

MEMORANDUM



JOINT BUDGET COMMITTEE

TO JBC Members
FROM JBC Staff
DATE January 26, 2023
SUBJECT Supplemental Comeback Packet 3

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

Department of Education, page 1 (Amanda Bickel): Adjustments to Staff Recommendation for Education Supplemental S2 Healthy Meals for All Public School Students

Department of Personnel, page 4 (Tom Dermody): S5 Capitol Complex Maintenance Contract Costs

Department of Public Safety, page 6 (Emily Hansen): Department of Public Safety Vehicle Lease Adjustment

Department of Local Affairs, page 8 (Andrea Uhl): Emergency Rental Assistance Program

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Amanda Bickel, JBC Staff (303-866-4960)
DATE January 25, 2023
SUBJECT Adjustments to Staff Recommendation for Education Supplemental S2 Healthy Meals for All Public School Students

On January 19, 2023, the Committee approved the staff recommendation to provide an FY 2022-23 supplemental for the Department of Education for early implementation of Prop FF Health Meals for All Public School Students (Department of Education Request S2). The recommendation was to add \$193,354 General Fund and 1.1 FTE for FY 2022-23 in the Department of Education, rather than sponsoring a bill/using General Fund Exempt in FY 2022-23 as requested. Staff recommended adjustments consistent with the fiscal note for H.B. 22-1414, which created the proposition that was referred to the voters in November 2022. This included, for FY 2022-23, \$193,354 General Fund and 1.1 FTE for the Department of Education, of which \$14,786 was for legal services from the Department of Law.

- **CLARIFICATION:** Staff wishes to clarify that the recommendation is to include \$14,786 reappropriated funds and 0.1 FTE in the supplemental bill for the Department of Law for FY 2022-23, in addition to the General Fund appropriation in the Department of Education.
- **FOOTNOTE:** Based on input from Director Kampman, staff suggests that the Committee consider adding the following footnote to the Department of Education supplemental bill. This footnote is not binding on the General Assembly but expresses intent that, at some point in the future, the General Assembly may repay the General Fund for this expense from the new revenue derived from the Healthy Meals for All Public School Students funding source (a new deduction limit for taxpayers with gross adjusted incomes over \$300,000 per couple).

8a DEPARTMENT OF EDUCATION, ASSISTANCE TO PUBLIC SCHOOLS, GRANT PROGRAMS, DISTRIBUTIONS, AND OTHER ASSISTANCE, HEALTH AND NUTRITION, START-UP ADMINISTRATION FOR HEALTHY MEALS FOR ALL PUBLIC SCHOOL STUDENTS -- IT IS THE GENERAL ASSEMBLY'S INTENT THAT FUNDING FOR THE HEALTHY MEALS FOR ALL PUBLIC SCHOOL STUDENTS PROGRAM, ENACTED BY VOTERS IN NOVEMBER 2022 THROUGH THE PASSAGE OF PROPOSITION FF, WILL BE PAID FROM THE ADDITIONAL REVENUE GENERATED BY PROVISIONS IN PROPOSITION FF. THE GENERAL ASSEMBLY THEREFORE ANTICIPATES THAT FUTURE LEGISLATIVE ACTION MAY REPAY THE GENERAL FUND FOR THE FY 2022-23 APPROPRIATIONS FOR THIS PROGRAM, INCLUDING THE APPROPRIATION IN THIS LINE ITEM.

- **NEW LEGISLATION:** Since Staff's January 19 presentation to the Committee, Staff has met about Proposition FF with OSPB, the Department of Revenue, the Controller's Office, the Department of Education, the Office of Legislative Legal Services, and Legislative Council Staff. Based on this, staff has distributed a proposal for possible implementation legislation related to Proposition FF. This would address issues such as how revenue related to Proposition FF will be tracked and appropriated. One challenge related to Proposition FF is that although significant appropriations

will be required beginning in FY 2023-24, the State will not have a complete picture of actual new tax receipts resulting from the measure until FY 2024-25.

Staff expects responses to the staff proposal from the affected state agencies this Friday, which may affect the details of the proposal. However, **it appears legislation will be required to spell out some details. In light of this, is the Committee willing to provide authority to begin drafting a related bill at this time?** Staff anticipates that the bill itself would be part of the Long Bill package, rather than the supplemental budget package. Authorizing a bill draft at this time will give the Office of Legislative Legal Services additional time to work on the draft.

The bullets below reflect staff's **preliminary proposal** to the Executive Branch, ***pending additional feedback***.

