

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**SUPPLEMENTAL REQUESTS FOR FY 2012-13,
2013-14, and prior years**

CAPITAL CONSTRUCTION

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

**Prepared By:
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January 21, 2014**

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CAPITAL CONSTRUCTION

Department Overview

This section summarizes state agency capital construction and controlled maintenance projects. Many of the appropriations are from the Capital Construction Fund. The primary source of revenue to the Capital Construction Fund is transfers and appropriations from the General Fund.

Summary: FY 2012-13 Appropriation and Recommendation

Capital Construction: Recommended Changes for FY 2012-13					
	Total Funds	Capital Construction Fund Funds	Cash Funds	Reappropriated Funds	Federal Funds
FY 2012-13 Appropriation					
Appropriation for FY 2012-13	170,898,218	63,100,367	87,257,625	8,626,790	11,913,436
Current FY 2012-13 Appropriation	\$170,898,218	\$63,100,367	\$87,257,625	\$8,626,790	\$11,913,436
Recommended Changes					
Current FY 2012-13 Appropriation	\$170,898,218	\$63,100,367	\$87,257,625	\$8,626,790	\$11,913,436
Resident Support Upgrades	268,600	0	94,010	0	174,590
Recommended FY 2012-13 Appropriation	\$171,166,818	\$63,100,367	\$87,351,635	\$8,626,790	\$12,088,026
Recommended Increase/(Decrease)	\$268,600	\$0	\$94,010	\$0	\$174,590
Percentage Change	0.2%	0.0%	0.1%	0.0%	1.5%
FY 2013-14 Executive Request	\$171,166,818	\$63,100,367	\$87,351,635	\$8,626,790	\$12,088,026
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0

Request/Recommendation Descriptions

Resident Support Upgrades: The request, CDC recommendation, and JBC Staff recommendation provide an additional \$268,600 cash funds spending authority and matching federal funds for information technology upgrades at the Fitzsimons veterans nursing home (Department of Human Services).

Summary: FY 2013-14 Appropriation and Recommendation

Capital Construction: Recommended Changes for FY 2013-14					
	Total Funds	Capital Construction Fund Funds	Cash Funds	Reappropriated Funds	Federal Funds
FY 2013-14 Appropriation					
Long Bill appropriation for FY 2013-14	283,668,966	188,069,493	86,218,813	7,113,670	2,266,990

*JBC Staff Supplemental Recommendations: FY 2013-14
Staff Working Document – Does Not Represent Committee Decision*

Capital Construction: Recommended Changes for FY 2013-14					
	Total Funds	Capital Construction Fund Funds	Cash Funds	Reappropriated Funds	Federal Funds
Current FY 2013-14 Appropriation	\$283,668,966	\$188,069,493	\$86,218,813	\$7,113,670	\$2,266,990
Recommended Changes					
Current FY 2013-14 Appropriation	\$283,668,966	\$188,069,493	\$86,218,813	\$7,113,670	\$2,266,990
Colorado History Museum COP Adjustment	80,000	0	80,000	0	0
Recommended FY 2013-14 Appropriation	\$283,748,966	\$188,069,493	\$86,298,813	\$7,113,670	\$2,266,990
Recommended Increase/(Decrease)	\$80,000	\$0	\$80,000	\$0	\$0
Percentage Change	0.0%	0.0%	0.1%	0.0%	0.0%
FY 2013-14 Executive Request	\$283,748,966	\$188,069,493	\$86,298,813	\$7,113,670	\$2,266,990
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0

Request/Recommendation Descriptions

Colorado History Museum COP Adjustment: The request, CDC recommendation, and JBC Staff recommendation provide an additional \$80,000 cash funds spending authority for the FY 2013-14 Certificate of Participation (COP) payment for the Colorado History Museum.

Supplemental Requests

FY 2012-13 SUPPLEMENTAL REQUEST DEPARTMENT OF HUMAN SERVICES RESIDENT SUPPORT UPGRADES

	Request	Recommendation
Total	<u>\$268,600</u>	<u>\$268,600</u>
Capital Construction Funds	0	0
Cash Funds	94,010	94,010
Reappropriated Funds	0	0
Federal Funds	174,590	174,590

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
JBC staff and the Department agree that this request is the result of new data, based on authorization of additional federal funds in June 2013.	

