MEMORANDUM

JOINT BUDGET COMMITTEE

To	JBC Members
From	JBC Staff
Date	March 18, 2022
Subject	Figure Setting - Comeback Packet 8

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

Total Compensation, page 1 (Robin Smart): R2 Paid Family and Medical Leave Funding (*Tabled Item)*

Total Compensation, page 5 (Robin Smart): PERA Direct Distribution (*Tabled Item)*

GOV, page 10 (Scott Thompson): OEDIT BA1 Economic Development for Coal Communities (*Tabled Item)*

CDPHE, page 12 (Andrew Forbes): Marijuana Education Campaign *(Tabled Item)*

CDLE, page 16 (Abby Magnus): R1 Wage Theft (*Tabled Item)*

CDLE, page 19 (Abby Magnus): Division of Employment and Training (*Tabled Item)*

EDU, page 21 (Amanda Bickel): R5 CSI Mill Levy Override Equalization *(Tabled Item)*

HED, page 28 (Amanda Bickel): Staff-initiated History Colorado Gaming Revenue (*Tabled Item)*

HED, page 35(Amanda Bickel): Auraria Higher Education Center Supplemental *(Technical, New Item)*

DPS-DCJ, page 38 (Justin Brakke): FY 2021-22 Community Corrections Savings Options *(Tabled Item)*

DPS-DCJ, page 41 (Justin Brakke): Staff-initiated Double Facility Payments FY 2022-23 *(Tabled Item)*

DPS-DCJ, page 44 (Justin Brakke): R12 Community Corrections Information and Billing System *(Tabled Item)*

DPA, page 45 (Tom Dermody): R6 Unused State-owned Real Properties Inventory *(Tabled Item)*

DPA, page 46 (Tom Dermody): BA5 Public Private Partnership Office (*Tabled Item)*

DHS/HCPF, page 49 (Tom Dermody): DHS Medicaid Funded Programs (*Technical Item)*

DHS, page 52 (Tom Dermody): S.B. 18-200 Annualization (*Technical, New Item)*

DHS, page 53 (Emily Hansen): Division of Child Welfare H.B. 21-1094 Annualization (*Technical Item)*

DHS/HCPF, page 54 (Emily Hansen): Medicaid Funded Programs Technical Adjustments (*Technical Item)*

DHS, page 57 (Emily Hansen): Child Welfare County Staffing (*Tabled Item)*

DHS, page 69 (Craig Harper): R9 Improving Involuntary Mental Health Treatment (*Tabled Item)*

EAR, page 73 (Eric Kurtz): Information Technology Systems (*Tabled Item)*

JUD, page 75 (Alfredo Kemm): C&P R2 IT Staff (*Tabled Item)*

JUD, page 77 (Alfredo Kemm): C&P R9/R10 (*Tabled Item)*

JUD, page 77 (Alfredo Kemm): C&P R9 Behavioral Health Court Liaison Program (Bridges Program) (*Tabled Item)*

JUD, page 80 (Alfredo Kemm): CCJD/OJD R1/BA1 (*Tabled Item)*

JUD, page 86(Alfredo Kemm): C&P Adjustment for Legal Contractors (*Technical, New Item)*

ITCAP, page 87 (Alfredo Kemm): DPA Payroll Modernization (*Tabled Item)*

ITCAP, page 90 (Alfredo Kemm): CORE Upgrade COP Alternative (*Tabled Item)*

ITCAP, page 92 (Alfredo Kemm): Overall Recommendation (*Tabled Item)*

HCPF, page 95(Robin Smart): R10 Provider Rate Adjustments (*Tabled Item)*

HCPF, page 96 (Robin Smart): R8 County Administration (*Tabled Item)*

HCPF, page 102 (Robin Smart): BA17/S17 Remove CUSOM Clinical Revenue Funding (*Tabled Item)*

HCPF, page 106 (Robin Smart): R6 Value-based Payments RFI (*New Item)*

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Robin J. Smart, JBC Staff (303-866-4955)
DATE	March 15, 2022
SUBJECT	JBC staff comebacks for Total Compensation Paid Family Medical Leave Funding statewide request

Decisions concerning the following prioritized requests were delayed by the Joint Budget Committee during the FY 2022-23 Total Compensation figure setting presentation.

➔ R2 PAID FAMILY MEDICAL LEAVE FUNDING

DEPARTMENT REQUEST

The Department requests $5.4 million total funds, including $3.0 million General Fund, to cover the backfill costs associated with state employees utilizing 160 hours or four weeks of Paid Family Medical Leave. This is a statewide request and includes the creation of a new line item in each affected department's section of the Long Bill.

JBC STAFF RECOMMENDATION

Staff recommends denial of the Department's request.

ANALYSIS

The Department's statewide FY 2022-23 R2 Paid Family Medical Leave Funding request should not be confused with the Proposition 118 Paid Family and Medical Leave Insurance approved by voters in November 2020 (discussed above). This request is for funds to cover the backfill costs associated with state employees utilizing 160 hours or four weeks of Paid Family Medical Leave. According to the Department the funding applies only to departments that have positions that cannot be left vacant, including 24/7 work centers, direct care positions, and hourly non-exempt positions. It is estimated that one-third of all positions will require funding to cover the cost of backfilling the temporarily vacant positions.

Prior to the legislative session, the Department of Personnel authorized the use of up to 80 hours per employee for paid family medical leave. At that time, the cost of backfilling essential positions was absorbed by each department's budget through vacancy savings. The Department contends that increasing the number of hours to 160 per the Colorado WINS partnership agreement may result in the inability of state departments to fully fund the cost of the temporary hires within existing resources.

AUTHORITY TO IMPLEMENT PAID FAMILY MEDICAL LEAVE

The Department cites the last sentence of Section 24-50-104 (1)(g), C.R.S., as its authority to implement and establish a number of hours available to an employee under the paid family medical leave program:

> *Section 24-50-104 (1)(g), C.R.S., Employee benefits shall include insurance, retirement, and leaves of absence with or without pay and may include jury duty, military duty, or educational leaves. The state personnel director shall prescribe procedures for the types, amounts, and conditions for all leave benefits that are typically consistent with prevailing practices, subject to the provisions governing the benefits provided in subsection (7) of this section. The General Assembly shall approve any changes to leave benefits granted by statue before such changes are implemented.* ***The state personnel director shall prescribe by procedure any nonstatutory benefits.***

In a March 5, 2021 legal opinion, the State Attorney General's Office responded to two specific questions posed by the Department related to the paid family leave:

1. "Is the State Personnel Director ("Personnel Director" or "Director") authorized to adopt and implement a new type of leave, specifically paid family leave, for employees within the Colorado state personnel system?"

   Attorney General's Response: "Yes, as a general rule, the State Personnel System Act ("Act"), § 24-50-101, et seq., C.R.S. authorizes the Personnel Director to adopt benefits, including leave benefits, even if not explicitly provided for by statute. The power to do so is significantly circumscribed, however, and the Director must ensure that any new type of leave benefit: (1) is adopted pursuant to technically and professionally sound survey methodologies; (2) is typically consistent with prevailing practices; (3) is adopted pursuant to formal rulemaking processes; and (4) is not inconsistent with and does not change any leave provisions already provided for by statute. Only if all these conditions are satisfied does the statute authorize the Personnel Director to adopt paid family leave as a nonstatutory benefit. However, while the Personnel Director may establish such a benefit nonstatutorily, implementation of the benefit remains subject to the General Assembly's power of appropriation.

2. "If so, is it lawful for the Personnel Director to adopt and implement a job protected leave benefit for family and medical reasons as codified in 4 Code Colo. Regs. 801-1, § 5-16?"

   Attorney General's Response: Yes, based on the analysis, the promulgation of Rule 5-16 is a lawful action by the Personnel Director to grant new leave benefits to state employees.

COMMITTEE ON LEGAL SERVICES

On December 20, 2021, the Committee on Legal Services reviewed State Personnel Rule 5-16 through which the State Personnel Director created the benefit for full time employees in which up to 80 hours of paid leave per rolling 12 month period is made available for the following:

- Birth and care of a child;
- Placement and care of an adopted or foster child;
- Serious health condition in a person related to the employee;
- Employee's own serious health;
- Certain active duty military leave;
- Military care giver leave; and
- Employee or family member who is victim of domestic violence, stalking, or other related crime.

The 80 hour leave benefit was established based on the passage of Proposition 118, however the proposition does not give the Department the authority to establish the benefit prior to the implementation identified in the proposition (January 1, 2024).

In a memo presented to the committee, the Office of Legislative Legal Services (OLLS) recommended that the rule not be extended "because it conflicts with Section 24-50-104 (1)(g), [C.R.S.,] and because [paid family medical leave] is not typically consistent with prevailing practices." The Committee on Legal Services voted not to extend Rule 5-16.

The OLLS recommendation and the subsequent committee vote was related to the original benefit of 80 hours of paid family and medical leave. The Department's R2 budget request is for funding to expand this benefit to 160 hours. Because the committee determined that the State Personnel Director does not have the authority to implement the 80 hour benefit, it cannot be expanded to 160 hours per 12 month period. JBC staff recommends denial of the Department's request.

LEVEL OF EVIDENCE PURSUANT TO S.B. 21-284

The Department identified five factors supporting the premise that paid family and medical leave programs are economically beneficial, including: increased labor-force participation, increased employee retention, limited or positive impacts on business operations, increased lifetime earnings and retirement security among workers, especially women, and increased used of leave among working fathers. The Department indicates that this budget request is for funding to support a theory-informed practice.

Based on a limited review of scholarly articles, JBC staff found that contrary to the assertion by the Department that the program would increase employee retention, some research indicates that "[women] who had access to paid leave were no more likely to remain with their pre-birth employer than women without paid leave access, both in the short and long run."[1] That said, there is some evidence to indicate that a paid family and medical leave program may improve the health and well-being of newborns by reducing abuse[2], may reduce the number of children born but tended to increase investments in children, may increase the duration of breastfeeding, and may increase involvement of the father.[3]

The Department has identified the theory of change for this request as "providing 160 hours of paid family and medical leave" with the objective of ensuring "that the state is an employer of choice." A theory of change is a method that explains how a given intervention, or set of interventions, is expected to lead to specific outcomes, drawing on a causal analysis based on available evidence. JBC staff believes that a paid family and medical leave program may qualify as a theory-informed practice. Staff does not believe, however, that the request for funds to cover the cost of temporary employees filling positions vacated by staff who utilize this benefit is evidence-informed. Pursuant to S.B. 21-284 (Evidence-based Evaluations for Budget), assignment of a level of evidence is not applicable to this request.

[1] https://www.nber.org/system/files/working_papers/w26416/w26416.pdf, pg 4.
[2] https://injuryprevention.bmj.com/content/22/6/442.short
[3] Ibid, www.nber.org, pg 4-5.

STATEWIDE REQUEST (FOR REFERENCE ONLY)

The Department estimated the required funding by state department to backfill paid family medical leave positions based on an estimated utilization rate of 10.2 percent applied to the number of permanent employees. The estimated percent of employees that are in job classes requiring backfill is applied to the number of employees using the benefit to estimate how many positions would require backfill. Finally, an average actual weekly salary is used to calculate the impact of 4 weeks of leave backfill for those positions. The following table identifies the requested appropriations by state department.

STATEWIDE REQUESTS APPROPRIATION TO BACKFILL PAID FAMILY MEDICAL LEAVE POSITIONS		
DEPARTMENT	FY 2022-23 REQUESTED APPROPRIATION	PERCENT OF UTILIZED BENEFIT REQUIRING BACKFILL
Personnel	$27,923	14.3%
Agriculture	41,536	39.1%
Corrections	2,025,459	76.8%
Education	29,961	7.7%
Governor's Office	0	0.0%
Public Health and Environment	268,051	36.1%
Higher Education	664,209	33.8%
Transportation	31,381	2.2%
Human Services	1,575,727	73.3%
Judicial Branch	0	0.0%
Labor and Employment	371,656	67.2%
Law	0	0.0%
General Assembly	0	0.0%
Local Affairs	0	0.0%
Military and veterans Affairs	17,716	25.0%
Natural Resources	111,198	18.0%
Public Safety	43,460	4.1%
Regulatory Agencies	36,163	11.5%
Revenue	143,618	21.3%
Health Care Policy and Financing	5,978	1.9%
State	6,330	8.3%
Treasury	0	0.0%
TOTAL	$5,400,366	31.2%

LINE ITEM NAME

The Department identified the line item into which funding to backfill the cost of temporary employees as "Paid Family Medical Leave Funding" – a name that is confusing given that the funding is not to cover the cost of paid family and medical leave itself. If appropriations are made to cover the cost of the temporary employees, JBC staff recommends that the line item in each department be named "Temporary Employees Related to Authorized Leave".

MEMORANDUM

JOINT BUDGET COMMITTEE

To	Members of the Joint Budget Committee
From	Robin J. Smart, JBC Staff (303-866-4955)
Date	March 15, 2022
Subject	JBC staff comebacks concerning PERA Direct Distribution

➔ PERA Direct Distribution Long Bill Line Item Appropriations

In FY 2019-20, a common policy allocation to state agencies was added for the State's $225.0 million statutory PERA Direct Distribution payment. This allocation was added to common policies to charge cash and federal funds sources for what would otherwise be a General Fund payment. The allocation is not created in statute as a calculation on payroll but instead has been structured exclusively as a non-statutory budget process. The methodology agreed upon in FY 2019-20 is that the allocation to fund sources by state agency should match the proportions determined for the AED and SAED appropriations.

The PERA Direct Distribution totals $58.1 million in FY 2022-23. The total PERA Direct Distribution is allocated to the public schools divisions and the state employee divisions of PERA based on total payroll.

PERA Direct Distribution Calculation	
	2020 Covered payroll from PERA CAFR
State Division	$3,089,161,000
School Division	5,146,118,000
Local Government Division	698,060,000
Judicial Division	54,780,000
DPS Division	771,347,000
Total	$9,759,466,000
Total Excluding Local Government Division	9,061,406,000
Total Gross Payroll FY 2020-21	$2,341,037,123
Percent of Gross Payroll to Allocate Across State Departments	25.8%
Total Direct Distribution	$225,000,000
Total to Allocate Across State Departments	**$58,129,321**

The Governor's FY 2022-23 request is for $58.1 million total funds, including $31.0 million General Fund, $16.2 million cash funds, $5.3 million reappropriated funds, and $5.5 million federal funds.

PERA Direct Distribution FY 2022-23 Governor's Office Request					
Department	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
Agriculture	$465,007	$156,982	$308,025	$0	$0
Corrections	10,736,225	10,474,638	261,587	0	0
Early Childhood	0	0	0	0	0

PERA DIRECT DISTRIBUTION FY 2022-23 GOVERNOR'S OFFICE REQUEST					
DEPARTMENT	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Education	1,203,101	668,497	148,880	385,724	0
Governor	412,143	275,110	97,121	39,912	0
Governor	2,088,822	29,846	0	2,058,976	0
Health Care Policy and Financing	1,120,362	451,764	75,591	21,079	571,928
Higher Education	479,536	75,182	187,201	119,488	97,665
Human Services	8,603,791	5,772,629	369,916	1,125,499	1,335,747
Judicial	8,665,860	8,507,150	158,710	0	0
Labor and Employment	2,184,841	126,659	853,594	16,587	1,188,001
Law	1,221,178	285,982	174,463	760,733	0
Legislature	745,375	745,375	0	0	0
Local Affairs	355,929	101,878	78,991	101,217	73,843
Military and Veterans Affairs	305,754	302,210	3,544	0	0
Natural Resources	3,003,818	535,547	2,369,405	98,866	0
Personnel	630,727	264,451	21,287	344,989	0
Public Health and Environment	3,098,690	526,081	934,266	256,905	1,381,438
Public Safety	3,917,272	1,207,525	2,463,993	245,754	0
Regulatory Agencies	1,066,205	31,730	964,031	62,245	8,199
Revenue	2,217,857	1,024,483	1,192,776	598	0
State	282,593	0	282,593	0	0
Transportation	5,267,647	0	5,267,647	0	0
Treasury	56,587	36,484	20,103	0	0
TOTAL FY 2022-23 REQUEST	**$58,129,320**	**$31,600,203**	**$16,233,724**	**$5,638,572**	**4,656,821**

In addition to the department line item appropriations, the Department of the Treasury's budget reflects the spending authority for the $225.0 million. This appropriation includes reappropriated funds equal to the sum of the department line item appropriations for all fund sources. The difference between the $225.0 million payment and the reappropriated funds is typically appropriated as General Fund.

DEPARTMENT OF THE TREASURY, SPECIAL PURPOSE DIRECT DISTRIBUTION FOR UNFUNDED ACTUARIAL ACCRUED PERA LIABILITY LINE ITEM APPROPRIATION (REQUEST)					
DEPARTMENT	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Treasury	$225,000,000	$166,870,680	$0	$58,129,320	$0

With the enactment of S.B. 21-228 (PERA Public Employees Retirement Association Payment Cash Fund), the General Assembly appropriated $380.0 million General Fund to the newly created PERA Payment Cash Fund (cash fund). The cash fund consists of money appropriated or transferred to the fund. Subject to annual appropriation, the money in the fund is available to be used by the State for any employer contribution to PERA or a disbursement required by statute. **For the payment that is scheduled to be made on July 1, 2022, the bill requires that the cash fund be used to pay the portion of the PERA direct distribution payment that would have otherwise been paid from the General Fund*. This amount is $198,470,883.***

To simplify the adjustments in the Long Bill, JBC staff recommends the following appropriations:

PERA DIRECT DISTRIBUTION FY 2022-23 JBC STAFF RECOMMENDATION					
DEPARTMENT	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Agriculture	$308,025	$0	$308,025	$0	$0
Corrections	261,587	0	261,587	0	0
Early Childhood	0	0	0	0	0
Education	534,604	0	148,880	385,724	0
Governor	137,033	0	97,121	39,912	0
Governor	2,058,976	0	0	2,058,976	0
Health Care Policy and Financing	668,598	0	75,591	21,079	571,928
Higher Education	404,354	0	187,201	119,488	97,665
Human Services	2,831,162	0	369,916	1,125,499	1,335,747
Judicial	158,710	0	158,710	0	0
Labor and Employment	2,058,182	0	853,594	16,587	1,188,001
Law	935,196	0	174,463	760,733	0
Legislature	0	0	0	0	0
Local Affairs	254,051	0	78,991	101,217	73,843
Military and Veterans Affairs	3,544	0	3,544	0	0
Natural Resources	2,468,271	0	2,369,405	98,866	0
Personnel	366,276	0	21,287	344,989	0
Public Health and Environment	2,572,609	0	934,266	256,905	1,381,438
Public Safety	2,709,747	0	2,463,993	245,754	0
Regulatory Agencies	1,034,475	0	964,031	62,245	8,199
Revenue	1,193,374	0	1,192,776	598	0
State	282,593	0	282,593	0	0
Transportation	5,267,647	0	5,267,647	0	0
Treasury	20,103	0	20,103	0	0
TOTAL FY 2022-23 RECOMMENDATION	**$26,529,117**	**$0**	**$16,233,724**	**$5,638,572**	**$4,656,821**

DEPARTMENT OF THE TREASURY, SPECIAL PURPOSE DIRECT DISTRIBUTION FOR UNFUNDED ACTUARIAL ACCRUED PERA LIABILITY LINE ITEM APPROPRIATION (RECOMMENDATION)					
DEPARTMENT	TOTAL FUNDS	GENERAL FUND	CASH FUNDS[1]	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Treasury	$225,000,000	$0	$198,470,883	$26,529,117	$0

[1] From the PERA Public Employees Retirement Association Payment Cash Fund

➔ PERA DIRECT DISTRIBUTION PAYMENT (STAFF INITIATED)

Pursuant to Section 24-51-414, C.R.S., the State Treasurer is required to issue an annual warrant on July 1st to the Public Employees Retirement Association in the amount of $225.0 million. The distribution ends when there are no unfunded actuarial accrued liabilities of any division of PERA. Payment may be made from the General Fund or any other fund. The portion of each payment that is attributable to the state division is allocated across state departments and appropriated in the PERA Direct Distribution line item in each department's section of the Long Bill.

The direct distribution payment is allocated across four of the five divisions of PERA. The annual payment of $225.0 million is projected to reduce the Unfunded Actuarial Accrued Liability (UAAL) by $852.5 million. For every additional $100 million above the statutorily required amount, the projected reduction in the UAAL is $374 million. The following table shows the projected reduction in UAAL in each division that would result from a one-time payment in the current year for each identified amount. This summary of impact assumes contributions scheduled to be made under current law, along with economic and demographic experience meeting expectations over time.

PERA ESTIMATED REDUCTION IN THE UNFUNDED ACTUARIAL ACCRUED LIABILITY BY DIVISION						
ONE-TIME PAYMENT OF:	$225.0 MILLION	$325 MILLION	$425 MILLION	$525 MILLION	$625 MILLION	$725 MILLION
State	$280.0 million	$410 million	$530 million	$650 million	$780 million	$900 million
School	540.0 million	770.0 million	1,010.0 million	1,250.0 million	1,490.0 million	1,730 million
Local	0	0	0	0	0	0
Judicial	2.1 million	3.1 million	4.0 million	4.8 million	5.9 million	6.9 million
DPS	30.4 million	43.9 million	57.4 million	70.9 million	84.4 million	97.9 million
TOTAL REDUCTION	**$852.5 million**	**$1,227.0 million**	**$1,601.4 million**	**$1,975.7 million**	**$2,360.3 million**	**$2,734.8 million**

With the enactment of S.B. 21-228, the General Assembly appropriated $380.0 million General Fund to the newly created PERA Payment Cash Fund (cash fund). The cash fund consists of money appropriated or transferred to the fund. Subject to annual appropriation, the money in the fund is available to be used by the State for any employer contribution to PERA or disbursement required by statute. The bill requires that the General Fund portion of the PERA direct distribution payment scheduled to be paid on July 1, 2022, be made from the cash fund as opposed to the General Fund. The bill allows for the payment of some or all of a future payment to be made from the cash fund as well.

OPTIONS FOR FY 2022-23 PAYMENTS TO PERA [REQUIRES LEGISLATION]

During the January 28, 2022 JBC staff figure setting presentation, staff recommended that the Committee consider the following:

- Using General Fund to make the required July 1, 2022 payment of $225 million instead of making the payment from the PERA Payment Cash Fund;
- Repealing the PERA Payment Cash Fund and paying the entire balance of the cash fund to PERA in order to realize an improved return on investment; and/or
- Increasing the July 1, 2022 payment by at least $100 million General Fund in order to further reduce the UAAL.

Each of the above options requires legislation.

H.B. 22-1029 (COMPENSATORY DIRECT DISTRIBUTION TO PERA) [INTRODUCED BILL]

Resulting from the work of the Pension Subcommittee, H.B. 22-1029 was introduced in January 2022. This bill requires a payment to be made to PERA on July 1, 2022 in the amount of $303.57 million. This amount is the sum of the cancelled $225.0 million payment that was scheduled on July 1, 2020 and the estimated investment gains that would have accrued on that amount from July 1, 2020 through June 30, 2022. The bill requires the payment to be made from the General Fund or from any other fund. The bill title is narrow and will not allow for other options suggested by JBC staff to be incorporated into H.B. 22-1029:

> *CONCERNING A REQUIREMENT THAT THE STATE MAKE AN ADDITIONAL DIRECT DISTRIBUTION TO THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION TO FULLY*

RECOMPENSE THE ASSOCIATION FOR THE CANCELLATION OF A PREVIOUSLY SCHEDULED JULY 1, 2020, DIRECT DISTRIBUTION.

PERA EXPERIENCE STUDY

The PERA Experience Study is an ongoing analysis of the number of retirements and separations, employer and employee contribution rates, employee-selected benefit options, benefit payments to retirees, and other data within the context of the study's assumptions. During the January 28, 2022 staff figure setting presentation, JBC staff referenced data provided by the Department of Personnel concerning the 16 percent increase in state employee retirements between FY 2019-20 and FY 2020-21 as one example of a data point that will increase PERA's liabilities into the future; and will subsequently impact the unfunded liability. In a recent national survey of public employees, while almost 60 percent of the respondents indicated that they continued to work in the public sector because they valued serving their communities, 36 percent of government employees surveyed were considering leaving their jobs, with 33 percent saying they are considering retiring.[1] **Staff believes that these data make it more evident that General Fund that is available for one-time expenditures should be invested in PERA, and that cancellation or reduction of the statutorily required payments to PERA should NOT be considered a solution to any budget balancing challenges today or in the future.**

JBC STAFF RECOMMENDATION

In addition to H.B. 22-1029 (Compensatory Direct Distribution to PERA) and to the FY 2022-23 Long Bill appropriation that is recommended in this document, Staff recommends that the Committee consider sponsoring legislation that requires on July 1, 2022:

- The repeal of the PERA Payment Cash Fund; and
- An additional payment to PERA in the amount of the remaining balance in the Cash Fund.

JBC STAFF RECOMMENDATION ADDITIONAL PAYMENT TO PERA ON JULY 1 2022					
LEGISLATION	TOTAL FUNDS	GENERAL FUND	CASH FUNDS[1]	REAPPROPRIATED FUNDS[2]	FEDERAL FUNDS
Long Bill	$225,000,000	$0	$198,470,883	$26,529,117	$0
Repeal of Cash Fund (estimate)	182,585,146	0	182,585,146	0	0
H.B. 22-1029	303,570,000	303,570,000	0	0	0
TOTAL JULY 1, 2022 PAYMENT TO PERA	$711,155,146	$303,570,000	$381,056,029	$26,529,117	$0

[1] From the PERA Public Employees Retirement Association Payment Cash Fund. Estimate based on report January 2022 fund balance.
[2] Reappropriated Funds as reflected in the Department of the Treasury Direct Distribution for Unfunded Actuarial Accrued PERA Liability Long Bill line item and received from other state department fund sources.

[1] https://www.route-fifty.com/management/2022/03/36-government-workers-are-considering-quitting-their-jobs/363089/

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Scott Thompson, JBC Staff (303-866-4957)
DATE	March 11, 2022
SUBJECT	JBC staff comeback for the Office of the Governor Economic Development Programs – BA1 Economic Development for Coal Communities

This item was tabled during the JBC staff figure setting presentation for the Office of the Governor. No additional information was requested, so the following is a reproduction of the original JBC staff recommendation.

➔ (OEDIT) BA1 ECONOMIC DEVELOPMENT FOR COAL COMMUNITIES

REQUEST: The Office of Economic Development & International Trade (OEDIT) is requesting a one-time transfer of $5.0 million in General Fund to OEDIT 's "Strategic Fund," which is found under the long bill line item "Economic Development Commission - General Economic Incentives and Marketing". The purpose of this transfer is to assist coal communities in their transition away from coal-dependent economic development strategies by funding economic planning and investing in new businesses to provide wage replacement for displaced workers. OEDIT can absorb the workload associated with this request with current FTE. This request was included as a legislative placeholder in the one-time investments portion of the Governor's November 1 budget request.

RECOMMENDATION: **JBC staff recommends the Committee approve the request with a couple adjustments.** Because it is targeted at Just Transition communities, JBC staff recommends that the appropriation include a footnote that states the General Assembly's intent that the $5.0 million be utilized for Just Transition. Additionally, JBC staff thinks granting up to 2.5 percent ($125,000) for administrative support will provide sufficient flexibility and maximize the amount assisting targeted communities. This amount can also be noted in the proposed footnote.

ANALYSIS: The Office of Just Transition (OJT) is utilizing the $15 million in state stimulus funding from H.B. 21-1290 to help achieve the Just Transition Action Plan goals. OEDIT and OJT already coordinate on their work in Just Transition communities, recognizing that assisting communities to transition away from coal-based economies is a long-term challenge that requires maximum collaboration among state agencies as well as communities, workers, utility companies, and outside investors.

While the need for OEDIT to support OJT in Just Transition communities is clear, OEDIT currently lacks resources dedicated solely to support for these communities. Specifically, OEDIT has programs that prioritize and provide greater financial support for businesses located in Just Transition communities (e.g., Rural Jump-Start Grants), and can currently assist Just Transition communities in utilizing Strategic Fund dollars, but there is no set-aside meant solely for use in Just Transition communities.

Furthermore, OJT is required to spend its $15.0M in state stimulus money from H.B. 21-1290 by the end of FY 2022-23, even though the challenges of achieving a Just Transition will last for a decade or more. OEDIT's programs and its Strategic Fund provide the opportunity for the state to make a longer-term and more flexible commitment to address this challenge.

The $5.0 million in additional funding proposed in the Governor's budget for OEDIT's Strategic Fund, but which must be spent in Just Transition communities, will allow OEDIT to leverage investments in communities and with investors to increase the overall funding levels for communities and create new, family-sustaining jobs. This funding will focus on the following two categories:

- Unique and time-limited business opportunities, including start-up, expansion, retention, or attraction opportunities consistent with local transition strategies or *Action Plan* Community Strategy 2; and
- Strategically leveraging long-term private investment in start-up, expansion, retention, or attraction opportunities or to leverage the inflow of philanthropic and/or federal funds consistent with local transition strategies or *Action Plan* Community Strategies

The continuous appropriation spending authority for OEDIT's Strategic Fund will also enable OEDIT to encumber funds for incentives and deals in Just Transition communities that we anticipate coming or are in the process of finalizing, without the strict deadlines associated with H.B. 21-1290. The request also includes authorizing up to 5 percent of the $5 million be utilized for administrative support. Details of how the funds will actually be used are vague but all decisions will be made by the Economic Development Commission.

JBC staff recommends the Committee approve the request with a couple adjustments. Because it is targeted at Just Transition communities, JBC staff recommends that the appropriation includes a footnote that states the General Assembly's intent that the $5.0 million be utilized for Just Transition. Additionally, JBC staff thinks granting up to 2.5 percent ($125,000) for administrative support will provide sufficient flexibility and maximize the amount assisting targeted communities. This amount can also be noted in the proposed footnote.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Andrew Forbes, JBC Staff (303-866-2062)
DATE	March 18, 2022
SUBJECT	Marijuana Education Campaign

During Staff's figure setting presentation for the Department of Public Health and Environment on March 4, 2022 the Committee asked for a Department Comeback relating to the Marijuana Education Campaign. The additional information was not included during the Office of State Planning and Budgeting presentation on March 15th, but was instead sent to members via email from the Department on March 11th. Below is the information provided by the Department, in summary the Department has revised their request from $4.7 million to $3.0 million.

DEPARTMENT RESPONSE

BACKGROUND:
In response to the economic downturn in March, 2020, the JBC made budget-balancing recommendations that included a one-time reduction of $3,700,000 to the Marijuana Education Campaign (operating name, Retail Marijuana Education Program or RMEP). The RMEP maintained $954,102, including 2.0 FTE, for base funding and staffing. The Department was able to prioritize activities to accommodate the FY 2020-21 reduction and determined it could sustain the cut for one more year for statewide budget-balancing efforts. Therefore, the Department submitted a FY 2021-22 Decision Item - which was ultimately approved - to continue the reduction through June 30, 2022. During these two years of reduced funding, the Department maintained some community prevention work and supported a social norms change campaign focused on youth and trusted adults.

CURRENT STATE:
Per the approval of R-10 in FY 2021-22 budget, the Department has been preparing for a full restoration of these funds beginning July 1, 2022. The Governor's November 1, 2021 budget submission included full funding for the RMEP ($4,660,436, with 3.7 FTE from the Marijuana Tax Cash Fund). With this budget and timeline for spending in mind, the Department is engaged in the following implementation activities:

- Released a Request for Proposals for a social marketing campaign evaluation contractor and awarded the contract to RTI International. RTI's campaign evaluation methodology is considered to be the gold standard for social marketing campaign effectiveness in the country.
- Released a Request for Proposals for a media vendor and is in the process of reviewing proposals.
- Preparing to release a Request for Applications for the community grantee work.
- Reviewing applications for new staff to begin this work July 1.

WHAT IS THE DEPARTMENT REQUESTING?
Governor Polis' November 1, 2021 budget includes line item funding of $4,660,436, with 3.7 FTE from the Marijuana Tax Cash Fund for the Marijuana Education Campaign (Retail Marijuana Education Program, RMEP). The Department requests the committee approve a reduced amount of $3,000,000 (including 3.7 FTE) for FY 2022-23. This will provide the department with time to ramp up the RMEP campaigns after a two-year hiatus. The upcoming fiscal year will focus on two

populations at increased risk due to marijuana exposure: pregnant and breastfeeding populations and youth. CDPHE requests returning to $4,650,000 in future years to introduce campaigns focused on harm reduction among cannabis consumers, including safe storage of marijuana products to prevent unintentional use of edibles among young children.