- Create a new Proposition FF General Fund Exempt (GFE) Account comprised of Proposition FF revenue, as defined.
- Make appropriations beginning in FY 2023-24 for the program from this new Proposition FF GFE Account, even though the initial FY 2023-24 appropriation will be more than the money in the account at the *beginning* of FY 2023-24. I anticipate that the FY 2023-24 appropriations will be included in the new legislation, because that is where we will create the new GFE Account. However, in the future, the appropriations will be in the Long Bill.
- Provide for a statutory adjustment between expenditures from the General Fund and new Proposition FF General Fund Exempt Account that spells out how key issues should be addressed. In particular, specify that any amount up to the amount of the total appropriation that is not available in the Proposition FF GFE Account shall be paid from the General Fund. At the close of the fiscal year, accounts shall be adjusted so that expenditures are made from the Proposition FF GFE Account to the full extent of all amounts available in the Account at the close of the fiscal year, with the balance paid from the General Fund.
- Specify when/how amounts would be deposited into and accounted for in the new Proposition FF GFE Account. Based on our conversation, I anticipate that deposits into the account would occur throughout the year. Both CDE and LCS have suggested using a cash accounting approach for managing this new GFE account, i.e., we would identify the revenue to the Prop FF GFE Account based on the cash received that is attributed to Prop FF over a fiscal year, rather than incorporating a revenue accrual adjustment.
- Clarify that appropriations for the components of the program may be separated, based on the entitlement and non-entitlement components. Clarify that amounts may be transferred from the non-entitlement components into the entitlement components (but not the other way around). Provide **overexpenditure authority**, similar to that provided in Section 24-75-109, C.R.S., for Medicaid, for the entitlement components of the program, with legislative action required to release any overexpenditure, as is done for the Medicaid program. Any overexpenditures would be paid first from the Proposition FF GFE Account and second from the General Fund, if there is not sufficient GFE revenue in the Prop FF GFE Account (just as we'd do with the rest of the program).

- Add a reporting requirement that would be part of the annual budget submission on November 1 to include, for the most recent actual budget year *and prior years from the start of the program*:
 - a) Actual program expenditures for the most recent year (this may still be pending some final adjustments, but should be close to final)
 - b) Actual revenue to the GFE account in the months comprising the applicable fiscal year, calculated consistent with the cash (or accrual) approach described for crediting money to the GFE account
 - c) Any program balance paid with the General Fund in the applicable fiscal year
 - d) An accounting of any amounts paid by the General Fund, any amounts reimbursed to the General Fund, and any amounts not yet reimbursed to the General Fund by the GFE Account since the program's inception

- Include a provision expressing legislative intent that if the General Fund is required to cover Proposition FF expenditures, such amounts will be repaid by the Prop FF GFE Account at a later date through a legislative transfer from the GFE Account to the General Fund. At this stage, we would simply be expressing an intent for future action, since we know so little about actual revenues and expenditures at the start of the program. However, this might allow for future repayment of the money required for program implementation during FY 2022-23, as well as any other required General Fund expenditures, through transfers that would occur in future years.

- **AUTHORITY TO DISTRIBUTE DRAFTS TO STAKEHOLDERS - FOR THIS AND OTHER BILLS:** If the Committee provides bill drafting authority, staff also requests permission to circulate the bill draft with stakeholders in order to refine it (as staff is doing with the above concepts). *Staff would also like to confirm that staff has similar permission for the other bill drafts on which the Committee has authorized work, including—in particular—the Facility School Bill, which staff would like to distribute widely once a fully edited bill draft is available on February 10.*

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Tom Dermody, JBC Staff (303-866-4963)
DATE January 25, 2023
SUBJECT Technical Comeback – Dept. of Personnel S5 Capitol Complex Maintenance Contract Costs

On January 24, 2023, the Committee considered and approved the recommendation for the Department of Personnel's supplemental request for S5 (Capitol Complex maintenance contract costs). However, there were several elements of JBC staff's supplemental document that were inaccurate. Below, staff provides an updated write-up correcting those inaccuracies. No vote is necessary on this item, as the Committee has already voted to take staff's recommendation to approve the Department's request.

CORRECTED STAFF ANALYSIS

S5 CAPITOL COMPLEX MAINTENANCE CONTRACT COSTS

	REQUEST	RECOMMENDATION
TOTAL	\$310,733	\$310,733
FTE	0.0	0
General Fund	0	0
Cash Funds	310,733	310,733
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

Data that was not available when the original appropriation was made and an unforeseen contingency.

Explanation: JBC staff and the Department agree that this request is the result of unanticipated cost increases in maintenance contract costs in FY 2022-23.

