

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST
FOR FY 2015-16**

**DEPARTMENT OF PUBLIC HEALTH AND
ENVIRONMENT**

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

**Prepared By:
Megan Davisson, JBC Staff
June 19, 2015**

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

TABLE OF CONTENTS

	Narrative Page	Numbers Page
Prioritized Interim Supplementals in Department-Assigned Order		
Supplemental #1 – Affordable Care Commission	1	5

Appendix A: February 9, 2015 Budget

Prioritized Interim Supplemental Requests

INTERIM SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #1 AFFORDABLE CARE COMMISSION

	Request	Recommendation
Total	<u>\$400,000</u>	<u>\$0</u>
General Fund	400,000	0

<p>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.]</p>	NO
<p>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.]</p>	NO
<p>JBC staff and the Department do not agree that (1) this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and (2) this request is the result of a technical error in calculating the original appropriation.</p> <p>Disagreement on criteria (1): JBC staff does not believe this request is appropriate for an interim supplemental because the relevant statute authorizes "overexpenditure of existing appropriation," but there is no existing appropriation to restrict.</p> <p>Disagreement on criteria (2): The Department asserts that this request is based on a technical error in its FY 2015-16 budget request because of a difference in how the staff interpreted the fiscal note and how the bill sponsors interpreted the fiscal note for S.B. 14-187. JBC staff does not agree that there was a technical error because the amount appropriated for the Commission is consistent with both the enacting legislation and the fiscal note which is written to reflect the Commission's continuous spending authority and not a new appropriation in FY 2015-16.</p>	

Department Request: The Department requests a FY 2015-16 appropriation of \$400,000 General Fund for the Colorado Commission on Affordable Health Care.

Staff Recommendation: Staff recommends that the Committee deny the request.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis: The Colorado Commission on Affordable Health Care (Commission) was created by S.B. 14-187 (Colorado Commission Affordable Health Care) as an independent entity without oversight from any state department. Since the enacting legislation was placed in the

Department of Public Health and Environment's statute, the Department is submitting this request on behalf of the Commission.

Background

The Commission is required to study the drivers of health care costs, evidence-based cost containment strategies, and make recommendations to the Governor and General Assembly for further action. The Commission is using state data to conduct empirical analysis of health care utilization. The Commission is comprised of twelve voting members, representing various public and private sector health care experts and five nonvoting members from state government. The Commission must provide two annual reports to the General Assembly in FY 2014-15 and FY 2015-16 and a final report by June 30, 2016. The Colorado Commission on Affordable Health Care Cash Fund (Fund) was created and is continuously appropriated to the Commission. The bill included a FY 2014-15 appropriation of \$400,000 General Fund to the Fund for the Commission's work. The final fiscal note for S.B. 14-187 shows the following:

SHORT TITLE: COLORADO COMMISSION AFFORDABLE HEALTH CARE

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	<u>\$400,000</u>	<u>\$400,000</u>
General Fund	400,000	400,000
FTE Position Change		
Appropriation Required: \$400,000 - Department of Public Health and Environment (FY 2014-15)		

** This summary shows changes from current law under the bill for each fiscal year.*

This request reflects the Commission's argument that the \$400,000 shown for FY 2015-16 represents an additional appropriation for a total of \$800,000 over two years. However, JBC staff has clarified with the Fiscal Note Analyst that the \$400,000 expenditure reflected in FY 2015-16 is intended to reflect the Fund's continuous spending authority for the funds appropriated in FY 2014-15 and does not reflect an additional appropriation. It is important to note that there is a difference between how the staff from the Department, Legislative Council, and JBC are all interpreting the fiscal note to show spending authority and not new funds, and how the Commission and bill sponsors are interpreting the fiscal note to show an additional appropriation. This difference is evidenced by the request which states "staff interpreted the \$400,000 shown in FY 2015-16 to reflect the continuous spending authority authorized in the bill, while the bill sponsors intended it to authorize continuation funding".

