

# STATE OF COLORADO

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## FY 2011-12

# Supplemental Comeback Requests for Executive Branch Agencies

January 23, 2012

## Office of State Planning and Budgeting FY 2011-12 Supplemental Comeback Requests

Department:	Corrections
Title:	S-1, External Capacity

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	\$83,843,802	\$15,106,180	\$0	\$11,303,260	\$11,303,260
FTE	0.0	0.0	0.0	0.0	0.0
GF	\$81,485,095	\$13,674,478	\$0	\$9,871,558	\$9,871,558
CF	\$2,358,707	\$1,431,702	\$0	\$1,431,702	\$1,431,702
RF	\$0	\$0	\$0	\$0	\$0
FF	\$0	\$0	\$0	\$0	\$0

### Summary of Initial Request:

The Department of Corrections (DOC) submitted a Supplemental Request for \$15,106,180 to house offenders in facilities other than state facilities. This included jails, private prisons, pre-release facilities, and community return-to-custody beds.

### Committee Action:

The Joint Budget Committee did not vote on this supplemental and requested that it be discussed during OSPB comebacks.

### OSPB Comeback:

OSPB requests that the Joint Budget Committee approve a supplemental appropriation of \$11,303,260, because of the critical need to house offenders in excess of the capacity in state-owned prisons.

### Summary by category

The Long Bill Subprogram that is the subject of this request consists of line items that fund the following placement of DOC inmates: (1) county jails, (2) private prisons, (3) pre-release facilities, and (4) community return-to-custody facilities. A summary of each change is detailed in the following table.

	<b>Original Supplemental</b>	<b>Comeback Request</b>	<b>Difference</b>
County Jails	\$2,838,041	\$1,637,571	(\$1,200,470)
Private Prisons Facilities	\$11,018,787	\$8,299,258	(\$2,719,529)
Pre-release Facility	(\$465,633)	(\$399,702)	\$65,931
Community Corrections Return-to-Custody	\$283,283	\$334,431	\$51,148
<b>Subtotal GF</b>	<b>\$13,674,478</b>	<b>\$9,871,558</b>	<b>(\$3,802,920)</b>
Cash Funds	\$1,431,702	\$1,431,702	\$0
<b>Total Funds</b>	<b>\$15,106,180</b>	<b>\$11,303,260</b>	<b>(\$3,802,920)</b>

### *Supplemental Factors*

For the first time in the Department's history, offender populations have declined in two consecutive years and are projected to decline in the immediate planning horizon. Though a decline was expected this year, the offender population is expected to be higher than current appropriations can support. Therefore, the Department is requesting a FY 2011-12 supplemental increase of \$11,303,260. The Department is using DCJ population projections for all supplemental calculations. As reflected in the following table, there are several factors driving this request.

<b>Factors</b>	
Underfunded Offender Population to Start FY 2011-12	\$5,611,801
FLCF Early Offender Movement	\$3,268,782
Vacant State Beds	\$3,056,694
Miscellaneous Adjustments for Community Placements and Jail Utilization	\$3,121,324
Actual Population Declines Through November 2011 Relative to Projections	\$95,527
December 2011 Population Projections	(\$47,948)
<b>Subtotal (January 3 Supplemental)</b>	<b>\$15,106,180</b>
December/January Actual Population Changes	(\$1,406,531)
Plan to Increase Utilization of State Beds	(\$1,247,067)
Additional Adjustments for Jail Beds and Community Return-to-Custody Beds	(\$1,149,322)
<b>Total Comeback Request</b>	<b>\$11,303,260</b>

1. The actual offender population on July 1, 2011, was 291 offenders more than the projected population used during JBC figure setting in March 2011. The Department was funded to begin the year at 22,319 offenders, but the actual offender population was 22,610. The estimated impact to external capacity is \$5,611,801 (see Table 1 in Appendix A for calculations).
2. Offender population declines throughout the first six months of FY 2011-12 did not generate the savings as projected. Declines in the first three months were modest. However, unusually large reductions have occurred from October through December to bring the current numbers closer to predicted populations. The estimated impact to external capacity is \$95,527 (see Table 2 in Appendix A for calculations).

3. Upon the decommissioning announcement on February 15, 2011, the facility management stopped back-filling vacant positions at FLCF. By spring, 2011 FLCF was experiencing significant issues covering shifts and staffing essential posts for a facility with 485 offenders. The minimum staffing pattern delineates those posts required to maintain safe operations and ensure public safety.

The facility utilized various overtime based strategies to fill critical posts, including requiring staff to work extended shifts, canceling days off, and calling staff in to work on their days off. Additionally, two staff were deployed from the Trinidad Correctional Facility to fill critical posts.

