions?
- Are there other or better ways, beyond appropriating Academic and Academic Facility Fees, to ensure that fees are not used as a replacement for tuition, or to cross-subsidize the academic program?
- Is the Department's reporting on mandatory fees accurate, consistent with national standards, and sufficient to describe student costs?

In addition the JBC's letter mentioned that the Legislative Audit Committee may want to look at the level of student input on fees, consistent with SJR 08-037 (Tupa, Kerr A.) that encouraged CCHE to conduct a comprehensive review of student fees and fee policies to increase student input and clarify the voting authority of students regarding fees.

The audit report came out in July of 2010 and some of the key findings include:

- Inconsistent interpretations and policies among the institutions regarding the necessity for and level of student input on fees;
- Fees charged at rates higher than necessary to meet the stated purposes, and insufficient controls to identify and correct these discrepancies;
- Fee revenues expended for other than the stated purposes, fees with vaguely worded purposes, fee revenues commingled with funds for other purposes, and insufficient controls at the institution level to identify and correct these discrepancies;
- Confusing and incomplete information about fees on institution web sites and promotional materials, particularly regarding course- and program-specific fees;
- Incomplete and lax review of fees by the Department and by the Colorado Commission on Higher Education (CCHE); and
- Overlapping uses of student fees and tuition.

The full audit report is available at:

[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/BCE425B0727916C18725777D00766A3D/\\$FILE/2046%20Higher%20Ed%20Fees%20July%202010.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/BCE425B0727916C18725777D00766A3D/$FILE/2046%20Higher%20Ed%20Fees%20July%202010.pdf)

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The Department generally agreed with the findings of the audit and committed to making improvements, but has arguably already missed implementation deadlines. For example, the Department indicated it would implement recommendation #7 and consider minimum requirements for fee disclosure on the web sites of the Department and institutions by December 2010. Perhaps the Department considered the minimum requirements, but it has not issued any new statewide policies. CCHE created a working group that is expected to make recommendations to the Commission for changes in fee policies by February 2011.

In the meantime, the Department and Commission forwarded these supplemental requests for fee spending authority with little or no explanation of why the institutions implemented the fee increases before requesting spending authority, or why the Department and Commission approved the supplementals despite the lack of compliance with the legislative limits on fees. Also, the Department's November budget request is silent regarding fees, implying that there will be no increases in FY 2011-12, which seems unrealistic. These actions contribute to the staff impression of continued lax oversight of fees by CCHE and the Department.

Neither the legislature nor the Department has sanctioned institutions for failing to comply with fee limits. All supplemental and regular budget process requests for increases in fee spending authority have been approved to date.

What should the legislature do about the lack of compliance with the appropriated limits on fees?

For now, in a word, nothing. Last year staff at figure setting staff suggested, "If the institutions implement new or increased fees without spending authority, and without a compensating adjustment to tuition rates, then staff would recommend that General Fund for the institutions that do so be decreased the following fiscal year." However, after the passage of S.B. 10-003, staff has reconsidered this position. The primary purpose of appropriating Academic and Academic Facility Fees is to prevent institutions from circumnavigating legislative limits on tuition by increasing fees, but S.B. 10-003 delegated tuition setting authority (within limits) to the higher education governing boards, and this implies to staff that the governing boards should have authority over Academic and Academic Facility Fees, too. Technically, the tuition flexibility granted in S.B. 10-003 applies beginning in FY 2011-12, and so the fee increases in this supplemental request violated the policies of the General Assembly that were in place at the time the fee increases were implemented. However, if the General Assembly trusts the governing boards to make decisions about how much to charge the students beginning in FY 2011-12, staff is not sure why it should not trust the decisions of the governing boards in FY 2010-11.

The requested increases in fee spending authority for the community colleges, and parts of the requested increase for Western State College, relate to capital construction projects that were approved by the Capital Development Committee, and it is ambiguous whether the CDC's approval of the construction projects also constituted approval of the corresponding necessary fee increases,

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since the statutes are silent. At some point the JBC should discuss with the CDC the appropriate entity to review the capital fees, what should be included in that review, and procedures for communicating the outcome of the review between the committees. However, during the period of delegated tuition authority pursuant to S.B. 10-003 this is not an urgent issue and staff brings it up just to note that there may be a basis for institutions thinking that they can implement capital fees without needing prior JBC approval, if they have approval from the CDC for the construction project or projects.