Department Request: The Department requests additional spending authority from the Central Fund for State and Veterans Nursing Homes to draw down additional federal funds,

increasing an FY 2012-13 capital appropriation for building renovations at the State Veterans Nursing Home at Fitzsimons by \$94,010 cash funds and \$174,590 federal funds. This would increase the existing appropriation for this project from \$1,733,400 (\$606,690 cash funds and \$1,126,710 federal funds) to \$2,002,000 (\$700,700 cash funds and \$1,301,300 federal funds).

The U.S. Department of Health and Human Services has mandated that all state veterans nursing homes implement electronic health records systems. On June 7, 2013, the Department was notified that it had received a state home construction grant from the U.S. Department of Veterans Affairs (VA) for the Fitzsimons home renovations authorized in the FY 2012-13 Long Bill. This grant added funds for the cost of a health record system at the Fitzsimons Home to a renovation grant that was already under consideration. As a result, federal funds will cover 65 percent of the costs for this project.

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

Staff Analysis/additional background: State veterans nursing homes are operated by the Department of Human Services consistent with federal rules. The federal government provides 65 percent of construction costs for the homes and per-diem payments for eligible residents. While nursing home operations are typically supported entirely by cash fund patient payments, if the homes do not operate in a manner consistent with federal rules, they risk decertification, i.e., the federal government may suspend per-diem payments and request repayment of federal construction funds. Thus, the homes must comply with federal demands for electronic health record system. Further, regardless of federal rules, such systems are expected to improve patient care.

In response to CDC questions, the Department noted that it has been working with the Office of Information Technology for several years on plans for electronic health records systems at all of the nursing homes. The Department originally expected to cover the projects entirely through cash funds from the Central Fund for State Nursing Homes. Access to federal funds for the Fitzsimons portion of the project allows the Department to expand the project's scope.

Staff has also confirmed that the Central Fund for State and Veterans Nursing Homes, in which all nursing home revenue is deposited, has ample reserves to cover the cash fund portion of this project (balance of \$10.9 million at the end of December).

**FY 2013-14 SUPPLEMENTAL REQUEST
HIGHER EDUCATION – HISTORY COLORADO
ANNUAL PAYMENT FOR COLORADO HISTORY MUSEUM COP**

	Request	Recommendation
Total	<u>\$80,000</u>	<u>\$80,000</u>
Capital Construction Funds	0	0
Cash Funds	80,000	80,000

JBC Staff Supplemental Recommendations: FY 2013-14
Staff Working Document – Does Not Represent Committee Decision

	Request	Recommendation	
Reappropriated Funds	0	0	0
Federal Funds	0	0	0

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
The Department submitted the request based on an unforeseen contingency (sequestration of federal Build America Bonds funds).	

Department Request: The Long Bill includes an appropriation for Certificate of Participation payments for the Colorado History Museum. The FY 2013-14 appropriation was \$3,000,000 from the State Historical Fund (originating from Limited Gaming revenues). The COPs for the History Museum were subsidized through federal Build America Bonds. Due to federal sequestration, 8.7 percent of the federal subsidy amount originally anticipated to be paid in FY 2012-13 was withheld. History Colorado therefore paid more cash funds than anticipated for the first installment payment of the COP (due September 2013) and requires additional spending authority to make the second payment (March 2014).

The COP was originally authorized in S.B. 08-206. Fiscal year 13-14 is the third year of this 35-year COP obligation. Future payments grow over time to about \$5.0 million annually.

Staff Recommendation: Staff recommends that the Committee approve the request. If the Department does not have sufficient spending authority for the COP payment, it could default.

Staff Analysis/additional background: Build American Bonds, authorized as part of the America Recovery and Reinvestment Act, provide a 35 percent federal refund on annual coupon payments to states and localities that issued the bonds during the 20-month period in which they were available. However, these subsidies were subsequently deemed subject to sequestration. The federal government announced the 8.7 percent reduction for payments issued after March 1, 2013. (It has also announced that payments processed between October 1, 2013 and September 30, 2014 will be subject to a sequestration reduction of 7.2 percent unless a law is enacted that changes the sequester.)