WHAT WILL HAPPEN IF THE REQUEST IS NOT FUNDED?

Pursuant to Colorado Revised Statutes 25-3.5-1001 through 1007, CDPHE is funded to provide education, public awareness, and prevention messages for retail marijuana in order to ensure all Colorado residents and visitors understand the parameters of safe, legal, and responsible retail cannabis use. This is achieved through social marketing campaigns and grant-funded evidence-based programs through local communities. Without campaigns in the market, public health problems associated with marijuana use will persist, including youth use of high concentration THC products, disproportionate use among LGBTQ+ youth, and health concerns and risks among infants due to THC exposure through the placenta or breast milk.

WHAT ACTIONS HAVE BEEN TAKEN BEFORE THIS REQUEST?

Campaigns follow a multi-step process rooted in best practices to develop messages that are grounded in research on the effects of cannabis, focus group tested for resonance, and culturally responsive. CDPHE follows all researched best practices for campaign development. CDPHE evaluates all of our public awareness campaigns. For large campaigns with larger budgets, we follow evaluation best practices and dedicate 10% of the overall budget to fund an external contractor to measure an audience's change in opinions or behavior during the times our ads have been in market. RMEP contracts with RTI International, the premier campaign evaluation agency in the country whose methodology for evaluation has set the national gold standard.

Data from RTI International shows the program was successful in educating marijuana consumers about the parameters of safe, legal, and responsible use from 2015-2020 when the campaigns were in market. For example, RTI found that marijuana consumers were 3 times more likely to store marijuana in a lockbox after seeing the Responsibility Grows Here ad about safe storage. Additionally, RTI found that 73% of women who saw the Responsibility Grows Here ads believed it was risky to use marijuana even once or twice during pregnancy.

The economic downturn at the beginning of the pandemic (FY 2020-21) led to an 80% cut in funding, and the department had to pause the entire marijuana consumer campaign and the related evaluation activities. The RMEP has not had any ads in the market since July 2020.

Despite the reduction in funding and increased access to cannabis products across the state, the program has been successful in using directed and focused messaging to prevent youth use and to equip parents with the skills to talk with youth about cannabis use. Parents and mentors shape the future of Colorado youth. The program equips parents and trusted adults, like teachers and coaches, in high-need areas to prevent underage cannabis use. Colorado youth who know their parents think underage use is wrong are 72% less likely to use cannabis underage. The program has also been successful in awarding grants to marginalized communities, including Spanish-speaking and LGBTQ+ communities, to address inequities, and funding an evidence-based middle school health education curriculum.

WHY IS THIS REQUEST NECESSARY?

The RMEP uses all data and scientific literature reviews from the Marijuana Health Effects Monitoring Program (MHEMP) at CDPHE to drive the messaging within social marketing campaigns. The RMEP incorporates the literature into public service messaging used in all retail marijuana education materials and prevention campaigns released by CDPHE. As an example, the scientific literature review shows that marijuana use during pregnancy is associated with negative effects on exposed offspring, including decreased cognitive function and attention span. These effects may not appear until adolescence. It may also be associated with increased risk of heart defects and depression in offspring. MHEMP's review of public health data shows that pregnant people are more likely to use cannabis than cigarettes while pregnant, demonstrating the public health education need for messages about reducing risk from cannabis exposure during pregnancy. Additionally the review of the literature shows that youth who use marijuana are more likely to become addicted in adulthood. Youth who use marijuana frequently are more likely to suffer from mental health issues including psychotic symptoms and disorders. RMEP staff also work closely with the Scientific Review Council created by HB21-1317 to make sure that all findings from their research are present in our public education materials and future campaigns to be developed with FY 2022-23 funding.

CAMPAIGN DEVELOPMENT PLAN:

Campaigns follow a multi-step process rooted in best practices to develop messages that are grounded in research on the effects of cannabis, focus group tested for resonance, and culturally responsive. RMEP has completed the RFP process to identify a campaign evaluation contractor and is in process of selecting a vendor from applicants to an RFP for a campaign agency.

Based on the research of patterns of marijuana use and the known health impacts of THC listed above, the following populations would be prioritized for campaigns with this restored funding:

- Youth, particularly LGBTQ+ youth, including the trusted adults in their lives.
  - Though marijuana use remained stable among Colorado adolescents since 2005, how youth usually consume has shifted to products with likely higher concentration. Additionally, use rates are approximately 50% higher among LGBTQ+ youth than the rest of their peers due to the multiple oppressions they face and their decreased access to supportive adults in their lives.
- Pregnant and breastfeeding populations.
  - Pregnant people are more likely to use cannabis than cigarettes while pregnant.

Development of culturally responsive campaigns for each of these populations requires community engagement, focus groups, creative message development, message testing, production, ad placement, monitoring and optimizing ads based on performance, and separate contracted evaluation for actual impact on the metrics outlined below.

Campaigns will cost approximately $2,100,000 of the total $3,000,000 funding request for FY 2022-23 to fully fund the campaigns, related materials, evaluation, and will require 2.3 FTE of the total 3.7 FTE requested.

COMMUNITY-BASED FUNDING PLAN:

RMEP plans to fund healthcare provider education and Continuing Medical Education (CME) courses for perinatal health providers across the state to increase their knowledge and skills to engage in stigma-free and supportive conversations with pregnant and breastfeeding people about safer coping strategies and the risks of THC to fetal and infant development. RMEP also plans to fund increased access to safe and supportive environments for youth, particularly for LGBTQ+ youth who have significantly lower rates of protective relationships and access to these supportive environments. This will include funding for trusted adult education as well as systems change in communities to create supportive environments for youth.

The community-based funding plan will require at least 1.4 FTE out of the total 3.7 FTE requested to manage the strategy identification and competitive procurement process. RMEP requests approximately $900,000 annually ongoing (community grants plus FTE).

HOW WILL YOU ENSURE MONEY IS SPENT?

RMEP has never had challenges fully spending the allocated funds to the program due to the costs of ad buys in multiple markets that are most likely to reach the intended populations of RMEP social marketing campaigns. The campaigns primarily leverage digital media buys that can be scaled and highly targeted to reach specific populations at a lower cost than traditional mass media tactics like TV and billboards. No out-of-home media (billboards, buses, transit benches) ran in the final year of the campaigns (July 1, 2019 - June 30, 2020).

WHY IS THIS PROPOSAL BETTER COMPARED TO OTHER PROPOSALS?

There is no alternative proposal to provide the marijuana education campaign as mandated under C.R.S. 25-3.5-1001. The Department wanted to take the Committee's reaction and the recent budget-balancing actions related to this program into consideration under this comeback request, but this statutory program needs significant resources in order to provide statewide education in an impactful and measurable fashion.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Abby Magnus, JBC Staff
DATE	March 9, 2022
SUBJECT	Dept. of Labor and Employment Tabled Items – R1

During figure setting for the Department of Labor and Employment on March 2, 2022, the Committee tabled the R1 Increase wage theft spending request. Below is JBC Staff's analyses and recommendations for R1.

➔ R1A INCREASE WAGE THEFT SPENDING

REQUEST: The Department is requesting an ongoing increase in cash spending authority of $153,304 in FY 2022-23 to account for increasing workload as well as 1.0 FTE for an appeals coordinator.

UPDATED RECOMMENDATION: **Staff recommendation is an increase in cash fund spending authority of $138,201 from the Wage Theft Enforcement Fund in FY 2022-23 and ongoing.**

UPDATED DISCUSSION: Recent legislative changes have increased activity in the Division of Labor Standards and Statistics (DLSS). DLSS is seeing increasing workloads based less on the volume of claims than the complexity of investigations. Individual wage claims involve more simple investigations and rulings than many of the new programs that have been assigned to DLSS through legislative changes.

- **Paid sick leave claims** qualify as wage claims but can yield complex analyses and compliance orders, and take significantly longer than most wage claims;
- **Retaliation claims** take about twice as much work as individual wage claims;
- **Equal Pay Act investigations** into wage transparency requirements are unique to Colorado, and require new legal analyses and communication with employers to bring them into compliance; and
- **Direct Investigations**, funded by new legislation effective FY 2019-20, cover systemic, employer-wide wage violations, spanning dozens to thousands of workers each, commonly on cutting-edge legal issues (e.g., construction worker misclassification, health employers' differing paid sick obligations under federal and state law, and complex wage payment issues such as travel time). These investigations commonly take up to a year, with each investigator able to close only one direct investigation every 1-2 months, whereas investigators commonly close a dozen individual wage claims each month.

ADMINISTRATIVE COSTS

The Department reports that because of this increasing complexity in the nature of cases, DLSS is reporting additional administrative costs driven by a rapidly increasing staff. These costs include office space and systems, remote mailing, printing, and phones, and increasing workloads and mail volumes. Due to the increase in responsibilities and FTE because of recent legislation, the anticipated increased administrative costs include:

- $20,246 for increased legal services costs for the Wage Theft Enforcement Unit Legal Hours to defend direct investigations appeals;
- $21,060 for remote mailing;
- $14,665 for softphone licenses;

- $18,000 for appeal transcription costs;
- $79,333 for an Appeals Coordinator to assist employers navigating administrative appeals.

➔ R1B WTEF COMPLIANCE

REQUEST: The Department is requesting a legislative change to Section 8-4-113(3), C.R.S., to increase the statutory cash fund limit on uncommitted reserves for the Wage and Theft Enforcement Fund (WTEF) to an alternative maximum of $400,000 with any excess revenue transferring to the General Fund at the end of the fiscal year.

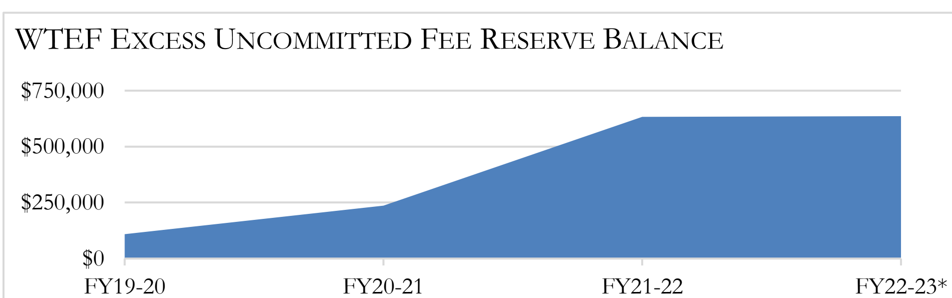
UPDATED RECOMMENDATION: **Staff recommendation is that the Committee provide the cash fund with a new waiver to exempt the fund for three years.**

UPDATED DISCUSSION

WAGE AND THEFT ENFORCEMENT FUND (WTEF)

DLSS administers the WTEF to investigate wage claim cases and issues citations to collect fines of various wage violations by employers. Currently, the WTEF is under a three-year cash fund waiver that expires on June 30, 2022. Wage theft fines vary widely in size and scope, which makes the ability to predict revenues difficult, since they are based on the type and severity of the violation, the number of employees impacted, and whether a settlement agreement of the fine leads to a discounted amount in collections. This unpredictability of fine collection has exacerbated the statutory cash fund limit on uncommitted reserves for this fund.

- In FY 2021-22, DLSS received a cash fund appropriation of $171,696 to cover program costs, which resulted in a cash fund statutory uncommitted reserve cap of $200,000. This resulted in the extension of a three-year cash fund waiver that expires on June 30, 2022.
- In FY 2022-23, DLSS is requesting a cash fund appropriation of $289,651 which results in an uncommitted reserve cap of $335,995. DLSS is estimating the cash fund ending fund balance to be $972,036 in FY 2022-23.
- The Department has provided projected estimates of wage theft enforcement citations and the resulting excess uncommitted reserve balance shown below. DLSS reports this is a modest estimate, and fine collection continues to be unpredictable and consistently fluctuate, as wage theft violation fines can and often are waived or reduced.



WAGE THEFT CLAIMS AND VIOLATION FINES

Wage theft violation fines are limited by statute, but can be waived or reduced based on the hearing:

- The hearing officer or director cannot impose a fine of more than $50 per day, per employee for employers who have failed to pay wages.

- The hearing officer or director may impose a fine of $250 for employers that fail to respond to notice of complaints.

A majority of violations are failure to respond to investigation notices, failure to provide mandatory pay statements to employees, and failure to pay wages that are determined to be owed to employees. The table below outlines the type and frequency of claims since 2015 with estimates for FY 21-22.

CLAIM TYPE	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Individual Wage and Hour	4286	3822	3178	3006	3010	2590	3270
Non-Wage Labor Rights	12	18	20	28	80	13	9
Retaliation	-	-	-	-	-	218	291
Unfair Labor Practice and Union Membership and Classification	-	-	-	-	-	7	10
Pay and Promotion Transparency	-	-	-	-	-	140	311
Direct Investigations	-	-	-	-	88	46	46
Total Claims	4,298	3,840	3,198	3,034	3,178	3,014	3,893

The Division's goal is to increase compliance, not to impose fines or prolong proceedings. DLSS will send employers notices of possible violations, and many employers respond by agreeing to fix their practices. In these cases, employers will pay significantly reduced fees. If the employer makes changes before there is an official finding, no fine is imposed. A minority of employers refuse to fix practices that violate workers' rights even after DLSS notifies them of violations. In those instances, initial fines of a few hundred dollars can yield total fines in the tens or hundreds of thousands of dollars.

CASH FUND NON-COMPLIANCE

The WTEF currently is under a three-year cash fund waiver that is set to expire this year. Without further action, the cash fund is expected to be non-compliant to the 16.5% maximum reserve requirement in FY 2022-23. There are four options for addressing this non-compliance:

1. The JBC provides a waiver from the requirement for up to three fiscal years;
2. The cash fund is provided an alternative maximum through JBC action, in which case the alternative maximum is established for up to three years;
3. The cash fund is provided an alternative maximum through legislation to provide the cash fund with a longer-term alternative maximum; or
4. The cash fund is exempted from the waiver requirements permanently through legislation.

STAFF RECOMMENDATION

Based on previous concerns about fine collection going to the General Fund per the Department's initial request, staff is recommending the Committee issue another cash fund waiver for the Wage Theft Enforcement Fund. This will allow the Division to continue its work while also monitoring fee revenue. Claims may normalize down as well in the future which may give the Division a better idea of what regular annual revenue looks like for the cash fund.

Alternatively, the Committee could exempt the cash fund from waiver requirements permanently given the nature of their work enforcing labor standards. This would require additional legislation.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Abby Magnus, JBC Staff
DATE	March 9, 2022
SUBJECT	Dept. of Labor and Employment Tabled Items – Division of Employment and Training

During figure setting for the Department of Labor and Employment on March 2, 2022, the Committee tabled the Division of Employment and Training pending an appropriation to the Office of Just Transition related to severance tax collection. Below is JBC Staff analysis and recommendations the Division of Employment and Training. Additionally, JBC staff has provided clarification on the appropriation to the Division of Family and Medical Leave Insurance.

➔ DIVISION OF EMPLOYMENT AND TRAINING

The Committee tabled approving the recommendation on line item detail and base appropriations for the Division of Employment and Training in order to ensure funds being credited to the Just Transition Cash Fund via H.B. 21-1312 were able to be appropriated to the Department.

UPDATED RECOMMENDATION: **Staff is not recommending any additional changes to the line item detail and base appropriations for the Division of Employment and Training presented in the figure setting document.**

UPDATED DISCUSSION

HOUSE BILL 21-1312 INSURANCE PREMIUM PROPERTY SALES SEVERANCE TAX

House Bill 21-1312 phases out coal tonnage exemptions and tax credits, with any increase in severance tax revenue resulting from these changes deposited into the Just Transitions Cash Fund. Initial fiscal analysis estimated:

- Phasing out the coal tonnage exemption is expected to increase severance tax revenue by $143,000 in FY 2021-22 (half-year impact), by $448,000 in FY 2022-23, and $790,000 in FY 2023-24.
- Phasing out the tax credit for underground coal mines is expected to increase severance tax revenue by $78,000 in FY 2021-22 (half-year impact), by $246,000 in FY 2022-23, and by $434,000 in FY 2023-24.

The revenue estimate for FY 2021-22 is only impacted by tax collections in 2022. House Bill 21-1312 begins the process of phasing out coal credits beginning in 2022 to coincide with the calendar year, so for FY 2021-22 these changes will only have a half-year impact. While the March forecast will present revenue estimates for total coal severance tax revenue, it will not include a specific estimate regarding this change in policy. The initial analysis for this legislation that lead to these estimates leaned heavily on the state auditor's report. Access to specific and timely coal severance data is limited, so there is no updated estimate on these amounts.

HOUSE BILL 22-1193 FUND JUST TRANSITION COAL WORKFORCE PROGRAMS

House Bill 22-1193 added FY 2022-23 appropriations to the Office of Just Transition of:

- $555,000 for the Just Transition Plan; and
- $2,000,000 to the Coal Transition Workforce Assistance Program.

STAFF RECOMMENDATION

Given this lack of timely information on revenue collections, staff is not recommending an additional appropriation to the Office of Just Transition beyond the Department's initial base request of $377,724 General Fund and 3.5 FTE for FY 2022-23. The Department has stated no immediate need for this appropriation, and if a need arises for FY 2022-23, this can be addressed through the supplemental budget process once actual data on this revenue collection becomes available. While this will create a lag between collections and expenditures, it will not over-appropriate the cash fund and it will allow the Office to have a dedicated funding source in the future.

ⓘ DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE

For the Division of Family and Medical Leave Insurance, the figure setting document accurately displayed the type of funding in the table, however it was described as General Fund in text. The Committee has already voted on this, JBC staff is simply clarifying that this appropriation is from the Family and Medical Leave Insurance Cash Fund not the General Fund. This fund is continuously appropriated to the Department, so the amounts in the line item detail are reflective of the amount of funding that the Department reports is currently in the fund.

LINE ITEM DETAIL - DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE

PROGRAM COSTS: This line item funds the personnel and operating costs associated with state support for the provision of independent living services by the nine Independent Living Centers.

STATUTORY AUTHORITY: Pursuant to Section 8-13.3-516 (1), C.R.S.

REQUEST: The Department requests an appropriation of $1,111,286 cash funds and 6.0 FTE.

RECOMMENDATION: Staff recommended $1,111,286 cash funds and 6.0 FTE.

SENATE BILL 21-251, GENERAL FUND LOAN FAMILY MEDICAL LEAVE PROGRAM

Senate Bill 21-251 transferred $1.5 million General Fund to the Family and Medical Leave Insurance Fund to defray expenses incurred by the Division prior to collecting premiums or receiving revenue bond proceeds. The transfer is a loan from the state treasurer that is required to be repaid by December 2023. In the future, this fund will consist of premiums paid and revenues from bonds, and it can be used only to pay revenue bonds, to repay the General Fund loan, to reimburse employers who pay family and medical leave insurance benefits directly, to pay benefits, and to administer the program.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (303-866-4360)
DATE	March 18, 2022
SUBJECT	Comeback - CSI Mill Levy Override Equalization

➔ R5 CSI MILL LEVY OVERRIDE EQUALIZATION - TABLED ITEM

[The following information is directly excerpted from the figure setting packet.]

REQUEST: The request includes a $10,000,000 General Fund increase, representing a 111% funding increase, for mill levy equalization for Charter School Institute (CSI) charter schools. Reappropriated funds included in the request double-count this figure. Many school districts throughout the state have received voter permission to raise local tax revenue above the approved state per-pupil operating revenue amount (PPOR). However, charter schools that are authorized by the CSI instead of their local school district do not have access to such additional local mill levy support. The General Assembly currently provides $9.0 million General Fund to help address the disparate revenue available to CSI charter schools versus schools operating within the same region that are authorized by their local school district. The request would increase this contribution to $19,000,000 General Fund, reducing the gap in per pupil funding available for CSI schools compared to other public schools.

CSI has also expressed interest in a bill to address certain issues in the CSI mill levy override equalization statute, which could potentially be sponsored by the JBC.

RECOMMENDATION: **Staff does not recommend the requested increase of $10,000,000 General Fund for the CSI Mill Levy Equalization Override line item.**

- Staff believes that CSI's position is that its schools should not receive less funding per student than students at neighboring public schools is compelling. CSI charter schools fill important niches in the array of school offerings, including unique programs for new immigrants and, most recently, the Ute Mountain Ute community. The funding differences between CSI schools and district schools are substantial. While successful CSI charters overcome the discrepancy, CSI charters clearly face more financial obstacles than most district schools.

- Nonetheless, staff remains concerned about the *source* for equalizing funding (state General Fund) and the resulting impact on the state budget.
    - Staff is concerned about building incentives for charter schools, and their local school districts, to encourage charter schools to pursue CSI authorization instead of local district authorization. While there are clearly many factors that charter schools and districts take into account when deciding upon an authorizer, as the CSI mill levy override equalization amount grows, it will build incentives in favor of CSI authorization. This is directly contrary to the State's financial interest in ensuring that school districts contribute local tax funding in support of students attending local public charter schools.

    - In light of the above concern, staff believes that reducing the budget stabilization factor across the public education system should be a higher priority than increasing funding for students in CSI charters to nearly $1,000 per enrolled student.

- Whether or not the JBC chooses to increase funding for CSI mill levy override equalization, staff believes the proposed bill could address some technical deficiencies in the CSI statute. However, it appears that the most immediate concern for CSI can be addressed through the Long Bill. CSI had noted that it receives interest earnings in the Mill Levy Override Equalization Fund, which it has not been able to spend. Its proposed solution was continuous spending authority for money in the Mill Levy Override Equalization Fund. While staff does not object to that solution, the problem can also be addressed by additional spending authority. Therefore:
    - **The staff recommendation includes adding a $209,923 cash funds appropriation in the Mill Levy Override Equalization line item for FY 2022-23. This represents the estimated interest revenue that will be available to CSI at the end of FY 2021-22.**
    - **As the CSI indicates that its other concerns do not require immediate action, staff does not recommend a JBC bill for CSI at this time.**

ANALYSIS:

Background - State Charter School Institute
The State Charter School Institute (CSI) is a statewide charter school authorizer, functioning as an independent agency in the Department of Education. Governed by a nine-member board, the CSI is allowed to authorize charter schools located within a school district's boundaries if the school district has not retained exclusive chartering authority. With the permission of the geographic district, CSI can also authorize schools within districts that have retained exclusive chartering authority.

There are 42 CSI schools operating in FY 2021-22, located in 17 different school districts and serving more than 20,000 students. This makes CSI comparable in size to the 15th largest school district in the State. However, CSI's portfolio of charter schools is a small share of the 261 charter schools operating statewide, most of which operate under the authorization of their local school district.

CSI schools have access to per pupil operating revenue (PPOR) equal to the PPOR for the district in which they are geographically located. For students enrolled in CSI schools, state fund allocations to the district are reduced by an amount equal to the full PPOR calculated for the district (including the state and local share) multiplied by the number of CSI students. However, the school district's total *local* mill levy funds do not change, despite serving fewer students.

- The net fiscal impact for the district is that its total PPOR support is reduced by the number of students who are served in a CSI school instead of a district school.
- The impact for CSI is that it receives a PPOR payment for each student in a CSI charter school that equals the PPOR for the district in which the CSI charter school is located.
- The net impact on the state budget is the same is if the student were enrolled in the student's school district.

In addition, CSI schools receive allocations for federal funds distributed by the Department, consistent with the various federal allocation policies. This includes allocations of federal Title I and special education funds and, most recently, federal ESSER funds. Further, CSI schools have access to some funds specifically designated for charter schools, such as the BEST Charter School Facilities Assistance program.

Unlike schools in most public school districts, CSI schools generally do not receive support from mill levy overrides and bond measures approved by voters.[1] This is because CSI is not legally connected to local school districts, and neither the State nor CSI appear to have authority to require school districts to transfer funds to CSI or to request that voters authorize mill levy or bond funding for CSI schools. This differs from the situation for district-authorized charter schools. District-authorized charter schools historically had uneven access to local mill levy override revenues, based on decisions at the district level. However, H.B. 17-1375 required *all* districts to share override revenues with *district-authorized* charter schools on an equal per pupil basis beginning in FY 2019-20.

Since CSI-authorized schools do not have access to local override revenues, H.B. 17-1375 created the Mill Levy Equalization Fund to support *state* payments to CSI schools to equalize the local override revenues available in CSI schools' geographic districts.

Request R5 – CSI Mill Levy Equalization
With request R5, the Governor's Office is seeking an increase of $10,000,000 General Fund to support mill levy equalization payments for CSI schools in FY 2022-23, increasing total funding by 111% from the $9,000,000 currently appropriated. The request is to appropriate that amount into the Mill Levy Equalization Fund and then reappropriate the same amount out of the cash fund (as reappropriated funds) to support the actual equalization payments.

Projected State Mill Levy Override Funding by School if R5 is Approved					
District	CSI School Name	District per pupil override	"Full" MLO Funding	Distribution with FY 23 Request	Requested Allocation as % Full Funding
Adams 12 Five Star	Academy Of Charter Schools	$1,704	$3,158,786	$1,799,493	57.0%
Adams 12 Five Star	Global Village Academy - Northglenn	1,704	1,451,611	826,952	57.0%
Adams 12 Five Star	The Pinnacle Charter School	1,704	3,598,359	2,049,908	57.0%
Aurora	Colorado Early Colleges - Aurora	2,665	1,142,094	415,902	36.4%
Aurora	Montessori Del Mundo Charter School	2,665	726,302	264,489	36.4%
Aurora	New America School - Aurora	2,665	378,477	137,825	36.4%
Aurora	New Legacy Charter High School	2,665	226,553	82,501	36.4%
Brighton 27j	High Point Academy	39	27,059	27,059	100.0%
Colorado Springs	Coperni 3	2,829	1,168,556	400,858	34.3%
Colorado Springs	Colorado Military Academy	2,829	1,933,917	663,405	34.3%
Colorado Springs	Colorado Springs Charter Academy	2,829	1,140,261	391,152	34.3%
Colorado Springs	Colorado Springs Early Colleges	2,829	1,733,028	594,493	34.3%
Colorado Springs	Colorado International Language Academy	2,829	793,656	272,253	34.3%
Colorado Springs	James Irwin Charter Academy	2,829	868,636	297,974	34.3%
Colorado Springs	Launch High School	2,829	0	0	n/a
Colorado Springs	Coperni 2	2,829	656,428	225,179	34.3%
Colorado Springs	Mountain Song Community School	2,829	1,011,522	346,990	34.3%
Colorado Springs	Thomas Maclaren State Charter School	769	2,562,051	878,879	34.3%
Commerce City	Community Leadership Academy/ Victory Prep	1,163	459,731	459,731	100.0%
Douglas	Ascent Classical Academy - Douglas County	1,163	914,818	763,377	83.4%
Douglas	Colorado Early Colleges Douglas County	1,817	1,153,263	962,350	83.4%
Durango	Animas High School	1,817	360,708	192,664	53.4%

[1] One school district, Durango, included a CSI school as part of a mill levy measure. CSI reports this is the sole exception.

PROJECTED STATE MILL LEVY OVERRIDE FUNDING BY SCHOOL IF R5 IS APPROVED					
DISTRICT	CSI SCHOOL NAME	DISTRICT PER PUPIL OVERRIDE	"FULL" MLO FUNDING	DISTRIBUTION WITH FY 23 REQUEST	REQUESTED ALLOCATION AS % FULL FUNDING
Durango	Mountain Middle School	2,515	463,378	247,503	53.4%
Eagle	Stone Creek School	1,830	789,694	304,769	38.6%
Jefferson County	Goldenview	1,830	1,315,896	697,862	53.0%
Jefferson County	Prospect Academy	740	274,526	145,590	53.0%
Mesa Valley	Caprock Academy	740	647,367	647,367	100.0%
Mesa Valley	Monument View Montessori	$-	45,131	45,131	100.0%
Montezuma Cortez	Kwiyagat Community Academy	2,048	0	0	n/a
Poudre	Ascent Classical Academy - Northern Colorado	2,048	1,049,363	497,433	47.4%
Poudre	Axis International Academy	2,048	378,794	179,561	47.4%
Poudre	Colorado Early College Fort Collins	2,048	2,420,189	1,147,250	47.4%
Poudre	Colorado Early College - Fort Collins West	2,048	629,618	298,460	47.4%
Poudre	Colorado Early College - Windsor	2,048	1,463,989	693,979	47.4%
Poudre	Pueblo School Of Arts And Sciences E-Learning Academy	2,048	102,377	48,530	47.4%
Poudre	Academy Of Arts & Knowledge	2,976	310,202	147,046	47.4%
Roaring Fork	Ross Montessori School	2,976	922,692	300,886	32.6%
Roaring Fork	Two Rivers Community School	1,582	1,166,758	380,475	32.6%
Salida	Salida Montessori Charter School	1,457	185,057	113,560	61.4%
Steamboat Springs	Steamboat Montessori Charter School	2,806	185,013	123,266	66.6%
Westminster 50	Crown Pointe Charter Academy	2,806	1,296,431	448,417	34.6%
Westminster 50	Early College Of Arvada	2,806	698,726	241,680	34.6%
Westminster 50	Ricardo Flores Magon Academy	1,704	687,501	237,797	34.6%
Total			**$40,498,520**	**$19,000,000**	**46.9%**

The request highlights the following issues:

The CSI plays an important role in the State as an effective authorizer for charter schools. CSI authorizes schools throughout the State that are premised on a wide array of educational approaches: alternative education, tribal culture and language, classical, dual language, early college, Montessori, project-based and Waldorf.

- CSI holds its schools accountable through regular review and analysis of outcome data. In FY 2018-19, 38 of the 39 CSI schools earned one of the state's highest two rating for academic performance.

- Collectively, CSI schools serve minority students, English language learners, and students eligible for free or reduced lunch at rates that are similar to the rates at other public schools. It continues to prioritize service to and outcomes for at-risk children. Board resolutions and CSI activities reflect significant efforts to expand charter school capacity for serving students with special needs[2], and the Board has directed CSI staff to incorporate diversity, equity, and inclusion into organizational goals.

CSI schools face persistent and systemic funding disparities. These funding disparities have significant impact on CSI students. The request highlights the four CSI schools in Aurora which are disproportionately minority, economically disadvantaged, and serve a large share of English learners.

[2] Enrollment of students with IEPs in CSI schools is still substantially below that of other schools, on average.

- CSI teachers and principals receive over $10,000 less in salary per year on average (CSI average teacher salary of $41,672, versus district average teacher salary of $54,950), resulting in turnover that is far higher than at other schools (32% teacher turnover at CSI schools compared to 16% at district schools).

- CSI schools spend a much larger share of their operating expenses on facility costs: CSI schools spend an average of 18% of total spending on facility costs, compared to less than 4% for district schools.

- CSI schools are limited in transportation and food service offerings: Fewer than half of CSI schools have the ability to offer regular transportation services between school and home. CSI schools must often rely on non-district school food authorities to support their food service programs.

State Budget Impact and Potential Growth
The current CSI request would increase the CSI mill levy equalization figure to $19.0 million, increasing the state funded mill levy equalization support to $971 per pupil at almost all CSI schools. The exceptions are those where there is no mill levy override in place (Montezuma-Cortez) or where the current mill levy override is below $971 per pupil for the district (such as Mesa Valley).

CSI is clear that this amount will not fully equalize mill levy override support, leaving the door open for substantial additional increases in the future.

- As reflected in the CSI request, it will take $21.5 million beyond the current request to equalize local district mill levy override amounts, based on the number of CSI students estimated to be enrolled in FY 2022-23 and local mill levies enacted to date.

- Staff compared data from Legislative Council Staff on the maximum mill levy overrides allowed in districts where CSI schools currently operate with the current mill levy overrides. In some cases, school districts are already at the cap allowed (25-30 percent of total program funding). In other cases, districts have not thus far adopted any mill levy overrides. Based on this analysis, staff calculates that if voters in all of the 16 districts where CSI schools operate voted to increase their local district mill levy overrides to the maximum now allowed under state law, and the State chose to equalize this figure for CSI schools, a further $17.3 million would be required in addition to the $21.5 million calculated above.