In the clinical area, the loss of licensed healthcare professionals had a profound impact on the ability to care for the high medical needs offenders housed at FLCF. Of the 20 total FLCF Clinical Services staff, eleven staff left between January and July of 2011; two additional clinical staff left before the end of September, 2011. Clinical Services was at risk of failing to cover essential shifts and positions in the Serious Medical Needs Unit (SMNU).

By the end of July 2011, staff resignations had risen to 20% of the appropriated FTE or 40 FTE. Simultaneously, the Department began holding vacancies at other designated facilities for staff at FLCF to fill. These facilities were beginning to experience operational challenges due to vacant positions. From an operation perspective it became essential to reduce the offender population in conjunction with FLCF staffing level changes to ensure safe and secure operations.

In addition, some FLCF staff approached management requesting to transfer to new positions prior to the end of summer so that they could settle their families in their new communities prior to the school year. The Offender Movement and Staff Reassignment Plan was published July 22, 2011. This plan reduced FLCF offender populations to 194 offenders between August and October 31, 2011. Offenders were moved to private prison as the Department's original budget reduction plan outlined. The estimated impact to external capacity is \$3,268,782 (see Table 3 in Appendix A for calculations).

4. New offender population forecasts were released in December 2011. These forecasts replaced the projected population forecasts used for FY 2011-12 figure setting funding. The estimated impact to external capacity is a *reduction* of \$47,948 General Fund (see Table 4 in Appendix A for calculations).
5. The Department estimates that an approximate average of 238 state prison beds have been vacant from July 2011 to present. These vacant beds have led to increased private prison populations. The Department will address this problem through a comprehensive bed utilization plan to increase the utilization of state beds and reduce the number of vacant state beds. The estimated impact to external capacity is \$3,056,694.
6. Additional adjustments are necessary for county jail beds and community return-to-custody beds. The Department reimburses counties for services rendered for offenders whose parole is revoked. The DOC does not pay for offenders whose parole is not revoked. Based on an

understanding that legally the DOC is not required to reimbursement counties for offenders housed in county facilities while awaiting revocation hearings, the JBC approved a reduction to this line item in 2011. The Department has concerns it would lose capacity in the jails if reimbursement payments of this type to county jails stopped. As a result, although not required by law, the department continues to reimburse counties for these expenses. House Bill 09-1263 enacted a provision requiring offenders to receive credit for time served in a county jail while awaiting a revocation hearing. In 2009, the number of offenders receiving credit for time served in a jail, a portion of which the DOC provides reimbursement for, has increased significantly. As a result, the estimated impact to external capacity for this adjustment is \$3,121,324.

### ***Comeback Figures vs. January 3 Supplemental***

Factors driving a reduction between the January 3 supplemental and this comeback request are based on the following changes:

1. This comeback request uses an additional seven weeks of actual population figures (through January 19, 2012) which were not available when the January 3, 2012, supplemental was submitted. The Department populations declined by 177 offenders in December 2011, and an additional 70 offenders through January 19, 2012. These population changes are addressed in this comeback. The estimated impact to external capacity is a *reduction* of \$1,406,531.
2. The Department has a bed utilization plan that will lower the number of vacant state beds in the system by 194 beds. This plan will be fully implemented by March 1, 2012. The estimated impact to external capacity is a *reduction* of \$1,247,067 from the original supplemental. With this plan to utilize additional state beds, the net effect of the Department's utilization of state beds over the course of the entire year is an additional \$1,809,627 (\$3,056,694 minus \$1,247,067).
3. The estimated impact to local jails and community return-to-custody beds is adjusted by a *reduction* of \$1,149,322 compared with the original supplemental. With adjusted estimates, the total impact for community placements and local jails in this supplemental request is an additional \$1,972,002 (\$3,121,324 minus \$1,149,322).

### ***Cash funds***

Funding in the In-State Private Facilities appropriation includes State Criminal Alien Assistance Program (SCAAP) grant federal funds. The funds, received from the U.S. Department of Justice (DOJ), help offset the costs of housing illegal aliens in the state prison system. House Bill 05-1278 created a cash fund to receive SCAAP funds and to retain the fund for future use to defray the cost of housing illegal aliens. SCAAP funding varies from year to year and is difficult to predict.

The Department requests a spending authority adjustment in the cash funds of \$1,431,702 to use an additional SCAAP award above the Long Bill funding and to offset General Fund.