While staff finds it galling that institutions implemented fee increases without first requesting spending authority, it is probably impractical to try to repeal the fees now, especially the ones related to bond payments for capital construction projects. If the JBC is concerned about the lack of compliance with the appropriated limits on fees, it could sanction the institutions by reducing their General Fund. However, any reduction in General Fund would need to occur in FY 2011-12, rather than FY 2010-11, due to the maintenance of effort requirements of the federal American Recovery and Reinvestment Act.

Finally, there is a precedent of the JBC and General Assembly previously approving fees that higher education institutions implemented after the Long Bill was passed. Before implementing sanctions the JBC should consider whether these fee increases without legislative approval are in any way different from other fee increases implemented without legislative approval in prior years. Perhaps the JBC thinks that in prior years schools were confused about the appropriated fee limits, or unaware of them, but by now nobody could possibly be ignorant of the JBC's expectations. Perhaps the warning about unauthorized fee increases included in last year's staff figure setting document does make these increases more flagrant violations of the appropriated fee limits than similar fee increases in the past, but the JBC will need to decide.

Staff believes there is value in continuing to appropriate and track Academic and Academic Facility Fees, because the delegation of tuition setting authority in S.B. 10-003 is time-limited and the General Assembly may someday want to re-exert control over tuition and fees. It is also useful for maintaining a consistent history of appropriations and expenditures for trend analysis. But, during the period where tuition setting authority is delegated pursuant to S.B. 10-003, the JBC should give explicit authority, perhaps in a footnote, for institutions to implement fee increases without prior legislative approval, consistent with the tuition flexibility granted in S.B. 10-003. This will be part of the staff recommendations at figure setting for FY 2011-12.

As a technical note, only a portion of the fee for Western meets the definition of an Academic and Academic Facility Fee. Staff believes it would have been reasonable for the Department to request spending authority for only the portion of the fee that meets the definition of Academic and Academic Facility Fees. However, then Western would need to make an annual allocation of the revenue from the multi-purpose fee between the portion that is subject to appropriation and the

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portion exempt from appropriation. The request submitted by the Department simplifies reporting at the cost of somewhat overstating the true total Academic and Academic Facility Fees.

**Previously Approved Interim Supplemental
 College Opportunity Fund Allocation Adjustment**

	Previously Approved FY 2009-10
Total	<u>\$0</u>
Stipends - GF	\$903,164
Fee-for-service Contracts - GF	(\$903,164)

Description of Supplemental: The JBC previously approved adjusting several **FY 2009-10** line items with a net \$0 impact to match new data about the population eligible for stipends. This supplemental impacted FY 2009-10 appropriations and not FY 2010-11 appropriations.

The rules governing interim supplementals in Section 24-75-109 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves. Staff will include this supplemental in the Department's supplemental bill.

Background: The following is background about the previously-approved supplemental that may be useful if questions come up.

Statutes provide limited authority for the Department, in conjunction with the institutions, to convert spending authority for stipends to fee-for-service contracts, but not the other way around. The Department requested that in cases where the stipend eligible population exceeded the stipend appropriation, the JBC approve an increase in stipend spending authority and a corresponding decrease in the fee-for-service contract. Consistent with the General Assembly's practice in prior years, the JBC approved the request.

	Stipend	Fee-for-service
Mesa	\$128,638	(\$128,638)
Fort Lewis	\$20,192	(\$20,192)
Mines	\$41,214	(\$41,214)
Community Colleges	\$713,120	(\$713,120)

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	Stipend	Fee-for-service
TOTAL	\$903,164	(\$903,164)

Last summer the Department issued a report to comply with the five-year statutory evaluation of the College Opportunity Fund program. The Department commissioned the Western Interstate Commission on Higher Education to prepare the report. This report found that the practice of adjusting stipends and fee-for-service contracts to maintain the same level of funding for each governing board undermined some of the stated purposes of the College Opportunity Fund program, including the purpose of increasing market incentives for enrollment.

However, staff would note that the FY 2009-10 appropriation was not based on independent analysis of the amounts needed for stipends and fee-for-service contracts. Instead, it was based on targeted net amounts from combined stipends and fee-for-service contracts. The underlying principal in the allocation of stipends and fee-for-service contracts was meeting the maintenance of effort requirements of the federal American Recovery and Reinvestment Act. Had the forecast used for the appropriation been more accurate in predicting the stipend-eligible population, the General Assembly would have adjusted the stipends and fee-for-service contracts in the appropriation. To provide increases and decreases in stipends now without adjusting the fee-for-service contracts could be arbitrary based on how close the forecast was to the actual mark, rather than rewarding the initiative of institutions that brought in more students and penalizing those that didn't.