CSI Mill Levy Override Costs Per Pupil: Request, "Full Equalization", and Maximum District Override							
		November 1 Request		If Fund "Full" Current Equalization		If District Increases MLO to Maximum	
	2022-23 CSI School Projected Funded Count	CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil	CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil	CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil
Adams 12 Five Star	4,818	$4,676,354	$971	$8,208,756	$1,704	$13,121,026	$2,723

CSI Mill Levy Override Costs Per Pupil: Request, "Full Equalization", and Maximum District Override							
	2022-23 CSI School Projected Funded Count	November 1 Request		If Fund "Full" Current Equalization		If District Increases MLO to Maximum	
		CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil	CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil	CSI Mill Levy Override Total	CSI Mill Levy Override Per Pupil
Aurora	928.0	900,717	971	2,473,426	2,665	2,473,426	2,665
Brighton 27j	696.5	27,059	39	27,059	39	1,634,687	2,347
Colorado Springs	4,194.5	4,071,184	971	11,868,056	2,829	13,728,741	3,273
Commerce City	597.5	459,731	769	459,731	769	1,746,500	2,923
Douglas	1,778.0	1,725,728	971	2,068,081	1,163	4,239,766	2,385
Durango	453.5	440,167	971	824,087	1,817	1,000,395	2,206
Eagle	314.0	304,769	971	789,694	2,515	936,672	2,983
Jefferson County	869.0	843,452	971	1,590,422	1,830	2,157,305	2,483
Mesa Valley	936.0	692,498	740	692,498	740	2,192,505	2,342
Montezuma Cortez	27.0	0	-	-	-	62,820	2,327
Poudre	3,103.5	3,012,259	971	6,354,531	2,048	7,958,440	2,564
Roaring Fork	702.0	681,362	971	2,089,450	2,976	2,956,947	4,212
Salida	117.0	113,560	971	185,057	1,582	298,366	2,550
Steamboat Springs	127.0	123,266	971	185,013	1,457	347,032	2,733
Westminster 50	956.0	927,894	971	2,682,659	2,806	2,916,387	3,051
TOTAL	**20,617.5**	**$19,000,000**		**$40,498,520**		**$57,771,015**	

Other factors are also likely to increase the equalization calculation in future years, including changes in the number of schools that are authorized by CSI or their locations, the number of students enrolled in CSI schools, and changes in the value of district mill levy overrides per non-CSI pupil.

- In the last few years, the number of CSI schools has not changed substantially, but the number of students enrolled in CSI schools has increased. For the five year period from FY 2015-16 to FY 2020-21, CSI enrollment increased at a compound average annual rate of growth of 6.6 percent, while the compound average annual growth rate for the state enrollment as a whole was (0.4%) percent. This included an <u>increase</u> of 13.5 percent for CSI enrollment in FY 2020-21, and a <u>decrease</u> of 3.3 percent for the State as a whole in FY 2020-21.

- Even if CSI schools and pupil counts remain stable, over time the cost of equalizing funding for CSI students will increase if assessed valuation per non-CSI student increases.

CSI emphasizes that even if the State were to equalize operating mill levies, there are other areas in which its schools still are not equal, including local mill levies for bonds (which are not included in the calculation) and state "declining enrollment" support for districts which effectively increase many districts' per pupil revenue but in which CSI does not share. CSI is not pursuing equality in these areas, but presumably might in the future.

The Alternative - Authorization By Local School Districts
Charter schools and districts have a choice. They may be authorized by local districts or they may be authorized by CSI. Further, pursuant to H.B. 17-1375, charter schools that operate within school districts have equitable access to local funds, as well state funds. *Previous budget requests have indicated that*

many CSI schools could have been district-authorized charter schools. According to an FY 2018-19 budget request, of the portfolio of 41 CSI schools at that time, 13 were previously approved by local districts and transferred to CSI (schools choose CSI or local districts for a variety of reasons, including financial differences), six were new schools that were also approved by local districts but chose CSI, and 20 were new schools that did not even apply for authorization by a local district and went straight to CSI. Of that portfolio of schools, two were originally denied by a local district before applying to CSI. If those schools had been authorized by districts, they would have access to local revenues, as provided by H.B 17-1375.

Given funding sources, it is in the State's financial interest to have local districts authorize charter schools, rather than CSI.

CSI notes that there are multiple considerations when a school seeks CSI authorization and a school district allows CSI to authorize a school, rather than retaining the authority itself. From a financial perspective, a district may take into consideration mill levy sharing, impact on declining enrollment funding, impact on federal funding allocations, and costs to authorize. Beyond the financial, it may consider its influence on charter school programming and how this will affect the district's overall performance rating. Likewise, a school will consider issues such as mill levy/mill levy override equalization support, inclusion in future bonds, and distribution of state and federal funds, as well as accountability procedures and potentially caps on enrollment.

While staff recognizes that districts and schools have may considerations when selecting an authorizer, if the State ratchets up its support for CSI mill levy overrides using solely state funds, it builds incentives for schools to seek CSI authorization and districts to support this, since state funds, rather than local district funds, will cover mill levy override costs.

Legislation Option
CSI also seeks some statutory changes. These changes would:

- Provide continuous spending authority for the CSI Mill Levy Equalization fund, so that accrued interest can be expended.
- Add language to Section 22-30.5-513.1 (2)(b) to eliminate the requirement to distribute CSI mill levy equalization funds to multidistrict online charter schools
- Add language that would enable funds to be weighted to provide additional funding to historically underserved populations.

In response to staff questions about whether CSI wishes the JBC to carry related legislation, CSI responded that "CSI is currently exploring all options and is open to the JBC carrying legislation regarding changes to the Mill Levy Equalization distribution 22-30.5-513.1(2)(b) should that be the best approach for any statutory changes".

MEMORANDUM

JOINT BUDGET COMMITTEE

To	Members of the Joint Budget Committee
From	Amanda Bickel, JBC Staff (303-866-4960)
Date	March 14, 2022
Subject	Comeback for Department of Higher Education: SI Spending Authority for Gaming Revenue Rebound and HC1 History Colorado Resource Realignment

The following item was tabled during the Higher Education Figure Setting on March 9, 2022. The material from the figure setting packet is excerpted below.

➔ SI Spending Authority for Gaming Revenue Rebound and HC-1 History Colorado Resource Realignment

Request: **In Request HC1, submitted as part of the November 1, 2021 budget submission, History Colorado requested a net $0 budget reorganization and an increase of 21.0 FTE** reflected in the budget (with no associated dollar increase) to more closely align the organization's budget with its internal organization.

In mid-January 2022, History Colorado and OSPB informed JBC staff that History Colorado had insufficient spending authority to support FY 2021-22 expenditures approved by its board. This was due to unexpectedly high limited gaming receipts (received in early FY 2021-22 based on FY 2020-21 actual gaming revenue) combined with JBC action during the 2021 legislative session. For FY 2021-22, the JBC had moved to provide a $3.5 million General Fund appropriation for History Colorado COP payments in lieu of a gaming revenue appropriation for the COP payments. However, the $3.5 million in gaming revenue that was "freed up" as a result of this change had not been appropriated in other line items, as gaming revenue was not expected to rebound so quickly.

Based on this late-breaking information, staff recommended, and the JBC and General Assembly approved, adding a total of $2,039,480 cash funds and 17.0 FTE in the operating budget and an additional $650,000 cash funds in the capital budget for FY 2021-22.

Since that time, staff has been in discussion with History Colorado about the appropriate spending authority for FY 2022-23. As described above, staff believes the General Assembly needs to legislatively address the allocations between the original limited gaming recipients and the extended gaming recipients and make a technical correction to provisions in H.B. 20-1400 in light of the impact of 2020 Amendment 77. Pending such resolution, **for FY 2022-23 staff requested that History Colorado provide a plan for appropriations not to exceed $11,000,000 cash funds from the Museum Preservation and Operations Account of the State Historical Fund, including operating and capital amounts. This would imply total net receipts to the State Historical Fund of $27.5 million[1] or an increase of about 5.0 percent above the State Historical Fund's**

[1] As described above, the total deposited to the State Historical Fund is apportioned via the Constitution and statute as 20.0 percent for historical preservation projects in gaming cities, with the remaining 80 percent allocated as follows: 50.1 percent to the Preservation Grants Program Account

FY 2018-19 limited gaming receipts. *Actual receipts may be above or below this based both on total gaming revenue received at the end of FY 2021-22 and legislative action.* However, staff believes this represents a reasonable middle-ground estimate. If actual receipts are below this, History Colorado will only be able to spend as much revenue as is available. If actual receipts are above this, it may request a supplemental for FY 2022-23 or submit a decision item for FY 2023-24.

History Colorado's proposal, including appropriations from the Museum Preservation and Operations Account at the $11.0 million level, organized consistent with its proposal for HC1 Resource Realignment, is reflected below.

- The November 1 request included 21.0 FTE notations but no associated dollars.
- The current request includes 23.5 FTE notations (2.5 more than the November 1 request) and adds additional spending authority from limited gaming revenue deposited to the Museum and Preservation Operations Account of the State Historical Fund.

History Colorado Summary of Proposed Funding and Reorganization					
		Nov 1, 2021 Req.	FTE	Revised Request	FTE
Central Administration		**$1,248,802**	**12.0**	**$2,106,633**	**12.0**
	Federal Funds (Informational)	$116,342	0.0	$116,342	0.0
	Museum and Preservation Operations Account	1,132,460	12.0	1,990,291	12.0
Collections and Curatorial Services		**1,131,235**	**16.0**	**1,208,343**	**16.5**
	Museum and Preservation Operations Account	1,131,235	16.0	1,208,343	16.5
Facilities Management		**1,515,065**	**10.0**	**1,828,258**	**10.0**
	Museum and Preservation Operations Account	1,365,065	10.0	1,678,258	10.0
	Enterprise Services Cash Fund	150,000	0.0	150,000	0.0
Historical Site Maintenance		**702,685**	**5.0**	**726,781**	**5.0**
	Museum and Preservation Operations Account	402,685	5.0	426,781	5.0
	Community Museums Cash Fund	300,000	0.0	300,000	0.0
Lease Purchase of Colorado History Museum		**3,525,209**	**0.0**	**3,525,209**	**0.0**
	General Fund	3,525,209	0.0	3,525,209	0.0
History Colorado Center		**948,569**	**7.0**	**982,304**	**7.0**
	Reappropriated Funds (SHF Indirect Cost Recovery)	325,000	0.0	325,000	0.0
	Federal Funds (Informational)	77,989	0.0	77,989	0.0
	Enterprise Services Cash Fund	545,580	7.0	545,580	7.0
	Museum and Preservation Operations Account	0	0.0	33,735	0.0
Community Museums		**2,225,563**	**19.0**	**2,817,129**	**19.0**
	General Fund	1,061,750	5.0	1,061,750	5.0
	Federal Funds (Informational)	3,003	0.0	3,003	0.0
	Museum and Preservation Operations Account	332,383	0.0	923,949	0.0
	Community Museums Cash Fund	828,427	14.0	828,427	14.0
Statewide Programming		**2,707,460**	**33.5**	**4,133,807**	**34.5**
	Museum and Preservation Operations Account	118,796	0.0	1,545,143	1.0
	Enterprise Services Cash Fund	2,588,664	33.5	2,588,664	33.5
Office of Archaeology and Historic Preservation		**1,511,731**	**20.0**	**1,822,756**	**23.0**
	Reappropriated Funds (OEDIT)	97,283	0.0	97,283	0.0
	Federal Funds (Informational)	785,025	0.0	785,025	0.0
	Museum and Preservation Operations Account	629,423	20.0	880,448	21.0
	Enterprise Services Cash Fund	-	0.0	60,000	2.0
OAHP State Historic Preservation		**105,000**	**2.0**	**0**	**0.0**

of the State Historical Fund and 49.9 percent to the Museum Preservation and Operations Account of the State Historical Fund.

History Colorado Summary of Proposed Funding and Reorganization					
		Nov 1, 2021 Req.	FTE	Revised Request	FTE
	Museum and Preservation Operations Account	45,000	0.0	0	0
	Enterprise Services Cash Fund	60,000	2.0	0	0
Preservation and maintenance projects - Capital Construction Budget		**210,000**	**0.0**	**385,000**	**0.0**
	Museum and Preservation Operations Account	210,000	0.0	385,000	0.0

Recommendation: The staff recommendation below is based on the proposal above and includes History Colorado's desired allocation of additional gaming revenue in the Museum and Preservation Operations Account, up to the $11.0 million level, consistent with History Colorado's proposed HC1 Resource Realignment. The adjustments are summarized in the tables below.

- The first table shows the changes in gaming revenue appropriations and total History Colorado FTE from the original FY 2021-22 appropriation to the FY 2022-23 recommendation. This table includes *all* appropriations and estimated appropriations from the Museum and Preservation Account throughout the Department and the capital budget as of the date this document was produced.
- The second table shows the adjustments by line item, fund source, and FTE between the FY 2021-22 appropriation after supplemental adjustments and the new FY 2022-23 recommendation. This table includes *only* adjustments in the History Colorado division related to HC1.

Staff Initiated Adjustments for Limited Gaming Revenue & Request HC1				
	Appropriations from the Museum and Preservation Operations Account of the State Historical Fund			All History CO
	Operating Budget including Centrally Appropriated and Indirect Cost Collections	Capital Budget*	Total	FTE
FY 2021-22 Enacted	$7,458,331	$210,000	$7,668,331	120.5
FY 2021-22 Supplemental	2,039,480	650,000	2,689,480	17.0
FY 2021-22 Enacted after Supplemental	9,497,811	860,000	10,357,811	137.5
FY 2022-23 Recommended Changes	1,117,189	(475,000)	642,189	6.5
FY 2022-23 Total Recommendation*	**$10,615,000**	**$385,000**	**$11,000,000**	**144.0**

*Capital budget amounts for FY 2022-23 reflect recommendations from the Capital Development Committee.

Recommended Additional Gaming Spending Authority and HC1 Resource Realignment - Operating Budget - History Colorado Section Only					
	Total Change from FY 2021-22 After Supplemental		Cash Fund Source Detail		
	Cash Funds	FTE	Gaming - Operations Account	Enterprise Services CF	Community Museums CF
Central Administration					
Central Administration	$57,831	(2.0)	$207,831	($150,000)	$0
Collections and Curatorial Services [New line item]	1,208,343	16.5	1,208,343	0	0
Facilities Management	313,193	2.0	163,193	150,000	0

Recommended Additional Gaming Spending Authority and HC1 Resource Realignment - Operating Budget - History Colorado Section Only					
	Total Change from FY 2021-22 After Supplemental		Cash Fund Source Detail		
	Cash Funds	FTE	Gaming - Operations Account	Enterprise Services CF	Community Museums CF
Historical Site Maintenance and Operations [New line item]	726,781	5.0	426,781	0	300,000
History Colorado Museums					
History Colorado Center	(4,544,440)	(48.0)	(1,955,776)	(2,588,664)	0
Community Museums	(611,119)	(4.5)	(311,119)	0	(300,000)
Statewide Programming [New line item]	4,133,807	34.5	1,545,143	2,588,664	0
Office of Archeology & Historic Preservation					
Program Costs	206,025	3.0	206,025	0	0
Total*	**$1,490,421**	**6.5**	**$1,490,421**	**$0**	**$0**

*Total changes differ from the previous table because this table shows only changes in the History Colorado division and excludes adjustments for S.B. 18-200 and centrally appropriated amounts. Increases in gaming appropriations in the History Colorado division are partially offset by reductions in appropriations in centrally appropriated amounts.

- This recommendation is still subject to adjustments, based on the Committee's final decisions on centrally appropriated amounts for Payments to OIT and legal services. **Staff requests permission to adjust the total amount in consultation with History Colorado so that spending authority from the Museum and Preservation Operations Account in the FY 2022-23 Long Bill does not exceed $11,000,000.**

- In addition to the changes shown above, to align with spending authority from the Museum and Preservation Operations Account of the State Historical Fund, **staff is also recommending total adjustments of $1,060,000 cash funds to History Colorado informational amounts** that estimate spending from limited gaming revenue in line items with continuous spending authority. These include:
    - **An increase of $440,000, to $8,690,000 cash funds, for Preservation Grants** from the Preservation Grants Program Account of the State Historical Fund. This will increase amounts shown in the budget from this Account to just over $11,050,000. Pursuant to Section 44-30-1201, the Preservation Grant Program Account receives 50.1 percent of the money deposited in the State Historical Fund for by History Colorado (the State Historical Society), while the Museum and Preservation Operations Account receives 49.9 percent of the money deposited for use of History Colorado (both allocations occur after 20.0 percent of the money in the State Historical Fund is allocated for historic preservation in gaming localities). **Funds spent for historic preservation grants are continuously appropriated to History Colorado, so this adjustment is for informational purposes only.**
    - **An increase of $620,000, to $5,500,000, for distributions to gaming cities for historical preservation.** This represents the 20.0 percent share provided to the gaming cities from the State Historical Fund under Constitutional provisions, if total revenue to the State Historical Fund is $27.6 million.

Both of the figures are derived from an assumption of $27.6 million deposited to the State Historical Fund, which is the amount that would be required to support expenditures of $11.0 million from the Museum and Preservation Operations Account of the State Historical Fund.

ANALYSIS:

Budget Reorganization: The primary changes in the reorganization involve creating three new line items--Collections and Curatorial Services; Historical Site Maintenance and Operations; and Statewide Programming--and moving funds into these line items from other existing line items. History Colorado's original HC1 submission, which included a request for 21.0 FTE but $0 dollars emphasized the following reasons for the change:

- **The adjustment aligns the appropriation to the organization's current structure,** consistent with the agency's efforts to improve its management and financial position. The request notes that one of History Colorado's Wildly Important Goals is to work, communicate, and serve as a unified institution. The impact of the pandemic has accelerated this transformation, so that programs, exhibitions, education, publications and work culture are no longer as site-based and represent holistic statewide services. The proposed reorganization reflects this. The changes will better allow History Colorado to assess the cost of each of activities and comply with federal indirect cost accounting principles. As one example of current misalignment, the request notes that Collections Access and Curatorial Services are included in the History Colorado Museum line item, which is primarily funded by earned revenue. At the same time museum security is included in the Facilities Management line item. The changes will address these misalignments, among others.

- **The adjustment modifies the fund sources and FTE levels of many existing appropriations. This is driven by History Colorado bringing in-house many previously vendor-provided solutions.** This approach has allowed History Colorado to save costs and better tailor many of its programs and communications to target audiences and communities. Examples of these include managing the gift shop at the History Colorado Center and providing security services internally.

Staff believes History Colorado's explanation of the reasons for these changes is reasonable. Further, only dollars and not FTE are subject to appropriation by the General Assembly. Thus, staff prefers to reflect FTE notations that reflect an agency's actual practice.

Additional Gaming Revenue: **As discussed when staff recommended increasing spending authority for History Colorado for FY 2021-22 on a supplemental basis, Staff understood that approving additional spending authority for History Colorado cash funds was consistent with the JBC's intent when it added General Fund for History Colorado COPs.**

- Prior to the pandemic, History Colorado was receiving $10.5 million per year in limited gaming revenue that was deposited to the Museum and Preservation Operations Account of the State Historical Fund and appropriated to support museum and program operating costs.[2] At the time,

[2] The *Constitution* allocates 28.0 percent of the revenue for original (pre-amendment 50) limited gaming recipients to the Historical Society and, of this amount, 20 percent must be allocated for preservation activities in the gaming localities. Of the remaining 80 percent, *statute* directs the "majority share" of 50.1 percent to the statewide preservation grant program.

these funds were supporting museum operations, some community museum capital expenses, programming, and History Colorado Certificate of Participation (COP) payments. As a result of casino closures in spring 2020, the revenue available for this purpose fell to just $5.7 million for FY 2020-21, a reduction of $4.8 million.

- **During figure setting for FY 2021-22, in a Committee-initiated action, the JBC voted to refinance History Colorado's entire annual COP payment ($3.5 million** beginning in FY 2021-22), replacing cash funds appropriated from the Museum and Preservation Operations Account to General Fund on an ongoing basis. **Staff's understanding was that this action was intended to address History Colorado acute funding shortfalls that resulted from the pandemic and also to address a longstanding challenge, highlighted in History Colorado's October 2019 Strategic Plan, that History Colorado did not have sufficient revenue to achieve its mission.** History Colorado's challenges dated to 2008. In this year, the General Assembly authorized construction of a new history museum to be funded through COPs paid for using History Colorado gaming revenue. Payments started at $3.0 million. Later in 2008, voters adopted amendment 50, and then recession hit the gaming industry, and the Gaming Commission adjusted tax rates, reducing History Colorado's gaming revenue available for museum operations. The combination of high COP payments and reduced gaming revenue resulted in a structural deficit. Although History Colorado closed this deficit through deep cuts and some additional General Fund support, its financial situation has remained precarious for the last decade. The recommendation from History Colorado's 2019 strategic planning process was to seek addition state support for its COP payments. The goal was to provide sufficient revenue that History Colorado could increase its impact. The expectation outlined in the Strategic Plan was that History Colorado would use the revenue no longer required for COPs to support other parts of its mission.

- **Staff understood the JBC's funding action for FY 2021-22 as a decision to implement the History Colorado Strategic Plan recommendation, including enabling History Colorado to redirect gaming revenue to other needs**. However, at the time, both History Colorado and JBC Staff expected gaming revenue available for FY 2021-22 would remain fairly low. While the forecasts for gaming revenue earned in FY 2020-21 improved throughout the year, neither History Colorado nor JBC Staff anticipated that revenue would rebound to close to FY 2018-19 levels and strain existing spending authority. **Staff presumes that providing additional spending authority both in FY 2021-22 and in FY 2022-23 and future years will enable History Colorado to implement its Strategic Plan. This, in turn, seems consistent with the Committee's previous action.**

History Colorado Goals and Performance: **History Colorado's plans and performance should receive ongoing scrutiny by the JBC and General Assembly.** Although the money requested is cash funds spending authority and can only be spent for History Colorado activities, if the General Assembly is dissatisfied with History Colorado museum operations, it could place funds in different History Colorado line items, reduce the state General Fund support currently provided to History Colorado (for COPs and community museums), or implement statutory changes to direct a greater share of revenue back to the Statewide Preservation Program.

History Colorado museums, programs, and various capital expenses are funded from the remaining "minority share" of 49.9 percent deposited in the Museum and Preservation Operations Account of the State Historical Fund.

History Colorado's 2019 Strategic Plan promised that, with additional resources, History Colorado would "engage 1 million people annually by 2025". The plan was to double the number of people History Colorado engaged with from 563,750 in FY 2018-19. The pandemic has significantly affected implementation, but History Colorado continues to identify this as its central goal. History Colorado's 1 million goal is now defined as based on "**interpersonal engagement**", defined as "in-person and digital activities in which we have direct engagement and participation with our audiences who are actively involved at the moment (e.g., live-streamed or in-person events, admissions, research visits)". To the extent the JBC action is funding the Strategic Plan, it seems particularly important to track History Colorado's outcomes. The following tables are from its FY 2021-22 Performance Plan.[3]

Actual Performance:

SPI 1 – Engage One Million People Annually by 2025

The big idea of this plan is Double Our Impact! History Colorado focuses on human-to-human interaction and engagement because it is the best opportunity for the organization to generate a meaningful relationship with audiences and Colorado residents.

Measure	Base	FY 17	FY 18	FY19	FY20	**FY 21 End Period 11**	FY 21 Goal
Interpersonal Engagement*	571,860	507,496	550,971	553,288	454,115	208,712	280,565
Independent Engagement**	1,028,319	55,161	178,230	316,172	1,150,488	1,360,088	1,196,423
Social Engagement**	533,988	n/a	187,457	539,840	874,668	757,933	946,778

Due to Covid-19, human to interpersonal engagement continues to be down 75% from base levels. Over the last quarter, there has been an uptick in museum visitors and at the end of April, Georgetown Loop will be operating again.

***** At the end of the fiscal year 2019-20, there was an abnormal spike in independent engagement that has since leveled to typical trends. For this year we are seeing a consistently higher trend than we have in previous years.***

Goal:

Engagement Type	Base	June 30, 2022	June 30, 2023 (One-year goal)	June 30, 2025 (Three-year goal)
Interpersonal Engagement*	571,860	608,343*	797,347	1,014,341
Independent Engagement	1,028,319	1,398,523	1,623,523	2,281,807
Social Engagement	533,988	793,642	935,295	1,315,541

* For FY 2021-22 a reduction in attendance is still expected from targeted growth rates every year. While this number is above base, it is not expected to meet our target growth goals set in the strategic plan

[3] https://drive.google.com/file/d/1NtJ253U_x0ZQtaYrY518AV2vnu-ejEVw/view

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (303-866-4960)
DATE	March 18, 2022
SUBJECT	Staff Comeback - Auraria Higher Education Center Supplemental

During figure setting for the Department of Higher Education (AHEC), the Committee voted to provide a supplemental appropriation for FY 2021-22 for Auraria Higher Education Center bond payments of $6,100,000 cash funds from the Revenue Loss Restoration Cash Fund from money originating as federal Coronavirus State Fiscal Recovery Funds. The Committee also anticipated that higher education institutions on the campus would contribute no less than $2.0 million.

In a comeback on March 14, 2022, the Governor's Office of State Planning and Budgeting noted that the Coronavirus State Fiscal Recovery Funds may not be used for bond payments. Based on further review, JBC Staff and the Office of Legislative Legal Services concur with OSPB. **The General Assembly may provide <u>either</u> federal funds for other AHEC costs <u>or</u> General Fund for bond payments, but may not appropriate federal funds for bond payments.**

Based on further information from AHEC, staff has also been able to obtain clarification on AHEC's legal structure and the size of its "enterprises". This is relevant because of the TABOR implications of providing AHEC with General Fund, instead of federal funds, for bond payments.

Based on the additional information collected, which is described further below, **if the JBC wishes to provide funding for AHEC, <u>staff's revised recommendation would be for the JBC to retract its prior action to provide $6,100,000 cash funds (originating as federal funds) and to instead appropriate General Fund for bond payments for AHEC's auxiliary enterprises</u>. Further, if the JBC wishes to avoid any TABOR implications from contributing General Fund, it should consider:**

- Authorizing $3,269,486 General Fund for bond payments for the Tivoli Auxiliary Enterprise; and
- Authorizing no more than $800,000 General Fund for AHEC's Parking Auxiliary Enterprise so that state grants for FY 2021-22 remain below 10.0 percent of total revenue for the Parking Auxiliary Enterprise. Based on Committee action to-date, staff understands that the JBC has authorized $2,830,514 for the Parking Auxiliary Enterprise ($6,100,000-$3,269,486 for the Tivoli enterprise)

This would be a <u>total of $4,069,486, which is less than the $6,100,000 the JBC previously approved</u>. Staff suggests a lower amount for the parking enterprise than was previously approved so that the parking enterprise can regain enterprise status that it lost in FY 2020-21.

AHEC LEGAL AND FINANCIAL STRUCTURE

Auraria Higher Education Center has provided the following additional information about its legal structure.

- Most of AHEC is considered part of the State "district" for TABOR purposes. This includes the portions of AHEC that receive funds transferred from the three higher education institutions on the AHEC campus. Providing state funding to this component of the operation would have no TABOR impact because related revenue is already counted as revenue to state government.[1] However, as discussed in the staff figure setting document, legal authority to provide operating support for this portion of AHEC's operations is not clear, and providing an operating appropriation would set a precedent which could be problematic.

- AHEC has *two* TABOR enterprises, one for its parking auxiliary and one for the Tivoli Center and related activities.

The table below summarizes the revenue to AHEC from these two auxiliary entities, as opposed to the balance of its operation. As shown, both auxiliary enterprises are small.

AURARIA HIGHER EDUCATION CENTER REVENUE				
	FY 2019-20 ACTUAL	FY 2020-21 ACTUAL	FY 2021-22 ESTIMATED	FY 2022-23 PROJECTED[1]
Enterprise: Student Facilities Auxiliary Revenue	$18,825,228	$12,295,398	$11,508,821	$11,933,800
Enterprise: Parking Auxiliary Revenue	9,130,177	1,803,958	8,370,000	9,996,547
Supplemental Appropriations (state & institutional funds) - Action to-date[2]	0	5,500,000	*8,100,000*	0
Other Revenue	41,325,406	29,305,579	32,943,013	33,051,137
Total	**$69,280,811**	**$48,904,935**	**$60,921,834**	**$54,981,484**

[1]Based on projections provided for figure setting and detailed in the figure setting document. These projections are uncertain, and AHEC has provided other estimates for its FY 2022-23 enterprise revenue at other times.
[2] FY 2020-21 amount includes $2.75 million from State and $2.75 million from institutions. FY 2021-22 amount reflects Committee action so far to authorize $6.1 million and institutions' commitment of $2.0 million.

ALLOWED STATE APPROPRIATIONS FOR AHEC

The JBC sponsored S.B. 21-109 during the 2021 legislative session to enable the General Assembly to provide an appropriation to help support AHEC's parking enterprise. Provisions added in this bill at Section 23-70-108 (2)(b), C.R.S., state that "for the 2020-21 and 2021-22 state fiscal years only, existing bonds for *auxiliary* facilities or groups of auxiliary facilities managed by the Auraria board…may be payable from other sources, including money contributed by constituent institutions….and from money appropriated to the board by the General Assembly." [emphasis added]

Staff notes that AHEC *also* has authority to issue revenue bonds secured by a pledge of rental payments or other payments from the constituent institutions on the AHEC campus which are payable only from money received from the constituent institutions (Section 23-70-108(4), C.R.S.). The changes adopted in S.B. 21-109 relate **only** to AHEC auxiliary facilities.

In response to staff questions, AHEC has reported that it has a total of $6.4 million in FY 2021-22 bond payments related to its auxiliary enterprises.

[1] AHEC also reports that it has worked with the institutions on the campus to ensure that the revenue it receives from the institutions on the campus, which are themselves enterprises, are not treated as revenue to the State. This revenue is instead treated as a transfer of state funds within state government that is received by AHEC prior to the distribution of state funds to the institutions.

FY 2021-22 Auraria Higher Education Center Bond Payment Obligations	Total FY 2021-22 Obligations
Bonds Paid by Auxiliaries	
Tivoli Student Union and Quad (Student Bond Fund Auxiliary Fund)	$3,269,486
Construction of Parking Garages (Paid via Parking Auxiliary)	3,165,085
Total for Auxiliary Enterprises	**$6,434,571**
Other bond payments (Admin & science buildings, land acquisition)	$4,038,403

Significance of Enterprise Status & Current Status of AHEC TABOR Enterprises

As discussed in a staff memo dated March 9, 2022, *Enterprise Status of State Institutions*, loss of enterprise status for a single year has no impact on State TABOR revenue, because the Referendum C cap is adjusted when an enterprise disqualifies as an enterprise or re-qualifies as enterprise. However, **when an enterprise is disqualified for more than one year, its *growth* becomes relevant.** For additional background, see the staff memo at this link: https://leg.colorado.gov/sites/default/files/hed-03-09-22.pdf

Although AHEC's Parking Enterprise is small, providing substantial additional funding in FY 2021-22 could be problematic.

- AHEC's Parking Enterprise lost enterprise status in FY 2020-21 based on the state funding provided for the enterprise.
- The total revenue to AHEC's parking enterprise is projected to increase sharply in FY 2021-22 because it was so low in FY 2020-21.
- Given this, even with little state support, AHEC parking enterprise's FY 2021-22 rate of growth will represent an increase far above the rate of increase in the Referendum C cap. The impact of this will be to "drive out" FY 2021-22 General Fund revenue that the State would otherwise be able to keep.

In light of these factors, staff recommends that the JBC consider contributing less than 10 percent of this enterprise's revenue in grants in FY 2021-22 so that AHEC's parking enterprise can recover enterprise status. Note that AHEC's parking enterprise is so small that it does not require a vote of the people to regain enterprise status under the provisions of Prop 117.

