

MEMORANDUM



JOINT BUDGET COMMITTEE

TO JBC Members
FROM JBC Staff
DATE March 7, 2022
SUBJECT Figure Setting - Comeback Packet 3

Included in this packet are staff comeback memos for the following items:

Operating Common Policies, page 1 (Tom Dermody): Payment to Risk Management and Property Funds (*Technical update*)

Department of Human Services, page 6 (Tom Dermody): (*Technical update*)

CDOT, page 7 (Andrea Uhl): R1 Temporary fuel products fee reduction (*Tabled Item*)

CDOT, page 9 (Andrea Uhl): BA1 Burnham Yard (*Tabled Item*)

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Tom Dermody, JBC Staff (303-866-4963)
DATE March 2, 2022
SUBJECT Technical Staff Comeback – Operating Common Policies, Payment to Risk Management and Property Funds

During figure setting for Operating Common Policies on February 10, 2022, the Joint Budget Committee approved staff's recommendation for the Payments to Risk Management and Property Funds common policy. While the underlying program costs and fund adjustments were correct, there was a technical error in the calculation of the state agency allocations. JBC staff neglected to update the Liability Program actuarial allocation to the FY 2022-23 values, which resulted in inaccurate recommendations for the state agency allocations. This inaccuracy filtered through to the staff recommendation for the Payments to Risk Management and Property Funds common policy.

Below are the corrected and updated state agency allocation tables for the Payments to Risk Management and Property Funds common policy, which include the Liability Program and the Property program. These corrections do not change the overall allocation totals.

JBC Staff recommends the following state agency allocations and requests permission for staff to update their Payments to Risk Management and Property Funds line item appropriations based on this recommendation.

3. PAYMENT TO RISK MANAGEMENT AND PROPERTY FUNDS

3A. LIABILITY PROGRAM

The State is self-insured for the Liability Program. The program provides coverage to state agencies and employees for tort and federal claims, including those arising out of the scope of employment. Judgments for liabilities that do not involve federal law are limited by the Governmental Immunity Act pursuant to Section 24-10-114, C.R.S., limiting awards to \$387,000 per person and \$1,093,000 per occurrence. This act does *not* apply to liabilities that pertain to federal law (Americans with Disabilities Act, age discrimination, gender discrimination, racial discrimination, etc.), and there is no damage limit for these awards. This line is funded from the Risk Management Fund created in Section 24-30-1510 (1) (a), C.R.S. Moneys in the fund are *continuously appropriated* for purposes of the fund, *other than the direct and indirect administrative costs of operating the risk management system*, pursuant to Section 24-30-1510 (1) (a), C.R.S.

STATE AGENCY ALLOCATION

The program's actuary projects the State's total liability needs by analyzing prior years' losses. Using this same data, the actuary then estimates the allocation for each agency as a percent of the total. The following table outlines the recommended allocation for the next fiscal year. **Staff recommends that the Committee approve the state agency allocations included in the table as the liability component of the Payment to Risk Management and Property Funds.**

LIABILITY FY 2022-23 RECOMMENDED ALLOCATION				
DEPARTMENT	ACTUARIAL ALLOCATION	FY 2022-23 REQUEST	FY 2022-23 RECOMMEND.	REQ/REC INCREM.
Agriculture	1.3%	\$321,312	\$316,657	(\$4,655)
Corrections	13.2%	3,335,918	3,287,587	(48,331)
Education	3.5%	881,848	869,072	(12,776)
Governor	10.5%	2,667,516	2,628,869	(38,647)
Health Care Policy and Financing	1.5%	380,553	375,040	(5,513)
Higher Education	10.7%	2,695,373	2,656,323	(39,050)
Human Services	8.2%	2,068,382	2,038,415	(29,967)
Judicial	8.3%	2,103,835	2,073,355	(30,480)
Labor and Employment	1.2%	305,643	301,215	(4,428)
Law	1.6%	394,623	388,906	(5,717)
Legislature	0.7%	189,321	186,578	(2,743)
Local Affairs	0.4%	106,938	105,389	(1,549)
Military and Veterans Affairs	0.4%	91,565	90,238	(1,327)
Natural Resources	2.9%	737,646	726,959	(10,687)
Personnel	1.8%	455,878	449,273	(6,605)
Public Health and Environment	4.0%	1,017,399	1,002,659	(14,740)
Public Safety	5.1%	1,291,973	1,273,255	(18,718)
Regulatory Agencies	1.4%	352,463	347,357	(5,106)
Revenue	2.8%	715,020	704,661	(10,359)
State	1.0%	252,356	248,700	(3,656)
Transportation	19.4%	4,904,761	4,833,701	(71,060)
Treasury	0.1%	22,834	22,503	(331)
Allocation Totals	100.0%	\$25,293,157	\$24,926,712	(\$366,445)