JBC staff asked the Commission why they did not utilize one of the numerous opportunities during the FY 2015-16 budget process to discuss a potential need for additional funds in FY 2015-16 and was told "since Commission members are not part of state government, we [the Commission] thought that the State would follow its previously scheduled analysis [i.e. the fiscal note] without other clarification. No one told us otherwise, so we [the Commission] believed there would be an additional \$400,000 for 2015-16. Since state staff did not understand that the

Commission thought there was an additional \$400,000 in 2015-16, staff did not alert the Commission that a budget action was necessary to secure that funding." The issue JBC staff has with this response is that the Commission was intentionally created to operate outside of the Department and it seems ironic that the Commission was then expecting support from the Department. Since the Department has no oversight of the Commission JBC staff believes the burden to initiate discussions related to additional funds for FY 2015-16 falls on the Commission.

Commission's February 9, 2015 Budget and June 12, 2015 Response

JBC staff also notes a discrepancy between the Commission's working budget dated February 9, 2015 (Appendix A) and the June 12, 2015 response quoted above. The February budget showed the Commission to have over encumbered \$95,006. In response to this issue the Commission revised contracts so that the total projected expenditures is \$396,000. JBC staff questions why the Commission would have revised the budget if the Commission was expecting additional funding in FY 2015-16?

The February budget only reflected the funds appropriated in FY 2014-15 and did not reflect an additional \$400,000 in FY 2015-16, contradicting the expectation stated above that an additional \$400,000 would be forthcoming in FY 2015-16. It is concerning to staff that on June 12, 2015 the Commission told staff that "with the exception of the new mandated study on rehabilitation services (H.B. 15-1083), the Commission cannot meet any of the specific statutory mandates without additional funding." Prior to receiving this request, the Commission has never approached staff to express any concerns that the Commission would be unable to fulfill its statutory obligations without additional funding. The following table compares the February and June projected expenditures.

Comparison of Commission's Budgeted Expenditures		
	Feb. 9, 2015 Budget	June 12, 2015 Budget
Legal - AG Office	\$15,000	\$29,500
Contract personal services meeting support.	18,700	29,100
Mileage/Travel	15,514	8,080
Data Purchases	50,000	50,000
Other Expenses (TBD)	1,125	24,000
Speakers/Educators on Health Care Costs	0	10,000
Conference call line - Ready Talk	0	5,184
Contract - Colorado Health Institute	168,000	252,000
Contract Milliman -- HB 15-1083	n/a	25,000
Contract - The Keystone Center	226,667	320,000
Total	\$495,006	\$752,864

Lack of non-state funds provided to the Commission

The Fund is authorized to receive gifts, grants and donations, and it is staff's understanding that the funding provided in S.B. 14-187 was intended to supplement those non-state dollars. The Commission has not received any non-state dollars to date. Staff has not had the time to explore why the Commission has not received any non-state funds. Due to the time constraints imposed by the interim supplemental process the Committee may not have sufficient data for making an informed decision regarding the appropriate funding level for the Commission.

Lack of State Administrative Oversight of Commission Expenditures

The Department of Public Health and Environment does not have fiscal oversight of the Commission other than to ensure that the Commission is complying with state accounting rules. The Department does not have the authority to question any Commission expenses. This means the expenditures of the Commission are not subject to oversight by the Department and once funds are appropriated to the Commission's cash fund the General Assembly has little say over how these dollars are expended. In light of the conflicting information on the Commission's ability to meet the statutory obligations without doubling the funds appropriated for the Commission's work, staff is not convinced that this interim supplemental request process is the appropriate mechanism to determine the proper level of funding for the Commission.

Statutory Restriction on Available Funds

Statute governing interim supplementals require the Controller to restrict the funds for approved interim supplementals until the supplemental funding is approved by the General Assembly through the standard supplemental bill. However, there is no existing FY 2015-16 appropriation for the Commission on Affordable Health Care. As a result if the Committee elects to approve the request, staff would recommend instructing the Controller to restrict funds in the Distributions to Local Public Health Agencies line item because that is the most relevant line item with sufficient General Fund to restrict. Staff would note however that this may be inappropriate and inconsistent with the intent of the interim supplemental statute.