### ***Offender Placement Within External Capacity***

The Department makes operational decisions, including determining the optimal placement of offenders in external capacity. The Long Bill contains a footnote for flexibility among the line items within the External Capacity Subprogram. Footnote 2 of the FY 2011-12 Long Bill authorizes the Department to transfer up to 5.0% of the total appropriations for external capacity subprogram. In preparing the 2011-12 Supplemental Budget Requests, it is the Department's intent to abide by the request. However, actual utilization among the line items may fluctuate slightly based on operational and security needs. It is possible that at year end, the Department may be required to use the flexibility provided by Footnote 2 to move resources between line items to manage to the total appropriation for the External Capacity Subprogram.

***Impact on the DOC, Jails, and Private Prisons if this comeback is not funded***

The correctional offender population must be managed and maintained in secure correctional facilities, and state beds are not sufficient to absorb the populations currently in private prisons or jails. Thus, without a sufficient appropriation, the Department will exceed its budget.

**Appendix A: Comeback request – DOC External Capacity**

The tables in this Appendix have been provided to show the calculations that were used to explain the factors that drive the request for additional funds in this comeback request.

**Table 1:** The Department began FY 2011-12 with 291 more offenders than were funded during figure setting. This is estimated to have an impact for each month during the fiscal year (number of offenders x daily rate x number of days per month). The total impact for FY 2011-12 is \$5,611,801.

FY 2010-11 (LCS)	Funded Projection (DCJ)	Actual	Actual Less Funded Population
June 2011	22,319	22,610	291

  

Months	Days in Month	Unfunded Population	Population X Days in Month X \$52.69
July 2011	31	291	\$475,316
August 2011	31	291	\$475,316
September 2011	30	291	\$459,984
October 2011	31	291	\$475,316
November 2011	30	291	\$459,984
December 2011	31	291	\$475,316
January 2012	31	291	\$475,316
February 2012	29	291	\$444,651
March 2012	31	291	\$475,316
April 2012	30	291	\$459,984
May 2012	31	291	\$475,316
June 2012	30	291	\$459,984
<b>TOTAL IMPACT</b>			<b>\$5,611,801</b>

**Table 2:** The Long Bill appropriation was built on an assumed decline of 74 offenders per month. This table reflects the fiscal impact associated with the actual decline in the inmate population.

FY 2010-11 (LCS)	Funded Projection (DCJ)	Monthly Funded Change	Actual	Monthly Actual Change	Actual Less Funded Population	Additional Differences In Offender Population Per Month	Days in Month	Population X Days in Month X \$52.69
June 2011	22,319	(46)	22,610	(70)	291	0	30	\$0
<b>FY 2011-12 (DCJ)</b>								
July 2011	22,240	(79)	22,589	(21)	349	58	31	\$94,737
August 2011	22,166	(74)	22,515	(74)	349	58	31	\$94,737
September 2011	22,092	(74)	22,508	(7)	416	125	30	\$197,588
October 2011	22,018	(74)	22,296	(212)	278	(13)	31	(\$21,234)
November 2011	21,944	(74)	22,064	(232)	120	(171)	30	(\$270,300)
<b>TOTAL IMPACT</b>								<b>\$95,527</b>

**Table 3:** This table estimates the impact of drawing down offenders from the Fort Lyon Correctional Facility prior to the March 1, 2012, decommission date.

Month	Days in Month	Population Reduction	Population X Days in Month X \$52.69
July 2011	31	114	\$186,206
August 2011	31	206	\$336,478
September 2011	30	267	\$422,047
October 2011	31	287	\$468,783
November 2011	30	291	\$459,984
December 2011	31	291	\$475,316
January 2012	31	291	\$475,316
February 2012	29	291	\$444,651
<b>TOTAL IMPACT</b>			<b>\$3,268,782</b>

**Table 4:** This table estimates the impact associated with using a new forecast to project the need through the end of FY 2011-12.

2010 DCJ Forecast (used to set Long Bill budget) vs. 2011 DCJ Forecast (used to estimate supplemental need)		
(74) Per Month vs. (76) Per Month x \$52.69 Per Offender Per Day		
Reduction of (2) Additional Offenders Per Month		
(2)	5 months (151 days)	(\$15,912)
(2)	4 months (122 days)	(\$12,856)
(2)	3 months (91 days)	(\$9,590)
(2)	2 months (61 days)	(\$6,428)
(2)	1 month (30 days)	(\$3,161)
<b>TOTAL IMPACT</b>		<b>(\$47,948)</b>

**Table 5:** This table calculates the estimated fiscal impact associated with the decline in offender population in December 2011 and for the first two weeks of January 2012. This information was not available when the Supplemental Request was submitted to the JBC on January 3, 2012.