Auraria Higher Education Center Parking Enterprise Revenue					
	FY 2020-21	FY 2021-22 Action To-date	Change	FY 2021-22 Revised Option	Change
Earned Revenue	$1,803,958	$8,370,000		$8,370,000	
State Supplemental Support	2,750,000	2,830,514		800,000	
Institutional Support	2,750,000	0		0	
Total	**$7,303,958**	**$11,200,514**	**$3,896,556**	**$9,170,000**	**$1,866,042**
% Change			**53.3%**		**25.5%**

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Justin Brakke, JBC Staff (303-866-4958)
DATE	March 11, 2022
SUBJECT	JBC staff comebacks for the Department of Public Safety's Division of Criminal Justice (DCJ)

This packet includes the following items: FY 2021-22 community corrections savings options, Staff-initiated double facility payments FY 2022-23, and R12 Community corrections information and billing system

➔ JBC-INITIATED FY 2021-22 COMMUNITY CORRECTIONS SAVINGS OPTIONS

The Committee tabled this item to allow more time to consider options for utilizing $8.6 million in caseload-related savings within community corrections.

ADDITIONAL INFORMATION

JBC staff received informal input (unsolicited by JBC staff) from the Governor's Office of State Planning and Budgeting (OSPB), a lobbyist representing the Colorado Community Corrections Coalition, and a community corrections provider.

OSPB Proposal

- Approve DCJ's FY 2021-22 supplemental request to reduce appropriations for Community Corrections Placements by $8,564,357 General Fund (which JBC staff recommended approving).
- Provide a 3rd facility payment in FY 2021-22 costing up to $3.9 million General Fund, but do not provide a double facility payment in FY 2022-23 as discussed during the initial figure setting presentation.
- Sponsor legislation to create a performance-based contracting (PBC) cash fund and transfer $3.1 million into that new fund for future PBC payments.

Coalition Proposal

- Up to $3.9 million General Fund to provide a 3rd facility payment in FY 2021-22.
- Use an estimated $3.7 million General Fund to eliminate subsistence fees for remainder of FY 2021-22.
- Use $580,000 to further boost per-diem rates for remainder of FY 2021-22.
- Use remainder of $420,000 for future PBC payments

The community corrections provider indicated a preference to eliminate the subsistence fee assumption and boost per diem rates accordingly.

JBC staff was unable to determine the number of providers that fully or partially waive subsistence fees. DCJ does not ask providers to report whether they waive subsistence fees. However, DCJ mentioned that Intensive Residential Treatment (IRT) clients are not charged subsistence fees because IRT is a 90 day program and clients are not expected to work. Residential Dual Diagnosis Treatment programs do not charge subsistence for the first 30 days of an offender's stay. JBC staff posed the question to a third party but did not receive a response.

ORIGINAL DECISION ITEM

The Department submitted an FY 2021-22 supplemental request to reduce appropriations for community corrections by $8.6 million General Fund in FY 2021-22. The requested reduction aimed to capture savings from lower-than-expected caseload in the first half of the fiscal year.

Staff recommended approval of the request, but included alternative options to use these savings within community corrections. The JBC indicated that it wanted more time to consider these options. Staff suggested that the Committee could choose an option figure setting for FY 2022-23 and make changes to current year appropriations through a Long Bill add-on. This decision item provides the Committee with an opportunity to choose alternative uses for current year savings.

REQUEST: The Department did not request this decision item, but is aware of it. The Governor's Office of State Planning and Budgeting (OSPB) says, "Our preference would be to revert the funds as originally stated in the Governor's request. However, if the committee insists on doing more, OSPB would be amenable to taking a small portion of the $8M ($1-2M) to make a one-time payment to providers."

OPTIONS FOR THE COMMITTEE'S CONSIDERATION

These options are not ordered according to importance. They are the largely the same options offered to the Committee during the January 14, 2022 presentation on DCJ's FY 2021-22 supplemental requests. Staff updated (and corrected, in some cases) the calculations from that presentation. Staff also included additional variations on the previously-discussed concepts, **but still recommends that the Committee consider $8.6 million as the amount to work within**. This provides a sufficient buffer within the appropriation to allow for unexpected caseload growth.

Staff notes that the focus here is on General Fund line items. Certain increases to General Fund-supported per-diem rates could require corresponding increases in reappropriated funding from the Correctional Treatment Cash Fund for condition-of-probation placements. If that does not happen, the current appropriation would support fewer condition-of-probation placements. Staff would have to work the DCJ and the JBC staff analyst for the Judicial Department to determine whether an increase is necessary and, if so, whether the Correctional Treatment Cash Fund could support it.

OPTION #1: **Boost per-diem rates effective April 1-June 30, 2022**. Each 1.0 percent increase using the actual caseload through November 2021 as a constant from April 1-June 30 would cost about $116,041 General Fund more than doing nothing. Thus an increase of 5.0 percent would cost $580,204

If the average daily caseload from April-June 2022 is 10.0 percent higher than November 2021, the impact of a 1.0 percent increase would cost about $1.3 million General Fund more than doing nothing. With a 5.0 percent increase in per-diem rates, it would cost about $1.8 million General Fund.

OPTION #2: **Provide a third facility payment.** Reallocate approximately $3.9 million General Fund from the *Community Corrections Placements* line item to the *Community Corrections Facility Payments* line item. This provides a one-time payment of approximately $137,000 to each community corrections facility.

OPTION #3: **Eliminate the offender subsistence fee assumption for April-June 2022 and increase per-diem rates accordingly.** Increase the standard residential per-diem rate to $67.00, all residential specialized rates (except Cognitive Behavioral Therapy) to $100.00, and $3.00 for non-residential rates. This would cost about $3.7 million General Fund more than doing nothing if the ADP for April-June 2022 is the same as the actual ADP through November 2021. If the ADP is 10.0 percent higher than the ADP through November 2021, staff estimates the cost at about $5.2 million.

OPTION #4: **Do nothing in FY 2021-22, let the funds revert, and use the savings to eliminate the offender subsistence fee assumption in FY 2022-23.** Increase the standard residential per-diem rate to $67.00, all residential specialized rates (except Cognitive Behavioral Therapy) to $100.00, and a $3.00 increase for non-residential rates. Using DCJ's estimated caseload for FY 2022-23, this action would require an increase of $8,016,835 General Fund relative to the current appropriation of $66,063,973 General Fund for the *Community Corrections Placements line item*. Relative to staff's recommendation for FY 2022-23 in a separate decision item, the appropriation would be about $16.0 million higher.

Staff notes that if the community corrections ADP increase to pre-pandemic levels sometime in the future (whether FY 2022-23 or a future year), appropriations would increase by $22,797,953 General Fund relative to the current appropriation.

If the Committee chooses this option, staff recommends pairing it with the following actions:
- Eliminate the *Community Corrections Facility Payments* line item, which would save about $4.0 million General Fund.
- Permanently remove community corrections line items from the provider rate common policy base and tie future rate increases exclusively to performance measures within a performance-based contracting model.

OPTION #5 [REQUIRES LEGISLATION]: **Set aside some of the current year savings in a new cash fund as a backstop for future performance-based contracting payments.** Introduce legislation as part of the Long Bill package to create an annually-appropriated Community Corrections Performance-based Contracting Cash Fund. Transfer $1.0-$5.0 million General Fund into this cash fund in FY 2021-22. The only allowable use would be to support performance-based incentive payments. This provides a backstop for these payments in tight budget years. This cash fund would expire in FY 2027-28.

➔ STAFF-INITIATED DOUBLE FACILITY PAYMENTS

The Committee tabled this decision item to obtain information about the spending plans that providers submitted to be eligible for an extra FY 2021-22 facility payment. Staff recommended a similar spending plan requirement for a double payment in FY 2022-23.

ADDITIONAL INFORMATION

The following table shows the proposed spending amounts for the second facility payment allocated to providers by DCJ in early 2022. Actual expenditures will not be known until after the end of the current fiscal year. DCJ reports that they requested changes to some plans and denied one. DCJ also noted that some programs/boards have not submitted spending plans. Staff will provide additional detail for the Intervention Community Corrections Services subtotal during the comeback presentation.

Summary of Spending Plans for FY 2021-22 Extra Facility Payment	
Staffing	**Amount**
Retention Bonus	$1,202,015
Other Staff Costs	367,187
Hiring Bonus	133,500
Pay Increases	83,400
Holiday Bonus	29,000
Referral Bonus	6,500
Subtotal staffing	**$1,821,602**
COVID	**Amount**
COVID Facility Changes	112,069
General COVID Related Items	62,700
Other COVID Supply Costs	10,500
COVID Sick Leave for Staff	10,000
Subtotal COVID	**$195,269**
Subtotal for Intervention Community Corrections Services	**671,836**
Total	**$2,688,707**

REQUEST: The Department did not request this item, but recommended it in a response to a JBC request for information.

RECOMMENDATION: Staff recommends an increase of $4,024,686 General Fund for FY 2022-23. This amount accounts for a reduction in the number of providers in the state, applies the 2.0 percent common policy provider rate adjustment, and then doubles the appropriation on a one-time basis for FY 2022-23. The following table shows staff's calculations. Based on these calculations, most providers would receive a total of $280,228 in FY 2022-23.

DOUBLE FACILITY PAYMENT CALCULATIONS	
	AMOUNT
FY 21-22 appropriation	$4,299,753
FY 21-22 payment	$137,367
FY 22-23 # of facilities	28
Subtotal needed FY 22-23 base appropriation	**$3,846,276**

Double facility payment calculations	
	Amount
Facilities with 32 or more security staff	2
Extra payment for those facilities	$274,734
Total needed FY 22-23 base appropriation	**$4,121,010**
Incremental change FY 21-22 to FY 22-23	($178,743)
Starting FY 2022-23 appropriation	$4,121,010
Provider rate common policy increase	2.0%
Impact of common policy change	$82,420
Subtotal FY 22-23 base appropriation + common policy	**$4,203,430**
Total appropriation for double facility payment in FY 22-23	**$8,406,860**

Staff also recommends revising the Long Bill footnote for the *Community Corrections Facility Payments* line item. The purpose of this revision it to indicate the General Assembly's intent that this extra payment go toward performance-enhancing measures. It also includes language to indicate an expectation that providers will provide a plan to their local community corrections boards and DCJ.

> THE AMOUNT OF THE APPROPRIATION ASSUMES THAT THE DEPARTMENT WILL PROVIDE AN EQUAL PAYMENT TO ALL PROGRAMS, WITH THE EXCEPTION THAT FACILITIES WITH AN AVERAGE OF 32 OR MORE SECURITY FTE WILL RECEIVE A SECOND FACILITY PAYMENT. IT IS THE GENERAL ASSEMBLY'S INTENT THAT PROGRAMS USE THESE FUNDS TO INVEST IN PERFORMANCE-ENHANCING MEASURES, INCLUDING BUT NOT LIMITED TO EMPLOYEE RECRUITMENT AND RETENTION. THE GENERAL ASSEMBLY FURTHER EXPECTS THAT PROGRAMS WILL PROVIDE A PLAN FOR THE USE OF THESE FUNDS TO THEIR LOCAL BOARDS AND THE DIVISION OF CRIMINAL JUSTICE AND MAINTAIN RECORDS THAT CAN SHOW HOW THESE FUNDS ARE USED.

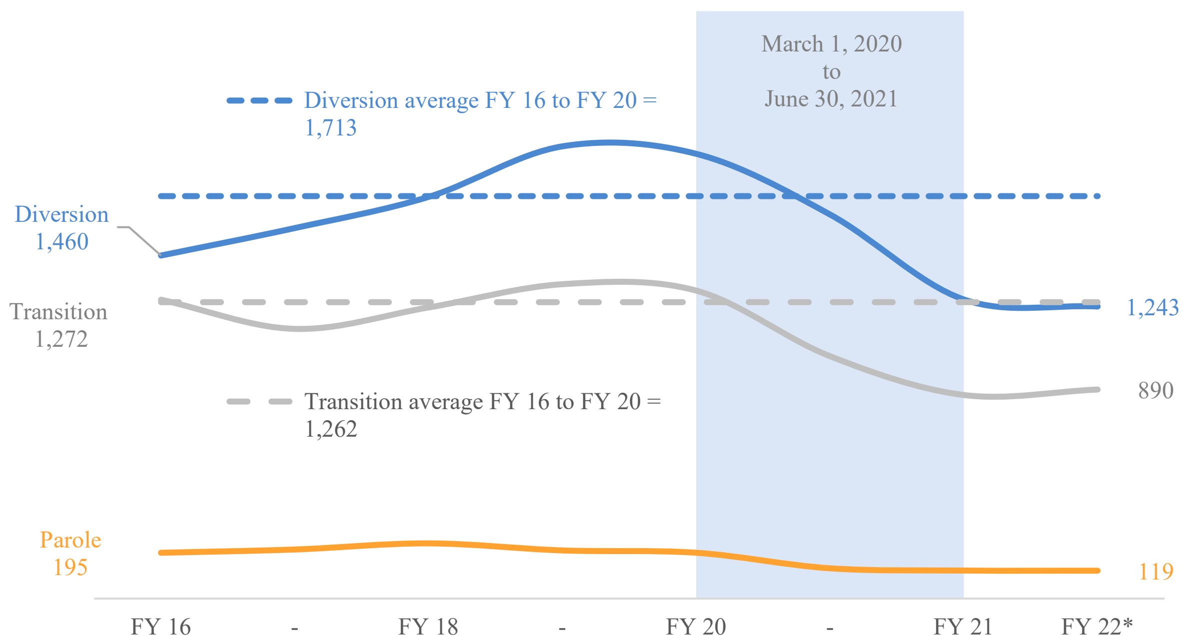
ANALYSIS:

During the FY 2021-22 Long Bill process, the Committee approved a Request for Information (RFI) related to performance-based contracting. In its response to that RFI, the Department included the following recommendation:

> "[During stakeholder meetings], concerns were also raised regarding the investment needed to improve quality services and earn incentive funding. More specifically, concerns were raised that lower performing programs would not have the funding needed to improve and earn incentive funding before the base per diem starts to be lowered. The department recommends allocating an additional facility payment in Fiscal Years 2022-23 and 2023-24…This additional funding would allow programs to make upfront investments in training, coaching, curriculums, and other areas that will improve their performance on the Standards.

As JBC staff noted in the January 14, 2022 briefing on DCJ's supplemental requests, the number of placements in the community corrections system dropped dramatically in FY 2020-21 and remains lower than the historical norm.

Average daily number of residential placements in community corrections
FY 2015-16 through November 2021



**FY 2021-22 figure represents caseload through November 30, 2021*

Anecdotal reports suggests this reduction has taken a toll on provider revenue. Though staff does not have access to financial data for the 28 providers in the state, staff believes the reports. The logic is simple; if per-diem rates do not increase to compensate for fewer placements, revenue will go down unless providers develop alternative funding streams.

In FY 2021-22, the Division provided an extra facility payment to providers. The Department's RFI response proposes to continue this practice through FY 2022-23 and FY 2023-24. Staff concludes that this is a reasonable course of action, though other people may reach a different conclusion. Providing extra facility payments would help providers to invest in performance-enhancing measures amid low census numbers and reduced revenue. This could include, but is not limited to, employee recruitment and retention. Based on the intent of the recommendation and the Long Bill footnote, the only disallowable use of these funds would be to pocket them for future use or boost profit margins. Staff revised the footnote to indicate an expectation of accountability for the use of these funds.

This is a one-time funding decision and would be annualized out of the FY 2023-24 budget request. If the DCJ thinks it is necessary to provide another double payment in FY 2023-24, it should submit a budget request during the next budget cycle.

➔ R12 COMMUNITY CORRECTIONS INFORMATION AND BILLING SYSTEM

The Committee referred this decision item to the Joint Technology Committee (JTC), pursuant to Joint Rule 45(b). At the time of the original figure setting presentation on February 17, the JTC had not referred this item back to the JBC, so JBC staff recommended delaying action until comebacks. On March 4, the JTC sent a letter to the JBC that included a recommendation to fully fund this request.

REQUEST: The Department requests an increase of $425,922 General Fund in FY 2022-23 and $286,602 General Fund in FY 2023-24. The Department also requests a 3.0 percent increase every year thereafter, beginning in FY 2024-25.

The purpose of the request is to allow DCJ to maintain a new Community Corrections Information and Billing (CCIB) system. The CCIB system is the central hub for community corrections funding. It is used by DCJ's Office of Community Corrections, staff from each of the 22 community corrections boards, and staff from each of the residential and nonresidential community corrections facilities in Colorado. The new CCIB system was originally funded through an IT Capital request, replacing an older system that was developed in 2008.

REVISED RECOMMENDATION: Staff recommends approval of the request, which is consistent with the JTC's recommendation.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Tom Dermody, JBC Staff (303-866-4963)
DATE	March 7, 2022
SUBJECT	Dept. of Personnel Tabled Decision Items – R6 and BA5

During figure setting for the Department of Personnel on February 9, 2022, the Committee tabled the following two decision items, pending consideration of legislation introduced for the 2022 legislative session that is substantively similar to the Department's R6 (Unused state-owned real properties inventory) and BA5 (Public-Private Partnership Office) requests. Senate Bill 22-130 (State Entity Authority For Public-private Partnerships) seeks to accomplish a similar outcome to BA5 and carries a lower anticipated cost in FY 2022-23 than the budget request, due to proration based on the effective date of the bill.

Below are JBC Staff's analyses and recommendations for R6 and BA5.

➔ R6 UNUSED STATE-OWNED REAL PROPERTIES INVENTORY

REQUEST: The Department requests an increase of $400,000 cash funds in FY 2022-23 and ongoing for the implementation of H.B. 21-1274 (Unused State-owned Real Property Beneficial Use).

RECOMMENDATION: Staff recommends denial of this request.

UPDATED DISCUSSION: House Bill 21-1274, which is codified in Section 24-82-102.5, C.R.S., requires the Department to create and maintain an inventory of unused state-owned real property and to determine whether the unused state-owned real property identified is suitable for construction of affordable housing, child care, public schools, residential mental and behavioral health care, or for placement of renewable energy facilities, or if such property is suitable for other purposes. The bill created the Unused State-owned Real Property Fund (Section 24-82-102.5 (5)(a), C.R.S.), with revenue being generated from the "sale, rent, or lease…of unused state-owned real property." The Final Fiscal Note, dated July 12, 2021, indicates that the department can accomplish the work of maintaining and updating an inventory of unused state-owned real property within existing resource. The Office of the State Architect has responsibility for creating and maintaining the inventory.

Pursuant to Section 24-802-102.5 (4)(d), C.R.S., budget requests made regarding the implementation of this section must be made through the process established in Section 24-37-304 (1)(c.3), C.R.S. Section 24-37-304 (1)(c.3), C.R.S., establishes the responsibilities of the Governor's Office of State Planning and Budgeting for submitting requests to the Capital Development Committee. This means that as directed by statute, and outside any new or additional operating-only expenditures, requests made in relation to this program must first go the Capital Development Committee.

The Department reports that the current balance of the Fund is zero. The Department does not anticipate any revenue to be generated for this fund in FY 2022-23. As such, staff recommends denial of this request because there is no anticipated revenue to be spent. Appropriating cash fund spending authority in the absence of any underlying revenue is not recommended and simply serves to inflate the budget.

➔ BA5 PUBLIC PRIVATE PARTNERSHIP OFFICE [LEGISLATION REQUIRED]

REQUEST: The Department requests $31,269,064 General Fund and 3.5 FTE to create the Public-Private Partnership Office within the Department and to create a cash fund dedicated to funding the renovation of unused state facilities into child care facilities. The request includes:

- $1,214,502 General Fund and 3.0 FTE to create the Public-Private Partnership Office for FY 2022-23 and ongoing;
- $54,562 General Fund and 0.5 FTE for a child care licensing professional to advise on child care facility renovations for only FY 2022-23; and
- the creation of the aforementioned cash fund and the transfer of $30.0 million General Fund to the cash fund.

The Department requests the Committee sponsor legislation to implement this request.

RECOMMENDATION: Staff recommends:

- The Committee sponsor legislation to create the Public-Private Partnership Office and to appropriate through that legislation $1,043,868 General Fund and 3.0 FTE in FY 2022-23.
- The recommended legislation shift the responsibilities dictated by H.B. 21-1274 (Unused State-owned Real Property Beneficial Use), including the management of the Unused State-owned Real Property Fund, from the Office of the State Architect to the Public-Private Partnership Office.
- The denial of the request to create a cash fund dedicated to the funding of renovation of unused state facilities into child care facilities and the funding for the 0.5 FTE for a child care licensing professional.

BA5 JBS STAFF RECOMMENDATION AND ANNUALIZATION

	FY 2022-23	FY 2023-24
FTE	3.0	3.0
Personal services	$260,318	$260,318
Operating expenses	783,550	764,950
Centrally appropriated costs	0	50,439
Total	$1,043,868	$1,075,707

Staff recommendation annualizes to $1,075,707 General Fund and 3.0 FTE in FY 2023-24.

DISCUSSION: The state owns approximately $14.0 billion worth of assets and an estimated 48.7 million square feet of space. There is currently no statewide office with the responsibility for public-private partnerships. The requested Public-Private Partnership Office (Office) would be dedicated to public-private partnerships for underutilized state buildings and land. There are other types of public-private partnerships that the Office would not be charged with evaluating on a statewide level, which would include any partnerships entered into by state departments that do not involve underutilized state property. While public-private partnerships can include monetary investment, revenue guarantees, tax breaks, and other financial based assistance, the proposed state Public-

Private Partnership Office will provide a real estate lease, including a bond to reclaim the property in the case of default.

The proposal to create a Public-Private Partnership Office to leverage and utilize unused state facilities aligns with the program created by H.B. 21-1274. House Bill 21-1274 requires the Department of Personnel to create and maintain an inventory of unused state-owned real property and to determine whether the unused state-owned real property identified is suitable for construction of affordable housing, child care, public schools, residential mental and behavioral health care, or for placement of renewable energy facilities, or if such property is suitable for other purposes. The Department may seek proposals from developers for affordable housing or renewable energy projects and, upon approval by the Capital Development Committee, enter into contracts for those projects. The requirements of H.B. 21-1274 align closely with the proposed responsibilities of the Office.

The Department anticipates that the Office will:

- Structure and recommend deals that can increase revenue through the utilization of state assets, while supporting long-term social outcomes like affordable housing, renewable energy, and expansion of behavioral services.
- Advise on the disposition, or long-term leasing of underutilized and vacant state properties.
- Support the building additional affordable housing units on state property, as well as expanding step-down housing for the homelessness population.
- Expand the number of beds in the behavioral health system, both within state facilities and private facilities.
- Clarifying a consistent approach for the lease, cost, and use of State-owned right-of-way for the expansion of broadband connectivity.
- Expand and facilitate the buildout of Front Range Rail.

The Department requests 3.0 FTE to stand up the Office. These FTE will be responsible for negotiating and managing contracts, coordinating and working with affected departments, engaging stakeholders, and planning and due diligence of the development process. In addition, the Office will work with the private sector to conduct appraisals and environmental assessments of identified state properties. Establishing the Public-Private Partnership Office will require operating expense above and beyond the standard operating expenses for new FTE. This include legal costs and costs associated with the assessment and development of property. The Department provided the list of operating expenses below, which would enable the Office to conduct the inventory of unused state-owned real property required by H.B. 21-1274.

Operating expenses for the Public-Private Partnership Office – FY 2022-23		
	Requested	Recommended
Standard FTE operating expenses	$23,850	$22,650
Map server/Website	10,900	10,900
Real Estate Consultants	250,000	250,000
Legal Costs (AG and/or third party counsel)	100,000	100,000
Property Appraisals	15,000	15,000
Survey/Platting	30,000	30,000
Environmental Assessments (Level I & II)	350,000	350,000
Marketing/Advertising/Other Due Diligence	5,000	5,000

OPERATING EXPENSES FOR THE PUBLIC-PRIVATE PARTNERSHIP OFFICE – FY 2022-23		
	REQUESTED	RECOMMENDED
Total	$784,750	$783,550

CHILD CARE FACILITY RENOVATION CASH FUND

The Department proposes the creation of a cash fund dedicated to funding the renovation of unused or underutilized state facilities into child care facilities. The Department requests that $30.0 million General Fund be transferred into that cash fund in FY 2022-23 for use in future years to fund those renovations. This figure was estimated based on the assumption that 15 facilities would be renovated at a cost of $2.0 million each. Along with this cash fund, the Department requests $54,562 General Fund and 0.5 FTE for a child care licensing professional to advise on child care facility renovations for only FY 2022-23. These renovated facilities would be intended to alleviate the some of the access and availability issues facing the provision of child care throughout the state.

While the request for dedicated funding for these types of renovations is well intentioned, there are several deficiencies. The cost estimate provided by the department is based on decades old data from projects that may or may not align with the types of facilities currently available for renovation. The $2.0 million per project figures quoted by the Department is derived from two 2003 projects to build child care facilities, one 14,725 square feet and the other 11,739 square feet, on the Pikes' Peak Community College campus. The $30.0 million General Fund requested is based on an assumption that there are 15 facilities that could be renovated into child care facilities. However, without the inventory required by H.B. 21-1274, there is no way to verify the figure provided or to determine if the Pikes' Peak Community College examples are accurate comparisons for cost estimates.

Given the substantial amount of uncertainty surrounding the availability of state properties and scope of this type of renovation, staff does not believe it advisable to sequester $30.0 million General Fund for an unknown period of time for an unknown number of projects. Additionally, staff is concerned that dedicating this funding to only renovations for child care facilities overweights this use at the expense of other potential uses for state facilities that present equal benefit or return on investment. Assuming staff's recommended denial of the dedicated cash fund, staff also recommends denial of the $54,562 General Fund and 0.5 FTE because it would not be necessary for the creation of the Public-Private Partnership Office. Ultimately, without more accurate data regarding the inventory of unused or underutilized state property and the costs associated with renovations, staff cannot recommend this request.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Tom Dermody, JBC Staff (303-866-4963)
DATE	March 14, 2022
SUBJECT	HCPF - (7) DHS Medicaid Funded Programs

During Figure Setting for the Department of Human Services on February 23, 2022, the Committee approved staff recommendation for the discussed line items in Health Care Policy and Finance – (7) DHS Medicaid Funded Programs. Upon review of staff's recommendation, the fund splits between General Fund and Federal Funds in the (G) Services for People with Disabilities – Medicaid Funding line items were inaccurate. Staff neglected to adjust these splits to account for the reversion to a 50.0 percent cost share between the State and federal government for Medicaid funded programs. Additionally, there was a typographical error in staff's Figure Setting document affecting the (J) Other – Medicaid Funding, Federal Medicaid Indirect Cost Reimbursement for DHS Programs line item. Staff incorrectly identified the requested amount of federal funds.

SUMMARY OF REVISED RECOMMENDATION FOR (7) DHS MEDICAID FUNDED PROGRAMS (SELECT LINE ITEMS)					
	TOTAL FUNDS	GENERAL FUNDS	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS
Figure Setting	$56,873,683	$24,578,142	$1,888,903	$0	$30,406,638
Regional Centers Medicaid Funding	*55,681,058*	*24,253,722*	*1,888,903*	*0*	*29,538,433*
Regional Centers Depreciation and Annual Adjustments	*691,725*	*324,420*	*0*	*0*	*367,305*
Federal Medicaid Indirect Cost Reimbursement for DHS Programs	*500,900*	*0*	*0*	*0*	*500,900*
Revised Recommendations	$56,872,783	$26,297,489	$1,888,903	$0	$28,686,391
Regional Centers Medicaid Funding	*55,681,058*	*25,951,626*	*1,888,903*	*0*	*27,840,529*
Regional Centers Depreciation and Annual Adjustments	*691,725*	*345,863*	*0*	*0*	*345,862*
Federal Medicaid Indirect Cost Reimbursement for DHS Programs	*500,000*	*0*	*0*	*0*	*500,000*
Difference	($900)	$1,719,347	$0	$0	($1,720,247)

In addition, during Figure Setting, staff neglected to request permission to adjust the HCPF – (7) DHS Medicaid Funded Programs subdivision and line item titles to correlate with the approved reorganized structure of the Department of Human Services. Staff **requests permission to make any corresponding naming convention adjustments to the HCPF – (7) DHS Medicaid Funded Programs subdivision and line item titles that result from the Department of Human Services reorganization**.

(G) SERVICES FOR PEOPLE WITH DISABILITIES – MEDICAID FUNDING

REGIONAL CENTERS

The state operates three regional centers that provide direct support for adults with developmental disabilities. These are individuals who have significant needs and for whom adequate services and support are not available in the Community Centered Board (CCB) system to safely meet their needs. The regional centers are located in Grand Junction, Pueblo, and Wheat Ridge. Regional centers serve adults in community group homes that provide services for between four and eight people. The majority of regional center beds are operated under the same comprehensive Home and Community Based waiver program that supports most community-based residential services. The regional center campuses also house Intermediate Care Facilities for Persons with Intellectual Disabilities. The department provides funding for Personal Services, Operating Expenses, capital outlay for patient needs, leased space, residential incentive allowance, and the purchase of services.

STATUTORY AUTHORITY: Sections 25.5-6-101 through 1206, 25.5-10-224, 27-10.5-118, and 27-10.5-301 through 307, C.R.S.

REQUEST: The Department requests $55,681,058 total funds, including $25,951,624 General Fund, $1,888,903 cash funds, and $27,840,531 federal funds.

REVISED RECOMMENDATION: Staff **recommends $55,681,058 total funds, including $25,951,626 General Fund, $1,888,903 cash funds, and $27,840,529 federal funds**. Staff requests permission to adjust these values if subsequent Committee action results in a necessary change.

REGIONAL CENTER DEPRECIATION AND ANNUAL ADJUSTMENTS

This line item enables the state to capture depreciation payments from federal authorities associated with regional centers operated by the Department of Human Services (DHS). Federal rules allow states to draw Medicaid for some capital costs related to facilities for people with developmental disabilities using a depreciation method. Depreciation amounts are included in the daily rates the Department of Human Services charges to the Department of Health Care Policy and Financing for regional center consumers. However, because depreciation is associated with a past expenditure, it is not an operating expense that is included in the Department of Human Services operating budget. DHS is required to conduct annual depreciation calculations as part of its federal cost reporting. Depreciation amounts, allowed by federal authorities, have been included in the daily rates DHS charges to the Department for regional center consumers (all of whom are Medicaid eligible).

STATUTORY AUTHORITY: Section 24-75-302 (3.8)(a), C.R.S.

REQUEST: The Department requests an appropriation $691,725 total funds, including $345,864 General Fund and $345,861 federal funds.

REVISED RECOMMENDATION: Staff **recommends an appropriation $691,725 total funds, including $345,863 General Fund and $3645,862 federal funds**. Staff requests permission to adjust these values if subsequent Committee action results in a necessary change.

(J) OTHER- MEDICAID FUNDING

FEDERAL MEDICAID INDIRECT COST REIMBURSEMENT FOR DHS PROGRAMS

This line item was created in the FY 2009-10 Long Bill (S.B. 09-259). An indirect cost is for a service that is provided for one department but used jointly by several divisions within the Department. As such, it is difficult to assign costs to a particular cost center such as a specific division. Indirect costs are usually constant for a wide range of service and are grouped under fixed costs because the cost is still occurring even if there is a change in work activities.

STATUTORY AUTHORITY: Section 25.5-6-101 through 1206, 25.5-10-224, 27-10.5-118, and 27-10.5-301 trough 307, C.R.S.

CORRECTED REQUEST: The Department requests a continuation appropriation of $500,000 federal funds.

REVISED RECOMMENDATION: Staff **recommends approval of the request.** Staff requests permission to adjust these values if subsequent Committee action results in a necessary change.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Tom Dermody, JBC Staff (303-866-4963)
DATE	March 16, 2022
SUBJECT	Depart. of Human Services – S.B. 18-200 Annualization

The FY 2022-23 annualization for S.B. 18-200 (Modifications To PERA Public Employees' Retirement Association To Eliminate Unfunded Liability) was not included in either the November 1, 2021 budget submission or JBC Staff Figures Setting for the Department of Human Services on February 23, 2022. The annualization includes a PERA-determined "Defined Contribution Supplement", calculated by PERA to equal an additional 0.1 percent in FY 2022-23, which covers the loss of revenue to pay for PERA's unfunded liability when employee's elect to join the defined contribution plan. This annualization applies to numerous line items across the Department.