Of the total requested \$80,000 adjustment, \$71,816 is due to the federal sequestration change. The balance (rounding to \$80,000) represents a contingency amount for any other unanticipated adjustments to the payment due. If the full amount is not used, the balance will revert to the History Museum Cash Fund.

Pending Supplemental Requests Submitted to the CDC

In addition to the requests discussed above, staff understands that there is:

- an additional executive request submitted by the Department of Public Health and Environment to the CDC for a Medical Marijuana Registration System; and
- an FY 2014-15 request from the Department of Natural Resources related to the Superfund sites that may require changes to prior year appropriations and thus require supplemental action.

The CDC has not yet made recommendations on either item. Due to timing issues, if the CDC recommends either of these to the JBC, staff anticipates they will be included in the FY 2014-15 Long Bill and/or as supplemental add-ons to the Long Bill.

Revenue Bond Intercept Program Request

Department Request: The Department of Higher Education has requested, and the Capital Development Committee has approved, spending authority under the Revenue Bond Intercept Program for a Colorado School of Mines project. The request is for \$3,000,000 in bonding authority for a planned new Colorado School of Mines welcome center. The total welcome center project is for \$10.0 million, of which \$7.0 million is to be derived from institutional funds and \$3.0 million from bonds to be repaid from donations. The average annual payment for the 30-year bonds is approximately \$220,000 at a rate of 4.0 percent.

Staff Recommendation: Staff recommends that the Committee approve the request. Higher education projects that are cash funded no longer require an appropriation by the General Assembly. However, pursuant to Section 23-1-106 (10) (b), C.R.S., any higher education cash funded project costing \$2.0 million or more which is subject to the Higher Education Revenue Bond Intercept Program must be reviewed and approved by the Colorado Commission on Higher Education (CCHE) and the Capital Development Committee (CDC). The CDC is then required to make a recommendation regarding the project to the JBC, which is required to refer its recommendations, with written comments to the CCHE.

The CDC has already approved the requested projects. The attached draft letter from the JBC to the CCHE, if approved, would enable the Colorado School of Mines to proceed with the projects and the associated bonding.

Staff Analysis:

Pursuant to Section 23-11-106 (10) (b), C.R.S. (most recently modified in S.B. 13-099), to qualify for the Revenue Bond Intercept Program, an institution must have:

- (1) A credit rating in one of the three highest categories from a nationally recognized statistical rating organization
- (2) A debt service coverage ratio of at least 1.5x (net revenue available for debt service/annual debt service subject to this article)
- (3) Pledged revenues for the issue of not less than the net revenues of auxiliaries; 10% of tuition if an enterprise; indirect cost recovery revenues; facility construction fees designated for bond repayment; and student fees and revenues pledged to bondholders.

If it meets these requirements and participates in the Program, and if the institution indicates that it will fail to meet the required payment, the State Treasurer makes the payment, and the amount owed is then withheld from the institution's fee-for-service contract, from any other state support for the institution, and from any unplugged tuition moneys collected by the institution.

Staff has recommended that the JBC scrutinize revenue bond intercept program requests more closely than in the past, in light of the financial challenges facing some institutions. Thus, the analysis below examines the institution's financial position and ability to pay the bond, even if anticipated donations were not forthcoming. Staff proposes to use a similar approach to analyze future requests under the Intercept Program.

The analysis considers:

- The Treasurer's analysis of the proposed issue and compliance with Section 23-5-139, C.R.S. (Revenue Bond Intercept Program)
- The institution's Composite Financial Index for FY 2011-12, as a measure of its general financial health.
- The projected impact of the new bond and the associated payment on the CFI analysis.
- A comparison between the institution's most recent General Fund appropriation (FY 2013-14) and the existing and proposed Colorado School of Mines annual payment obligations under the revenue bond intercept program.