ALLOCATION FOR INSTITUTIONS OF HIGHER EDUCATION

The following table outlines the allocation for institutions of higher education.

LIABILITY ALLOCATION FOR HIGHER EDUCATION		
	ACTUARIAL ALLOCATION	FY 2022-23 RECOMMEND.
Adams State University	0.0%	\$0
Arapahoe Community College	2.5%	69,959
Auraria Higher Education Center	2.3%	65,958
College Access Network/College Assist	0.0%	0
College Invest	0.6%	15,595
Colorado Commission on Higher Education	1.5%	41,052
Colorado School of Mines	0.0%	0
Colorado State University - Pueblo	12.6%	355,474
Community College of Aurora	1.7%	47,796
Community College System	8.1%	228,675
CSU - Global	1.8%	49,959
Denver Community College	5.2%	147,478
Front Range Community College	4.6%	129,162
History Colorado	1.6%	44,414
Lamar Community College	0.7%	19,579
Metropolitan State University of Denver	31.0%	872,899
Morgan Community College	1.0%	28,326
Northeastern Junior College	1.2%	34,313
Northwestern Community College	1.3%	37,663
Occupational Ed. Division	0.0%	0
Otero Junior College	1.3%	37,324
Pikes Peak Community College	10.8%	304,940

LIABILITY ALLOCATION FOR HIGHER EDUCATION		
	ACTUARIAL ALLOCATION	FY 2022-23 RECOMMEND.
Private Occupational	0.0%	844
Pueblo Community College	3.4%	95,410
Red Rocks Community College	2.7%	75,110
Trinidad State Junior College	4.2%	118,338
Western State Colorado University	0.0%	0
Allocation Totals	100.0%	\$2,820,269

3B. PROPERTY

The property program pays for commercial insurance and associated deductibles for insurance coverage of state properties. The program provides property loss coverage for state assets, including building and content value. The property program is funded from the Self-Insured Property Fund, created in Section 24-30-1510.5, C.R.S. Moneys in the fund are *continuously appropriated* for purposes of the fund, *other than the direct and indirect administrative costs of operating the risk management system*, pursuant to Section 24-30-1510.5 (1) (a), C.R.S.

STATE AGENCY ALLOCATION

Policy premiums are allocated to state agencies according to their property holdings (building and content values) and loss histories. The following table outlines the recommended allocation for FY 2022-23. **Staff recommends that the Committee approve the state agency allocations included in the table as the property component of the Payment to Risk Management and Property Funds.**

PROPERTY FY 2022-23 RECOMMENDED ALLOCATION						
DEPARTMENT	FY 2021-22	PROPERTY VALUE	PROP. VALUE	FY 2022-23		
	APPROP.		ALLOCATION	REQUEST	RECOMMEND.	REQ/REC INCREM.
Agriculture	\$158,888	\$90,704,588	0.8%	\$104,077	\$108,634	\$4,557
Corrections	2,879,729	1,899,342,221	17.5%	2,179,355	2,274,773	95,418
Education	127,568	99,664,035	0.9%	114,357	119,364	5,007
Governor	162,223	94,652,648	0.9%	108,607	113,362	4,755
Health Care Policy and Financing	7,155	4,151,981	0.0%	4,764	4,973	209
Higher Education	5,648,580	3,306,733,879	30.5%	3,794,232	3,960,356	166,124
Human Services	1,694,039	1,006,680,546	9.3%	1,155,091	1,205,665	50,574
Judicial	324,678	188,414,486	1.7%	216,192	225,657	9,465
Labor and Employment	73,377	42,760,715	0.4%	49,065	51,213	2,148
Law	11,350	6,586,629	0.1%	7,558	7,889	331
Legislature	9,891	5,740,069	0.1%	6,586	6,875	289
Local Affairs	23,313	13,528,673	0.1%	15,523	16,203	680
Military and Veterans Affairs	262,255	223,635,003	2.1%	256,605	267,840	11,235
Natural Resources	1,089,144	696,951,269	6.4%	799,700	834,713	35,013
Personnel	1,219,258	711,960,280	6.6%	816,922	852,689	35,767
Public Health and Environment	187,916	113,325,159	1.0%	130,032	135,725	5,693
Public Safety	269,712	209,099,376	1.9%	239,926	250,431	10,505
Regulatory Agencies	42,927	25,044,721	0.2%	28,737	29,995	1,258
Revenue	94,735	31,934,009	0.3%	36,642	38,246	1,604
State	16,087	9,501,928	0.1%	10,903	11,380	477
Transportation	3,249,240	2,069,819,746	19.1%	2,374,965	2,478,948	103,983
Treasury	336	195,172	0.0%	223	234	11

