

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST  
FOR FY 2008-09 AND FY 2009-10**

**DEPARTMENT OF CORRECTIONS**

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

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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total With Recommendation
<b>DEPARTMENT OF CORRECTIONS</b>					
<b>Executive Director - Ari Zavaras</b>					
<b>Interim Supplemental #1 -- Food Service Operating Expenses</b>					
<i>(2) Institutions</i>					
<i>(D) Food Service Subprogram</i>					
Operating Expenses	<u>15,723,651</u>	<u>16,116,662</u>	<u>473,598</u>	<u>473,598</u>	<u>16,590,260</u>
General Fund	15,723,651	16,036,662	473,598	473,598	16,510,260
Federal Funds	0	80,000	0	0	80,000
<i>(2) Institutions</i>					
<i>(E) Medical Services Subprogram</i>					
Catastrophic Medical Expenses - General Fund	9,500,963	11,069,906 a/	(473,598)	(473,598)	10,596,308
<b>Total for Supplemental #1</b>	<u>25,224,614</u>	<u>27,186,568</u>	<u>0</u>	<u>0</u>	<u>27,186,568</u>
General Fund	25,224,614	27,106,568	0	0	27,106,568
Federal Funds	0	80,000	0	0	80,000
<b>Interim Supplemental #2 -- ARRA Funds to Avoid Reduction in Corrections</b>					
<i>(2) Institutions</i>					
<i>(C) Housing and Security Subprogram</i>					
Personal Services	146,309,067	150,391,533	0	0	150,391,533
FTE	<u>2,951.9</u>	<u>2,995.7</u>	<u>0.0</u>	<u>0.0</u>	<u>2,995.7</u>
General Fund	146,309,067	150,391,533	(24,600,000)	(24,600,000)	125,791,533
Federal Funds	0	0	24,600,000	24,600,000	24,600,000

	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>Fiscal Year 2008-09 Interim Supplemental</b>		
	<b>Actual</b>	<b>Appropriation</b>	<b>Requested Change</b>	<b>Recommended Change</b>	<b>New Total With Recommendation</b>
<b>Totals</b>					
DEPARTMENT OF CORRECTIONS					
TOTALS for ALL Departmental line items	692,923,357	753,884,358	0	0	753,884,358
FTE	<u>6,010.3</u>	<u>6,583.9</u>	<u>0.0</u>	<u>0.0</u>	<u>6,583.9</u>
General Fund	620,743,050	666,948,257	(24,600,000)	(24,600,000)	642,348,257
Cash Funds	2,976,221	43,346,045	0	0	43,346,045
Cash Funds Exempt/Reappropriated Funds	67,510,110	42,294,502	0	0	42,294,502
Federal Funds	1,693,976	1,295,554	24,600,000	24,600,000	25,895,554

a/ The FY 2008-09 appropriation includes an increase of \$1,294,177 General Fund pursuant to S.B. 09-259.

	FY 2008-09 Appropriation	FY 2009-10 Appropriation	Fiscal Year Requested Change	2009-10 Interim Recommended Change	Supplemental New Total With Recommendation
<b>DEPARTMENT OF CORRECTIONS</b>					
<b>Executive Director - Ari Zavaras</b>					
<b>Interim Supplemental #2 -- ARRA Funds to Avoid Reduction in Corrections</b>					
<i>(2) Institutions</i>					
<i>(C) Housing and Security Subprogram</i>					
Personal Services	150,391,533	149,614,103	0	0	149,614,103
FTE	<u>2,995.7</u>	<u>2,952.1</u>	<u>0.0</u>	<u>0.0</u>	<u>2,952.1</u>
General Fund	150,391,533	149,614,103	(45,400,000)	(45,400,000)	104,214,103
Federal Funds	0	0	45,400,000	45,400,000	45,400,000
<b>Totals</b>					
DEPARTMENT OF CORRECTIONS					
TOTALS for ALL Departmental line items	753,884,358	761,146,881	0	0	761,146,881
FTE	<u>6,583.9</u>	<u>6,637.7</u>	<u>0.0</u>	<u>0.0</u>	<u>6,637.7</u>
General Fund	666,948,257	677,839,527	(45,400,000)	(45,400,000)	632,439,527
Cash Funds	43,346,045	40,369,505	0	0	40,369,505
Cash Funds Exempt/Reappropriated Funds	42,294,502	42,342,342	0	0	42,342,342
Federal Funds	1,295,554	595,507	45,400,000	45,400,000	45,995,507