Staff **recommends an appropriation of $1,562,647 total funds, including $1,051, 349 General Fund,** in FY 2022-23 for the annualization of S.B. 18-200**.**

FY 2022-23 ANNUALIZATION FOR S.B. 18-200					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Figure Setting	$0	$0	$0	$0	$0
Revised Recommendation	1,562,647	1,051,349	67,819	201,738	241,741
Difference	$1,562,647	$1,051,349	$67,819	$201,738	$241,741

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Emily Hansen, JBC Staff (303-866-4961)
DATE	March 16, 2022
SUBJECT	Division of Child Welfare H.B. 21-1094 Annualization Technical Correction

The Department of Human Services notified staff that a technical correction is necessary for the annualization of H.B. 21-1094 (Foster Youth in Transition Program). Staff recommends the creation of two new line items to reflect the Colorado Foster Youth Successful Transition to Adulthood Grant Program for a net zero General Fund impact and a total increase of $712,950 reappropriated funds.

House Bill 21-1094 extended the eligibility criteria for foster youth to voluntarily receive certain child welfare services up until age 21. The bill established the Foster Youth Successful Transition to Adulthood Grant Program, and an associated cash fund and advisory board.[1] The initial FY 2021-22 appropriation in the bill provided increased resources for county services based on the assumption that 58 additional youth would be served statewide. The appropriation included $408,498 General Fund, $102,125 cash funds, and $377,416 federal funds to the Child Welfare Services line, commonly referred to as the Child Welfare Block Grant allocation.

The fiscal note indicates that an appropriation to the grant program was not included in the FY 2021-22 appropriation, and was not intended to be included until FY 2022-23. The Department initially requested the annualization for the bill to the Block, but has since identified that a new line item is necessary to appropriate the annualization to the grant program. If the funds remain in the Block as requested, the funds are not available to the advisory board or the grant program, and are subject to backfilling over-expenditures in the Block during end of year county closeout.

Staff recommends creating two new line items to reflect the requested annualization of H.B. 21-1094. The first line will reflect a General Fund appropriation of $712,950 to the program cash fund, and the second will reflect the expenditures of the program as reappropriated funds. The General Fund appropriated to the Block will be decreased accordingly for a net zero General Fund impact, but reflecting the reappropriated funds will result in a total increase of $712,950 reappropriated funds for this action. Line item detail is provided in the tables below.

H.B. 21-1094 ANNUALIZATION LINE ITEM ADJUSTMENTS

LINE ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Child Welfare Services	($712,950)	($712,950)	$0	$0	$0
Appropriation to the Foster Youth Successful Transition to Adulthood Grant Program	712,950	712,950	0	0	0
Foster Youth Successful Transition to Adulthood Grant Program	712,950	0	0	712,950	0
Total	**$712,950**	**$0**	**$0**	**$712,950**	**$0**

[1] Section 19-7-314 (2), C.R.S.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Emily Hansen, JBC Staff (303-866-4961)
DATE	March 15, 2022
SUBJECT	HCPF – DHS Medicaid Funded Programs Technical Adjustments

Staff identified discrepancies between the Department requests for HCPF and DHS after the initial staff figure setting presentation on February 16, 2022. Adjustments include an increase of $1,482 total funds, including $742 General Fund and $740 federal funds in the Department of Health Care Policy and Financing. The corrected line item detail is provided below.

LINE ITEM DETAIL – DEPARTMENT OF HUMAN SERVICES MEDICAID FUNDED PROGRAMS

(C) DIVISION OF CHILD WELFARE – MEDICAID FUNDING

ADMINISTRATION

This line item reflects the amount of Medicaid funds appropriated for the administration of Child Welfare Services. These funds are reflected as reappropriated funds in the Department of Human Services, Division of Child Welfare, Administration line item.

STATUTORY AUTHORITY: 26-1-201 (f)(g) and (i), C.R.S.

REQUEST: The Department requests $16,615,146 total funds, including $65,019 General Fund.

RECOMMENDATION: **Staff recommends an appropriation of $66,593 total funds** to align the appropriation with decisions the Committee has made in the Department of Human Services. Adjustments include aligning the Department's request with the salary survey request from the Department of Human Services. Staff requests permission to make technical adjustments as necessary to align with the Committee's final decisions. Line item detail is provided in the table below.

DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS, DIVISION OF CHILD WELFARE - MEDICAID FUNDING, ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION						
FY 2021-22 Appropriation	$65,019	$32,509	$0	$0	$32,510	0.0
TOTAL	**$65,019**	**$32,509**	**$0**	**$0**	**$32,510**	**0.0**
FY 2022-23 RECOMMENDED APPROPRIATION						
FY 2021-22 Appropriation	$65,019	$32,509	$0	$0	$32,510	0.0
Annualize prior year budget actions	$1,574	$788	$0	$0	$786	0.0
TOTAL	**$66,593**	**$33,297**	**$0**	**$0**	**$33,296**	**0.0**
Percentage Change	0.0%	0.0%	n/a	n/a	0.0%	n/a
FY 2022-23 EXECUTIVE REQUEST	**$65,019**	**$32,509**	**$0**	**$0**	**$32,510**	**0.0**

Department Of Human Services Medicaid-funded Programs, Division Of Child Welfare - Medicaid Funding, Administration						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Request Above/(Below) Recommendation	$1,574	$788	$0	$0	$786	0.0

Child Welfare Services

This line item reflects the amount of Medicaid funds appropriated for the delivery of child welfare services. These funds are reflected as reappropriated funds in the Department of Human Services, Division of Child Welfare, Child Welfare Services line item.

Statutory Authority: Section 26-5-101 et. seq., C.R.S.

Request: The Department requests $13,499,891 total funds, including $6,749,945 General Fund.

Recommendation: **Staff recommends an appropriation of $13,690,244** to align the appropriation with decisions the Committee has made in the Department of Human Services. Adjustments include aligning the Department's request with the salary survey request from the Department of Human Services, and the common policy provider rate. Staff requests permission to make technical adjustments as necessary to align with the Committee's final decisions. Line item detail is provided in the table below.

Department Of Human Services Medicaid-funded Programs, Division Of Child Welfare - Medicaid Funding, Child Welfare Services						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2021-22 Appropriation						
FY 2021-22 Appropriation	$13,421,808	$5,878,752	$0	$0	$7,543,056	0.0
TOTAL	**$13,421,808**	**$5,878,752**	**$0**	**$0**	**$7,543,056**	**0.0**
FY 2022-23 Recommended Appropriation						
FY 2021-22 Appropriation	$13,421,808	$5,878,752	$0	$0	$7,543,056	0.0
Human Services	268,436	134,218	0	0	134,218	0.0
Annualize prior year budget actions	0	0	0	0	0	0.0
TOTAL	**$13,690,244**	**$6,012,970**	**$0**	**$0**	**$7,677,274**	**0.0**
INCREASE/(DECREASE)	**$268,436**	**$134,218**	**$0**	**$0**	**$134,218**	**0.0**
Percentage Change	2.0%	2.3%	n/a	n/a	1.8%	n/a
FY 2022-23 EXECUTIVE REQUEST	**$13,499,891**	**$6,749,945**	**$0**	**$0**	**$6,749,946**	**0.0**
Request Above/(Below) Recommendation	($190,353)	$736,975	$0	$0	($927,328)	0.0

(I) DIVISION OF YOUTH SERVICES – MEDICAID FUNDING

This line item reflects the amount of Medicaid funds appropriated for community programs in the Division of Youth Services. These funds are reflected as reappropriated funds in the Department of Human Services, Division of Youth Services, Community Programs line items.

STATUTORY AUTHORITY: Section 19-2.5-1501, 19-2.5-1519, and 19-2.5-1514, C.R.S.

REQUEST: The Department requests an appropriation of $1,170,141 total funds, including $585,070 General Fund.

RECOMMENDATION: **Staff recommends an appropriation $786,629 total funds** to align the appropriation with decisions the Committee has made in the Department of Human Services. Adjustments include aligning the Department's request with the salary survey request from the Department of Human Services, the annualization of a supplemental technical correction, and the common policy provider rate. Staff requests permission to make technical adjustments as necessary to align with the Committee's final decisions. Line item detail is provided in the table below.

DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS, DIVISION OF YOUTH SERVICES - MEDICAID FUNDING, DIVISION OF YOUTH SERVICES - MEDICAID FUNDING						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION						
FY 2021-22 Appropriation	$770,196	$337,346	$0	$0	$432,850	0.0
TOTAL	**$770,196**	**$337,346**	**$0**	**$0**	**$432,850**	**0.0**
FY 2022-23 RECOMMENDED APPROPRIATION						
FY 2021-22 Appropriation	$770,196	$337,346	$0	$0	$432,850	0.0
DHS Community provider rate	12,201	6,101	0	0	6,100	0.0
Annualize prior year budget actions	4,232	2,116	0	0	2,116	0.0
TOTAL	**$786,629**	**$345,563**	**$0**	**$0**	**$441,066**	**0.0**
INCREASE/(DECREASE)	**$16,433**	**$8,217**	**$0**	**$0**	**$8,216**	**0.0**
Percentage Change	2.1%	2.4%	n/a	n/a	1.9%	n/a
FY 2022-23 EXECUTIVE REQUEST	**$1,170,141**	**$585,070**	**$0**	**$0**	**$585,071**	**0.0**
Request Above/(Below) Recommendation	$383,512	$239,507	$0	$0	$144,005	0.0

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Emily Hansen, JBC Staff (303-866-4961)
DATE	March 15, 2022
SUBJECT	Child Welfare County Staffing

During the initial staff figure setting presentation for the Division of Child Welfare on February 16, 2022, the Committee requested a staff comeback on the amount of funding required to fulfill the 2014 State Auditor's report on county staffing for child welfare services. Staff finds that the performance audit does not make funding recommendations, and the Committee has only considered the 2014 County Staffing Workload Study when considering funding for county staffing.

Staff calculated that the cost of fully funding the 2014 County Staffing Workload Study is $15.1 million total funds, including $11.1 General Fund.

STATE AUDITOR REPORTS

In February 2013, the General Assembly requested that the Office of the State Auditor (OSA) conduct an audit of the Office of Children, Youth, and Families within the Department of Human Services. The request listed specific interest areas, including a study of the caseload for child welfare caseworkers and other frontline staff. To satisfy this request, the OSA conducted a performance audit over 2013 and 2014, and contracted with a third party to produce a separate workload audit for county caseworkers. At the time, the Department indicated that a workload study focusing on county child welfare caseworkers had not been performed in Colorado in 30 years.

2014 PERFORMANCE AUDIT

The Office of the State Auditor (OSA) released the performance audit on child welfare programs in the Department of Human Services in November of 2014. The report emphasized that the audit did not include evaluation of the appropriateness of authorized services, or funding sources for child welfare services. The report identified that workload demands may be a contributing factor to certain problems identified in the audit, such as the thoroughness and expediency of administrative tasks. However, the audit was not designed to identify a causal relationship between potential county workload shortfalls and specific deficiencies found in the performance audit.

The audit made 16 recommendations, including 47 sub-parts for improvements to various aspects of the child welfare system. Key findings included but were not limited to:

- Caseworkers did not interview or observe referrals within county-assigned response times in 4 of 40 sampled Trails assessments.
- All sampled Trails records indicated that assessments did not demonstrate adequate or timely completion.
- Child Fatality Review Teams did not always identify violations, recommend improvements, or implement incident recommendations.
- The Department allocated $1.3 million in incentive funds for the Collaborative Management Program, but lacks a process for program assessment.

2014 COLORADO CHILD WELFARE COUNTY WORKLOAD STUDY

The OSA contracted with an independent third party to conduct the workload study, released in August of 2014. The workload study sought to identify the level of work that is appropriate for staff to properly fulfill state and federal rules and regulations related to child welfare. The report specified that the study was not designed to measure the consequences of inappropriate staff workloads, or how work can be better distributed or performed. Instead, the focus of the study was on measuring the actual time spent on tasks to develop workload standards and determine whether additional resources were needed.

The study gathered data and conducted interviews with counties in early 2014 to determine how county child welfare staff spent time, compare trends across counties, and make conclusions about staff workload. The study concluded that the estimated time necessary to complete required activities and meet program goals exceeded the time available from the existing number of county caseworkers. Based on the county child welfare workers sampled, the study estimated that an additional 576.0 FTE caseworkers and 122.0 FTE supervisors were necessary to handle the existing statewide caseload, for a total of 698.0 FTE, assuming no changes were made to the existing processes and system requirements.

COUNTY STAFFING FUNDING HISTORY

In response to the performance audit and workload study, the Department began requesting annual increases for dedicated county staffing funding in FY 2015-16. The Department initially requested an increased appropriation of $6.1 million total funds to the Chile Welfare Block Grant allocation, based on a calculation of 100.0 FTE. JBC Staff recommended that the Committee sponsor legislation to set specific parameters on the funding and establish a new line item dedicated to this purpose.

The Committee sponsored S.B. 15-242 (County Child Welfare Staff) to increase the funding allocated to counties specifically for the purpose of increasing the number of child welfare caseworker, case aide, and supervisor positions across the state. The bill required that funding only be used for positions created after January 1, 2015 and may not be used to provide direct services of any kind. Pre-existing county positions were required to continue to be funded through the Child Welfare Block Grant allocation. Counties that accept an allocation from the Staffing Block Grant are required to provide a 10.0 percent match to the allocated state and federal funds. No match is required if a county qualifies for tier 1 or tier 2 for the purpose of County Tax Base Relief.

After the implementation of S.B. 15-242, the Department requested annual increases for the line item, often based on a calculation of adding 100.0 FTE. JBC Staff also recommended applying Committee common policy provider rate adjustments as a cost of living adjustment. Annual increases as approved by the Committee are provided in the table below. The Committee initially approved an increased appropriation based on a calculation of 50.0 FTE for FY 2020-21, but reversed this decision for budget balancing. Therefore, an increase has not occurred since FY 2019-20.

COUNTY CHILD WELFARE STAFFING ANNUAL APPROPRIATION INCREASES[1]						
	FTE UPON WHICH CALCULATION IS BASED	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS
FY 2015-16 (phase 1)	100.0	$6,064,149	$5,428,510	$606,415	$0	$29,224
FY 2016-17 (phase 2)	100.0	6,064,149	5,428,510	606,415	0	29,224
FY 2017-18 (phase 3)	67.0	4,028,061	3,625,255	402,806	0	0

County Child Welfare Staffing Annual Appropriation Increases[1]						
	FTE upon which calculation is based	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds
FY 2018-19 (phase 4)	100.0	6,096,229	1,902,891	609,623	0	3,583,715
FY 2019-20 (phase 5)	100.0	6,170,258	4,534,025	617,026	0	1,019,207
FY 2020-21[2]	0.0	0	0	0	0	0
FY 2021-22	0.0	0	0	0	0	0
Total	467.0	$28,422,846	$20,919,191	$2,842,285	$0	$4,661,370
Total recommended by workload study	698.0					
Remaining positions to be funded	231					

[1] Does not reflect adjustments related to common policy provider rate increases applied to previous years or the annualizations of prior year budget actions.
[2] The Department requested and the Committee initially approved calculations based on 50.0 FTE for FY 2020-21. This action was reversed during balancing.

The first Department request was based on an average caseworker salary of $60,000 based on State compensation policies. However, the General Assembly has no authority to govern actual county FTE numbers or salary ranges. Counties often hire fewer FTE than allocated to offer higher salaries, or counties may hire the allocated FTE and offset salary differences through the Child Welfare Block Grant allocation. Therefore, the actual number of positions created within county departments since the implementation of S.B 15-242 has varied from the total FTE upon which the appropriation was calculated. The Department does not collect data on turnover specifically related to the Staffing allocation.

FTE Allocations Pursuant to S.B. 15-242		
	FTE Calculation for S.B. 15-252 Allocation	Actual FTE Added using S.B. 15-242 Allocation
FY 2015-16 (phase 1)	100.0	100.0
FY 2016-17 (phase 2)	100.0	84.3
FY 2017-18 (phase 3)	67.0	66.0
FY 2018-19 (phase 4)	100.0	84.3
FY 2019-20 (phase 5)	100.0	84.0
FY 2020-21*	0.0	0.0
FY 2021-22	0.0	0.0
FY 2022-23	0.0	-
Total Funded	**467.0**	**418.5**
2014 Workload Recommendation	*698.0*	*698.0*
Total FTE Remaining	*231.0*	*279.5*

**The Committee initially approved funding based on 50.0 FTE in FY 2020-21, but the decision was reversed during balancing.*

Counties are required to provide a 10.0 percent match for the Staffing Block Grant, compared to 20.0 percent for the Child Welfare Block Grant. Any General Fund in the Staffing Block Grant unspent at the end of the fiscal year reverts to the General Fund. Over-expenditures are backfilled with the Block. Therefore, counties have an incentive to maximize billing to the Staffing Grant before the Block.

Challenges with S.B. 15-242 Funding

While the targeted funding allocated to counties as a result of the enactment of S.B. 15-242 has been successful, it has not been without challenges. Establishing a position creation date of January 1, 2015 or later was intended to create a start date for collecting data on county staffing levels and ensure that new positions were actually created. It also provided a boundary intended to prevent counties from shifting the funding of existing positions from an allocation with a 20.0 percent match to an allocation with a 10.0 percent match. As a result the overall numbers of county child welfare case aides, caseworkers, and supervisors have increased since FY 2015-16. Unfortunately, three challenges have been identified:

- Small or medium sized counties that hired just prior to January 1, 2015 were unable to use the Staffing allocation to fund difficult to fill positions and are not able to benefit from the decreased county match rate provided by this source of funding.
- Increasing personnel costs in all counties have resulted in a greater impact on the Child Welfare Block allocation
  - Increasing the amount of funding necessary for administrative costs and reducing the amount available for services; or
  - Maintaining a static service level and leaving staff positions funded through the Child Welfare Block allocation vacant.
- Allocation of the Staffing Block through a caseload to case worker ratio model is skewed toward counties with higher degrees of capacity, penalizing small and medium sized counties whose workloads are negatively impacted by a lack of services and providers.

SENATE BILL 21-277 (CHILD WELFARE SERVICES ALLOCATION FORMULA)

During the 2021 Legislative Session, the Committee sponsored S.B. 21-277 (Child Welfare Services Allocation Formula). The bill requires the Department to contract with an independent vendor in FY 2022-23 to conduct an updated workload study. The Department expects the workload study to be completed by June 30, 2022, indicating that the study could be incorporated into the Department's FY 2023-24 request. However, statute does not require the study results to be considered for the allocation funding model until FY 2024-25. Therefore, counties are concerned staffing increases may not be realized for another two years without Committee action.

CASELOAD

Each year the Department provides updated data on county child welfare worker staffing and caseload in an RFI. The 2021 report indicates that caseload has decreased in the last two years driven by decreased contacts with mandatory reporters during COVID-19. The caseload decrease has been substantial enough to decrease the statewide caseworker and supervisor ratios below the levels recommended by the 2014 workload study. Statewide caseload data is provided in the table below and the data by county is attached.

	Monthly Caseload	Rec. Caseworkers (10:1 Ratio)	Rec. Supervisors (5:1 Ratio)	Actual Caseworker Ratio	Actual Supervisor Ratio	Actual Staffing (Block, Core, & 242)	Block & Core FTE Increase Since 2015	242 FTE Increase
2015						1,681	189.0	95.0
2016						2,021	71.0	184.0
2017	20,954	2,095	419			2,144	130.0	266.0
2018	21,896	2,190	438	11.5	5.5	2,155	90.0	245.0
2020	21,292	2,129	426	11.3	4.7	2,551	313.0	419.0
2021	**19,311**	**1,931**	**386**	**8.64**	**5.2**	**2,644**	**384.0**	**450.0**

The Department also notes that many counties are experiencing high vacancy rates qualitatively ranging from 10.0 to 20.0 percent. While the salary rates used to calculate county staffing increases may be lower than the salaries actually offered by counties, salary may not be the greatest challenge for hiring. The Department notes that they are engaging in additional hiring strategies including improved partnerships with local educational institutions.

CHILD WELFARE ALLOCATION COMMITTEE REPORTS

The Child Welfare Allocation Committee (CWAC) provides input to the Department relative to the development of an equitable allocation model to counties. The CWAC last met on March 11, 2022 and provided updated figures on the projected expenditures for each allocation. The CWAC estimates that counties will over-expend the Staffing block grant by $3.8 million total funds, including $3.0 million General Fund in FY 2021-22. The CWAC also estimates that the Child Welfare Block Grant allocation will under-earn Title IV-E federal funds by $15.1 million in FY 2021-22 compared to the amounts appropriated in the Long Bill. Documents from the CWAC detailing these projections are attached.

The Department anticipates that the current Long Bill appropriation greatly overestimates the actual amount of federal funds that will be available for distribution to counties with the enactment of Family First. The impact in FY 2022-23 is unknown, particularly as caseload has decreased and county vacancy rates have increased during COVID-19. While the Department does not request an adjustment at this time, a supplemental adjustment may be necessary once more data is available.

JBC STAFF CALCULATIONS

The following tables provide the staff calculations for the cost per FTE and the cost of fully funding the 2014 Workload Study. The calculations are based on the Department's initial request with annual common policy community provider rate adjustments. The cost for fully funding the workload study assumes 231.0 FTE are required to fulfill the study.

(Annual common policy provider rate adjustments have been applied to salaries and benefits since initial FY 2015-16 appropriation.)

COUNTY STAFFING COST CALCULATION PER FTE									
JOB CLASS	FTE	SALARIES	BENEFITS	OPERATING	TRAINING	TOTAL COST	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS
Case Aides	1.0	$31,130	$9,339	$5,000	$0	$45,469	$33,408	$4,547	$7,513
Case workers	1.0	44,015	13,205	5,000	1,000	63,220	46,450	6,322	10,447
Supervisors	1.0	57,120	17,136	5,000	550	79,806	58,636	7,981	13,187
Total	**3.0**	**$132,265**	**$39,681**	**$15,000**	**$1,550**	**$188,496**	**$138,494**	**$18,850**	**$31,147**

COST TO FULFILL 2014 WORKLOAD STUDY - BASED ON THE COST OF 231.0 FTE									
JOB CLASS	FTE	SALARIES	BENEFITS	OPERATING	TRAINING	Total Cost	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS
Case Aides	9.0	$286,396	$85,921	$46,000	$0	$418,317	$307,351	$41,833	$69,123
Case workers	185.0	8,134,025	2,440,303	924,000	184,800	11,683,129	8,583,983	1,168,339	1,930,542
Supervisors	37.0	2,113,440	634,040	185,000	20,350	2,952,829	2,169,542	295,290	487,931
Total	**231.0**	$10,533,861	$3,160,264	$1,155,000	$205,150	**$15,054,275**	**$11,060,876**	**$1,505,462**	**$2,487,596**

Each year the 2014 Workload Study is not funded, the cost of fully funding the study increases based on the application of common policy provider rate increases. When the Committee last considered a county staff increase in FY 2020-21, staff estimated a cost of $14.6 million total funds to fully fund the workload study.

STAFF RECOMMENDATIONS

The Department did not request additional funding for county staffing in FY 2022-23, and staff did not recommend additional funding in the initial staff figure setting presentation. Staff does not recommend fully funding the 2014 Workload Study based on the outdated nature of the data behind the study and existing workforce challenges and vacancy rates at county departments of human services. Staff recommends the following options if the Committee would like to pursue alternatives to support the provision of child welfare services on the county level.

Recommendation 1: Additional County Staffing funding based on 50.0 FTE

The calculation for an additional 50.0 FTE includes an increase of $3.3 million total funds, including $2.4 million General Fund. The Committee initially approved an increase based on 50.0 FTE in FY 2020-21, but reversed the decision during balancing. The Department originally requested an increase based on 50.0 FTE rather than the 100.0 FTE calculation requested in previous years as the Department and OSPB were beginning to recognize concerns with the allocation and underlying data.

Staff does not anticipate that funding at this level will provide county departments with sufficient resources to increase existing staffing levels based on existing vacancy rates. Rather, the additional funding will reduce potential over-expenditures to the line that are anticipated by the CWAC. Staff calculations for funding at varying FTE levels are provided in the table below.

County Staffing Costs by FTE Increase				
FTE	Total Funds	General Fund	Local Funds	Federal Funds
50.0	$3,258,204	$2,393,911	$325,828	$538,392
100.0	6,516,407	4,787,821	651,656	1,076,783
150.0	9,774,611	7,181,732	$977,483	1,615,175
200.0	13,032,815	9,575,642	1,303,311	2,153,566
231.0	**15,054,275**	**11,060,876**	**1,505,462**	**2,487,596**

Recommendation 2: Increased County Staffing and Block funding

The Department and counties both indicate that while there are shortfalls in funding for the county staffing line, the under-earning of Title IV-E revenue is a significant long-term concern that must be addressed by increasing the General Fund available to the Block allocation. Current CWAC estimates project that the State will receive $15.1 million less federal funds in FY 2021-22 than are appropriated in the Long Bill. Without additional General Fund, this shortfall must be absorbed by the counties. Staff recommends that any amount above the $3.0 million projected General Fund over-expenditure in the county staffing line be directed to the Block allocation to alleviate the projected Title IV-E shortfall.

For this alternative, staff recommends the $3.3 million total fund increase proposed in Recommendation 1 for the county staffing line, and direct the remaining $8.6 million General Fund required to fully fund the 2014 Workload Study to the Block allocation.

Recommendation 3: Block General Fund increase

Staff recommends a General Fund increase of $15.0 million to the Child Welfare Block Grant to offset the Title IV-E shortfall projected by the CWAC. The Department does not currently have sufficient data to request a General Fund adjustment, but anticipates that a significant supplemental may be necessary to provide counties with needed resources. CWAC projects an under-earning of $15.1 million federal funds in the current fiscal year. This amount is expected to increase in FY 2022-23 as that will be the first state fiscal year with full implementation of Family First.

The county staffing line is also projected to over-expend by $3.8 million if no adjustments are made to the allocation. However, any over-expenditures to the line are backfilled with the Block allocation. The Block allocation requires a higher match rate from counties, but has been used to cover over-expenditures of a similar amount in recent years. The impacts of the over-expenditure of the county staffing line and the under-earning of Title IV-E may be less severe than anticipated depending on vacancy rates and decreased caseload experienced during the COVID-19 pandemic.

COUNTY STAFFING CASELOAD

The following data was provided by the Department in response to an RFI requested by the Committee. The case to caseworker ratio recommended by the 2014 Workload Study is 10:1, and the recommended caseworker to supervisor ratio was 5:1. Five counties have a case to caseworker ratio greater than 11, and six have a supervisor ratio higher than 6.

Actual Caseload Ratios By County FY 2020-21					
	Avg. Monthly Caseload	Total Caseworker/Aides	Total Supervisors	Case to Caseworker Ratio	Caseworker to Supervisor Ratio
Adams	1,921.08	264.00	34.00	7.28	7.76
Alamosa	134.58	20.00	3.75	6.73	5.33
Arapahoe	2,041.92	213.50	35.00	9.56	6.10
Archuleta	53.92	6.50	1.50	8.30	4.33
Baca	16.75	4.00	2.00	4.19	2.00
Bent	28.08	4.00	1.50	7.02	2.67
Boulder	930.08	87.25	15.50	10.66	5.63
Broomfield	119.33	16.00	4.00	7.46	4.00
Chaffee	56.00	9.00	1.00	6.22	9.00
Cheyenne	1.50	3.00	3.00	0.50	1.00
Clear Creek	28.00	12.00	3.00	2.33	4.00
Conejos	31.42	4.50	3.00	6.98	1.50
Costilla	31.25	4.25	1.00	7.35	4.25
Crowley	21.75	5.00	1.00	4.35	5.00
Custer	14.00	1.50	2.00	9.33	0.75
Delta	176.08	11.00	2.00	16.01	5.50
Denver	2,351.17	306.00	63.00	7.68	4.86
Dolores	3.58	4.50	0.75	0.80	6.00
Douglas	623.00	39.00	8.00	15.97	4.88
Eagle	82.08	10.00	2.00	8.21	5.00
El Paso	3,153.25	300.75	50.50	10.48	5.96
Elbert	58.50	6.15	2.00	9.51	3.08
Fremont*	276.67	40.25	7.25	6.87	5.55
Garfield	186.67	22.50	3.95	8.30	5.70
Gilpin	13.83	10.50	3.00	1.32	3.50
Grand/Jackson	27.83	2.75	0.90	10.12	3.06
Gunnison/Hinsdale	29.25	9.00	2.00	3.25	4.50
Huerfano	45.00	7.50	2.00	6.00	3.75
Jefferson	1,534.33	184.50	43.00	8.32	4.29
Kiowa	6.50	1.50	2.50	4.33	0.60
Kit Carson	42.92	13.00	3.30	3.30	3.94
La Plata/San Juan	140.67	21.75	6.47	6.47	3.36
Lake	16.25	4.75	3.42	3.42	1.39
Larimer	991.67	114.50	8.66	8.66	13.22
Las Animas	73.92	10.60	6.97	6.97	1.52
Lincoln	28.33	4.50	6.30	6.30	0.71
Logan	132.08	18.00	7.34	7.34	2.45
Mesa	880.75	74.75	11.78	11.78	6.35
Moffat	109.50	9.45	11.59	11.59	0.82
Montezuma	121.33	11.00	11.03	11.03	1.00
Montrose	206.00	20.50	10.05	10.05	2.04
Morgan	156.50	19.50	8.03	8.03	2.43
Otero	88.08	12.25	7.19	7.19	1.70
Ouray	6.25	1.50	4.17	4.17	0.36
Park	50.50	6.00	8.42	8.42	0.71

Actual Caseload Ratios By County FY 2020-21					
	Avg. Monthly Caseload	Total Caseworker/Aides	Total Supervisors	Case to Caseworker Ratio	Caseworker to Supervisor Ratio
Phillips	5.25	2.00	2.00	2.63	1.00
Pitkin	15.92	3.25	1.75	4.90	1.86
Prowers	63.33	9.25	2.25	6.85	4.11
Pueblo	564.33	92.50	13.00	6.10	7.12
Rio Blanco	36.08	7.00	2.00	5.15	3.50
Rio Grande/Mineral	68.17	6.75	2.00	10.10	3.38
Routt	38.67	6.75	1.50	5.73	4.50
Saguache	27.92	12.00	3.00	2.33	4.00
San Miguel	12.08	1.50	0.25	8.05	6.00
Sedgwick	7.42	1.00	1.00	7.42	1.00
Summit	21.50	4.45	2.00	4.83	2.23
Teller	102.17	14.00	3.00	7.30	4.67
Washington	32.00	3.75	1.00	8.53	3.75
Weld	1,238.50	114.00	23.00	10.86	4.96
Yuma	35.33	5.25	1.00	6.73	5.25
Statewide Total	**19,310.82**	**2,235.90**	**477.57**	**8.64**	**4.68**

CHILD WELFARE ALLOCATION COMMITTEE REPORTS

The attached documents provide projections for the County Staffing Grant allocation and Child Welfare Block Grant allocation as determined by the Child Welfare Allocation Committee (CWAC). The reports indicate that CWAC expects an over-expenditure of the County Staffing Grant allocation by $3.8 million, as well as an under-earning of federal Title IV-E funds of $15.1 million in FY 2021-22.