Projected vs. Actual Populations for December 2011 and January 2012					
	Projected Reduction	Actual Reduction	Difference		Population x Bed Days x \$52.69
December reduction	(74)	(177)	(103)	6 months (213.4 days)	(\$1,158,137)
January reduction	(74)	(100)	(26)	5 months (181.3 days)	(\$248,394)
<b>Total impact</b>	<b>(148)</b>	<b>(277)</b>	<b>(129)</b>		<b>(\$1,406,531)</b>

**Table 6:** The comprehensive bed utilization plan indicates 194 state beds will be filled by March 1, 2012 which is a factor in the reduction of the comeback request.

<b>State Bed Impact</b>			
<b>Month</b>	<b>Days in Month</b>	<b>To be Filled</b>	<b>Beds x Days in Month x \$52.69</b>
March 2012	31	(194)	(\$316,878)
April 2012	30	(194)	(\$306,656)
May 2012	31	(194)	(\$316,878)
June 2012	30	(194)	(\$306,656)
<b>TOTAL IMPACT</b>			<b>(\$1,247,067)</b>

**Office of State Planning and Budgeting  
FY 2011-12 Supplemental Comeback Requests**

Department:	Corrections
Title:	S-3a Ft. Lyon Correctional Facility Personal Services Reduction

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	\$282,538,549	(\$866,339)	<b>\$0</b>	\$(866,339)	(\$866,339)
FTE	4,176.9	0.0	0.0	0.0	0.0
GF	\$280,082,845	(\$866,339)	\$0	\$(866,339)	(\$866,339)
CF	\$1,541,443	\$0	\$0	\$0	\$0
GFE	\$914,261	\$0	\$0	\$0	\$0
FF	\$0	\$0	\$0	\$0	\$0

**Summary of Initial Request:**

The Department of Corrections submitted a Supplemental Request for FY 2011-12 for an overall decrease of \$866,339 for the decreased staffing needs at Fort Lyon Correctional Facility (FLCF). Reductions will be in various personal services lines, Health, Life and Dental (HLD), Short-term Disability (STD), Amortization Equalization Disbursement (AED), and Supplemental Amortization Equalization Disbursement (SAED).

**Committee Action:**

The Joint Budget Committee did not vote on this supplemental request, and requested this issue be discussed at the OPSB Comebacks.

**OSPB Comeback:**

Pursuant to the provisions of S.B. 11-214 (Concerning Decommissioning Fort Lyon Correctional Facility), the Department will cease operating FLCF as a correctional facility on March 1, 2012.

OSPB requests that the Joint Budget Committee approve this supplemental. In August 2011, the Department published the Offender Movement and Staff Reassignment Plan. The document outlined a two-phase plan to draw down the inmate population and place staff in their vacant position at other state facilities. From an operational perspective, it was essential to reduce the offender population in conjunction with staffing level changes and staff reassignments. The facility has experienced significant staff attrition. Additionally, there was staff assigned to Fort Lyon Correctional Facility that expressed a strong desire to move to their new assignments prior to the school year so that they could settle their families in their new communities. As of October 31, 2011, a total of 42.5 FTE have transferred to vacant positions at other DOC facilities, or have ended employment with DOC. As part of the decommissioning plan, the Department was

appropriated personal services funding for FLCF staff through February 29, 2012. As a result of attrition and staff transfers, the Department is overfunded by four months (November 2011, December 2011, January 2012, and February 2012) in FLCF personal services.

If the comeback request is not funded, the Department will be overfunded in various personal service budget lines. The FY 2011-12 supplemental request to decrease Personal Services funding will more accurately align with Departmental need.

## Office of State Planning and Budgeting FY 2011-12 Supplemental Comeback Requests

Department:	Corrections
Title:	S-3b Ft. Lyon Correctional Facility Repurposing Efforts

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	\$102,309,800	\$410,570	<b>\$0</b>	\$410,570	\$410,570
FTE	313.2	1.3	0.0	1.3	1.3
GF	\$99,792,032	\$410,570	\$0	\$410,570	\$410,570
CF	\$2,517,768	\$0	\$0	\$0	\$0
RF	\$0	\$0	\$0	\$0	\$0
FF	\$0	\$0	\$0	\$0	\$0

### Summary of Initial Request:

The Department of Corrections submitted a Supplemental Request for FY 2011-12 for \$410,570 General Fund and 1.3 FTE for FY 2011-12 (5.1 positions for three months). These funds will be used to pay for utilities and one additional critical post (one post for 24 hours per day, 7 days per week) for three months (March through June) at the Fort Lyon Correctional Facility (FLCF). The utilities and light maintenance will provide the Department with the ability to provide sufficient electricity and heat necessary to keep building systems operational and prevent damage to the facility from adverse weather conditions. These maintenance and boiler operations positions can also provide security services which will protect the facility from vandalism and other events (e.g., fire, water leaks, etc.) that could jeopardize the facility. These services are critical to the repurposing efforts.