PROPERTY FY 2022-23 RECOMMENDED ALLOCATION						
DEPARTMENT	FY 2021-22	PROPERTY VALUE	PROP. VALUE	FY 2022-23		
	APPROP.		ALLOCATION	REQUEST	RECOMMEND.	REQ/REC INCREM.
Allocation Totals	\$17,552,401	\$10,850,427,133	100.00%	\$12,450,062	\$12,995,164	\$545,102
<i>Percentage change from prior year</i>						<i>3.1%</i>

ALLOCATION FOR INSTITUTIONS OF HIGHER EDUCATION

The following table outlines the allocation for institutions of higher education.

PROPERTY ALLOCATION FOR HIGHER EDUCATION			
	PROPERTY VALUE	PROP. VALUE ALLOCATION	FY 2020-21 RECOMMEND.
Adams State University	\$0	0.0%	\$0
Arapahoe Community College	189,604,985	5.7%	227,083
Auraria Higher Education Center	718,693,980	21.7%	860,754
College Access Network/College Assist	32,067	0.0%	38
College Invest	770,064	0.0%	922
Colorado Commission on Higher Education	570,687	0.0%	683
Colorado School of Mines	0	0.0%	0
Colorado State University - Pueblo	396,261,638	12.0%	474,588
Community College of Aurora	44,922,175	1.4%	53,802
Community College System	0	0.0%	0
CSU - Global	0	0.0%	0
Denver Community College	38,098,912	1.2%	45,630
Front Range Community College	288,829,733	8.7%	345,921
History Colorado	199,363,155	6.0%	238,770
Lamar Community College	67,720,429	2.0%	81,106
Metropolitan State University of Denver	115,273,849	3.5%	138,059
Morgan Community College	57,631,755	1.7%	69,023
Northeastern Junior College	149,153,159	4.5%	178,635
Northwestern Community College	86,752,652	2.6%	103,901
Occupational Ed. Division	183,049,328	5.5%	219,232
Otero Junior College	76,344,380	2.3%	91,435
Pikes Peak Community College	220,324,248	6.7%	263,874
Pueblo Community College	162,140,868	4.9%	194,190
Red Rocks Community College	194,939,078	5.9%	233,471
Trinidad State Junior College	116,256,738	3.5%	139,236
Western State Colorado University	0	0.0%	0
Allocation Totals	\$3,306,733,879	100.0%	\$3,960,356

3C. PAYMENT TO RISK MANAGEMENT AND PROPERTY FUNDS

The line item which funds state agency payments for the liability and property funds is Payment to Risk Management and Property Funds.

STATE AGENCY ALLOCATION

The following table outlines the Payment to Risk Management and Property Funds allocation, which aggregates the liability and property allocations. **Staff recommends that the Committee approve the state agency allocations included in the table for the Payment to Risk Management and Property Funds.**