FY 2022 COUNTY STAFFING FIRST SIX MONTHS ALLOCATION EXPENDITURE TRACKING (JUL 2021 - JAN 2022)

SB 15-242 directed additional funding to counties in addition to the Child Welfare Block for the specific purpose of hiring new child welfare staff. This legislation was in response to a workload study performed by the Office of the State Auditor. The study recommended that additional county staff were needed to address the increase in workload and insufficient staff. The funding is for new county child welfare staff (salaries, benefits, and operating expenses). *These funds are allocated to counties pursuant to a formula approved by the Child Welfare Allocation Committee.*

County	FY 2022 Allocation	YTD Actuals	YTD Percentage Spent	Projected Expenditures	Projected Under/(Over)
Adams	$ 4,052,126	$ 2,845,715	70%	$ 4,878,369	$ (826,243)
Alamosa	193,037	114,120	59%	195,635	(2,598)
Arapahoe	3,683,970	2,301,642	62%	3,945,672	(261,702)
Archuleta	61,883	24,527	40%	42,047	19,836
Baca	61,883	36,064	58%	61,825	58
Bent*	61,883	11,846	19%	20,307	41,576
Boulder	309,414	265,355	86%	454,895	(145,481)
Chaffee	61,883	37,175	60%	63,728	(1,845)
Clear Creek	61,883	52,811	85%	90,533	(28,650)
Conejos	77,353	19,154	25%	32,835	44,518
Costilla*	61,883	33,171	54%	56,865	5,018
Crowley	61,883	29,254	47%	50,151	11,732
Delta	297,251	95,326	32%	163,416	133,835
Denver	3,571,296	2,813,160	79%	4,822,561	(1,251,265)
Dolores	30,941	15,278	49%	26,191	4,751
Douglas	1,162,301	1,007,226	87%	1,726,674	(564,372)
Eagle	61,883	40,462	65%	69,364	(7,481)
Elbert	61,883	29,607	48%	50,755	11,127
El Paso	5,079,974	3,218,904	63%	5,518,120	(438,147)
Fremont	139,236	94,002	68%	161,147	(21,910)
Garfield	46,412	38,516	83%	66,027	(19,615)
Gilpin	61,883	65,674	106%	112,584	(50,702)
Huerfano	61,883	45,819	74%	78,547	(16,664)
Jefferson	1,952,606	1,296,203	66%	2,222,062	(269,456)
Kiowa	61,883	42,060	68%	72,102	(10,220)
La Plata	61,883	49,223	80%	84,383	(22,500)
Larimer	862,483	562,243	65%	963,845	(101,362)
Las Animas	61,883	31,456	51%	53,924	7,959
Logan	61,883	41,087	66%	70,435	(8,552)
Mesa	1,608,755	835,389	52%	1,432,096	176,659
Mineral	15,471	-	0%	-	15,471
Moffat	61,883	45,713	74%	78,364	(16,482)
Montrose	378,760	167,695	44%	287,477	91,284
Morgan	30,941	11,803	38%	20,234	10,708
Otero	67,038	43,102	64%	73,890	(6,851)
Pitkin	61,883	83,821	135%	143,693	(81,810)
Prowers	61,883	42,168	68%	72,289	(10,406)
Pueblo	324,884	219,494	68%	376,275	(51,391)
Rio Grande	77,353	33,426	43%	57,301	20,052
Saguache	61,883	29,805	48%	51,095	10,788
Washington	61,883	20,347	33%	34,880	27,002
Weld	1,451,394	925,512	64%	1,586,592	(135,198)
Yuma	61,883	59,076	95%	101,273	(39,390)
Broomfield	61,883	41,147	66%	70,537	(8,654)
Total	$ 26,774,418	**$ 17,815,579**	**67%**	**$ 30,540,992**	**$ (3,766,574)**
General Fund - under/(over-spent)	**$ 19,757,355**	$ 13,292,104	**67%**	$ 22,786,463	**$ (3,029,108)**
Title IV-E - over/(under-earned)	**$ 4,649,053**	$ 2,856,609	**61%**	$ 4,897,045	**$ 247,992**
County Match - under/(over-spent)	**$ 2,368,010**	$ 1,666,866	**70%**	$ 2,857,484	**$ (489,474)**
Total Allocation	**$ 26,774,418**	**$ 17,815,579**	**67%**	$ 30,540,992	**$ (3,766,574)**

Notes:
1. ***Bold Italic*** counties are eligible for Tier I/II funding. These counties receive 100% state funding under this allocation.
2. Underspent funds will revert back to the General Fund and will not roll into the Child Welfare Block as additional funds.
3. Discrepancies in amounts are due to rounding.

Section	Total Federal Budget per Long Bill	% of Total Federal Share per Approp.	Total IV-E Budget from Long Bill	Calculated Budget per Month
Block	95,888,111.00	78.34%	71,114,806.00	5,926,233.83
Staffing	4,650,238.00	5.12%	4,650,238.00	387,519.83
RGAP	15,008,367.00	16.53%	15,008,367.00	1,250,697.25
Total	115,546,716.00	100.00%	90,773,411.00	7,564,450.92
CORE Svcs	3,051,917.00	N/A	3,051,917.00	254,326.42

Section Budgeted	July	August	September	October	November	December	January	Total	Annualized Total
Block	5,926,233.83	5,926,233.83	5,926,233.83	5,926,233.83	5,926,233.83	5,926,233.83	5,926,233.83	41,483,636.83	71,114,806.00
Staffing	387,519.83	387,519.83	387,519.83	387,519.83	387,519.83	387,519.83	387,519.83	2,712,638.83	4,650,238.00
RGAP	1,250,697.25	1,250,697.25	1,250,697.25	1,250,697.25	1,250,697.25	1,250,697.25	1,250,697.25	8,754,880.75	15,008,367.00
Total	7,564,450.92	7,564,450.92	7,564,450.92	7,564,450.92	7,564,450.92	7,564,450.92	7,564,450.92	52,951,156.42	88,260,142.25
CORE Svcs	254,326.42	254,326.42	254,326.42	254,326.42	254,326.42	254,326.42	254,326.42	1,780,284.92	3,051,917.00
Grand Total	**7,818,777.33**	**7,818,777.33**	**7,818,777.33**	**7,818,777.33**	**7,818,777.33**	**7,818,777.33**	**7,818,777.33**	**54,731,441.33**	**91,293,450.00**

Section Actual	July	August	September	October	November	December	January	Total	Total
Block	4,336,030.75	4,253,607.03	5,991,226.80	3,149,956.97	4,441,794.89	5,897,414.97	4,579,976.19	32,650,007.60	55,971,441.60
Staffing	379,731.86	337,810.96	550,829.76	274,709.14	384,044.39	595,308.84	334,174.49	2,856,609.44	4,897,044.75
RGAP	1,712,925.29	1,765,527.91	1,820,702.17	1,829,448.33	2,175,388.64	1,848,480.18	1,948,936.80	13,101,409.32	22,459,558.83
Total	6,428,687.90	6,356,945.90	8,362,758.73	5,254,114.44	7,001,227.92	8,341,203.99	6,863,087.48	48,608,026.36	83,328,045.19
CORE Svcs	303,200.30	301,623.35	379,815.34	206,443.61	309,272.95	1,274,356.49	553,993.16	3,328,705.20	5,706,351.77
Grand Total	**6,731,888.20**	**6,658,569.25**	**8,742,574.07**	**5,460,558.05**	**7,310,500.87**	**9,615,560.48**	**7,417,080.64**	**51,936,731.56**	**89,034,396.96**

Budget Variance	July	August	September	October	November	December	January	Total	Total
Block	(1,590,203.08)	(1,672,626.80)	64,992.97	(2,776,276.86)	(1,484,438.94)	(28,818.86)	(1,346,257.64)	(8,833,629.23)	(15,143,364.40)
Staffing	(7,787.97)	(49,708.87)	163,309.93	(112,810.69)	(3,475.44)	207,789.01	(53,345.34)	143,970.61	246,806.75
RGAP	462,228.04	514,830.66	570,004.92	578,751.08	924,691.39	597,782.93	698,239.55	4,346,528.57	7,451,191.83
Total	(1,135,763.02)	(1,207,505.02)	798,307.81	(2,310,336.48)	(563,223.00)	776,753.07	(701,363.44)	(4,343,130.06)	(7,445,365.81)
CORE Svcs	48,873.88	47,296.93	125,488.92	(47,882.81)	54,946.53	1,020,030.07	299,666.74	1,548,420.28	2,654,434.77
Grand Total	**(1,086,889.13)**	**(1,160,208.08)**	**923,796.74**	**(2,358,219.28)**	**(508,276.46)**	**1,796,783.15**	**(401,696.69)**	**(2,794,709.77)**	**(4,790,931.04)**

^Note: Accruals are skewing earnings amounts for September.

^Skew here is due to this being first month where E210 FFPSA admin is trued up via RMS Quarterly stat finals

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Craig Harper, JBC Staff (303-866-3481)
DATE	March 15, 2022
SUBJECT	Comeback for Human Services R9 – Improving Involuntary Mental Health Treatment (tabled item)

During figure setting for the Department of Human Services – Office of Behavioral Health on March 10, 2022, the Committee delayed action on request R9 (Improving Involuntary Mental Health Treatment) to allow for additional discussion regarding the request's potential overlap with H.B. 22-1256 (Modifications to Civil Involuntary Commitments).

The Committee did not request additional information but did delay action on the request. Staff has included the original write-up from the figure setting document below.

➔ R9 IMPROVING MENTAL HEALTH INVOLUNTARY TREATMENT

REQUEST: The request includes an increase of $181,433 General Fund and 1.0 FTE for FY 2022-23 to provide statewide technical assistance and training to mental health professionals related to involuntary mental health holds and treatment. After eliminating one-time costs proposed for the first year, the request anticipates an ongoing need for $133,883 General Fund and 1.0 FTE in FY 2023-24 and subsequent years (see following table with a correction to the out-year cost for operating expenses.

R9 - IMPROVING INVOLUNTARY MENTAL HEALTH TREATMENT				
	FY 2022-23 REQUEST		FY 2023-24 IMPACT	
	$ GF	FTE	$ GF	FTE
Community Behavioral Health Administration, Administration, Personal Services				
Salaries	$92,924	1.0	$92,924	1.0
PERA (10.9%)	10,129		10,129	
Medicare (1.45%)	1,347		1,347	
AED (5.0%) [1]	4,646		4,646	
SAED (5.0%) [1]	4,646		4,646	
STD (0.019%) [1]	149		149	
Estimated HLD [1]	10,042		10,042	
Subtotal, Personal Services	**$123,883**	**1.0**	**$123,883**	**1.0**
Community Behavioral Health Administration, Administration, Operating Expenses				
Supplies ($500)	$500		$500	
Computer ($1,230)	1,600		0	
Office Equipment ($3,473)	5,000		0	
Telephone ($450/FTE)	450		450	
Computer Software ($400/FTE)	0		0	
Subtotal, Operating Expenses	**$7,550**		**$950**	
Involuntary Mental Health Care and Treatment	**$50,000**		**$10,000**	
Total, Request R9 (General Fund)	**$181,433**	**1.0**	**$134,833**	**1.0**

[1] These amounts would be addressed through centrally appropriated line items rather than within the personal services lines and would not be appropriated in the first year under the Committee's common policies.

STAFF RECOMMENDATION: Staff recommends denying the request for the inclusion of additional funds in the Long Bill. The Department's original request included proposed statutory changes related to involuntary "27-65" holds, particularly the involuntary transportation hold authorized in S.B. 17-207. The request also stated that the Department "does not have clear statutory authority or FTE for training…" as proposed in R9. Although the Department later concluded that it *could* offer the training within its existing rulemaking authority[1], staff notes that the General Assembly is currently considering legislation (H.B. 22-1256 (Modifications to Civil Involuntary Commitments)) that would not only give clear authority for the training but would actually require it. Staff recommends that the General Assembly make any appropriation for the training, as necessary, in that legislation.

ANALYSIS

Request R9 proposes to add an FTE to develop, administer, and support training and technical assistance to standardize and clarify the appropriate use of involuntary mental health holds, including involuntary transportation holds, through both rulemaking and statewide training efforts for "intervening professionals" such as law enforcement officers, first responders, nurses, psychologists, physicians, social workers, therapists, and counselors. The original request R9 proposed statutory changes to the involuntary holds statutes (Article 65 of Title 27, C.R.S.) and highlights a number of problems with the existing statute, particularly as it pertains to the involuntary transportation hold authorized in S.B. 17-207.

- For example, the request reports that many intervening professionals refuse to use the transportation hold because of ambiguity in the statute and potential liability concerns. According to the Department, the intent of the transportation hold was to allow transportation to providers that could then evaluate the need for a more restrictive 72 hour hold. However, the Department reports that that has not been the outcome.
- According to the request, the current involuntary transportation hold allows all intervening professionals to initiate the hold and does not address patient rights and/or liability concerns from law enforcement. The Department reports that this has resulted in most law enforcement agencies refusing to use the new hold.

The Department later indicated that it was no longer pursuing the statutory changes through the budget process (or otherwise) but continued to request the funds and FTE for the training under its rulemaking authority in Sec. 27-65-128. The request includes funding for 1.0 FTE to develop, maintain, and offer the training, which would generally be delivered through online platforms. The Department expects to create trainings tailored to specific audiences/intervening professionals (e.g. law enforcement vs. emergency medical vs. other providers). The request also includes $50,000 in contract funds to specifically support the development of the training programs in FY 2022-23 (which reduces to $10,000 to maintain the programs in future years).

Staff Considerations

Staff agrees that clarifying and improving the system surrounding involuntary treatment and holds appears to be appropriate. According to the Department, there were at least 50,083 72-hour holds statewide in calendar year 2019, in addition to 2,812 transportation holds. Given the public safety, constitutional, and individual liberties issues at stake, staff agrees that improving this system should be a priority. Staff also notes that this is a recurring topic for the General Assembly. Finally, staff also

[1] Section 27-65-128, C.R.S., states "The department shall make such rules as will consistently enforce this article."

agrees that adding and requiring training for applicable professionals would be appropriate in order to ensure that the system is uniform statewide and that holds are properly conducted.

However, as the Department noted in the request, there is no clear authority in statute for the Department to offer such training and no requirement for any individual to receive it. While staff agrees that the Department may be able to institute a training program under its existing rulemaking authority in Sec. 27-65-128, C.R.S., there is no indication that training was anticipated in that authority. Staff contends that it would be preferable for the General Assembly to provide clear authority for the training and to specify what it wants that training to include, whether individuals should be required to receive the training (and who), etc.

Staff notes that H.B. 22-1256, currently before the General Assembly, would provide that authority. The bill specifically requires the Department (actually the BHA) to provide training related to the involuntary hold process, law, and regulations. Staff believes that it would be preferable for the General Assembly to authorize and require the Department to provide this training in statute, preferably in concert with clarification and improvement of the involuntary hold statutes (assuming that the General Assembly finds such changes to be necessary). Making any necessary appropriation in that legislation would reflect the cost of the new requirements in the legislation setting those requirements and allow the General Assembly to evaluate those costs through the normal legislative process and connect those costs with the General Assembly's intentions for the training.

Points to Consider if the Committee Approves the Request
Should the Committee elect to approve the request rather than proceed with appropriations in separate legislation such as H.B. 22-1256, staff notes the following:

- As with nearly every position requested by the Department this year, the request proposes a mid-point salary for the Program Management I position. The Department has pointed to specific skills required of the position (potentially including professional licensure, experience in emergency mental health intervention, experience in adult education/training, and/or health facility auditing). The Department also cited current difficulties hiring in general, and potential concerns about the Equal Pay Act, as justification for the mid-point salary. However, this is not a direct care position (such as the positions in request R2 that are funded at the midpoint based on Committee precedent) and the Committee's common policies would require a range minimum salary (roughly $12,000 per year lower than the request for the salary) unless the Committee approved an exception.
- There are several other components of the request (inclusion of centrally appropriated amounts, calculations for PERA and operating common policies, for example) that would require adjustment to align with the Committee's common policies.

If the Committee were to approve the request then staff would request guidance on the Committee's preference for the salary and permission to make technical adjustments to align with the Committee's common policies associated with new FTE.

LEVEL OF EVIDENCE PURSUANT TO S.B. 21-284
Senate Bill 21-284 states that a program or practice is "theory-informed" if a theory of change has been identified and implemented. The Department identified this budget request as a theory-informed practice, and identified the theory of change as "all intervening professionals will be trained by OBH

in Colorado-specific involuntary procedures ensuring these professionals have the skills and knowledge to initiate mental health procedures that meet the individual needs of the people of Colorado." The Department's objective is "create involuntary mental health provisions that meet the needs of individuals in a mental health crisis."

A theory of change is a method that explains how a given intervention, or set of interventions, is expected to lead to specific outcomes, drawing on a causal analysis based on available evidence. As discussed above, staff agrees that the Department's arguments for statutory change (which ties to the Department's objective) are compelling. However, the Department has divorced this request from any change to those provisions, and staff is not aware of any evidence that would indicate that the training is likely to accomplish the Department's goals, particularly without statutory changes. The Department has proposed to measure trends in the utilization of voluntary and involuntary holds, with a goal of reducing the use of involuntary holds. However, given that the request assumes statutory change that the Department is not requesting, JBC staff has determined that, pursuant to S.B. 21-284 (Evidence-based Evaluations for Budget), assignment of a level of evidence is not applicable to this request. However, staff agrees that the request could generate evidence that would inform future decision making.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Eric Kurtz, JBC Staff (303-866-4952)
DATE	March 14, 2022
SUBJECT	Staff Comebacks - Department of Early Childhood

➔ INFORMATION TECHNOLOGY SYSTEMS

Staff recommends:

- $15,650,000 million federal Child Care Development Funds for early childhood information technology systems, including $1,000,000 in the operating budget and $14,650,000 in the capital construction budget
- Placement of the appropriation in the Department of Early Childhood, since the information technology systems are related to the new department
- Spending authority for the capital construction budget for one-year, rather than the typical three years for information technology projects, consistent with the recommendation of the Joint Technology Committee

The JBC delayed action on this funding that was requested by the Department of Human Services pending review by the Joint Technology Committee. The JTC reviewed the request, in the context of all the technology requests that have been submitted related to early childhood programs, and sent a letter March 4, 2022, recommending approval, but with the caveat that the capital construction appropriation should be for one year, rather than the three years typically provided for capital appropriations.

Through some combination of new systems and modifying existing systems the Department wants to collect child-level data across programs through a unique identifier, support parents with a single application and unified eligibility for early childhood programs, collect real-time child care supply and demand data, administer payments to providers for universal preschool including managing child count processes, support providers in blending and braiding funds through unified data collection and payment systems, and create a central data warehouse for research and analytics.

This is an unusual request in that the Department is asking for approval before the design strategy is even developed. The Department is using time-limited federal stimulus funds and wants to be able to move forward as quickly as possible.

The JTC assumes the Department will not be able to spend all the money in one year and the JTC's recommendation for one year of spending authority is intended to force the Department to submit a supplemental request to extend the funding. In addition, the JTC asked the Department to submit monthly updates to the JTC on the project.

The table below summarizes all the early childhood information technology requests that have been submitted to put the comeback recommendations in context.

Early Childhood Information Technology					
	FY 21-22	FY 22-23	FY 23-24	FY 24-25	Cumulative
Comeback IT Recommendations					
Data and IT system administration	$0	$1,000,000	$1,000,000	$250,000	$2,250,000
Capital budget IT	0	14,650,000	0	0	14,650,000
Subtotal - Comeback Recommendations	**$0**	**$15,650,000**	**$1,000,000**	**$250,000**	**$16,900,000**
Other Early Childhood IT					
Reduce operating budget IT in S.B. 21-236 (Included in HB 22-1175 Hum Services supplemental)	(5,150,000)	0	0	0	(5,150,000)
Data systems to support the universal preschool program (Included in HB 22-1197 Effective date of DEC)	3,500,000	0	0	0	3,500,000
Information Technology Contracts & Equipment (Recommended in DEC figure setting)	0	3,946,534	3,946,534	3,946,534	11,839,602
Application support	0	371,284	371,284	371,284	1,113,852
Migration of existing systems	0	1,646,859	1,646,859	1,646,859	4,940,577
New functions	0	1,928,391	1,928,391	1,928,391	5,785,173
Subtotal - Other Early Childhood IT	**($1,650,000)**	**$3,946,534**	**$3,946,534**	**$3,946,534**	**$10,189,602**
Grand Total	**($1,650,000)**	**$19,596,534**	**$4,946,534**	**$4,196,534**	**$27,089,602**

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 14, 2022
SUBJECT	Staff comebacks – 1) JUD C&P R2, 2) C&P R9/R10, 3) CCJD/OJD R1/BA1

C&P R2 IT STAFF

The committee requested additional information related to the cost of the *selection of a new case management system* component of this request item. The Courts request an appropriation of $500,000 for FY 2022-23 and $1.0m for FY 2023-24 for this component. Funding for the entire R2 request is provided at 46.4 percent General Fund and 53.6 percent cash funds from the Judicial Department Information Technology Cash Fund.

The Joint Technology Committee (JTC) recommended approval of the entire R2 request without comment or additional information related to this portion of the request. Staff's follow-up with JTC staff suggested that the JTC did not overly scrutinize this item because the cost appeared to be in-line with similar items for other "large system" replacement due diligence and research requests.

The Courts estimate that the replacement of case management systems for trial courts, appellate courts, and probation will total $30-60 million; and replacement of all case management systems may total $10-12 million per year. Over a 10-year contract with a vendor or multiple vendors, system costs may total $60-120 million. The requested consulting research represents approximately 1.5 percent of the anticipated maximum cost of a replacement case management system; and represents 2.5-5.0 percent of the anticipated 10-year cost for primary courts and probation case management systems.

The Courts seek to hire a consulting firm to perform requirements gathering which will entail engaging with stakeholders across the Judicial system, including the Supreme Court, Chief Judge Council, District Leadership in 22 districts, technology committees, and special programs, in order to document the case management needs across the Judicial system. These needs would be included in a formal RFP request.

The consultant contract is anticipated to include contract or consultant services for 12-18 months that include a communications specialist, an enterprise architect, and a program manager. The Courts state that they currently do not have any of these roles on staff within their ITS department, nor do current staff have experience with a project of this size or magnitude. The Courts state that they are following a similar process to what the State Internet Portal Authority (SIPA) is undergoing with their *invitation to negotiate* (ITN) for their portal integrator procurement initiative.

Major vendors of case management systems include:

- Tyler Technologies – the largest provider of case management systems to states – that provides case management services for trial court, appellate, and probation, and provides systems for dispute resolution, eFiling, and jury management;
- Thomson Reuters that provides Westlaw, case management systems, and case center document and evidence management;

- Journal Technologies that provides case management systems for courts, prosecutors, defenders, and probation.

The Courts state that the recommended system may include a single vendor or multi-vendor solutions, which will include significant data integration needs across other government agencies. Due to the number of case management systems across the Judicial Department and Judicial system, and the level of complexity.

The Courts provided the following state comparisons:
- North Carolina, population 10.5 million, annual software as a service (SAAS) fee of $9.6 million, estimated contract size of $96 million, with components that include trial courts, district attorneys, and public defenders;
- Oregon, population 4.2 million, software license cost of $9.8 million, annual maintenance, support, and SAAS (for probation) of $2.5 million, estimated contract size of $47 million, with components that include superior courts, courts of limited jurisdiction, and probation;
- Kansas, population 2.9 million, software license cost of $4.6 million, annual maintenance and support of $1.0 million, estimated contract size of $20 million, with components that include district courts, court of appeals, and probation; and
- Idaho, population 1.8 million, software license cost of $2.4 million, annual maintenance and support of $500,000, estimated contract size of $14 million, with case management systems for all levels of courts.

The Courts request for R2 IT Staff totals $2,018,556, including $936,689 General Fund and $1,081,867 cash funds from the Judicial Department Information Technology Cash Fund and 16.0 FTE. **Staff recommends that the Committee approve the *selection of a new case management system* component of the R2 IT Staff request item, along with the IT Staff components as recommended in the figure setting document.** The following table outlines the JBC staff recommendation for staff components as well as the case management component.

R2 IT Staff								
	FY 2022-23 Request		FY 2022-23 Recommendation		FY 2023-24 Rec. Annualization		FY 2024-25 Rec. Annualization	
	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost
Personal Services - AV Engineer I	2.0	$143,033	1.8	$140,496	2.0	$153,269	2.0	$153,269
Personal Services - AV Engineer II	3.0	241,005	2.8	237,842	3.0	259,464	3.0	259,464
Personal Services - Sr. AV Engineer	2.0	191,178	1.8	193,425	2.0	211,009	2.0	211,009
Personal Services - Mgr. AV Network	1.0	139,026	0.9	141,093	1.0	153,919	1.0	153,919
Personal Services - Lead AV Architect	1.0	115,684	0.9	106,385	1.0	116,056	1.0	116,056
Personal Services - Sr. UnifCommEng	1.0	108,847	0.9	112,324	1.0	122,535	1.0	122,535
Personal Services - Sr. IT Tech	1.0	95,544	0.9	81,213	1.0	88,596	1.0	88,596
Personal Services - Tech Support Lead	1.0	93,634	0.9	94,967	1.0	103,600	1.0	103,600
Personal Services - IT Tech II	4.0	284,637	3.7	283,030	4.0	308,760	4.0	308,760
Operating Expense		15,200		19,710		21,600		21,600
Capital Outlay		90,768		99,200		0		0
Case Management System selection		500,000		500,000		1,000,000		0
R2 Total	**16.0**	**$2,018,556**	**14.6**	**$2,009,685**	**16.0**	**$2,538,808**	**16.0**	**$1,538,808**
General Fund		936,689		932,573		1,178,106		714,067
Cash Funds		1,081,867		1,077,112		1,360,702		824,741

C&P R9/R10
Staff packaged request items R9 and R10 together for the figure setting presentation due to the total number of requests addressed in that document and presentation. For this comeback document, staff will address each request item separately.

In tabling this decision item, the Committee sought additional information and recommendations on the program evaluation portion of the R9 request, that totaled $250,000 over three years, including $50,000 in FY 2022-23.

C&P R9 BEHAVIORAL HEALTH COURT LIAISON PROGRAM (BRIDGES PROGRAM)
This request includes an increase of $392,514 General Fund and 1.0 FTE for (1) a clinical supervisor position, (2) a program evaluation at a cost of $250,000 over three years ($50,000-$150,000-$50,000), and (3) a reinstatement of the 10.0 percent reduction in contractor rates instituted in FY 2020-21 and continued in FY 2021-22 at a cost of $198,000, along with a 2.5 percent provider rate increase, adopted as common policy in FY 2021-22 but not provided for Behavioral Court Liaison providers, at a cost of $48,000; net provider rate increases total $247,000. The FY 2023-24 annualization cost for this item is identified as $495,000.

Staff originally recommended that the Committee approve the staffing portion of the request and the provider rate increase portion of the request, and recommended that the Committee deny the program evaluation portion of the request.

However, the Committee expressed interest in funding a program evaluation for the Bridges Program as well as possibly including a program evaluation component for the R10 DA Adult Pretrial Diversion Program. The Committee asked staff to further consider the program evaluation portion for the Bridges Program as well as consider including or additionally recommending a program evaluation component for the DA Adult Pretrial Diversion Program.

The Courts described the following to staff, to better articulate the differences between the Bridges Program and the Adult Pretrial Diversion Program:

The Adult Pretrial Diversion Program is a DA-driven program in which counties opt in and participants are *diverted* completely out of the court system.

The Bridges Program is for participants where a DA seeks prosecution of the case, and in which the participant has significant mental health needs or challenges or will be going through the competency process. The Bridges Program, in this way, is not a *diversion* out of the court system, but provides behavioral health-related services to increase the likelihood that a participant may be *diverted* out of custody and into community-based services or a mental health facility; and in the case of the competency process, may divert a participant out of hospital or mental health institution beds. So the Bridges Program creates *diversion* away from custody, hospital, and mental health institutions but not completely out of the legal or court system.

The Courts explained to staff that a joint evaluation of both programs made sense to representatives from both programs. Critically, such an evaluation would allow for tracking unique participants, which provides much greater qualitative data and anecdotal understanding, rather than relying on data generated through the case-tracking system.

Case-tracking data is typically initiated at the law enforcement level and may have limits on the variety and nuance at the point of entry-level data collection. Additionally, there may also be significant differences across jurisdictions in accuracy of classification within the collection and assignment of basic case data points. An example of differences might be race or ethnicity; and once a particular indicator is captured as a part of case-tracking, such an indicator remains a part of the record through the process in cases where such judgments may not be accurate in individual cases or consistent within or across jurisdictions.

Additionally, it was explained that the Bridges Program is the first of its kind in the country, and there is a perceived need to begin to quantify the systemic impacts on the courts and criminal justice system as it relates to generating cost savings.

Staff has attached a response document from the Courts regarding the issues that surround the program evaluation piece for both programs as well general information on the programs. It is staff's opinion that this document is well written and includes a well-considered and comprehensive explanation and well-considered response to the Committee's questions and discussion around these programs. While staff would typically summarize such a document for the Committee's purposes, it is staff's opinion that this document provides a depth of information that is best considered by the Committee directly.

The current request for the program evaluation of the Bridges Program includes a cost of $250,000 over three years $50,000-$150,000-$50,000. The Courts estimate that a single evaluation including both the Bridges and Adult Diversion Programs would cost an additional $150,000. It is anticipated that planning for both can be accommodated within the first-year planning cost of $50,000.

Based on the additional information provided by the Courts in response to the Committee's questions and discussions around a program evaluation for one or both programs, **staff recommends that the Committee include funding for the program evaluation portion of $50,000 for FY 2022-23, with the intention of funding a program evaluation for both the Bridges and Adult Diversion Programs.** Staff recommends appropriations of $150,000 for each program ($300,000 total) for FY 2023-24 and $50,000 to be located in the Bridges Program for FY 2024-25. If the Courts determine that there should be a different apportionment of the total cost of $350,000 over the out-years and across programs, they will submit adjustments to the annualization plan in their budget request for FY 2023-24.

The following table outlines the total staff recommendation for the R9 request.

C&P R9 STAFF REQUEST, PROVIDER RATE INCREASE, AND PROGRAM EVALUATION										
	FY 2022-23 REQUEST		FY 2022-23 RECOMMENDATION		FY 2023-24 REC. ANNUALIZ		FY 2024-25 REC. ANNUALIZ		FY 2025-26 REC. ANNUALIZ	
	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost
Personal Services - ClinSup	1.0	$84,213	0.9	$84,288	1.0	$91,950	1.0	$91,950	1.0	$91,950
Operating Expense		950		1,350		1,350		1,350		1,350
Travel Expense		5,000		5,000		5,000		5,000		5,000
Capital Outlay		5,673		6,200		0		0		0
Staff subtotal	1.0	95,836	0.9	96,838	1.0	98,300	1.0	98,300	1.0	98,300
Provider rate increase		246,678		246,678		246,678		246,678		246,678
Program evaluation - Bridges		50,000		50,000		150,000		50,000		0
Program evaluation - ADP		0		0		150,000		0		0
R9 staff request total	**1.0**	**$392,514**	**0.9**	**$393,516**	**1.0**	**$644,978**	**1.0**	**$394,978**	**1.0**	**$344,978**

C&P R10 MENTAL HEALTH AND DA PRETRIAL DIVERSION PROGRAM

This request includes an increase of $1,985,500 cash funds from the Behavioral and Mental Health Cash Fund, created and funded with ARPA funds in S.B. 21-137 Behavioral Health Recovery Act, for the Pretrial Adult Diversion Program. The request for the Pretrial Diversion Program includes $1.6 million for additional adult diversion funding and $339,000 for the one-time cost for a case management system for the Pretrial Diversion Program.

Additionally, the request includes the transfer of $100,000 General Fund and 1.0 FTE from the Mental Health Diversion Program into General Courts Administration and termination of the Mental Health Diversion Program.

Prior to FY 2020-21, the Pretrial Diversion Program was General Funded at $400,000 per year, was initially approved for an increase to $874,000 General Fund, and was then reduced to $100,000 General Fund for FY 2020-21.

<u>The R10 request and recommendation at figure setting was not at issue in the Committee's decision to table the joint R9/R10 decision item. The following staff recommendation was included in the figure setting document.</u>

Staff recommends that the Committee approve the requested funding for the Adult Diversion Program. Additionally, staff recommends that the Committee approve the requested transfer of 1.0 FTE and associated $100,000 General Fund from the Mental Health Diversion Program to General Courts Administration.

OJD R1/BA1 OFFICE OF JUDICIAL DISCIPLINE

This item was tabled by the Committee. Staff does not have additional information to present on this request item at this time. The following reflects the request and recommendation summary from the figure setting document.

REQUEST: The Colorado Commission on Judicial Discipline (CCJD) requests:

- the creation of a separate budget line item for its Office of Judicial Discipline to provide independent spending authority and funding for its constitutionally established function;
- an appropriation of $608,506 cash funds from attorney registration fees and 4.0 FTE; and
- an appropriation of $400,000 General Fund into an investigations cash funds to provide an initial pool of funding for extraordinary expenses.

RECOMMENDATION: Staff recommends that the Committee deny the request to establish appropriations for the Office in the Long Bill. Staff instead recommends that the Committee pursue (or participate in) legislation that would establish the Office of Judicial Discipline as an independent agency in the Judicial Branch. Staff recommends that appropriations for the Office be provided in that legislation and that funding be provided from General Fund, unless another cash funded source is created in statute to fund the Office.

Responses to Budget Setting Inquiries about
Bridges and Pretrial Adult Diversion Programs

I. Overview of Bridges and Adult Diversion Programs

The Bridges and Adult Diversion Programs serve people with behavioral health challenges who are involved in the criminal legal system at different stages of legal system involvement - Bridges focuses primarily on people *going through the court system to resolve criminal charges and competency system involvement,* and Diversion provides a *path out of the court system to resolve criminal charges.* Unlike Bridges participants, diversion participants may or may not have behavioral health treatment needs. Unlike most Bridges participants, diversion participants have minimal court contact. The following table provides program overviews in greater detail.