### Committee Action:

The Joint Budget Committee did not vote on this supplemental request, and requested this issue be discussed at the OPSB Comebacks.

### OSPB Comeback:

OSPB requests that the Joint Budget Committee approve this supplemental because if the comeback request is not funded, the Department will not have resources to provide security for the facility. Furthermore, the Department will be required to shut down all critical building and utility systems (water, electricity, heating, HVAC, etc.) for the facility. This will make it more difficult for the facility to be repurposed. Additionally, any new tenant may have significant challenges and expenses to bring the facility back online.

The Governor's Office and DOC have collaborated extensively with local and federal officials to repurpose FLCF. The Fort Lyon Repurposing Team, established through

Governor Hickenlooper’s office, in partnership with Bent County and Las Animas leaders, continues to work diligently to develop a viable and sustainable repurposing opportunity for the Fort Lyon Complex. The members of the Fort Lyon Repurposing team have met with numerous parties to explore interest in the property. Members of the Colorado Congressional delegation have provided strong support for the repurposing efforts. The repurposing of the Fort Lyon property is a priority in the Governor’s economic development plan for the State.

**Additional Information per Requests from the Joint Budget Committee:**

The Department was also asked at the JBC staff briefing to calculate the cost of continued operation of the Fort Lyon Correctional Facility through August 31, 2012. The cost of approximately \$3.5 million was included in the Department’s Hearing Responses (see question 24, page 39). The calculation, based on maintaining 102.0 FTE and 194 offenders, is shown in Table 1.

If the state were to operate FLCF for an additional six months (through August 31, 2012) at its current offender and current staffing level, the following actions would be required:

1. Legislation would be necessary to amend Section 17-1-104.3, C.R.S., authorizing the Department to operate FLCF as a prison after March 1, 2012.
2. Additional General Funds would be required.

During the supplemental hearing, a reference was made by a member of the committee to a \$43.00 cost per day to operate FLCF. The Department was not able to replicate those figures. The following table represents actual payroll and operating expenses and is the cost to keep FLCF in operation an additional six months (through August 31, 2012).

**Table 1**

<b>Costs to keep FLCF Operational for 6 months (184 days) 102.0 Staff Positions and 194 Offenders</b>			
	<b>FY 2011-12 March -June 2012 3 months P/S, 4 months OP</b>	<b>FY 2012-13 July-August 2012 3 months P/S<sup>1</sup>, 2 months OP</b>	<b>Total</b>
Personal Services	\$1,391,484	\$1,468,468	\$2,859,952
Operating Expenses	\$301,243	\$314,936	\$616,179
<b>Subtotal</b>	<b>\$1,692,727</b>	<b>\$1,783,404</b>	<b>\$3,476,131</b>
<b>Cost Per Day<sup>2</sup> (\$3,476,131 divided by 194 offenders divided by 184 days)</b>			<b>\$97.38</b>

1. Includes the June 2012 payday shift
2. Cost per Day does not include overhead costs which are included in the Department’s published Cost Per Day analysis that is submitted in the annual November budget requests.

The cost per day to operate FLCF, with 102.0 FTE and 194 offenders is \$97.38 (\$3,476,161 ÷ 194 offenders ÷ 184 days).

*If FLCF is to continue full operations, it is important to note ongoing controlled maintenance needs must be considered.*

*Risk Management, within the Department of Personnel and Administration, will also have to maintain liability and risk property insurance while the property is maintained by the state. The property insurance is billed at approximately \$55,000 on an annual basis.*

The Department continues to implement Phase II of the Offender Movement and Staff Reassignment Plan, based on the Department's statutory requirement to close the facility on February 29, 2012.



**Office of State Planning and Budgeting  
FY 2011-12 Supplemental Comeback Requests**

Department:	Human Services
Title:	Colorado Child Care Assistance Program Provider Self Service Portal

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	\$2,299,593	\$26,063	\$0	\$26,063	\$26,063
FTE	0.0	0.0	0.0	0.0	0.0
GF	\$0	\$0	\$0	\$0	\$0
CF	\$0	\$0	\$0	\$0	\$0
RF	\$0	\$0	\$0	\$0	\$0
FF	\$2,299,593	\$26,063	\$0	\$26,063	\$26,063

**Summary of Initial Request:**

The Department is requesting \$26,063 in FY 2011-12 and \$410,340 in FY 2012-13 for the Colorado Child Care Assistance Program Provider Self Service Portal, a web-based access point to the Childcare Automated Tracking System (CHATS) for child care providers. The funding request is comprised of 100% federal Child Care Development Funds (CCDF).

