

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUESTS FY 2018-19

DEPARTMENT OF REGULATORY AGENCIES

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

PREPARED BY:
VANCE ROPER, JBC STAFF
JUNE 20, 2017

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INTERIM SUPPLEMENTAL REQUESTS

OVER EXPENDITURE TO IMPLEMENT H.B. 18-1291

	REQUEST	RECOMMENDATION
TOTAL	\$191,541	\$286,640
FTE	0.0	0.0
General Fund	191,541	286,640
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.? **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 disagree on the criteria for this request. The Department views the request as an unforeseen contingency. Staff asserts that this request is the result of a technical error caused by changes made to the conservation easement program by H.B. 18-1291. These changes resulted in programmatic funding without a proper appropriation, which is a technical error rather than an unforeseen contingency.

DEPARTMENT REQUEST: The Department requests authority for an over expenditure of \$191,541 General Fund in FY 2018-19 for the Conservation Easement Program. The request includes \$191,180 for personal services and \$361 for operating expenses.

STAFF RECOMMENDATION: Staff recommends that the Committee appropriated \$286,640 General Fund. The recommendation includes \$281,240 for personal services and \$5,400 for operating expenses.

The difference between the Department request and staff recommendation is the result of the time horizon on the request. The Department request envisions a six-month timeframe, which would fund the program through December 31, 2018. As the supplemental process could not be completed in this timeframe, the requested amount would leave the program unfunded for multiple months. As such, staff recommends funding through February 28, 2019.

STAFF ANALYSIS: The supplemental budget request addresses a technical error in House Bill 18-1291 (Sunset Conservation Easement Oversight Commission). The Conservation Easement Oversight program is responsible for certifying holders of conservation easement tax credits, as well as for evaluating individual applications for conservation easement tax credits. These two functions are supported by 4.0 FTE, including 2.0 FTE Compliance Investigator IIs, 1.0 FTE Compliance Specialist IV, and 1.0 FTE Program Management I. The Conservation Easement Oversight program underwent sunset review during the 2018 legislative session. The program was re-authorized in law for a one-year period ending July 1, 2019.

Typically, an enabling appropriations clause would be included in the bill; however, these changes occurred very late in the legislative process, and this language was not included. Since H.B. 18-1291 did not contain an appropriations clause, the Department is unable to implement the bill because it does not have spending authority from the newly created fund.

In order to implement H.B. 18-1291 as enacted, the Department would need an annual appropriation of \$463,231 cash funds from the Conservation Cash Fund. However, this cannot be the basis of a 1331 Supplemental request as no appropriation was included in the bill and a 1331 Supplemental requires an existing appropriation. With no spending authority from the new fund, no legal authority to pay expenses from the old fund, and no legal authority to use any other cash fund in the Department, the only option would be for the Department to spend from a General Fund line item in the Executive Directors' Office (EDO).

These factors led to the Department's request that the Joint Budget Committee approve the temporary over-expenditure of the Personal Services and Operating line items in its Executive Director's Office. It is important to note that the Department fully intends to address the appropriate solution during the regular supplemental process, and would ensure that ultimately, no General Fund is spent for FY 2018-19.

Staff Recommendation

The overarching problem created by the passage of H.B. 18-1291 cannot be solved during the 1331 process. Section 24-75-109 (1) requires that approval of an over expenditure must be for an “. . . expenditure in excess of the amount authorized by an item of appropriation for such fiscal year . . .”. As mentioned above, H.B. 18-1291 did not provide an appropriation, which means that the 1331 process would not work as there is no current appropriation to overspend.

Allowing an over expenditure in the EDO to run the Conservation Easement Program falls within the criterion for the 1331 Supplemental process. This over expenditure would allow the program to operate in FY 2018-19, pending a supplemental request in the 2019 legislative session.

Staff recommends that the Committee appropriated \$286,640 General Fund. The recommendation includes \$281,240 for personal services and \$5,400 for operating expenses.

STATE OF COLORADO

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June 20, 2018

Mr. Robert Jaros
State Controller
Department of Personnel and Administration
1525 Sherman Street, 5th Floor
Denver, CO 80203

Dear Mr. Jaros:

The Joint Budget Committee has considered an interim supplemental request submitted by the Department of Regulatory Agencies under the provisions of H.B. 98-1331. This request was previously approved by the Office of State Planning and Budgeting. Pursuant to Section 24-75-111 (1), C.R.S., the Committee authorizes the over-expenditures listed in the following table and will sponsor a supplemental appropriations bill during the 2019 legislative session that reflects this increase.

Department of Regulatory Agencies					
JBC Approved Adjustments to FY 2018-19 Appropriation					
Division, Subdivision, Line Item	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
Executive Director's Office, Personal Services	281,240	281,240	\$0	\$0	\$0
Executive Director's Office, Operating Expenses	5,400	5,400	0	0	0
Total FY 2018-19 Adjustment	\$286,640	\$286,640	\$0	\$0	\$0

If you have any questions or concerns, please contact Vance Roper of our staff at 303-866-3147.

Sincerely,

Representative Millie Hamner, Chair
Joint Budget Committee

cc:

Mr. John Ziegler, Staff Director, Joint Budget Committee
Mr. Henry Sobanet, Director, Office of State Planning and Budgeting
Ms. Marguerite Salazar, Executive Director, Department of Regulatory Agencies
Mr. Justin Lippard, Budget Director, Department of Regulatory Agencies