	Bridges Program (BH Court Liaison Program)	**Pre-trial Adult Diversion Program**
Program Summary	***Connecting those charged with crimes to mental and behavioral health resources***, with priority given to those involved in competency services; Inform Judicial decision making to support positive outcomes for participants living with behavioral health conditions	***Diverting people out*** of criminal court system without plea, trial or sentencing, if they complete diversion requirements; Most have ***no or little court involvement***; Participants may or may not have BH treatment needs
Authority	§16-11.9-201, C.R.S., to §16-11.9-205	§18-1.3-101, C.R.S.
Statutory Purpose	• All individuals within the criminal justice system are treated fairly and humanely, regardless of their behavioral health history or mental state. • To promote positive outcomes for Coloradans living with mental health conditions who encounter criminal justice involvement by fostering collaboration between both systems.	• Support local diversion programs that divert people from the criminal legal system to prevent additional criminal acts, facilitate payment of restitution, and reduce the number of criminal cases; • Ensure accountability for criminal conduct and minimize collateral consequences related to criminal charges and convictions.
Program Tasks	• Liaisons keep judges and attorneys informed about available community-based services. Liaisons may outline options based on a variety of possible court decisions. • Liaisons meet with participants to identify needs for mental health and other services that will help remove barriers and offer stability. • Liaisons build rapport and a personal connection in order to support individuals with engagement into identified services.	• Funding for local diversion programs under §18-1.3-101, C.R.S. • Participants enter diversion agreements instead of plea or trial • Successful participants have charges dismissed and avoid collateral consequences of incarceration/ conviction
Geographic Scope	All 22 judicial districts	• 10 judicial districts in FY22 (2, 5, 7, 12, 14, 15, 16, 20, 21, 22) and 12 in FY21 • Other districts may operate diversion outside of §18-1.3-101
Point of Entry	Between filing of charges and entry of plea or trial	Any time prior to, and instead of, entry of plea or trial, including after a finding of competent to proceed or after restoration of competence

II. Program Evaluations

Third party program evaluations are essential to confirming the fidelity of program models by independent consultants or organizations. Independent means that the organization or consultant conducting the evaluation is not directly connected to Judicial or have any interest, financial or otherwise, in the program being evaluated. In conducting an evaluation, an independent third-party evaluator analyzes the program's operational design, and uses that data to determine if the program has efficacy, what the limitations are, and what improvements are necessary to ensure the expected program outcomes. As noted in the discussions of R9 and R10 below, both Bridges and Diversion have data collection and reporting requirements; however, data points are limited, and they are collected and analyzed by Judicial employees and associated stakeholders, generally in the form of an annual report. In addition, current reporting encompasses program service data, such as the demographics of the individuals being served and the outcomes of their cases, and does not analyze the efficacy, fidelity, and operational designs of the programs or make independent recommendations for program improvement based on that analysis. Conducting a robust third-party evaluation of both programs will directly advise strategic direction and program development, as discussed in more detail below.

R9 requested funding for a Bridges quantitative and qualitative program evaluation. Section 16-11.9-205 of SB-18.251 directs that the program collect and analyze data regarding the work of the program, including data that demonstrates the impact, utilization, and efficiency of the program in promoting the legislative intent and statewide goals. Currently, the Bridges Program compiles and reports data regarding utilization of the program by accessing Judicial records. Additionally, liaisons self-report on a limited number of data points regarding outcomes related to the legislative intent and statewide goals. To completely fulfill the statutory reporting obligation, a program evaluation is necessary to identify data to be collected across multiple systems and in a case management system (to be created with SCAO, but no funding request is being made as part of this decision item) and to examine outcomes related to the legislative intent and goals of the program. Not only is program evaluation necessary to fully meet reporting requirements, it is also critical to long term program success, as the purpose is to identify progress towards outcomes, improve program effectiveness, and identify cost savings across systems. Because of the collaborative nature of the program model, thorough data collection and analysis of outcomes for the Bridges Program require a robust evaluation design that examines the intersection of data across contracted agencies, the Judicial Department, the Office of Behavioral Health, jails, and law enforcement agencies.

R10 did not seek funding for evaluation of the Adult Diversion Program, instead prioritizing restoration of funding for basic program operations, funding to account for growth in the number of programs from 4 to as many as 12, funding for behavioral health interventions, and funding for participant basic needs that are critical to stabilization in the community, such as supportive case management, transitional housing, transportation assistance, employment assistance (including necessities required for employment), assistance with fees need to obtain identification cards or seal records, short-term phone access, and like expenses. However, the Adult Diversion Program has not undergone a program evaluation since its creation almost a decade ago. Diversion would benefit from a review of the program since its inception with attention to best practice recommendations for eligibility and supervision level determination, matching interventions and diversion requirements to participant risks and needs, appropriate measures of program success, and identification of stakeholder training needs, and opportunities for operational improvements across programs, particularly with respect to equitable access to diversion across the varying locales in which they operate and under the varying priorities and approaches of elected district attorneys.

The question is whether a joint evaluation of both programs is appropriate. Bridges and Adult Diversion Program coordinators support evaluation of the programs by a single evaluator to increase efficiency, cost savings, and consistency in evaluation processes and recommendations. Both evaluations will require working with many of the same stakeholders and knowledge of many of the same community resources. A single evaluator knowledgeable about both programs may have recommendations related to their operation, including, but not limited to, recommendations regarding data sharing, regarding the specifications of an integrated criminal justice database for data collection, analysis, and reporting, and recommendations related to equitable program access, cultural responsivity, and barriers to success. Regarding both programs, a program evaluation could identify needs and gaps in services through statewide sequential intercept mapping and identify opportunities for better integration of various criminal justice programs to increase efficiencies and avoid duplication.

III. Funding and Capacity

Increasing behavioral health needs throughout the state, combined with pandemic-related budget constraints, have left Bridges and Adult Diversion with significant gaps in funding if the programs are to serve at full capacity, adequately address disparities, and support positive outcomes for participants living with behavioral health and other challenges. Both programs share several challenges that generally fall into discreet categories of funding needs, community infrastructure needs, program integration and information sharing needs, and provider shortages. Specific examples include lack of funding to support personnel that administer the programs, lack of affordable housing, lack of an integrated case management system, lack of funding for participant basic needs and case management, a shortage of behavioral health service providers, varying access to crisis stabilization centers, varying access to public or other transportation, varying access to employment opportunities that pay livable wages, limited availability of inpatient behavioral health treatment beds, and difficulty tracking participants due to lack of residential stability.

Adult Diversion Program

Greater funding would allow the Adult Diversion Program to more fully fund existing programs, allowing them to hire or retain staff to administer the programs in a meaningful, individualized way, and to serve a greater number of participants. Increased funding could also support expansion of the Pretrial Adult Diversion Program to interested district attorneys who do not currently offer diversion or who operate diversion outside of the Pretrial Adult Diversion Program statute. Increased funding could support access to staff and stakeholder training, access to evidence-based assessment and evaluation instruments, and the ability to effectively problem-solve regarding participant needs and barriers to success. Increased funding could also support the acquisition or creation of case management systems that would allow diversion staff to spend more time providing direct services and less time on administrative and reporting obligations. The Adult Diversion Program has been spreading such limited funding, whether $400K pre-pandemic or $100K thereafter- across so many programs, that the interest in operating diversion programs under the Adult Diversion statute is largely unknown, as is the number of individuals that could be served without such severe funding constraints. The FY23 budget request reflected the most recent requests of existing diversion programs made in the most recent application years. The FY23 Adult Diversion Program application has been released, with a due date of April 5. The prospect of greater funding is likely to invite wider interest throughout the state. The Adult Diversion Funding Committee will meet to review program applications and make allocation decisions in a manner that will spread diversion programming throughout the state, to the extent possible, and support funding for behavioral health treatment needs and other participant needs, with the goal of interrupting cyclical involvement in the criminal legal system in a manner that ensures equitable treatment of all who encounter the criminal legal system.

Bridges Program

<u>What's working?</u>
The Bridges Program began serving participants in 2019, and an increasing need for liaisons is demonstrated through the following data:

- 1,734 participants entered the program in FY21, representing Court Liaison support in 2,518 cases. These numbers represented a 50% increase in the number of participants served by the Bridges Program over the previous fiscal year and a 27% increase in court cases served.
- Liaisons provided 5,855 reports informing the courts and attorneys of the participant's individual needs and available services, almost doubling the number of reports filed in the previous fiscal year.
- Of the participants entering the Bridges Program, 48% were in custody and 52% were on bond. Of the 48% who were in custody, 19% were released immediately upon the appointment of a liaison.
- With the support of their liaison, participants on bond connected to approximately 1,100 community-based services. 47% of referrals were to behavioral health services, and 53% were to other support services, such as housing, social support programs, and healthcare.

As the program has matured, the role of the court liaison has become more defined, with liaisons functioning as court appointed mental health advocates (similar to Guardian ad Litems). More than 85% of Colorado's judicial officers with criminal dockets have appointed Bridges Program liaisons to inform their decision making and bring much-needed support to situations where mental health intervention is clearly part of the solution. The historical burden for judicial officers to become overnight experts in mental health and community resources has been reduced and is provided through the expertise of the court liaisons. As liaisons provide advocacy in the courtroom and in the community for best responses to a participant's mental health needs, their input often impacts legal decision making in a case. This evolution of the program is consistent with language of statute that governs the appointment of a court liaison.

<u>What could be made better?</u>

Expanding the Bridges Program by increasing the number of Court Liaisons would enable the program to continue to bring the benefits of the program to "all Coloradans living with mental health conditions who encounter criminal justice involvement." Current funding and staffing levels enable the Bridges Program to serve approximately 36% of competency cases in Colorado. Data reflects 64% of the competency need is unmet by the Bridges Program. Statutory guidance creating the Bridges Program gives priority to individuals for whom competency has been raised, but it is also written to serve any individual with criminal justice involvement experiencing significant mental health challenges. Serving this population is early intervention that can divert defendants from the competency system altogether. Additionally, the volume of individuals for whom a question of competency is being raised has increased in the past few years, and one of the primary drivers for this increase is unmet mental health need. When courts appoint liaisons as soon as there is recognition of significant mental health challenges, liaisons work to stabilize the participant well before their condition decompensates to the point of competency being at issue.

Increasing the capacity of the program would also provide the Bridges Program an increased opportunity to provide leadership within districts interested in pursuing creative solutions for system improvements. Liaisons are perfectly poised, and legislatively directed, to support educational and collaborative problem-solving efforts in their communities around the issues impacting justice-involved individuals with mental health needs. With greater program capacity, program administration and liaisons can provide education regarding trauma-informed care in the criminal justice system and support conversations and collaborative efforts to address disparities. The Bridges Program would also be poised to address the need for services by engaging peer specialists, developing community-based partnerships to build services and housing options, and developing an emergency fund for services and supports.

<u>What are the capacity issues? How much more funding is needed to better address behavioral health and mental health issues, particularly in under-served communities?</u>

In FY21, 85% of judicial officers with criminal dockets utilized the services of the Bridges Program, and the program has doubled in size in the past 18 months. As a result, many liaisons are carrying twice the recommended caseload; participants are placed on a waitlist for services; and judges are encouraged to prioritize which defendants receive services. Data reflects 64% of the competency need is unmet by the Bridges Program, and even more unmet need exists in the high acuity mental health population who are not engaged in competency proceedings. The tables that follow illustrate the volume of need and potential staffing solutions scaled to meet the need at 50, 60, 75, and 100 percent. There are pros and cons of each scaling level. For example, the rapid hiring of staff that is necessary to meet 100% of the need would require significantly more time to implement. In conclusion, further expansion of the program to meeting the non-competency, high acuity mental health needs could potentially remedy disparities in the competency system by bringing the benefits of working with a liaison to populations outside of competency.

Bridges Program Unmet Service Need

Current Cases Qualifying for Bridges Appointment	6381	
Current Cases Served by Bridges^	2303	36% of eligible cases
Current Cases with Unmet Need	**4078**	64% of eligible cases

These numbers represent cases at a single point in time.

The Bridges Program will serve ~3600 cases in FY22, leaving an estimated service gap of more than 6,400 cases.

^80% of cases are competency;

20% are acute mental health, but not competency

Additional Staff to Meet Service Need Percent of Cases Served

	100%	75%	60%	50%
Court Liaisons	51	31	19	11
Court Liaison Supervisors (1:8 ratio)	7	4	3	2
Bridges Administrative Assistant	1	1	1	1
Estimated Cost to Expand	$6,036,536	$3,841,906	$2,604,745	$1,715,877

Leadership Team to be Expanded
Bridges Program Specialists (expand supervisory capacity of 1 + hire 1)
Bridges Statewide Coordinator (expand supervisory capacity of 1)

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 16, 2022
SUBJECT	Staff comeback – technical Judicial C&P adjustment for legal contractors

Staff recommended and the Committee approved a 6.0 percent increase in legal contractor rates for the Office of the Alternate Defense Counsel (R4), the Office of the Child's Representative (R1), and the Office of the Respondent Parents' Counsel (R1).

The Courts have notified staff that there are equivalent payments for legal contractors within the Trial Courts and typically, rates are adjusted across all Judicial agencies.

For consistency and fairness, staff recommends that the Committee provide an equivalent increase for the Trial Courts. **Staff recommends that the Committee approve an increase of $323,555 General Fund for the Court Costs, Jury Costs, and Court-appointed Counsel line item.**

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 16, 2022
SUBJECT	Staff comeback – IT Projects #1, DPA Payroll Modernization

Staff was provided the consultant's (Gartner) cost model for the Department of Personnel's (DPA) payroll modernization project. Staff was not able to decipher the cost build included in that spreadsheet. JTC staff shared that they were directed to the figures in column CQ in the Payroll Model tab as representative of the cost build for the project. Isolating on column CQ, staff was still not able to understand the references to project components.

Additionally, there were two different scenarios within that single column in that tab: one appears to identify a total cost of $96.0 million; the other appears to identify a total cost of $82.2 million. The project request was submitted with a total cost of $46.2 million. A crosswalk table or document to explain how the numbers included in the consultant's cost model were reduced to $46.2 million in the request is absent from request documents.

Staff remains at a loss to understand the cost and budget build to assess whether the requested appropriations appear reasonable. On that basis staff is unable to recommend a dollar amount to the Committee on a project cost basis.

Documentation, explanation, and justification of costs built into this request are in such a rudimentary state that staff would prefer to force the Department and OIT to better explain their project cost build before proceeding with a recommendation for an appropriation. However, given the time constraints related to the finalization of the Long Bill, and given the broadly accepted understanding that the CPPS system is at a critical point and needs to be replaced as soon as possible, staff proposes a potential resolution for this budget cycle.

Rather than appropriate with an understanding of the total cost of the project, staff recommends that the Committee simply provide a first year appropriation that allows the project to begin. Based on conversations with JTC staff and JTC members, it is staff's understanding that their intention is to closely monitor the progress on this project. It is also staff's understanding that the JTC similarly do not believe the cost estimate submitted is an accurate total project cost assessment. This directly relates to the JTC's request for one-year spending authority for the first year appropriation and their intention to closely monitor this project.

The requested first year appropriation is $17.7 million; JTC staff communicated that it is their expectation that $3.0 million is likely to be expended in the first year on planning-related tasks. **Staff recommends that the Committee approve an appropriation of $6.0 million to begin this project.** This includes $3.0 million for the anticipated planning activities and an additional $3.0 million to begin development activities. <u>Staff anticipates that a supplemental may be submitted in January 2023 to accommodate any additional identifiable development costs that may be incurred in FY 2022-23.</u>

In making this recommendation, staff includes the following assumptions or expectations for further recommendations for appropriations for this project:

1. Total appropriations/expenditures will not exceed $46.2 million over three years for replacement of the payroll system. Nevertheless, staff recommends that the Committee proceed on the basis that there is no estimated total for this project at this time. Based on the information provided, it is staff's assessment that the request amount is arbitrary and not specified, and, at most, the request represents a cap.

2. The payroll system will be completed to an extent that allows for decommissioning of the legacy CPPS system within three years.

3. <u>The Department and executive branch will introduce legislation to clarify payroll statutes prior to any additional appropriation for this project, including any supplemental appropriation for FY 2022-23.</u>

4. It is staff's understanding that the JTC expects the Department and OIT to deliver updated total project cost and timeline estimates over the next year, which are anticipated to provide a more accurate projection of total project cost. The Department and OIT will additionally provide JBC staff with updated total project cost and timeline estimates before any additional appropriation is recommended. If necessary, staff will continue to recommend no more than half-year, incremental appropriations if budget build data is not adequately provided.

5. <u>Project specs need to include and accurately define the ongoing need for all state agency timekeeping needs that are anticipated to be experienced by agencies **in addition to the centralized system created in the payroll modernization project**. Staff expects that all timekeeping and payroll-related IT systems needs, statewide (every agency paid through the state's payroll system), to be thoroughly considered, generally estimated, and adequately communicated to the General Assembly. **There needs to be a shared understanding of the totality of payroll and timekeeping pieces that will be and will not be addressed through this central IT system**; i.e., what is the actual systemic scope of the solution we will receive for the State's investment in this project?</u>

6. Staff expects that by the FY 2023-24 figure setting process, this project will have a more accurate total cost estimate for the JBC to consider within its out-year projections.

TECHNICAL NOTES ON OTHER STAFF CONCERNS:

LEGISLATION TO CLARIFY PAYROLL STATUTE

Staff continues to recommend that payroll statutes be clarified through the legislative process, prior to a recommendation for second-year appropriations. However, at this time, staff is willing to recommend a nominal amount that will allow the project to proceed in its first year. Staff will not recommend supplemental or further appropriations until payroll legislation has been introduced or significant discussions have taken place within the legislative process with an intention for statutory change in the 2023 legislative session.

STAFFING AND FTE FOR IT PROJECTS

Legally, FTE are not appropriated. On that basis, staff recommends that FTE not be included as an informational notation in the Information Technology Projects section of the Long Bill. Nevertheless, anticipated costs for staff should be included within the request budget build for any IT project and those costs assessed and analyzed on a standard operating resource need basis, despite placement as temporary or time-limited staff resources within a capital project appropriation. Such appropriations will not be carried over into the operating budget through an annualization. Converting time-limited project staff to permanent staff in the operating budget will entail the submission of an operating request for those positions, along with the ongoing operating and maintenance costs for the system.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 16, 2022
SUBJECT	Staff comeback – IT Projects #2, CORE Upgrade COP alternative

The Department of Personnel requests COP authorization for a CORE Upgrade project. COP financing requires authorization through a bill. At the Information Technology Projects figure setting presentation, Senator Rankin and Representative Ransom expressed reservations for funding a CORE Upgrade project through a COP financing mechanism. Staff believes that this IT system funding need, regardless of method, should be addressed through the JBC. Therefore, proceeding on a CORE Upgrade project may require an alternate method of funding in order to secure JBC sponsorship.

Staff communicated with the Department of Personnel regarding the use of a General Fund appropriation with a payback mechanism similar to the statutory provision used to seed fund the Sports Betting program and cash fund. A CORE Upgrade General Fund payback provision would be funded through the common policy allocation for CORE operations over the same time period that the COP financing was intended.

The Department is open to an alternate funding solution and state the following:

> *JBC staff proposed a possible alternative solution to financing in order to mitigate Committee member concerns regarding COP funding. This financing mechanism is based upon a similar payback provision outlined in Section 44-30-1509 (2)(a), C.R.S.*
>
> *The Department subsequently consulted with the Attorney General's Office regarding DPA's ability to replicate this financing mechanism. According to the AG's Office, without this upfront appropriation, this structure would violate Colorado Constitutional provisions against use of the State's credit for multi-year loans. Should the General Assembly elect to fully appropriate the CORE Upgrade in FY 2022-23, the Department anticipates recovery of these funds through the CORE common policy in future years.*
>
> *This mechanism would allow the State to recuperate the initial General Fund investment from cash and reappropriated funds through recoveries for depreciation beginning in FY 2023-24. It is important to note that federal recovery for depreciation is not allowed until the upgrade is operational. Initiating this "payback" mechanism in FY 2024-25 would allow the Department to fund depreciation with federal funds, cash funds, and General Fund and partly alleviate the burden upon State sources of funding. DPA does not believe that this requires statute, and this could be accomplished within existing common policy mechanisms.*
>
> *Summary: The Department utilized COP funding in an effort to maximize the State's resources and to capitalize on a projected negative real interest rate. However, both routes are feasible and rely upon similar mechanisms. The JBC proposal of full funding in FY 2022-23 with rollforward authority for FY 2023-24 also allows the Department the ability to implement a CORE upgrade within existing statute and mechanisms, with a similar ability to defray General Fund impact as COP financing.*

Staff interprets this response as follows:

- Legislation is not necessary for the payback mechanism, as the payback mechanism will automatically be in effect through the statewide indirect cost recovery plan related to depreciation.

- A General Fund appropriation should be provided in FY 2022-23 with roll-forward authority into FY 2023-24.

Staff agrees that payback will automatically be achieved through depreciation collected within the statewide indirect costs recovery process.

Staff continues to recommend that the Committee sponsor legislation to provide COP authority for this project, to include estimated payments over nine years totaling $10,782,827.

However, if the Committee does not wish to support that legislation, staff recommends an appropriation of $9,787,000 Capital Construction Fund in the Information Technology Projects section. This appropriation will automatically be accorded three years of spending authority. "Payback" will automatically and necessarily occur through the statewide indirect cost recovery process based on depreciation.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 17, 2022
SUBJECT	Staff comeback – IT Projects #3, IT Project Tables

The following table reflects the JTC recommendation and prioritization list as included in the figure setting document.

FY 2022-23 INFORMATION TECHNOLOGY PROJECTS - JTC PRIORITIZED

JTC Priority	OSPB Priority	CCHE Priority	Continuation	JTC Prioritized Recommendations for Funding	Total Funds	CCF/GF	CF/RF/FF	Cumulative CCF	Add'l Out-Year State Funds
1				GOV OIT OpR1 Modernize Aging IT Sys	$63,284,560	$63,284,560	$0	$63,284,560	$0
				in operating budget	(63,284,560)	(63,284,560)	0	0	
2	1		C	GOV/HCPF OeHI Rural Connectivity	10,978,008	5,489,004	5,489,004	5,489,004	231,568
3	2			DOC Modernize Timekeeping and Scheduling Systems	1,282,965	1,282,965	0	6,771,969	0
4	7			CDLE Workforce Case Mgt & Labor Exchange Mod	7,000,000	7,000,000	0	13,771,969	0
5	6			PER CORE Upgrade (9-yr COP)	0	0	0	13,771,969	10,782,827
				not appropriated	0	0	0	13,771,969	
6	5			PER Payroll Modernization	17,653,016	17,653,016	0	31,424,985	28,506,871
7	8			CDPHE Stationary Sources Solution Mod	4,099,148	4,099,148	0	35,524,133	4,319,241
8				JUD OpR3 IT Infrastructure	24,131,390	0	24,131,390	35,524,133	0
				in operating budget	(24,131,390)	0	(24,131,390)	35,524,133	
9				OSPD OpR1 Public Defense in Digital Age	4,614,939	4,614,939	0	40,139,072	0
				in operating budget	(4,614,939)	(4,614,939)	0	35,524,133	
10				DOS: OpR3 Money in Politics System	1,610,000	1,610,000	0	37,134,133	0
				in operating budget	(1,610,000)	(1,610,000)	0	35,524,133	
				Subtotal - State Agencies	**$41,013,137**	**$35,524,133**	**$5,489,004**		**$43,840,507**
11		2	C	ASU/FLC/WCU Digital Transform Initiative	15,721,200	15,563,988	157,212	51,088,121	0
12		9		CNCC/LCC/MCC/NJC/OC/TSC Rural College Consortium for IT Infrastructure	8,627,000	8,627,000	0	59,715,121	0
13		1	C	CSU Upgrade Network Hardware	1,137,120	646,119	491,001	60,361,240	2,157,143
14		4	C	MSU-D Network Infrastructure Modernization	1,045,000	795,000	250,000	61,156,240	750,000
15		11		CSU-P Communications System Upgrade	457,829	457,829	0	61,614,069	0
16		10		CCA Improve Student Access to Tech	529,915	476,923	52,992	62,090,992	0
17		5	C	CCD Classroom and Conference Room Tech	1,629,936	1,532,140	97,796	63,623,132	1,627,899
18		6	C	CSM Re-envisioning Mines ERP and SIS	2,543,000	2,304,000	239,000	65,927,132	5,943,000
19		3	C	MSU-D Reimagine Campus Digital Experience	3,685,000	3,350,000	335,000	69,277,132	9,300,000
20		7		CMU ERP Modernization	4,598,000	4,133,602	464,398	73,410,734	0
21		8		UNC ERP Mod and Cloud Migration	4,510,515	4,325,584	184,931	77,736,318	0
				Subtotal - Institutions of Higher Education	**$44,484,515**	**$42,212,185**	**$2,272,330**		**$19,778,042**
				Total - JTC Prioritized for Funding	**$85,497,652**	**$77,736,318**	**$7,761,334**		
				Subtotal - Continuation Projects	**$36,739,264**	**$29,680,251**	**$7,059,013**		
				percent of total	43.0%	38.2%	91.0%		

The following table outlines the JBC staff additional considerations table, with updated adjustment recommendations.

FY 2022-23 Information Technology Projects - JBC Staff additional consideration										
JTC	OSPB	CCHE	Continuation	JBC Staff additional consideration	Total Funds	CCF/GF	CF/RF/FF	Cumulative CCF	Add'l Out-year State Funds
Priority									
				Base Items - continuation projects					
2	1		C	GOV/HCPF OeHI Rural Connectivity	$10,978,008	$5,489,004	$5,489,004	$5,489,004	$0
11		2	C	ASU/FLC/WCU Digital Transform Initiative	15,721,200	15,563,988	157,212	21,052,992	0
13		1	C	CSU Upgrade Network Hardware	1,137,120	646,119	491,001	21,699,111	2,157,143
14		4	C	MSU-D Network Infrastructure Mod	1,045,000	795,000	250,000	22,494,111	750,000
17		5	C	CCD Classroom and Conference Room Tech	1,629,936	1,532,140	97,796	24,026,251	1,627,899
18		6	C	CSM Re-envisioning Mines ERP/SIS	2,543,000	2,304,000	239,000	26,330,251	5,943,000
19		3	C	MSU-D Reimagine Campus Digital Experience	3,685,000	3,350,000	335,000	29,680,251	9,300,000
				Subtotal - Continuation/Base Items	**$36,739,264**	**$29,680,251**	**$7,059,013**		**$19,778,042**
				New Items					
3	2			DOC Modernize Timekeeping and Scheduling Systems	1,282,965	1,282,965	0	30,963,216	0
4	7			CDLE Workforce Case Mgt & Labor Exchange Mod	5,250,000	5,250,000	0	36,213,216	0
5	6			PER CORE Upgrade (in place of 9-yr COP)	9,787,000	9,787,000	0	46,000,216	0
6	5			PER Payroll Modernization	6,000,000	6,000,000	0	52,000,216	?
7	8			CDPHE Stationary Sources Sol Mod	4,099,148	4,099,148	0	56,099,364	4,319,241
9				OSPD OpR1 Public Defense in Digital Age	4,110,754	4,110,754	0	60,210,118	0
10				DOS: OpR3 Money in Politics System	1,610,000	1,610,000	0	61,820,118	0
12		9		CNCC/LCC/MCC/NJC/OC/TSC Rural College Consortium for IT Infrastructure	8,627,000	8,627,000	0	70,447,118	0
15		11		CSU-P Communication Systems Upgrade	457,829	457,829	0	70,904,947	0
16		10		CCA Improving Student Access to Tech	529,915	476,923	52,992	71,381,870	0
20		7		CMU ERP Modernization	4,598,000	4,133,602	464,398	75,515,472	0
21		8		UNC ERP Mod and Cloud Migration	4,510,515	4,325,584	184,931	79,841,056	0
				Subtotal - New Items	**$50,863,126**	**$50,160,805**	**$702,321**		**$4,319,241**
				Total - Staff add'l consideration	**$87,602,390**	**$79,841,056**	**$7,761,334**		

DIFFERENCES FROM JTC

Differences from the JTC total an additional $2.1 million Capital Construction Fund for five projects:

- A decrease of $1.75 million for the Department of Labor and Employment's (CDLE) Workforce Case Management project identified in the request as three years of operating and maintenance costs.
- An increase of $9.8 million for the Department of Personnel's CORE Upgrade project requested as authority for COP financing. This amount represents the alternate recommendation as outlined in the IT Projects #2 comeback.
- A decrease of $11.7 million for the Department of Personnel's Payroll Modernization as outlined in the IT Projects #1 comeback.
- A total increase of $5.7 million, representing an increase of $4.1 million for the Office of the State Public Defender's Public Defense in the Digital Age project and $1.6 million for the Department

of State's Money in Politics System project, requested as operating requests, recommended and prioritized by the JTC, and recommended by staff for placement in IT Projects rather than in operating.

STATE FUNDS CONSIDERATIONS

Excluding the addition of two projects that may otherwise be funded in the operating budget, the staff differences from the JTC total a decrease of $3.6 million for three projects.

However, if the Committee were to fund the Department of Personnel's CORE Upgrade project through legislative authorization for a nine-year COP, differences from the JTC total a decrease of $13.4 million for two projects. Funding the CORE upgrade project through a COP reduces state funds for IT Projects by $9.8 million. Funding the Payroll Modernization and CDLE projects at the staff recommended amounts reduces state funds for IT Projects by an additional $13.4 million. Therefore, before making decisions about how far down the prioritization list to fund, the Committee would reduce state funds for IT Projects by a net $23.2 million.

GF TRANSFER TO THE IT CAPITAL ACCOUNT OF THE CCF

The following table outlines the transfer necessary for all JTC recommended information technology projects plus staff adjustments.

FY 2022-23 IT Capital Account of the CCF	
IT Capital Account End Balance - June 30, 2022	**$0**
ITCA Reversions - FY 2020-21	2,076,311
ITCA Interest - FY 2020-21	364,254
2022 Legislative adjustments	
H.B. 22-1185 IT Projects Supplemental appropriation	($950,690)
H.B. 22-1195 Capital-related transfers	950,690
H.B. 22-1197 Early Childhood IT appropriation	(3,500,000)
H.B. 22-1197 Early Childhood IT GF transfer to ITCA	3,500,000
ITCA Beginning Balance - FY 2022-23	**$2,440,565**
FY 2022-23 Recommended State Funds for IT Capital	
Continuation Projects	$29,680,251
New Items (not funded in operating)	48,056,067
New Items - staff recommended operating items	5,720,754
Fund CORE Upgrade project with CCF	9,787,000
Additional JBC staff adjustments	(13,403,016)
Subtotal - JTC and staff recommendations	$79,841,056
ITCA Balance	**($77,400,491)**
Recommended GF transfer for FY 2022-23	**$77,400,491**

Staff recommends that the Committee approve a General Fund transfer to the IT Capital Account of the CCF in an amount necessary to fund appropriations included in the Long Bill, and which will be included in the JBC's Capital-related Transfers bill.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Robin J. Smart, JBC Staff (303-866-4955)
DATE	March 15, 2022
SUBJECT	JBC staff comebacks for the Department of Health Care Policy and Financing, Executive Director's Office and Medical Services Premiums

The Joint Budget Committee delayed action on the following prioritized FY 2022-23 Department of Health Care Policy and Financing prioritized budget requests.

➔ R10 PROVIDER RATE ADJUSTMENTS

During the JBC Staff Figure Setting presentation for the Department of Health Care Policy and Financing on March 3, 2022, the Committee approved JBC staff recommendation for R10 with a further increase in the rate for Emergency Medical Transport. The Committee delayed action on requested additional information concerning the targeted rate adjustment for Durable Medical Equipment.

DEPARTMENT REQUEST

For Durable Medical Equipment, the Department requests an increase of $1,596,720 total funds, including $798,360 General Fund, to rebalance provider rates between 80 and 100 percent of the benchmark.

JBC STAFF RECOMMENDATION

JBC staff recommended approval of the Department's request to rebalance DME rates.