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**Interim Supplemental #1 - Food Service Operating Expenses**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

<p><b>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?</b> [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>	<b>YES</b>
<p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God; a technical error in the appropriation; new data; or an unforeseen contingency]</p>	<b>YES</b>
<p>This request was submitted as an emergency because of new data. The Department based this determination on its projected raw food expenses versus raw food funding. The Department's projections show a raw food funding shortage for FY 2008-09 compared with projected expenses. Staff concurs that the request meets the supplemental criteria based on these factors.</p>	

**Department Request:** The Department of Corrections requests a FY 2008-09 interim supplemental appropriation of \$473,598 General Fund to the Food Service Subprogram Operating Expenses line item. The request seeks to fund this appropriation through projected General Fund reversions in the Medical Services Subprogram Catastrophic Medical Expenses line item. Therefore, the request has a net \$0 fiscal impact.

**Background:** The Department is generally obligated to provide nutritionally adequate meals to inmates under the Eighth Amendment to the U.S. Constitution, which bans cruel and unusual punishment, as well as under American Correctional Association (ACA) standards. However, over the last five years, raw food prices have increased at a greater pace than the common policy food inflation funding provided by the General Assembly. As a result, the Department has had to expend

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a greater share of its Food Service Subprogram Operating Expenses line item on raw food, forcing the delay of equipment replacements and purchases. The following table shows the Bureau of Labor Statistics (BLS) Consumer Price Index for food inflation for the most current five years compared with actual departmental increases in raw food costs and common policy food inflation increases approved by the General Assembly.

	BLS Consumer Price Index and Common Po				
	2005	2006	2007	2008	2009
BLS Consumer Price Index - All Food Inflation	2.4%	2.4%	4.0%	5.5%	Projected 3.0% to 4.0%
Actual Departmental Increase in Raw Food Costs	1.7%	0.7%	3.4%	8.2%	Projected 6.1%
Common Policy Food Inflation Funding	0.0%	2.9%	2.1%	1.8%	0.0%

**Staff Analysis:** Staff makes the following observations regarding this supplemental request:

1. *Supplemental Criteria Met.* This request was submitted as an emergency because of new data. The Department based this determination on its projected raw food expenses versus raw food funding. The Department's projections show a raw food funding shortage for FY 2008-09 compared with projected expenses. Staff concurs that the request meets the supplemental criteria based on these factors.
2. *Funding Shortfall.* The Department is projecting a funding shortfall for raw food in FY 2008-09 of \$799,284. This was calculated by subtracting the FY 2007-08 actual raw food expenses of \$13,149,559 from the FY 2008-09 projected raw food expenses of \$13,948,843. Because the Department did not receive any common policy food inflation funding for FY 2008-09, the Department has calculated its shortfall based upon this difference.
3. *Program Efficiencies.* The Department indicates that it can absorb \$325,686 of the funding shortfall detailed above. This will be done through program efficiencies and the continued

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delay of equipment purchases and repairs. Therefore, the request only seeks an additional \$473,598 for raw food expenses.

4. *Medical Services Reversion.* The Department projects a reversion of \$2,099,151 General Fund from the Medical Services Subprogram Catastrophic Medical Expenses line item. This is due to lower than anticipated usage of catastrophic services in FY 2008-09. The request seeks to use \$473,598 of that General Fund reversion to fund the additional raw food expenses discussed above.
5. *Appropriate to Provide Additional Funding.* Staff believes it is appropriate to provide additional General Fund dollars for raw food expenses given the discrepancy between the BLS food inflation data/department actual raw food costs and the food inflation increases approved by the General Assembly. In addition, poor food quality or quantity could jeopardize the Department's ACA accreditation or result in litigation from inmates. Finally, because the Department is proposing to fund this request through reversions elsewhere in the Department, staff believes it is justified.

**Staff Recommendation:** Staff recommends that the Committee approve the request for a FY 2008-09 interim supplemental appropriation of \$473,598 General Fund to the Food Service Subprogram Operating Expenses line item. In addition, staff recommends that the Committee approve the request to reduce the FY 2008-09 Medical Services Subprogram Catastrophic Medical Expenses appropriation by \$473,598 in order to fund the interim supplemental request.