**Committee Action:**

Joint Budget Committee Staff recommended the request as requested. The committee tabled this issue until Monday, January 23, 2012, and asked to revisit the issue at the OSPB Comeback hearing.

**OSPB Comeback:**

OSPB is requesting that the Department fund the \$26,063 federal funds for the Childcare Automated Tracking System Provider Self Service Portal. This request is an efficiency measure that will improve customer service to child care providers and families.

**Background** - The Childcare Automated Tracking System streamlines Child Care Assistance Program processes for the state, counties, child care providers and families. It allows for the automated tracking and processing of several child care functions including eligibility determination, attendance and billing. The system was rolled out in June 2010 and final implementation occurred in December, 2010.

Child care providers currently do not have access to CHATS data, which limits their ability to accurately track and solve issues with attendance, billing and payments. Providers rely on counties for this information and are currently using a manual, paper-based system. This is both inefficient and resource intensive for providers and can result in increased payment errors and the need for increased correspondence to families.

*Customer Service Issues* - While provider access to the system was planned during the original design of CHATS, the specific needs of the counties and providers, as well as the impact on clients turned out to be more significant than anticipated once the system was fully implemented. Over the past year, the Department has received significant feedback from users of the system, specifically related to the manual, paper-based system used by providers. For example, if a provider has to reconcile payment errors, manual claims for payments must be made and has resulted in delays in reimbursements for providers. This is creating a hardship on providers to meet business expenses. Also, there can be delays in access to child care for families because of written authorization processes.

The provider self-service portal access will reduce the providers need to contact a county department to manually review authorizations, care provided, and payment made; as well as to reduce the increased county workload required to support CCCAP providers including additional mailings and dependence on paper-based reviews for payment. The portal will allow for direct access and real-time information for each provider, instead of requiring providers to rely on county departments as a conduit for information.

OSPB is requesting that this supplemental be funded this session so that system modifications can begin in May 2012. This will ensure that hardships on the users of the CHATS system can be reduced as soon as possible.

**Office of State Planning and Budgeting  
FY 2011-12 Supplemental Comeback Requests**

Department:	Department of Human Services and Department of Health Care Policy and Financing
Title:	Suspension of ICF/ID Provider Fee

Department of Human Services	FY 2011-12 Appropriation	Request	JBC Action *	Comeback Request on Appropriation	Difference between Action and Comeback Request
<b>Total</b>	\$46,197,609	(\$1,867,655)	N/A	(\$1,867,655)	(\$1,867,655)
<b>FTE</b>	0.0	0.0	0.0	0.0	0.0
<b>GF</b>	\$0	\$0	N/A	\$0	\$0
<b>CF</b>	\$2,060,389	\$0	N/A	\$0	\$0
<b>RF</b>	\$44,137,220	(\$1,867,655)	N/A	(\$1,867,655)	(\$1,867,655)
<b>FF</b>	\$0	\$0	N/A	\$0	\$0

\*Laid Over – The Joint Budget Committee tabled this issue until more information could be provided by the Executive Branch regarding this request.

Department of Health Care Policy and Financing	FY 2011-12 Appropriation	Request	JBC Action*	Comeback Request on Appropriation	Difference between Action and Comeback Request
<b>Total</b>	\$46,829,800	(\$1,867,655)	N/A	(\$1,867,655)	(\$1,867,655)
<b>FTE</b>	0.0	0.0	0.0	0.0	0.0
<b>GF</b>	\$21,547,245	\$933,828	N/A	\$933,828	\$933,828
<b>CF</b>	\$0	\$0	N/A	0	\$0
<b>RF</b>	\$1,867,655	(\$1,867,655)	N/A	(\$1,867,655)	(\$1,867,655)
<b>FF</b>	\$23,414,900	(\$933,828)	N/A	(\$933,828)	(\$933,828)

\*Laid Over – The Joint Budget Committee tabled this issue until more information could be provided by the Executive Branch regarding this request.

**Summary of Initial Request:**

In FY 2011-12, the Department of Human Services (DHS) and the Department of Health Care Policy and Financing (HCPF) suspended the Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) provider fee program. This decision was based on an internal review of the program’s current compliance with federal rules issued by the Center for Medicare and Medicaid Services (CMS) for state provider fee programs. Suspending the fee results in the loss of \$1.9 million in federal Medicaid revenues used to offset state costs at the Regional Centers. In order to avoid a 3.7 percent budget reduction at the Regional Centers in FY 2011-12, the supplemental requests an additional

\$1.9 million in Medicaid funding (\$933,828 General Fund and \$933,828 in federal funds).