BACKGROUND INFORMATION

Durable Medical Equipment (DME) rates were analyzed during the 2021 Medicaid Provider Rate Review process. The 2021 Medicaid Provider Rate Review Recommendation Report made the following recommendations.

DURABLE MEDICAL EQUIPMENT

Analysis of Durable Medical Equipment (DME) services identified rates that fell below 80 percent of the Medicare benchmark for some services and above 100 percent of the benchmark for others. The Department's request includes an increase of rates up to 80 percent for those falling below the 80 percent benchmark, and to reduce rates down to 100 percent for those that are above the 100 percent benchmark. The Department requests $1.6 million total funds, including $0.8 million General Fund, to rebalance DME rates. JBC staff recommends approval of the Department's request.

The Department projects that the rate rebalance will result in more providers with an overall increase in payments compared to providers with an overall decrease in payments, primarily in rural counties.

For providers with a net reduction, the impact ranges from a decrease of $2 to $408,330 annually; for providers with a net increase, the impact ranges from an increase of $1 to $235,841.
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ESTIMATED NUMBER OF PROVIDERS WITH NET INCREASE VS NET DECREASE DUE TO RATE REBALANCE				
ITEM	RURAL	URBAN	TOTAL	NOTES
Net Increase	47	30	77	Number of providers projected to have a net increase
Net Decrease	3	26	29	Number of providers projected to have a net decrease

The cost of increasing rates that are below 80 percent of the benchmark up to 80 percent of the benchmark, without rebalancing the rates that are above 100 percent, is provided in the following table. DME is eligible for a 50.0 percent federal match in FY 2022-23. The total General Fund impact is $1,395,392 in FY 2022-23.

REPRICING DURABLE MEDICAL EQUIPMENT RATES TO 80% OF BENCHMARK		
ITEM	FY 2022-23	FY 2023-24
Durable Medical Equipment Expenditure	$14,892,919	$14,892,919
Repriced to 80% of Benchmark	$17,916,267	$17,916,267
INCREMENTAL DIFFERENCE	**$3,023,348**	**$3,023,348**
Percentage of the Year Affected	92.31%	100.00%
ESTIMATED IMPACT OF ALIGNING BENCHMARKS	**$2,790,783**	**$3,023,348**
Estimated Impact of Rebalancing 80%-100%	$1,596,720	$1,729,780
Incremental from Original Repricing Proposal	$1,194,063	$1,293,568

DME services are eligible for the 10.0 percent enhanced federal match for home- and community-based services (HCBS) through March 31, 2022. The General Fund savings from that enhanced match must be used to enhance or expand services. The initiatives identified in the American Rescue Plan Act HCBS Spending Plan are one-time and, other than the $15 per hour minimum wage increase, do not include rate adjustments for providers. All anticipated General Fund savings and federal matching funds have been accounted for in the approved spending plan. If the funding is used for something other than what is identified in the spending plan, funding for the identified and approved initiatives must be reduced.

➔ R8 COUNTY ADMINISTRATION

DEPARTMENT REQUEST

The Department requests a net decrease of $590,849 total funds, including an increase of $461,138 General Fund, and an increase of 5.9 FTE to:

- Address county administration funding issues;
- Increase funding for pay-for-performance though the County Incentives Program allocation;
- Hire additional staff to provide proper fiscal and programmatic oversight of county administrative-related activities; and
- Reduce the amount of time it takes to conduct on-site compliance reviews of all 64 counties.

JBC STAFF RECOMMENDATION

JBC staff recommends approval of the Department's request. As a result of the number of FTE included in the Department's total budget request, staff recommends approval of the associated centrally appropriated, operating, and leased space costs. The FY 2023-24 annualized cost of the recommendation is a reduction of $17,261,512 total funds, including $3,422,571 General Fund, and 6.0 FTE.

BACKGROUND INFORMATION

The Department of Health Care Policy and Financing's County Administration appropriation provides federal and state reimbursement to 64 county departments of human or social services for costs associated with performing Medicaid, Children's Basic Health Plan (CHP+), Long-Term Services and Supports (LTSS) and Old Age Pension (OAP) State Medicaid Program eligibility determinations, program integrity, and appeals. To help offset local share, the Department provides incentive payments to counties based on the achievement of performance benchmarks.

ADDRESSING AUDIT FINDINGS

The Department is required to provide proper fiscal policy monitoring and compliance oversight of the counties administering the County Administration program and ensure that accountability and quality assurance efforts are met. As identified in the Single Statewide Audit (SSWA) reports conducted by the Office of State Auditor (OSA), error rates continue to rise, with the OSA reporting that they are approaching 30 percent. The OSA identified at least one error within 26 percent (32 case files) of the 125 Medicaid case files tested; and identified at least one error within 64 percent (16 case files) of the 25 CHP+ case files tested. Based on the sample size, the OSA estimated the projected Medicaid questioned costs resulting from payments made on behalf of ineligible beneficiaries between July 1, 2019, and February 29, 2020. The result is estimated to be approximately $165.6 million and to be at least $41.1 million but not more than $290.0 million (with a 90 percent confidence). The calculation indicates that if auditors tested the entire population, there is a 90 percent likelihood of finding the actual amount of questioned costs to be between $41.1 million and $290.0 million.

Audit findings are directly related to the Department's capacity to perform timely Quality Assurance and Management Evaluation Reviews (discussed below). In order to address the audit findings and prevent possible future disallowances of federal funds, the Department requests $230,001 total funds, including $69,172 General Fund, and 1.9 FTE in FY 2022-23 and ongoing. JBC staff recommends the Department's request.

AUDITS AND FINDINGS						
ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
FTE						
FTE Salary, PERA, Medicare	$158,406	$47,640	$31,563	$0	$79,203	1.9
FTE AED, SAED, STD, HLD	42,495	12,780	8,467	0	21,248	0.0
FTE Operating and Leased Space	29,100	8,752	5,798	0	14,550	0.0
TOTAL AUDITS AND FINDINGS	**$230,001**	**$69,172**	**$45,828**	**$0**	**$115,001**	**1.9**

ON-SITE COMPLIANCE REVIEWS

Pursuant to Section 25.5-1-114 C.R.S., the Department is required to conduct adequate oversight of counties and the local administration of the Medical Assistance Program. Additionally, pursuant to

45 CFR § 75.303(a), as a recipient of federal funds, the Department must establish and maintain effective internal controls over its federal awards in order to provide reasonable assurance that the Department is managing federal grants in compliance with federal statutes, regulations, and award terms and conditions.

QUALITY ASSURANCE REVIEWS

In order to meet oversight requirements, the Eligibility Quality Assurance (QA) Program conducts monthly case reviews for all counties and eligibility sites. During the quality assurance reviews, the Department monitors the accuracy and timeliness of eligibility determinations for medical assistance. In addition to reviewing county-caused errors, the Eligibility QA Program also reviews state guidance and systems to ensure compliance with federal and state requirements. These reviews produce data that allows the Department to address potential audit findings or compliance issues prior to the discovery of errors in external audits.

While the Department's Oversight and Accountability (O&A) Program is designed to find and address issues at the county level before they become audit findings, current resources allow for only 120 case reviews per month across all 64 counties and 12 medical assistance sites carrying a combined caseload of almost 1.5 million members. The result is an inability of the Department to conduct quality reviews for all sites on a monthly basis, subsequently contributing to increased OSA error rates.

The Department requests $152,157 total funds, including $45,761 General Fund, and 1.0 FTE to increase capacity for the performance of quality assurance reviews. The Department intends to reduce the number of errors identified in the SSWA and reduce the risk to the State of having to reimburse the federal Centers for Medicare and Medicaid Services for inaccurate eligibility determinations. JBC recommends approval of the Department's request.

QUALITY ASSURANCE						
ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
FTE						
FTE Salary, PERA, Medicare	$56,648	$17,037	$11,287	$0	$28,324	1.0
FTE AED, SAED, STD, HLD	19,209	5,777	3,828	0	9,604	0.0
FTE Operating and Leased Space	14,550	4,376	2,899	0	7,275	0.0
Eligibility Quality Assurance Program Review Documentation System	61,750	18,571	12,304	0	30,875	0.0
TOTAL QUALITY ASSURANCE REVIEWS	**$152,157**	**$45,761**	**$30,318**	**$0**	**$76,078**	**1.0**

MANAGEMENT EVALUATION REVIEWS

Management Evaluation (ME) reviews includes on-site compliance and member experience reviews of the counties and eligibility sites, and currently occur over a three-year review cycle. To meet the three-year review cycle, Department staff must travel to at least two counties or eligibility sites monthly, resulting in 24 annual reviews. Unlike eligibility QA reviews, ME reviews do not review case-specific information, but rather focus on the county's operations. These reviews ensure member access to eligibility determinations, program integrity activities, and compliance with non-discrimination laws, accessibility and civil rights, and aspects of federal and state requirements for Medical Assistance.

On-site reviews are the only verifiable methodology to ensure county compliance across all their operations, however, the Department reports that the program review timeline is extended to that three-year review cycle due to the lack of staff. A more appropriate review cycle would take place over a two year period of time. By moving toward a two-year management review cycle of all the counties, the Department anticipates increased compliance for county operations and a focus on non-discrimination, language services, and accessibility for applicants and members.

The Department requests $119,340 total funds, including $35,891 General Fund, and 1.0 FTE to increase capacity to perform more frequent Management Evaluation Reviews and improve county and medical assistance site compliance. JBC staff recommend approval of the Department's request.

MANAGEMENT EVALUATION REVIEWS						
ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
FTE						
FTE Salary, PERA, Medicare	$70,362	$21,161	$14,020	$0	$35,181	1.0
FTE AED, SAED, STD, HLD	20,448	6,150	4,074	0	10,224	0.0
FTE Operating and Leased Space	14,550	4,376	2,899	0	7,275	0.0
Travel	13,980	4,204	2,786	0	6,990	0.0
TOTAL MANAGEMENT EVALUATION REVIEWS	**$119,340**	**$35,891**	**$23,779**	**$0**	**$59,670**	**1.0**

COUNTY ADMINISTRATION FUNDING

County staff are responsible for eligibility determination and redetermination for members enrolled in Medicaid and the amount appropriated for County Administration can have a direct impact on the eligibility determination audit findings. Funding for this purpose is appropriated in both the Department of Human Services and the Department of Health Care Policy and Financing. Counties have reported a deficit in total funding for several years. With detailed analysis, it was determined that the deficit currently exists in the Medicaid budget and not in the Human Services budget. Since FY 2015-16, the Department has exhausted all state funding available in the County Administration appropriation that pays for county-related costs. As a result, counties collectively have had to invest an average of $4.5 million annually to cover the funding shortfall.

In order to addressing the issues related to county error rates, the Department requests funding for 1.0 FTE who would be responsible for designing and implementing a new county administration fiscal policy monitoring and compliance program with components that are aligned with federal and state standards. This FTE would monitor County Administration funding, county staffing levels and operational compliance, issue fiscal policy guidance, determine annual funding allocations, issue recommendations for fiscal and programmatic oversight of counties, and review expenditures to ensure they are classified within the appropriate county administration funding streams.

County Administration funding is allocated to counties through a formula developed through a 2009 county workload study. The allocation methodology includes workload-related data points but does not include external elements such as poverty rate or population data. The methodology is driven solely on activity minutes related to the overall workload, which is then used to determine each county's percentage of funding. The Department requests funding to contract with a vendor to develop a new county administration allocation methodology that better supports the smaller and more rural counties. The methodology would be developed in consultation with all counties and the Department of Human Services.

The contractor will manage county stakeholder outreach, conduct policy analysis and research and propose a new allocation. The proposed methodology must include research on wages, ability of the county to self-fund, poverty rates, and other external factors that impact the ability of the county to address its caseload. The Department intends to have the vendor propose methodologies to differentiate targeted funding for county functions such as customer service and long-term services and supports. It is intended that the contractor will provide an annual update of the allocation model and continued recommendations for improvement of the allocation methodology.

To address the funding shortfall, hire a contractor to develop a new county allocation methodology, and provide support to and oversight of counties, the Department requests $12,775,899 total funds, including $1,617,291 General Fund, and 1.0 FTE. JBC staff recommends approval of the Department's request.

COUNTY ADMINISTRATION FUNDING AND OVERSIGHT						
ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Funding Shortfall	$12,398,333	$1,503,738	$2,662,929	$0	$8,231,666	0.0
Allocation Methodology Contractor	252,925	76,067	50,396	0	126,462	0.0
FTE Salary, PERA, Medicare	88,044	26,479	17,543	0	44,022	1.0
FTE AED, SAED, STD, HLD	22,047	6,631	4,393	0	11,023	0.0
FTE Operating and Leased Space	14,550	4,376	2,899	0	7,275	0.0
TOTAL COUNTY ADMINISTRATION FUNDING	**$12,775,899**	**$1,617,291**	**$2,738,160**	**$0**	**$8,420,448**	**1.0**

COUNTY INCENTIVES PROGRAM

Through the County Incentives Program, counties can earn additional funding by meeting the criteria outlined in the contract for each of the incentives, meeting benchmarks averaged over two six-month reporting periods, and completing submission of all required deliverables. This funding does not reimburse counties for standard activities that would be paid from the County Administration appropriation. It is intended to encourage counties to meet goals and objectives that are beyond regular operations, and provide a means through which counties may offset their local share. The Department expects increased member satisfaction and applicant experience through additional funding, new performance benchmarks, and increased staff for monitoring. Long-term goals include reducing call center as soon as available times to five minutes or less and increasing long-term services and supports eligibility determination timeliness to 95 percent.

The Department requests funding to increase available incentives by 20 percent, to develop new benchmarks, and to provide support to and oversight of counties. The Department requests $2,585,027 total funds, including $2,511,354 General Fund, and 1.0 FTE for this purpose. JBC staff recommends approval of the Department's request.

COUNTY INCENTIVE PROGRAM						
ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
20 percent increase in incentive funding	$2,479,667	$2,479,667	$0	$0	$0	0.0
FTE Salary, PERA, Medicare	70,362	21,161	14,020	0	35,181	1.0
FTE AED, SAED, STD, HLD	20,448	6,150	4,074	0	10,224	0.0
FTE Operating and Leased Space	14,550	4,376	2,899	0	7,275	0.0
TOTAL COUNTY INCENTIVE PROGRAM	**$2,585,027**	**$2,511,354**	**$20,993**	**$0**	**$52,680**	**1.0**

COST SAVINGS

The Department anticipates that the additional resources for county funding, management evaluation reviews, quality assurance reviews, addressing audit findings, eligibility systems reports and tools that can indicate potential errors, and data analysis that supports improvement-driven decision-making, could address some of the findings in the OSA report. Assuming that the Department can capture 25 percent of the issues, it is estimated that by disenrolling ineligible members, 3 percent of the identified ineligibly enrolled beneficiaries would be reduced by 0.75 percent. This process would be applied specifically to Modified Adjusted Gross Income (MAGI) and Children's Basic Health Plan (CHP+) populations, minimizing the impact to highly vulnerable populations such as people receiving long-term services and supports. The Department estimates that the cost savings resulting from disenrollment of ineligible members currently enrolled in Medicaid and CHP+ will result in a reduction of $16.5 million total funds, including $3.8 million General Fund, in FY 2022-23, and a savings of $17.3 million total funds, including $3.4 million General Fund, in FY 2023-24.

LEVEL OF EVIDENCE PURSUANT TO S.B. 21-284

Senate Bill 21-284 states that a program or practice is "evidence-informed" if it "reflects a moderate, supported, or promising level of confidence of effectiveness, ineffectiveness, or harmfulness as determined by an evaluation with a comparison group, multiple pre- and post-evaluations, or an equivalent measure." The Department identified this budget request as an evidence-informed practice because "most of the initiatives included in this request [have] clear program objectives and the collection of evidence, analysis of data, or other form of testing to assess if program objectives are being met."

The question of whether or not "evidence" informs this budget request, however, should be specifically related to whether or not increased FTE/staffing will result in improved compliance, and not whether or not the programs over which this oversight will occur have identified measurable outcomes. In a March 2020 Strategic Management Services post entitled "2019 Compliance Office Staffing Levels," Richard Kusserow remarked that "the OIG [Office of the Inspector General] compliance guidance notes that, for a compliance program to evidence effectiveness, the compliance office must be adequately staffed and provided with budgetary resources that allow it to meet its objectives." He also notes that the roles of compliance officers have evolved beyond the original guidance to include HIPAA Privacy and Internal Audit.[1]

Wai-Hang Yee, et. al., report in the Journal of Public Administration Research and Theory, that key findings related to regulatory compliance are "premised on the existence of the rule of law."[2] The global payroll company FMP, citing a study called "The True Cost of Compliance with Data Protection Regulations," indicates that the cost of non-compliance is more than twice what it costs to implement meaningful compliance measures.[3] While JBC staff was unable to find scholarly articles specifically measuring the effectiveness of compliance and oversight on related outcomes of cost effectiveness and reduced penalties, staff believes that the information provided in reports related to compliance can serve as a basis for developing a theory concerning the importance of compliance itself.

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[1] https://www.compliance.com/resources/2019-compliance-office-staffing-levels/
[2] https://academic.oup.com/jpart/article/26/1/95/2614389?login=true
[3] https://fmpglobal.com/blog/the-cost-of-non-compliance/

The question of staffing levels and its impact on quality is another question, entirely. One must assume in this context that each FTE has a given capacity to successfully achieve a certain amount of deliverables. Deliverables specific to this budget request are those related to regulatory and compliance activities. Limited capacity to monitor regulatory and compliance activities may result in diminished care for patients, increased fines and fees levied on the State, and potential recoupment of federal dollars. While the research that staff found related to staffing levels is specific to direct service delivery (i.e. staffing levels in nursing homes[4] or child welfare caseload[5]), staff does believe there is merit to a premise that states that the Department may reduce the risk to the State of possible federal fund clawbacks or a loss of federal funds as a result of inadequate implementation of federal law, rules, and guidance with increased staffing levels.

JBC staff believes that, pursuant to S.B. 21-284 (Evidence-based Evaluations for Budget), the budget request is for funding to support a theory-informed practice.

➔ BA17/S17 REMOVE CUSOM CLINICAL REVENUE FUNDING [INCLUDES LONG BILL ADD-ON]

DEPARTMENT REQUEST

The Department requests a FY 2021-22 and ongoing reduction of $26.2 million total funds, including $11.5 million cash funds from an intergovernmental transfer of clinical revenue from the University of Colorado School of Medicine. The request to create this transfer was initiated by the University and approved during FY 2021-22 comeback presentations by the Office of State Planning and Budgeting.

JBC STAFF RECOMMENDATION

The Department's request eliminates funding for Medical Diversity Scholarships and the support for the Aurora Community Health Commons. Both of these are identified by JBC staff as evidence-informed policies or practices. Staff considered the merits of each initiative through that lens and believes there is value in funding both of them, however, at this time staff recommends a refinance of the cash funds used for the Medical Diversity Scholarships with General Fund in FY 2021-22 and FY 2022-23, including:

- FY 2021-22 appropriation: $3,500,000 total funds, including $1,533,000 General Fund and $1,967,000 federal funds;
- FY 2022-23 annualization: $3,500,000 total funds, including $1,750,000 General Fund and $1,750,000 federal funds.

JBC staff recommends reconsideration of the funding during the FY 2023-24 budget cycle.

In addition, JBC staff recommends approval of the Department's request for a reduction of $153,064 total funds and 2.0 FTE.

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[4] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4833431/
[5] https://www.childwelfare.gov/pubpdfs/case_work_management.pdf

BACKGROUND INFORMATION

During the 2021 legislation session, the University School of Medicine proposed using federal matching funds for new programs that would expand access to health care. Through a State Plan amendment that was approved by the Centers for Medicare and Medicaid Services (CMS), additional federal funds are able to be captured under a program only available to public medical schools. Capturing the federal funds requires the School of Medicine to make a payment to the State of Colorado. Because these funds are used to pay for Medicaid eligible activities, programs, and services, the Department makes a payment to the School of Medicine equal to the initial payment made to the State plus the federal matching funds.

The initial School of Medicine investment of $11.5 million would be returned to the School's operating budget and the $14.7 million of matching federal funds would be used to create new programs to improve access to health care. The FY 2021-22 and FY 2022-23 appropriation to the Medical Services Premiums line item includes $26,229,678 total funds, including $11,488,599 cash funds from the School of Medicine and $14,741,079 federal Medicaid funds. At the time of the request, the School of Medicine proposed that the funding be time limited, because the initiative would increase TABOR revenue to the state.

ANALYSIS

The School of Medicine proposal included five components:

- Aurora Community Health Commons – A one-time investment of $11.2 million to support the development of the Commons in order to expand access to primary and specialty care, address community needs, develop and implement evaluation methods to inform health equity change, and provide inter-professional training;
- Education – A $10.5 million investment over four years ($3.5 million per year) to provide full or half tuition scholarships to improve medical student diversity; and additional funding to implement an undergraduate health sciences curriculum and to fund a Longitudinally Integrated Clerkship at Salud Family Health Centers.
- Community Wealth Building and Workforce Development – Implementation of training programs for dental assistants, doulas, pharmacy technicians, community health workers, and administrative support, and to provide scholarships for the Medical Assistant Advancement Program;
- Community Engagement and Outreach, including social determinants of health; and
- Telehealth.

Of the five components, the $14.7 million in federal funds was allocated to the one-time investment in the Aurora Community Health Commons and the Medical Student Diversity Scholarships. The four-year scholarships have been awarded for the entrants in the current academic year. The School of Medicine will honor these awards, however additional four-year scholarships will not be awarded in the next academic year. Because the School of Medicine will cover the cost of these awards over the next four years, the School will be required to reduce expenditures in other areas, including work that is being done in the area of unhoused and jail-to-community transitions. The School of Medicine anticipates a delay in the development of the Aurora Wellness Community and is concerned about the negative impact those residents who currently do not have access to primary health care.

TABOR

During the December 2021 Legislative Council Staff economic forecast, it was reported that "the ongoing economic and jobs recovery from the COVID-19 recession will increase General Fund revenue collections by a projected 11.7 percent above year-ago levels. Based on the enacted budget and before adjustments for any supplemental appropriations, the General Fund is projected to end the year with a 28.4 percent reserve, $1.85 billion above the required 13.4 percent reserve. Revenue subject to TABOR is expected to exceed the Referendum C cap by $1.9 billion." The $11.5 million cash funds transferred from the School of Medicine represents 0.6 percent of this amount.

DEPARTMENT FTE

The initial appropriation included approximately $150,000 total funds for 2.0 temporary FTE, responsible for calculating School of Medicine performance metrics, validating data, measuring provider enrollment and member access, holding the School of Medicine accountable to Department goals, supporting community collaboration efforts and access to care work, and providing program-level support such as meeting and site visit coordination, reporting, and deliverable tracking. The Department's request includes a reduction in the FY 2022-23 appropriation and a reduction of 2.0 FTE. The Department included in its FY 2022-23 R12 budget request an increase in funding for 2.0 permanent positions through reappropriated General Fund from the Department of Higher Education.

LEVEL OF EVIDENCE PURSUANT TO S.B. 21-284

The Department did not assign a level of evidence to this budget request, however S.B. 21-284 (Evidence-based Evaluations for Budget) does allow for discussions concerning reductions in funding to be evaluated within the context of evidence.

AURORA COMMUNITY HEALTH COMMONS

JBC staff believes that the concept of the Aurora Community Health Commons combines the tenants of both "community-based care" and "integrated care." In the conference paper prepared for the International Journal for Quality in Health Care by T. Plonchg and N. S. Klazinga, entitled "Community-based integrated care: myth or must?", the authors states that "combination of these concepts promotes integration of public health functions, medical care functions, and social services on a local or regional level."[6] In describing community-based care, Plonchg, et. al., argue that

> *Community-based care features a health system that is based upon and driven by community health needs. Moreover, it is tailored to the health beliefs, preferences, and societal values of that community and assures a certain level of 'community participation'. It is assumed that such a community approach maximizes health outcomes in two way. Firstly, taking the health needs, beliefs, and values of the community as the starting point will result in locally or regionally organized health services that are the most beneficial (given the available resources) for the health status of that community. Secondly, it will enhance the engagement and compliance of communities with their own health care systems.*[7]

The authors describe integrated care as "methods and types of organization that aim to reduce fragmentation in health care delivery by increasing co-ordination and continuity of care between

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[6] Plonchg, T. and N. S. Klazinga, "Community-based integrated care: myth or must?" International Journal for Quality in Health Care 2002; Volume 14, Number 2, pg 91-101.
[7] Ibid.

difference institutions."[8] Finally, the authors posit that distinct rationales exist within the three decision-making categories that influence the complexity of health care systems, including patient care, organizational context, and financing and policy. The differences between how these three categories are approached "can often result in ambiguity of goals, conflicting interests between decision makes, bureaucracy, poor information transfer, and limited use of the available scientific knowledge."[9] Most importantly, T. Plonchg, et. al., identify community-based integrated care as a promising approach to successfully confronting issues related to increased complexity of health care systems. Complexity that results from the three categories' differing rationales when addressing cultures, disciplines, and traditions influencing the delivery of health care services.[10]

Senate Bill 21-284 defines an evidence-informed program or practice as one that "reflects a moderate, supported, or promising level of confidence of effectiveness, ineffectiveness, or harmfulness as determined by an evaluation with a comparison group, multiple pre- and post-evaluations, or an equivalent measure." While JBC staff did not perform an exhaustive literature review, she believes that implementation of a community-based integrated care model such as the Aurora Community Health Commons qualifies as evidence-informed pursuant to S.B. 21-284.

MEDICAL STUDENT DIVERSITY SCHOLARSHIPS

In their paper entitled "Increasing Racial and Ethnic Diversity Among Physicians: An Intervention to Address Health Disparities?" Raynard Kington, etl. al., reviewed and synthesized the scientific evidence concerning the potential impact of increasing the racial and ethnic diversity of U.S. physicians on racial and ethnic differences in health outcomes. They states that "Strong, compelling evidence suggests that minority physicians are indeed more likely to provide precisely those services that may be most likely to reduce racial and ethnic health disparities, namely primary care services for underserved poor and minority populations."[11] The authors contend that "the strength of that evidence alone is sufficient to support continued efforts to increase the numbers of physicians from underrepresented minority groups."

Senate Bill 21-284 defines an evidence-informed program or practice as one that "reflects a moderate, supported, or promising level of confidence of effectiveness, ineffectiveness, or harmfulness as determined by an evaluation with a comparison group, multiple pre- and post-evaluations, or an equivalent measure." While JBC staff did not perform an exhaustive literature review, she believes that Medical Student Diversity Scholarships qualify as evidence-informed pursuant to S.B. 21-284.

JBC STAFF CONSIDERATIONS

JBC staff recognizes the challenges associated with increased State revenue and the associated TABOR obligations and offers the following options for consideration:

- The first option would be to approve the Department's request for both FY 2021-22 and FY 2022-23 based on the understanding that the CU School of Medicine understood the TABOR implications and that when a TABOR refund was imminent, the opportunity to draw down the federal funds would cease. Given that the opportunity ceased at least one year earlier than

[8] Ibid.
[9] Ibid.
[10] Ibid.
[11] Kington, Raynard, Diana Tisnado, David M. Carlisle, "Increasing Racial and Ethnic Diversity Among Physicians: An Intervention to Address Health Disparities?"

anticipated, the School of Medicine will be placed at a disadvantage, whereby the four-year scholarship funding will need to be covered with School of Medicine funding alone, the funding to implement a community-based integrated care model will be eliminated, and other programs will experience a reduction in resources.

- The second option is to deny the Department's request in its entirety for both fiscal years, in which case $11,488,599 will be counted as State revenue for the purposes of TABOR.
- A third option is to fund the scholarships, but not the amount allocated for the Aurora Community Health Commons. This would provide $3.5 million total funds, including $1,533,000 cash funds and $1,967,000 federal matching funds in FY 2021-22 and $1,750,000 cash funds and $1,750,000 federal funds in FY 2022-23 (based on the assumption that the federal public health emergency enhanced match will end June 30, 2022). This would reduce the TABOR impact, but not eliminate it.
- A fourth option is to refinance the CU School of Medicine cash funds with General Fund for the scholarship funds, only, or for both the scholarships and the Commons. This will increase the General Fund expenditures for FY 2021-22 and FY 2022-23 but reduce the TABOR impact.

The options for funding this fourth option are:

- Only refinance the Scholarships with General Fund and eliminate the funding for the Commons:
  - FY 2021-22 appropriation: $3,500,000 total funds, including $1,533,000 General Fund and $1,967,000 federal funds
  - FY 2022-23 annualization: $3,500,000 total funds, including $1,750,000 General Fund and $1,750,000 federal funds
- Refinance both the Scholarships and the Commons with General Fund:
  - FY 20221-22 appropriation: $26,229,678 total funds, including $11,488,599 General Fund and $14,741,079 federal funds
  - FY 2022-23 appropriation: $3,500,000 total funds, including $1,750,000 General Fund and $1,750,000 federal funds

Both the Scholarships and the Commons have been identified by JBC staff as evidence-informed policies or practices. Staff considered the merits of each initiative through that lens and believes there is value in funding both of them, however, at this time staff recommends a refinance of the cash funds used for the Medical Diversity Scholarships with General Fund in FY 2021-22 and FY 2022-23.

➔ R6 VALUE-BASED PAYMENTS – REQUEST FOR INFORMATION

On March 10, 2022, the JBC approved staff recommendation concerning the Department's R6 budget request, including an appropriation of $1,653,450 total funds, including $826,725 General Fund, for use by the Department to ensure an adequate stakeholder process and actuarial rate development is conducted for each of the alternative payment models.

FY 2022-23 JBC STAFF RECOMMENDATION DEPARTMENT OF HEALTH CARE POLICY AND FINANCING R6 VALUE-BASED PAYMENTS						
ALTERNATIVE PAYMENT MODEL	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Pharmacy Prescriber	$193,900	$96,950	$0	$0	$96,950	0.0

FY 2022-23 JBC STAFF RECOMMENDATION DEPARTMENT OF HEALTH CARE POLICY AND FINANCING R6 VALUE-BASED PAYMENTS						
ALTERNATIVE PAYMENT MODEL	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Maternity Bundle	394,650	197,325	0	0	197,325	0.0
Adult Primary Care	480,100	240,050	0	0	240,050	0.0
Pediatric Primary Care	289,300	144,650	0	0	144,650	0.0
Colorado Providers of Distinction	295,500	147,750	0	0	147,750	0.0
TOTAL JBC STAFF RECOMMENDATION, FY 2022-23	**$1,653,450**	**$826,725**	**$0**	**$0**	**$826,725**	**0.0**

FY 2023-24 OUT-YEAR IMPACT (ANNUALIZATION) OF STAFF RECOMMENDATION DEPARTMENT OF HEALTH CARE POLICY AND FINANCING R6 VALUE-BASED PAYMENTS						
ALTERNATIVE PAYMENT MODEL	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Pharmacy Prescriber	$199,600	$99,800	$0	$0	$99,800	0.0
Maternity Bundle	243,200	121,600	0	0	121,600	0.0
Adult Primary Care	493,900	246,950	0	0	246,950	0.0
Pediatric Primary Care	384,900	192,450	0	0	192,450	0.0
Colorado Providers of Distinction	304,500	152,250	0	0	152,250	0.0
TOTAL JBC STAFF RECOMMENDATION, FY 2023-24	**$1,626,100**	**$813,050**	**$0**	**$0**	**$813,050**	**0.0**

Staff also recommended that the Department be required to submit, on November 1st, a report containing the details of and outcomes from the stakeholder process, the plan for development and implementation of the alternative payments models, including provider training, support, and technical assistance, and the cost of ongoing development and implementation. Staff recommends approval of the following Request for Information:

N Department of Health Care Policy and Financing, Executive Director's Office, Medical Services Premiums – In addition to the information required to be submitted to the Joint Budget Committee prior to the implementation of performance-based payments pursuant to Section 25.5-4-401.2, C.R.S., on or before November 1 of each year, the Department is requested to submit:

- a detailed implementation plan for the performance-based (alternative payment) models, including deliverables related to the training, implementation support, and technical assistance that will be made available to all providers participating in each model; and
- a detailed explanation of the Department's plan to ensure that stakeholder engagement and work associated with the development and implementation of the models are complimentary and not duplicative of that performed by other state agencies, including the Division of Insurance and the Department of Personnel.