Treasurer's Statutory Analysis

The Treasurer has confirmed that the Colorado School of Mines exceeds the minimum statutory requirements for the intercept program (1.5x coverage for bond payments and an "A" credit rating). Mines currently has, according to the Treasurer:

3.37x coverage (or 337%)

A1 (Moody's)/A (S&P) Rating

Composite Financial Index (CFI)

As reviewed in staff's budget briefing, the Colorado School of Mines had a Composite Financial Index (CFI) in FY 2011-12 of 4.3, placing it well above the threshold for moderate financial health of 3.0. For FY 2012-13, its CFI has risen to 5.9, reflecting excellent financial health.

Impact of New Bond on CFI

The requested \$3.0 million increase in bonding, with an annual payment of \$220,000, is not expected to have a measurable impact on the Colorado School of Mines' financial health. In FY 2012-13, the Colorado School of Mines' debt totaled \$225 million. In the same year, its annual bond payments and debt amortization totaled \$8.6 million. The requested increase is for about 1.3 percent on total debt and about 2.3 percent on total annual bond payments.

Annual General Fund appropriation versus Intercept Obligations

In response to staff questions, the Colorado School of Mines indicated that its current bond obligations authorized under the intercept program total \$134,970,000. Annual payments on the

bonds are \$7.7 million in 2014, escalating to \$9.2 million in 2015 and \$9.5 million in 2016. The request would increase this. The table shows the current 2015 projected payment, increased by \$220,000, and compares it to the FY 2013-14 appropriation for the school of Mines. As shown, **with this addition, total annual intercept payment obligations would be 56 percent of the FY 2013-14 General Fund appropriation for Mines.** This ratio is substantially higher for the Colorado School of Mines than for any other public institution, but *the General Fund appropriation still appears more than adequate to cover any potential bond-payment shortfall in a worst-case scenario in which the intercept would be applied.*

Estimated current intercept payment for 2015	\$9,150,614
Additional projected payment, new bond	<u>220,000</u>
Total projected payment	9,370,614
General Fund appropriation FY 2013-14	16,813,547
Projected payment as percentage GF approp.	55.7%

Potential Statutory Change for Committee Consideration:

Staff recommends the Committee sponsor legislation that would **restrict an institution’s authority to issue debt under the higher education revenue bond intercept program so that overall debt service payments for the institution under the intercept program do not exceed 100 percent of the institution’s prior year General Fund appropriation.**

As discussed in the Committee’s meeting with the state treasurer on January 14, 2014, the Capital Development Committee sponsored legislation during the 2013 session (S.B. 13-199) that changed the test for institutions to qualify for bonding authority under the Higher Education Revenue Bond Intercept Program.

Previously, institutions’ ability to use the program was capped, so that annual debt service payments could not exceed 100 percent of their year’s *fee-for-service* contract appropriation. Senate Bill 13-199 eliminated this restriction and replaced it with a requirement that the institution have no lower than an “A” credit rating and demonstrate that debt service coverage ratio was at least 1.5x. The fee-for-service contract restriction was problematic because the portion of an institution’s overall appropriation that was allocated as fee-for-service was relatively high for some institutions (e.g., Adams and Western) and very low for others (e.g., the community colleges), but this was not related to institutions’ financial health.

While JBC staff agrees that intercept authority should not be limited by *fee-for-service* contract amounts, *staff believes intercept authority should be limited by total General Fund appropriations to a governing board.* Under the intercept program, an institution is borrowing on the state’s credit rating, and the State is agreeing to advance bond-payment amounts, if an institution cannot cover them. *Staff is concerned that, under current law, institutions could expand their bonding under the intercept program over time, and State might ultimately be agreeing, in the event of a shortfall at the institution, to advance a larger amount than the institution’s entire General Fund appropriation.* At present, total bond payments by institutions

under the intercept program range from as little as 2 percent of their annual appropriations (community colleges) to 56 percent of annual appropriations (Colorado School of Mines).