PAYMENT TO RISK MANAGEMENT AND PROPERTY FUNDS RECOMMENDED ALLOCATION			
DEPARTMENT	FY 2022-23 REQUEST	FY 2022-23 RECOMMEND	REQ/REC INCREM.
Agriculture	\$425,389	\$425,290	(\$99)
Corrections	5,515,273	5,562,361	47,088
Education	996,205	988,436	(7,769)
Governor	2,776,123	2,742,231	(33,892)
Health Care Policy and Financing	385,317	380,012	(5,305)
Higher Education	6,489,605	6,616,678	127,073
Human Services	3,223,473	3,244,080	20,607
Judicial	2,320,027	2,299,012	(21,015)
Labor and Employment	354,708	352,428	(2,280)
Law	402,181	396,794	(5,387)
Legislature	195,907	193,453	(2,454)
Local Affairs	122,461	121,591	(870)
Military and Veterans Affairs	348,170	358,078	9,908
Natural Resources	1,537,346	1,561,672	24,326
Personnel	1,272,800	1,301,962	29,162
Public Health and Environment	1,147,431	1,138,384	(9,047)
Public Safety	1,531,899	1,523,686	(8,213)
Regulatory Agencies	381,200	377,352	(3,848)
Revenue	751,662	742,907	(8,755)
State	263,259	260,080	(3,179)
Transportation	7,279,726	7,312,649	32,923
Treasury	23,057	22,737	(320)
Allocation Totals	\$37,743,219	\$37,921,876	\$178,657
<i>Percentage change from prior year</i>			<i>0.5%</i>

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Tom Dermody, JBC Staff (303-866-4963)
DATE March 2, 2022
SUBJECT Technical Staff Comeback – Dept. of Human Services Footnote

During figure setting for the Department of Human Services on February 23, 2022, JBC Staff omitted the following footnote from staff's recommendation.

N **Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System, Ongoing Expenses, Operating and Contract Expenses**
-- Of this appropriation, \$61,301 General Fund, \$9,973 cash funds, and \$64,966 federal funds remain available for expenditure until the close of the 2022-23 state fiscal year. It is the General Assembly's intent that this appropriation be used to implement S.B. 19-235.

This footnote was included in the FY 2021-22 Long Bill (S.B. 21-205) to provide roll forward spending authority through FY 2022-23 for a portion the appropriation to the identified line item. This appropriation was annualized out for the FY 2022-23 budget year, as the footnote provided sufficient spending authority. This footnote is no longer necessary and it would provide excess spending authority for the purpose identified. Therefore, staff recommends the discontinuation of this footnote.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Andrea Uhl, JBC Staff (303-866-4956)
DATE March 3, 2022
SUBJECT Department of Transportation - Legislation for R1 Temporary fuel products fee reduction (Tabled Item)

The Committee delayed action on the Department of Transportation's R1 Temporary fuel products fee reduction request during Figure Setting on February 10th and again on March 1st. During discussion of this issue on March 1st, staff was made aware that the stakeholders most directly impacted by the fee in question are opposed to the request.

REVISED RECOMMENDATION:

After reviewing the stakeholder input, staff is making a revised recommendation that the Committee deny R1 Temporary fuel products fee reduction. The stakeholders strongly support continuing the fee as is, and state that they supported and helped craft the legislation (S.B. 20-218) that established the fee with the knowledge that it was an additional cost being imposed on their industry. Staff feels that a tangible and opposed impact on directly impacted stakeholders outweighs the indeterminate benefit of "fee relief" to the larger population.

This item as originally presented on February 10th is shown below:

→ R1 TEMPORARY FUEL PRODUCTS FEE REDUCTION [REQUIRES LEGISLATION]

The request includes statutory changes to perfluoroalkyl and polyfluoroalkyl substances (PFAS) fees by reducing the \$25.00 fee to \$18.75 and removing CDOT as a beneficiary of the distribution in FY 2022-23 and FY 2023-24.

RECOMMENDATION: Staff recommends the Committee approve the request and sponsor corresponding legislation to change the fee distribution in statute.

ANALYSIS:

The PFAS fee was established by S.B. 20-218 (CDPHE Hazardous Substances Response) and first collected in FY 2020-21, with \$1.7 million transferred to CDOT in the first year. This \$25.00 dollar fee per tank truckload of fuel products delivered is distributed pursuant to Section 8-20-206.5 (IV)(d), C.R.S., as follows:

- \$100,000 to the Department of Public Safety for use by the Colorado State Patrol to support the regulation of hazardous materials on highways in the state;
- 75 percent of the amount remaining, minus the costs to the Department of Revenue for administering the fee, to the Perfluoroalkyl and Polyfluoroalkyl Substances Cash Fund; and
- 25 percent of the amount remaining, minus the costs to the Department of Revenue for administering the fee, to the Department of Transportation to support functions related to

the administration of hazardous materials and safe and efficient freight movement and infrastructure in the state as well as supporting infrastructure projects that enhance the safety of movement of freight and hazardous materials.