DEPARTMENT REQUEST: The Department requests an increase of \$310,733 cash funds to address contract cost increases in the materials and services used to maintain the Capitol Complex.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS: The supplemental budget request seeks additional cash fund spending authority to address cost increases in the maintenance contracts for Capitol Complex facilities. This request is associated with the Department's BA4 request for FY 2023-24. The Department's existing contract cost increases have ranged from 3.0 to 10.0 percent. In FY 2022-23, the Department received \$245,528 in additional cash funds to address inflationary pressure and fire testing and repair. The approved annualizations included an additional \$54,472 cash funds FY 2023-24 and an additional \$100,000 for FY 2024-25 and ongoing. These amounts were requested and approved based upon a 6.0-10.0 percent inflation assumption.

Unfortunately, the majority of new procured and renewed contracts increased considerably over the past two years. The Department's FY 2022-23 request did not accurately anticipate the cost increases

experienced, and the annualizations approved in last year’s request are insufficient to fully fund the cost increases. Actual contract renewals from FY 2020-21 to FY 2021-22 are shown below, as well as projected increases anticipated in FY 2022-23 and contract renewal dates.

CAPITOL COMPLEX MAINTENANCE CONTRACT COSTS AND RENEWAL SCHEDULE						
CONTRACT ITEM	FY21	FY22	FY23*	CONTRACT ORIGINATION FISCAL YEAR	CURRENT CONTRACT YEAR	RENEWED CONTRACT START
Building Control Syst.	\$24,608	\$25,347	\$26,107	2020	Year 4 of 5	2025
Boilers	8,447	22,104	24,480	Renews Annually	n/a	n/a
Chemical Feeders	113,620	113,620	113,620	2019	Year 5 of 5	2024
Chillers	16,550	39,228	33,192	2022	Year 2 of 5	2027
Compressors	4,893	7,847	10,303	Renews Annually	n/a	n/a
Elevators	190,477	231,107	190,136	2021	Year 3 of 5	2026
Fertilization	53,245	56,970	56,970	2019	Year 5 of 5	2024
Floors/Carpets	49,436	49,436	85,439	2023	Year 1 of 1	2028
Fire/Life Safety	6,866	1,144	7,071	2023	Year 1 of 1	2028
Generators	13,596	18,300	21,091	Renews Annually	n/a	n/a
Ground Supplies	156,354	156,354	157,444	2019	Year 5 of 5	2024
Ground Source Heat Pump	0	105,888	105,888	2022	Year 2 of 5	2027
Landscaping Equipment	10,000	10,000	10,000	Renews Annually	n/a	n/a
Pest Control	19,480	29,076	27,436	2023	Year 1 of 1	2028
Routine Cleaning	760,231	1,019,024	1,082,500	2022	Year 2 of 5	2027
Tree Care	97,800	75,000	65,000	2019	Year 5 of 5	2024
Trash Removal	78,282	78,281	115,368	2023	Year 1 of 1	2028
Uniforms	23,000	23,000	24,000	Renews Annually	n/a	n/a
Pressure Washing	10,000	10,000	10,000	Renews Annually	n/a	n/a
Window Cleaning	26,650	32,650	39,180	Renews Annually	n/a	n/a
Work Order System	33,000	33,000	33,000	2020	Year 4 of 5	2025
Grand Total	\$1,696,534	\$2,137,376	\$2,238,225			

* Projections provided by the Dept. of Personnel.

Given the variability in contract renewal schedules, as well as the unexpected increase in material and services costs experienced by the Department, JBC staff recommends the requested appropriation of \$310,733 cash funds.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
 FROM Emily Hansen, JBC Staff (303-866-4961)
 DATE January 26, 2023
 SUBJECT Department of Public Safety Vehicle Lease Adjustment

The Highway Users Tax Fund (HUTF) is the primary cash fund source for the Department of Public Safety. The HUTF consists of revenues from gas and special-fuel taxes, fines, license plate fees, driver's license fees, motor vehicle title and registration fees, and passenger-mile taxes. HUTF "off-the-top" refers to the portion of the HUTF that is appropriated by the General Assembly to state agencies before the formula allocation to the State Highway Fund, counties, and cities. HUTF off-the-top appropriations are limited to a 6.0 percent growth cap each fiscal year, regardless of any increase or decrease in revenue.¹

To date, the Committee has approved a combination of staff recommendations and Department comebacks that have resulted in an HUTF appropriation above the 6.0 percent growth cap for FY 2022-23. A summary of the Committee's actions related to HUTF appropriations is provided below.