Previously-approved Supplemental Requests

The Committee previously approved two interim (“1331”) capital construction supplemental requests in June and September 2013 that must be incorporated in the capital construction supplemental bill. Consistent with previous Committee action, **staff will include supplemental adjustments for the following two items.**

- **Judicial Department – Ralph L. Carr Judicial Center:** The Judicial Department requested, and the CDC and JBC approved (September 2013), a request for an increase to the FY 2011-12 capital construction appropriation for Judicial Center construction to close out funding for the Judicial Center. *The approved increase is for \$3,000,000 from the Judicial Center Cash Fund.* This represents an amount transferred to the History Museum to fund the History Museum’s capital reserve for maintenance and was offered as a consideration for History Colorado’s move into leased space for the duration of new museum construction. The Department reported that this \$3.0 million was outlined in finance documents but was not included in the \$58.1 million for museum and judicial center construction appropriated in S.B. 08-206 and H.B. 12-1200.

 - **CSU Research Innovation Center – Extend Spending Authority:** The Department of Higher Education requested, and the CDC and JBC approved (June 2013), a request to extend spending authority for the Colorado State University at Fort Collins Research Innovation Center. The \$62.7 million cash and federal funds project was originally appropriated in FY 2007-08 and was last adjusted in FY 2009-10. *An extension of existing appropriations was approved through June 30, 2016* due to accommodate delays in federal grant funding. (Note: due to changes in statute, had the project been authorized after January 1, 2010, the project would not have been included in the Long Bill or required an appropriation adjustment).
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JBC Staff Supplemental Recommendations - FY 2013-14
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

		FY 2013-14 Appropriation	FY 2013-14 Requested Change	FY 2013-14 Rec'd Change	FY 2013-14 Total W/ Rec'd Change
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CAPITAL CONSTRUCTION

Annual Payment for History Museum COP

DEPARTMENT OF HIGHER EDUCATION

(25) History Colorado

(B) Capital Construction

Lease Purchase of Colorado History Museum	<u>3,021,000</u>	<u>80,000</u>	<u>80,000</u>	<u>3,101,000</u>
Cash Funds	3,021,000	80,000	80,000	3,101,000

Total for Annual Payment for History Museum COP	3,021,000	80,000	80,000	3,101,000
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Cash Funds	3,021,000	80,000	80,000	3,101,000

Totals Excluding Pending Items				
CAPITAL CONSTRUCTION				
TOTALS for ALL Departmental line items	283,668,966	80,000	80,000	283,748,966
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Cash Funds	86,218,813	80,000	80,000	86,298,813
Reappropriated Funds	7,113,670	0	0	7,113,670
Federal Funds	2,266,990	0	0	2,266,990

STATE OF COLORADO

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JOINT BUDGET COMMITTEE

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DRAFT

January 21, 2014

Lt. Gov. Joseph A. Garcia
Executive Director
Colorado Commission on Higher Education
1560 Broadway, Suite 1600
Denver, CO 80202

Dear Lieutenant Governor Garcia:

Pursuant to the provisions of Sections 24-75-303 (3) and 23-1-106 (9) and (10), C.R.S., the Joint Budget Committee has reviewed the higher education revenue bond intercept project proposed by the Colorado School of Mines. The project constructs a 29,832 GSF Welcome Center to house several university service functions, such as finance and administration and admissions, as well as conference and meeting spaces. The project includes \$3,000,000 to be financed by bonds under the higher education revenue bond intercept program. This project was previously approved by the Capital Development Committee and the Colorado Commission on Higher Education.

After considering the information submitted by the Colorado Commission on Higher Education and the Capital Development Committee, as well as additional data assembled by our staff, the Joint Budget Committee approved this request.

If you have any questions or concerns, please contact Amanda Bickel of our staff at 303-866-4960.

Sincerely,

Representative Crisanta Duran
Chair
Joint Budget Committee

cc: Senator Gail Schwartz, Capital Development Committee
Kori Donaldson, Capital Development Committee Staff
Mark Cavanaugh, Department of Higher Education
Tonya Covarrubias, Department of Higher Education
Peter Han, Colorado School of Mines
Kirsten Volpi, Colorado School of Mines
Erick Scheminske, Office of State Planning and Budgeting
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