Approval of this request would decrease the fee by \$6.25 per tank truckload and associated revenue to CDOT by an estimated \$1.8 million in FY 2022-23 and FY 2023-24. The Department has not yet made specific commitments for this revenue stream and does not anticipate any operational impacts from the reduction in revenue. The Department has reflected this request as an informational revenue decrease of \$1,849,809 million in the Construction, Maintenance, and Operations line.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Andrea Uhl, JBC Staff (303-866-8386)
DATE March 3, 2022
SUBJECT Department of Transportation - BA1 Burnham Yard (Tabled Item)

The Committee tabled CDOT's BA1 Burnham Yard request during Figure Setting on February 10th. New information for consideration is in the box below.

The Committee cited concerns about why Burnham Yard should be prioritized in the Long Bill rather than considered by the Transportation Commission alongside all other projects. The Department cites the project's uniqueness and urgency, as well as benefits such as economic revitalization, affordable housing development, and transit system improvements as reasons for its distinction as a budget request.

After further reflection, staff has concluded that consideration of this project for inclusion in the Long Bill is a new policy decision, and therefore not appropriate for the annual budget process. Staff does not believe there is precedent for an appropriation of this level of specificity for the Department of Transportation in the Long Bill. And although an appropriation is legally and logistically feasible, staff believes it could set an undesirable precedent. **Staff's updated recommendation is that the Committee reject the entire BA1 Burnham Yard Budget request** (staff originally recommended \$6.5 million for the NEPA portion only). Staff is also of the opinion that a transfer to the State Highway Fund for this project (through legislation) would be preferable to a Long Bill appropriation. If this project receives a General Fund appropriation in the Long Bill, staff recommends including one year of roll-forward authority for the appropriation.

The Department provided additional details on the financial logistics of Burnham Yard. However, the new information did not address why BA1 includes a request for \$1.1 million for "one year of assistance for Burnham Yard debt repayment" when a debt payment is not due until May 2027, nor did the Department comment on whether appropriating General Fund in the Long Bill for that purpose is logistically feasible. **Staff's recommendation to deny the \$1.1 million debt service portion of the request remains unchanged.**

The Department also provided additional information affirming that legislation would be required to provide the requested \$2.4 million General Fund to the Front Range Passenger Rail District. Providing the funds could be achieved through various statutory means, including:

- Delaying the repeal and transfer of the existing Southwest Chief Fund. Under current law, the State Treasurer is directed to transfer any unencumbered funds remaining in the Southwest Chief Fund to the Front Range Passenger Rail District on July 1, 2022.
- Transferring funds to the State Highway Fund and directing the funds to go to the Rail District.
- Transferring funds to the Rail District at the end of FY 2022-23, after the District is administratively up and running.

Staff's recommendation to deny this portion of the request is unchanged. Staff does not recommend the JBC sponsor legislation to make any of the above statutory changes.

The request and recommendation as it appeared in Figure Setting on February 10th is as follows:

→ BA1 BURNHAM YARD NEPA AND FRONT RANGE RAIL

The request includes \$10.0 million General Fund to “...allow CDOT to begin the planning process for the rail line relocation NEPA at Burnham yard, provide one year of assistance for Burnham Yard debt repayment, and support planning efforts for Front Range Passenger Rail”.

RECOMMENDATION: Staff recommends a **\$6.5 million General Fund appropriation** to a new line in the Special Purpose Division for the NEPA portion of the request only. Staff does not recommend the debt service assistance or Front Range Passenger Rail portions of the request, and believes funding those items would require legislation to execute transfers.

ANALYSIS:

Burnham Yard is a 59 acre site located in an industrial zone in central Denver. The site has the potential to provide two new RTD light rail lines, a redirected Burlington Northern Santa Fe Consolidated Main Line rail line, and an expansion of that line from two to four tracks, allowing for new intercity passenger rail lines connecting cities through the Front Range.

Burnham Yard is a high priority project for the Department that will complement other state and federal funding received for passenger rail and enhance safety for commuters and pedestrians. The Burnham Yard property may also be used for projects other than transportation, likely including affordable housing and economic development projects. Providing additional upfront funding to the Department will allow CDOT to get started on those other elements more quickly.