**Committee Action:**

The Committee tabled this issue until further information could be provided by the Departments to the Committee regarding this supplemental request.

**OSPB Comeback:**

Background

Section 25.5-6-204, C.R.S. (originally enacted in H.B. 03-1292) authorizes DHS to charge a provider fee to privately owned and state-operated ICF/ID facilities. The ICF/ID provider fee program allows the State to draw down federal Medicaid match on the provider fee revenue for the purpose of reducing General Fund allocated to the Regional Centers. Since the ICF/ID provider fee program was implemented in FY 2003-04, a total of \$11.2 million in General Fund has been offset by federal Medicaid funds.

During an internal review of the ICF/ID provider fee, HCPF informed DHS that the current implementation of the ICF/ID provider fee program may be inconsistent with federal rules. This program review is currently on-going and should be completed by HCPF and CMS by July 2012. In order to avoid or mitigate any federal repayment amounts while the program is under review, the two State Departments suspended charging and collecting the fee in FY 2011-12. However, DHS and HCPF anticipate the ICF/ID provider fee program will be reinstated in FY 2012-13 as currently requested in the DHS FY 2012-13 budget request.

OSPB Request

OSPB requests that this supplemental be approved by the Committee as originally submitted by DHS and HCPF. During the review of the ICF/ID provider fee program, it was prudent to suspend the provider fee in order to avoid or mitigate any federal repayment. However, suspending the ICF/ID provider fee in FY 2011-12 *decreases* available funding at the Regional Centers by \$1,867,655 in federal Medicaid funding (3.7 percent of total appropriations). In order to avoid a 3.7 percent budget reduction at the Regional Centers in FY 2011-12, the request also includes an *increase* of \$1,867,655 in Medicaid reimbursement for the Regional Centers (\$923,838 General Fund and \$923,838 federal funds).

Currently, HCPF is working with CMS to reinstate the provider fee. Initial findings regarding a new fee model will be submitted to CMS by July 2012. Both DHS and HCPF anticipate that the ICF/ID provider fee will be reinstated in FY 2012-13 as currently requested in the DHS FY 2012-13 budget request. However, a future FY 2012-13 budget amendment may be necessary to the DHS and/or HCPF requests depending on the final modeling of the revised provider fee program and the ongoing negotiations with CMS on the program. Once this information is confirmed, HCPF will submit any necessary budget information to the Committee.

*Impact if Not Approved*

If this request is not funded, the Regional Centers budget will be reduced by a total of \$1,867,655 due to the loss of federal Medicaid funding. The reduction would amount to a 3.7 percent reduction to the Regional Centers in FY 2011-12. The Regional Centers do not have the ability to absorb this level of reduction during the last six months of the fiscal year and would be in an over-expenditure situation at the end of FY 2011-12.



**Office of State Planning and Budgeting  
FY 2011-12 Supplemental Comeback Requests**

Department:	Health Care Policy and Financing
Title:	S-5: Medicaid Budget Reductions

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	\$3,543,863,749	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
FTE	0.0	0.0	0.0	0.0	0.0
GF	\$898,839,033	(\$15,700,000)	\$0	(\$15,700,000)	\$15,700,000
GFE	\$284,175,417	\$0	\$0	\$0	\$0
CF	\$608,317,175	\$15,700,000	\$0	\$15,700,000	(\$15,700,000)
RF	\$6,388,059	\$0	\$0	\$0	\$0
FF	\$1,746,144,065	\$0	\$0	\$0	\$0

**Summary of Initial Request:**

For more than a decade, the General Assembly has approved General Fund relief through a financing mechanism that certified public expenditures up to the Medicare Upper Payment Limit (UPL) for hospital reimbursement. Under this mechanism, certified public expenditures were used as the state match to draw down additional federal Medicaid funds. These additional federal funds were then used to offset General Fund in the Medicaid program. As a result of the implementation of the Colorado Health Care Affordability Act (CHCAA – H.B. 09-1293), hospital reimbursements increased. In FY 2011-12, the increase in hospital reimbursements under CHCAA will reduce the amount of certified public expenditures under the Medicare UPL by \$15,700,000. The loss of these certified public expenditures means that the corresponding federal match is no longer available to offset General Fund expenditures in the Medicaid program.

Pursuant to section 25.5-4-402.3(4)(b)(VII), C.R.S. (2011), the Hospital Provider Fee Cash Fund may be utilized to offset the loss of any federal matching funds due to a decrease in certification of public expenditure for outpatient hospital services. Therefore, in its budget request S-5, the Department requested an increase in cash funds from the Hospital Provider Fee Cash Fund of \$15,700,000 to offset the loss of the certification of public expenditure and a corresponding decrease in General Fund.