To make the stipends work as an incentive for enrollment, the General Assembly would need to determine a basis for the fee-for-service contracts that is independent of the stipends. Also, the General Assembly would need to state this policy at the beginning of a fiscal year, so that governing boards could react to the policy. For FY 2009-10, governing boards are operating under the assumption that stipends and fee-for-service contracts will be adjusted for enrollment to net to the same amount. Staff suspects that institutions still pursue enrollment because of the tuition benefits, and because it is part of their mission, but it is possible that some institutions don't pursue it as vigorously because they assume the stipend revenue increases will be offset by fee-for-service decreases. At the other end of the spectrum, there may be institutions that aren't cutting expenses as deeply as they should with declining enrollment, because they assume that fee-for-service contract dollars will be increased to compensate for the loss in stipends. To change the General Assembly's historic practice at the end of the fiscal year could be unfair to institutions operating under different assumptions.

From a pragmatic perspective, setting fee-for-service contract amounts independent of stipends would be a challenging task at best, because the stipends pay for a varying amount of the actual cost of undergraduate education at each institution. For some institutions, the stipend more than covers the cost of undergraduate education, and the remainder can be used to subsidize graduate education,

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or rural education, or any of the other purposes of the fee-for-service contract. At other institutions, the stipend covers only a fraction of the cost of undergraduate education. Accounting for tuition complicates the formula even further.

Statewide One Percent Across the Board General Fund Personal Services Reduction

	Request
Total	\$0
General Fund	0

Department Request: Unlike most other departments, no across-the-board reduction in personal services was requested for the Department of Higher Education. Most of the personal services expenses for the Department are associated with the higher education institutions and General Fund reductions to the higher education institutions would be subject to the maintenance of effort requirements of the federal American Recovery and Reinvestment Act (ARRA).

If the JBC wanted to apply an equivalent one percent reduction in personal services to the Department Administration line item, the General Fund savings would be approximately \$22,000.

Staff Recommendation: The staff recommendation for this request is pending Committee approval of common policy supplementals. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves common policy supplementals.** If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Printing of Statewide Warrants and Mainframe Documents	617	0	470	147	0	0.0

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Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Department's Total Statewide Supplemental Requests	617	0	470	147	0	0.0

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves this common policy supplemental.** If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

Other FY 2010-11 Balancing Options

Staff did not prepare any other FY 2010-11 balancing options for the Department of Higher Education. General Fund appropriations for the higher education institutions are currently at the minimum necessary to meet the maintenance of effort requirements of the federal American Recovery and Reinvestment Act of 2009 (ARRA) and any reductions could trigger federal sanctions.

The FY 2010-11 appropriations for the Department include \$88.5 million General Fund for financial aid grants. All of the money has been distributed to the higher education institutions, and the majority of it has already been paid to students, but some institutions hold back a portion of the money for summer students, with policies varying from one institution to the next. Staff could survey the institutions to determine how much state financial aid has been held back for summer students, if the Committee wants to pursue this option.

Significant reductions in funding for the Department Administration should be accompanied by a reduction in the statutory duties of the Colorado Commission on Higher Education, although the JBC could pursue incremental reductions, such as the 1.0 percent personal services cut discussed above, without statutory changes. The total non-federal appropriation for the Department Administration line item is \$2.5 million.

The only other General Fund appropriation in the Department is for the Cumbres and Toltec Scenic Railroad and totals \$202,500.

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF HIGHER EDUCATION					
Executive Director: D. Rico Munn					
Supplemental #1 - General Fund Reduction and ARRA Proportionality					
<i>(4) College Opportunity Fund Program</i>					
Fee-for-service Contracts - GF	127,382,834	267,415,608	60,644,975	<i>Pending</i>	267,415,608
<i>(5) Governing Boards</i>					
FTE	<u>20,757.6</u>	<u>21,034.0</u>	<u>0.0</u>	<i>Pending</i>	<u>21,034.0</u>
College Opportunity Fund	<u>312,290,555</u>	<u>535,294,916</u>	<u>60,644,975</u>		<u>535,294,916</u>
Student Stipend Payments	184,907,721	267,879,308	0		267,879,308
Fee-for-service Contracts	127,382,834	267,415,608	60,644,975		267,415,608
Direct General Fund Grant	0	0	0		0
Federal Stimulus	368,044,477	85,592,036	(60,644,975)		85,592,036
Tobacco Settlement Distribution	17,150,000	16,004,485	0		16,004,485
Limited Gaming	0	7,524,792	0		7,524,792
Tuition	<u>1,291,905,434</u>	<u>1,424,653,961</u>	<u>0</u>		<u>1,424,653,961</u>
Resident	779,688,594	869,413,083			869,413,083
Nonresident	512,216,840	555,240,878			555,240,878
Academic Fees	72,533,365	85,205,407	0		85,205,407
Appropriated Grants - CF	0	0	0		0
Appropriated Grants - RF	2,375,531	2,375,531	0		2,375,531