**Interim Supplemental #2 - ARRA Funds to Avoid Reduction in Corrections**

	FY 08-09		FY 09-10	
	Request	Recommendation	Request	Recommendation
Total	\$0	\$0	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	(24,600,000)	(24,600,000)	(45,400,000)	(45,400,000)
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	0
Federal Funds	24,600,000	24,600,000	45,400,000	45,400,000

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<b>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?</b> [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.]	<b>YES</b>
<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God; a technical error in the appropriation; new data; or an unforeseen contingency]	<b>YES</b>
This request was submitted as an emergency because of new data. The Department based this determination on a recent emphasis by the federal government that states account for all federal stimulus dollars within their budgets in order to track those funds through to their expenditure. Staff concurs that the request meets the supplemental criteria based on this factor.	

**Department Request:** The Department of Corrections requests an interim supplemental to decrease the General Fund appropriation to the Housing and Security Subprogram Personal Services line item by \$24,600,000 in FY 2008-09 and \$45,400,000 in FY 2009-10. These reductions would be offset by an increase in the federal funds appropriation to that line item of \$24,600,000 in FY 2008-09 and \$45,400,000 in FY 2009-10. Therefore, the request has a net \$0 fiscal impact. The federal funds represent accounting for the federal stimulus dollars under the American Reinvestment and Recovery Act of 2009 (ARRA) as emphasized by the federal government.

**Background:** On April 24, 2009, Todd Saliman, Director of the Governor's Office of State Planning and Budgeting, submitted a letter to the Joint Budget Committee describing the Governor's plan for State Fiscal Stabilization Funds from the ARRA. Within the State Fiscal Stabilization Fund exists a sub-fund called the Government Services Fund, which represents 18.2 percent of the total fund or \$138,364,142. The letter explains that the Governor provided \$70,000,000 from the Government Services Fund to the General Assembly for budget balancing purposes. The letter also clarifies that \$24,600,000 is to be applied in FY 2008-09 and \$45,400,000 is to be applied in FY 2009-10.

The Government Services Fund allows the Governor to use these federal funds as he sees fit for "public safety and other government services." However, no official legislative action has been taken to appropriate \$70,000,000 of those federal funds into the General Fund for budget balancing purposes. In addition, the U.S. Department of Education and Government Accountability Office have recently emphasized through an audit that Colorado must be able to apply the Government Services Fund dollars to a specific government service and must be able to track the funds through to their expenditure. Therefore, this request seeks to accomplish this by appropriating \$70,000,000

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of these federal funds to the Department and reducing the General appropriation to the Department by the same amount.

**Staff Analysis:** Staff makes the following observations regarding this supplemental request:

1. *Supplemental Criteria Met.* This request was submitted as an emergency because of new data. The Department based this determination on a recent emphasis by the federal government that states account for all federal stimulus dollars within their budgets in order to track those funds through to their expenditure. Staff concurs that the request meets the supplemental criteria based on this factor.
2. *Potential Loss of Federal Funding.* Although the \$70,000,000 described above has not been appropriated into the budget, the General Assembly has presumed this funding would be available for budget balancing purposes. However, given the federal government's emphasis on being able to track these funds, there is the potential that Colorado could lose this funding if it is not appropriated into the budget. If this were to occur, \$70,000,000 of additional cuts would need to be made in FY 2008-09 and FY 2009-10 in order to balance the budget.
3. *Appropriate to Account for Federal Funding.* Staff believes it is appropriate to account for this federal funding by appropriating \$70,000,000 of Government Services Fund dollars as federal funds to the Department and reducing the General Fund appropriation to the Department by the same amount. By doing so, the General Assembly avoids the risk of losing those federal funds because of a lack of accounting, and thereby avoids having to make additional cuts elsewhere in the budget.

**Staff Recommendation:** Staff recommends that the Committee approve the request to decrease the General Fund appropriation to the Housing and Security Subprogram Personal Services line item by \$24,600,000 in FY 2008-09 and \$45,400,000 in FY 2009-10. Staff also recommends that the Committee approve the request to offset those reductions by increasing the federal funds appropriation to that line item by \$24,600,000 in FY 2008-09 and \$45,400,000 in FY 2009-10.

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