	FY 2014-15	FY 2015-16	Fiscal Year 2015-16 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
Executive Director - Dr. Larry Wolk					
Interim Supplemental #1 -Affordable Care Commission					
<i>(9) Prevention Services Division</i>					
<i>(A) Administration</i>					
Transfer to Affordable Health Care					
Cash Fund (new line)	0	0	400,000	0	0
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	400,000	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Totals					
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
TOTALS for ALL Departmental line items	552,219,752	531,348,222	400,000	0	531,348,222
FTE	<u>1,265.0</u>	<u>1,289.3</u>	<u>0.0</u>	<u>0.0</u>	<u>1,289.3</u>
General Fund	64,322,851	44,515,287	400,000	0	44,515,287
Cash Funds	161,438,088	158,144,049	0	0	158,144,049
Reappropriated Funds	35,141,182	37,535,004	0	0	37,535,004
Federal Funds	291,317,631	291,153,882	0	0	291,153,882

Appendix A: February 9, 2015 Budget

The Commission will be identifying the levers available to develop practical state policies to contain health care costs. During its three-year span, the Commission under its original charge must conduct technical analysis, complete research, engage statewide stakeholders, create advisory committees, maintain transparency and develop consensus. This is a preliminary draft budget based on the estimated revenues and expenses known to date. The Commission has discussed the original legislative charge and the appropriation for the Commission will not fund the three years of its existence, and additional revenue sources need to be identified. Additionally, the standing committees including the Research Committee are identifying additional needs and required resources that will impact this draft budget. The Commission recognizes the budget will evolve over the next several months as the Commission's work progresses. This draft budget only reflects the current legislative charge of the Commission. The Commission has started holding regular committee meetings (Research, Planning and Communications), and has defined cost and priorities for recommendations (actionable, measurable, impacts public systems and private markets, and drivers of absolute cost/ rates of cost).

Commission on Affordable Health Care Draft Budget - February 09, 2015

		Budget	Actual	Budget	Actual
		July 1, 2014 - June 30, 2015	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2015 - June 30, 2016
Revenue					
Appropriation		\$ 400,000.00	\$ 400,000.00		
Interest Income		\$ 201.00	\$ 201.00		
Grants					
In-Kind					
Total Revenue		\$ 400,201.00	\$ 400,201.00	\$ -	\$ -
Expense					
Advertising and Marketing		\$ 150.00	\$ -	\$ 150.00	
Food and Food Service Supplies - Statewide Meetings		\$ -		\$ 1,500.00	
Legal Services		\$ 10,000.00	\$ 6,697.30	\$ 5,000.00	
Personal Services - Professional					
	The Keystone Center - 1 contract year	\$ 66,666.67		\$ 160,000.00	
	CO Health Institute - 1 contract year	\$ 42,000.00		\$ 126,000.00	
	Data sets	\$ 50,000.00		\$ -	
	translation and interpreter services	\$ -		\$ 6,300.00	
	Other	\$ 975.00	\$ 975.00	\$ -	
Printing and Reproduction Services		\$ 100.00		\$ 750.00	
Rental - Information Technology - Statewide Meetings				\$ 1,500.00	
Rental - Building - Statewide Meetings		\$ -		\$ 1,050.00	
Supplies and Materials		\$ 100.00		\$ 200.00	
Travel Expenses					
	In-State Travel Per Diem - Statewide Meetings	\$ -		\$ 1,794.00	
	In-State Mileage Reimbursement	\$ 1,500.00		\$ 8,320.00	
	In-State Travel - Statewide Meetings, Lodging	\$ -		\$ 3,900.00	
Total Revenue				\$ 316,464.00	\$ 400,201.00
Total Expenses		\$ 171,491.67	\$ 7,672.30	\$ -	\$ 495,627.97
Net					\$ (95,426.97)