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(6) Local District Junior College Grants</i>	<u>15,890,257</u>	<u>15,467,729</u>	0	<i>Pending</i>	15,467,729
General Fund	7,350,751	12,601,934	1,437,941		12,601,934
Cash Funds	0	836,339	0		836,339
Federal Funds	8,539,506	2,029,456	(1,437,941)		2,029,456
<i>(7) Division of Occupational Education</i>					
<i>(C) Area Vocational School Support</i>	<u>9,736,132</u>	<u>8,964,761</u>	0	<i>Pending</i>	8,964,761
General Fund	4,311,868	7,392,154	1,114,248		
Federal Funds	5,424,264	1,572,607	(1,114,248)		
Total for Supplemental #1	<u>2,217,308,585</u>	<u>2,448,499,226</u>	<u>60,644,975</u>	<i>Pending</i>	<u>2,439,534,465</u>
General Fund	139,045,453	287,409,696	63,197,164		280,017,542
Cash Funds	1,381,588,799	1,534,224,984	0		1,534,224,984
Reappropriated Funds	314,666,086	537,670,447	60,644,975		537,670,447
Federal Funds	382,008,247	89,194,099	(63,197,164)		87,621,492
Supplemental #2 - College Opportunity Fund Private Stipend Supplemental Request					
<i>(4) College Opportunity Fund Program</i>					
Stipends - Private					
General Fund	746,334	830,490	248,310	248,310	1,078,800
<i>Eligible Students (non-add)</i>	<i>1,131</i>	<i>893</i>	<i>267</i>	<i>267</i>	<i>1,160</i>
<i>Rate per 30 Credit Hours (non-add)</i>	<i>660</i>	<i>930</i>	<i>930</i>	<i>930</i>	<i>930</i>

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #3 - Academic and Academic Facility Fee Supplemental Spending Authority					
<i>(5) Governing Boards</i>					
Trustees of Western State College - Fees	1,820	110,760	1,157,393	1,157,393	1,268,153
University of Northern Colorado - Fees	4,388,407	4,605,826	323,689	323,689	4,929,515
State Board for the Community Colleges and Occupational Education					
State System Community Colleges - Fees	8,754,892	8,698,649	1,112,258	1,112,258	9,810,907
Total for Supplemental #3	13,145,119	13,415,235	2,593,340	2,593,340	16,008,575
Totals Excluding Pending Items					
DEPARTMENT OF HIGHER EDUCATION					
Totals for ALL Departmental line items	2,609,587,971	2,942,199,142	63,486,625	2,841,650	2,945,040,792
FTE	<u>21,134.2</u>	<u>21,397.5</u>	<u>0.0</u>	<u>0.0</u>	<u>21,397.5</u>
General Fund	428,554,090	644,870,589	63,445,474	248,310	645,118,899
Cash Funds	1,417,094,269	1,601,678,889	2,593,340	2,593,340	1,604,272,229
Reappropriated Funds	362,394,418	586,167,393	60,644,975	0	586,167,393
Federal Funds	401,545,194	109,482,271	(63,197,164)	0	109,482,271
Statewide Common Policy Supplementals					
(see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	<u>617</u>	<u>Pending</u>	<u>N.A.</u>
Cash Funds			470		
Reappropriated Funds			147		

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals Including Pending Items					
DEPARTMENT OF HIGHER EDUCATION					
Totals for ALL Departmental line items	2,609,587,971	2,942,199,142	63,487,242	2,841,650	2,945,040,792
FTE	<u>21,134.2</u>	<u>21,397.5</u>	<u>0.0</u>	<u>0.0</u>	<u>21,397.5</u>
General Fund	428,554,090	644,870,589	63,445,474	248,310	645,118,899
Cash Funds	1,417,094,269	1,601,678,889	2,593,810	2,593,340	1,604,272,229
Reappropriated Funds	362,394,418	586,167,393	60,645,122	0	586,167,393
Federal Funds	401,545,194	109,482,271	(63,197,164)	0	109,482,271

Key: N.A. = Not Applicable or Not Available