**Committee Action:**

The Committee did not take action on the Department’s request.

**OSPB Comeback:**

During the drafting of the Colorado Health Care Affordability Act (HB 09-1293), it was anticipated that the bill would increase hospital reimbursements and would therefore lower

the amount of certified public expenditures that the state could use to reduce General Fund expenditures. As a result, Section 25.5-4-402.3(4)(b)(VII) was included to ensure that the bill would not have a General Fund impact. This funding has been included at every stage of the modeling of the Hospital Provider Fee, was included in the fiscal note for HB 09-1293, and was included in the fee structure for FY 2011-12. Although the current hospital provider fee charged includes \$15,700,000 to offset the General Fund for the loss of certified funds, the FY 2011-12 appropriation failed to include this amount in its assumptions. The current FY 2011-12 appropriation lowered the amount of the certified funds, but neglected to offset this reduction with an increase in the Hospital Provider Fee in order to reduce the General Fund impact.

It is important to note that appropriating the funding for this purpose is not a provider rate cut; regardless of the Committee's decision, no payments to providers will be affected, and there will be no effect on the Department's ability to pay for the populations funded with the Hospital Provider Fee cash fund. In addition, there will be no increase to the Hospital Provider Fee amount because this funding has already been built into the fee structure model.

**Office of State Planning and Budgeting  
FY 2011-12 Supplemental Comeback Requests**

Department:	Health Care Policy and Financing
Title:	S-7 Hospital Provider Fee Administrative True-up

	FY 2011-12 Appropriation	Request	JBC Action	Comeback Request	Difference Between Action and Comeback Request
<b>Total</b>	<b>\$96,766,237</b>	<b>\$3,920,338</b>	<b>\$0</b>	<b>\$3,920,338</b>	<b>\$3,920,338</b>
FTE	0.0	0.0	0.0	0.0	0.0
GF	\$0	\$0	\$0	\$0	\$0
CF	\$9,809,945	\$2,023,541	\$0	\$2,023,541	\$2,023,541
RF	\$121,320	\$0	\$0	\$0	\$0
FF	\$59,349,711	\$1,896,797	\$0	\$1,896,797	\$1,896,797

**Summary of Initial Request:**

The Department requested an increase of \$3,920,338 total funds, comprised of \$2,023,541 hospital provider fee cash funds and \$1,896,797 federal funds in FY 2011-12, in order to true-up appropriations with actual need for hospital provider fee administration. The Department is requesting that spending authority for administrative line items be adjusted to reflect actual costs, and approval of this request would not result in any increase to the amount of fees collected from hospitals.

**Committee Action:**

The Joint Budget Committee (JBC) denied the Department's request.

**OSPB Comeback:**

Pursuant to 25.5-4-402.3 (3)(a)(III), C.R.S. (2011), the Colorado Health Care Affordability Act (CHCAA) authorizes the Department to use hospital provider fees to "Pay the administrative costs to the state department in implementing and administering this section." In accordance with State law, the adjustments to administrative appropriations needed to implement and administer the CHCAA were requested in the Department's January 3, 2012 S-7 "Hospital Provider Fee Administrative True-up."

In the request, the majority of the request is associated with increased costs in the Department's (C) Information Technology Contracts and Projects, Centralized Eligibility Vendor Contract Project line item. This appropriation was based on the original fiscal note developed for HB 09-1293 in 2008 and 2009. Since then, however, this contract was put out for bid in accordance with state procurement rules, and through the

competitive bidding process, resulted in a cost that exceeded the Department's original estimate.

Also included in the request was an increase for the Department's (6) (B) Office of Information Technology Services - Medicaid Funding, Colorado Benefits Management System line item. For this line, the Department did not spend any of the funds available in FY 2010-11 as the programs for which the money was appropriated were not yet ready to be implemented. This unexpended money was then reverted back to the hospitals at fiscal year end. As the programs are now ready to be implemented, the Department is requesting the appropriation in FY 2011-12. This line item, like the Centralized Eligibility Vendor Contract Project line item, is dependent on the cost estimates of an external contractor, and so costs differ from those originally estimated three years ago.

The other line items in the request are caseload driven, and were updated with the most recent caseload forecasts.

It is important to note that the Department is collecting sufficient fees from hospitals to administer the program in accordance 25.5-4-402.3 (3)(a)(III) C.R.S. (2011). The Department is requesting that spending authority for administrative line items be adjusted to reflect actual costs, and approval of this request would not result in any increase to the amount of fees collected from hospitals.