FY 2022-23 HUTF OFF-THE-TOP APPROPRIATIONS		
	APPROPRIATION	PERCENT CHANGE
FY 2021-22 HUTF Off-the-Top Appropriations Base	\$175,768,679	
6.0 Percent Allowable Growth	10,546,121	
FY 2022-23 HUTF Off-the-Top Appropriations Limit	\$186,314,800	6.0%
FY 2022-23 HUTF Off-the-Top Appropriations:		
HB 22-1329 Long Bill	\$182,736,952	
HB 22-1133 FAMILI prepay	(184,872)	
HB 22-1338 Modify Department of Revenue motor vehicle funding	1,261,000	
Total Enacted FY 2022-23 HUTF Off-the-Top Appropriations	\$183,813,080	4.6%
Supplemental Actions		
DPA Annual vehicle lease adjustment	\$0	
DPA Variable vehicle adjustment	3,099,900	
Total Approved FY 2022-23 HUTF Off-the-Top Appropriation	186,912,980	6.3%
Over/(Under) FY 2022-23 Off-the-Top Appropriations Limit	598,180	

As part of the staff recommendation for the Department of Personnel, the Committee approved a General Fund increase for the Department of Public Safety's annual vehicle lease adjustment without the accompanying requested cash fund reduction. In order to adhere to the statutory appropriation limit for the HUTF, staff recommends that the Committee approve the requested cash fund reduction for the Department's annual vehicle lease adjustment. Staff requests permission to make final adjustments to cash fund splits in coordination with the Department of Public Safety pending Committee final action. The request and updated staff recommendation are provided in the table below.

¹ Section 43-4-201 (3)(a)(I)(C), C.R.S.

UPDATED DPS ANNUAL VEHICLE LEASE ADJUSTMENT STAFF RECOMMENDATION

	TOTAL FUNDS	GENERAL FUND	HUTF*	MTCF**	VARIOUS CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Request	(\$731,430)	\$477,254	(\$1,083,202)	(\$15,272)	(\$23,519)	(\$17,462)	(69,229)
JBC Action	477,254	477,254	0	0	0	0	0
Updated Staff Recommendation	(644,739)	477,254	(1,083,202)	(15,272)	(23,519)	0	0

**Highway Users Tax Fund*

***Marijuana Tax Cash Fund*

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Andrea Uhl, JBC Staff (303-866-4956)
DATE January 25, 2023
SUBJECT Emergency Rental Assistance Program – New Item

During the Department of Local Affairs supplemental presentation, staff was asked to gather more information about the Emergency Rental Assistance Program (ERAP). There was not a Department request or staff recommendation related to this program; **staff is providing this information in case the General Assembly wishes to appropriate supplemental funding for emergency rental assistance.**

- The Emergency Rental Assistance Program was designed as a time-limited response to economic hardship created by the COVID-19 pandemic and funded through two federal bills (H.R. 133 and H.R. 1319) that provided approximately \$444.0 million to be administered through the Department. DOLA closed the application portal to new applicants on November 15, 2022 in anticipation of the funds running out.
- H.B. 22-1304 (State Grants Investments Local Affordable Housing) provided \$130.0 million to DOLA for a variety of housing programs to be determined through a competitive application process. The Department received 108 letters of interest in excess of \$575.0 million and anticipates officially awarding \$4.5 million to an applicant proposing to provide emergency rental assistance payments for April through June.
- On January 24th, 2023 the Department was notified that it is receiving an additional \$3.2 million through the quarterly federal reallocation process. It is possible that more federal funds will be provided through the reallocation process in April, but there is no way of knowing at this time.
- With the additional \$4.5 million from HB 22-1304 funds and \$3.2 million from the U.S. Treasury, DOLA estimates that it can continue providing assistance through June to all of the existing/approved applicants that applied prior to the close of the portal. Prior to these allocations, the Department expected to deplete the funding by the end of April.
- The additional funding is not sufficient to start accepting new applications again. Staff has asked the Department what the minimum level of funding to reopen the portal would be.
- Emergency rental assistance is an eligible use of Proposition 123 funding. The Department plans to continue elements of the ERAP program with those funds.
- Although the ERAP program is not explicitly created in statute, JBC staff and Legislative Legal Services staff believe that DOLA has broad statutory authority to provide emergency rental assistance payments and that an appropriation could be made in the Low Income Rental Subsidies line of the Long Bill for this purpose.
- Should the General Assembly decide to appropriate additional funds for emergency rental assistance, staff would recommend a new footnote to specify legislative intent.