This request consists of three distinct components:

- \$6.5 million for NEPA related activities
- \$1.1 million to assist with interest for one year of debt service on the acquisition loan
- \$2.4 million for the Front Range Passenger Rail District

NEPA process

HPTE reported to the JBC last May that they had set aside \$5.0 for environmental cleanup pursuant to the National Environmental Policy Act (NEPA). HPTE is in the process of drafting a Request for Proposals for Federal Railroad Administration pre-NEPA work on the property, which is anticipated to cost between \$1.5 million and \$2.0 million dollars. Additional funds will be spent on an owner’s representative to advise HPTE, CDOT, and the State on the zoning and development process. HPTE has already spent over \$250,000 securing the site and CDOT’s Region 1 has spent \$691,077 on fencing and environmental cleanup. HPTE anticipates spending between \$3.5 and \$4.0 million for security to help the property and structures for the next four years.

Additional funds are needed to complete an Environmental Assessment on relocating the Consolidated Main Line off of I-25, to work with CDPHE on a voluntary cleanup program (VCUP),

and for soil mitigation that will be needed once the transportation-related parcel(s) is determined. This work is expected to cost approximately \$6.0 million.

Debt service

The High Performance Transportation Enterprise entered into a loan in the summer of 2021 to finance the acquisition of Burnham Yard. The loan has a \$45,810,000 principal balance and interest payments are capitalized for the first five years, meaning there are no debt service payments due until May 2027. HPTE owns the property, and CDOT is the lessee of the property, which allows CDOT to fund portions of the project. CDOT has prepaid the first five years of rent for this project.

The project also received a \$7.5 million twelve-month interest free loan from the Strategic Fund within Colorado's Office of Economic Development and International Trade. If the loan is not paid back within the year, the Economic Development Commission may extend the loan for another year interest-free, extend the loan for another year at a reasonable interest rate, or, with the written consent of CDOT, convert the loan to a grant in exchange for a percentage of net proceeds from the sale of the non-transportation related parcel(s).

This portion of the request was framed as \$1.1 million of assistance for debt service on the Burnham Yard acquisition. The request failed to demonstrate why HPTE needs assistance paying down the debt related to this project. And since there are no debt service payments due until 2027, it is staff's opinion that this portion of the request is simply for an additional \$1.1 million General Fund subsidy for the project overall. Furthermore, if an appropriation specifically for "debt service for Burnham Yard" was approved in the Long Bill, the Department would be unable to spend the funds absent any debt service payment due in FY 2022-23. If the General Assembly wants to provide \$1.1 million of additional assistance for the Burnham Yard project, legislation to transfer money from the General Fund to the State Highway Fund would be more suitable than a General Fund appropriation.

Front Range Passenger Rail District

For the \$2.4 million related to Front Range Passenger Rail, the request specifies: "This funding will complement other state and federal contributions of funding to Front Range Passenger Rail corridor development and assist in the development of a Preliminary Service Development Plan and other pre-NEPA activities. This work will be necessary to satisfy technical triggers under S.B. 21-238 to submit a ballot initiative to voters."

Senate Bill 21-238 repeals the Southwest Chief Commission effective July 1, 2022 and transfers any remaining funds to the newly created Front Range Passenger Rail District. The new district is a political subdivision separate from CDOT and Colorado State Government. S.B. 21-260 included a \$2.5 million transfer to the Southwest Chief Fund contingent on the passage of S.B. 21-238 to pay for startup costs associated with the Front Range Passenger Rail District.

The \$2.4 million request is for the Rail District's startup costs and *is not directly tied to Burnham Yard*. The Department stated that the \$2.5 million provided by S.B. 21-260 will be enough for "near term tasks", but that additional funding will be needed to get the Rail District up and running. The Department clarified that they don't believe the Controller would allow them to spend the funds as

requested (a General Fund appropriation) due to the Front Range Passenger Rail District being a separate political subdivision outside of CDOT. Staff believes that because the Rail District is not part of CDOT, it is neither feasible nor appropriate to fund this outside entity through the annual budget process. If the Committee wishes to provide additional funding for the Rail District, there would need to be legislation to transfer funds through the appropriate channels.