

# JOINT BUDGET COMMITTEE



## SUPPLEMENTAL BUDGET REQUESTS FY 2020-21

### DEPARTMENT OF LAW

JBC WORKING DOCUMENT - SUBJECT TO CHANGE  
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:  
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JANUARY 22, 2021

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# DEPARTMENT OF LAW

## DEPARTMENT OVERVIEW

The Attorney General is one of five independently elected constitutional officers of the State. As the chief executive officer of the Department of Law, the Attorney General represents and defends the legal interests of the people of the State of Colorado and serves as the legal counsel and advisor to state agencies.

## SUMMARY: FY 2020-21 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF LAW: RECOMMENDED CHANGES FOR FY 2020-21						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
<b>FY 2020-21 APPROPRIATION</b>						
HB 20-1360 (Long Bill)	\$91,244,902	\$14,760,572	\$19,397,708	\$54,716,387	\$2,370,235	509.7
Other legislation	328,732	(476,104)	61,792	743,044	0	8.3
<b>CURRENT FY 2020-21 APPROPRIATION:</b>	<b>\$91,573,634</b>	<b>\$14,284,468</b>	<b>\$19,459,500</b>	<b>\$55,459,431</b>	<b>\$2,370,235</b>	<b>518.0</b>
<b>RECOMMENDED CHANGES</b>						
Current FY 2020-21 Appropriation	\$91,573,634	\$14,284,468	\$19,459,500	\$55,459,431	\$2,370,235	518.0
S1 Consumer Credit Unit fund restriction	0	0	0	0	0	0.0
S2 Consumer Credit Unit letternote technical	0	0	0	0	0	0.0
S3 PERA Direct Distribution technical	2,073	(46)	1,997	122	0	0.0
NP1 Annual fleet supplemental true-up	2,245	745	300	1,200	0	0.0
<b>RECOMMENDED FY 2020-21 APPROPRIATION:</b>	<b>\$91,577,952</b>	<b>\$14,285,167</b>	<b>\$19,461,797</b>	<b>\$55,460,753</b>	<b>\$2,370,235</b>	<b>518.0</b>
<b>RECOMMENDED INCREASE/(DECREASE)</b>	<b>\$4,318</b>	<b>\$699</b>	<b>\$2,297</b>	<b>\$1,322</b>	<b>\$0</b>	<b>0.0</b>
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>FY 2020-21 EXECUTIVE REQUEST</b>	<b>\$91,771,381</b>	<b>\$14,285,167</b>	<b>\$19,655,226</b>	<b>\$55,460,753</b>	<b>\$2,370,235</b>	<b>518.0</b>
Request Above/(Below) Recommendation	\$193,429	\$0	\$193,429	\$0	\$0	0.0

### REQUEST/RECOMMENDATION DESCRIPTIONS

**S1 CONSUMER CREDIT UNIT FUND RESTRICTION:** The request includes a cash fund waiver request for the Uniform Consumer Credit Code (UCCC) fund for a restriction of \$193,429 that originated from excess reserves at FY 2019-20 year-end. The recommendation is to approve the request, which will allow the Department to bring the fund back into compliance with the statutory reserve requirement by the end of FY 2020-21, but not to increase the appropriation by \$193,429 cash funds because the effect of the JBC releasing the restriction is to grant the Department of Law the ability to spend the current appropriation, which includes the \$193,429.

**S2 CONSUMER CREDIT UNIT LETTERNOTE TECHNICAL:** The request includes a correction to the Long Bill letternote on the cash fund appropriation to the Consumer Credit Unit line item to reflect funds associated with the annualization of S.B. 19-002 (Regulation of Student Loan Servicers) that

were recommended by JBC staff during 2020 figure setting and adopted by the Committee, but not identified in the 2020 Long Bill.

**S3 PERA DIRECT DISTRIBUTION TECHNICAL CORRECTION:** The request includes a technical correction to address an error made in the H.B. 20-1379 appropriation clause, which adjusts the appropriation in the 2020 Long Bill and results in the total amount appropriated to the PERA Direct Distribution line item in FY 2020-21 to sum to less than zero General Fund. To correct this error requires an increase of \$2,073 total funds, comprised of a reduction of \$46 General Fund and increases of \$1,997 cash funds and \$122 reappropriated funds. The recommendation is to approve the Department request.

**NP1 ANNUAL FLEET SUPPLEMENTAL TRUE-UP:** The request includes an increase of \$22,245 total funds, including \$745 General Fund, \$300 cash funds, and \$1,200 reappropriated funds to true-up its fleet vehicle appropriation with common policy allocations. The recommendation is pending Committee action on statewide common policy supplemental requests and staff will reflect the Committee's action in the Department of Law's supplemental bill.

## PRIORITIZED SUPPLEMENTAL REQUESTS

### S1 UCCC FUND FY 2020-21 FUND BALANCE RESTRICTION WAIVER

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$193,429</b>	<b>\$0</b>
FTE	0.0	0.0
General Fund	0	0
Cash Funds	193,429	0
Federal Funds	0	0

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?** **NO, but...**  
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

**Explanation:** JBC staff and the Department agree that this request does not meet supplemental criteria but is instead being submitted pursuant to Section 24-75-402 (8), C.R.S., which provides a process where departments can ask the Joint Budget Committee to approve a waiver from the statutory reserve requirements on cash fund balances. Thus, while it does not meet the criteria applied by JBC staff as common practice for supplemental change requests, JBC staff believes its submission complies with the statutory process under which such requests are made.

**DEPARTMENT REQUEST:** The Department of Law (DOL) is requesting the State Controller Restriction on Uniform Consumer Credit Code (UCCC) fund be waived for the 2019-20 fiscal year, which prevents expenses for FY 2020-21 from implementing the Department's spending plan to bring the fund into compliance with the cash fund reserve limit.

**STAFF RECOMMENDATION:** Staff recommends that the Committee approve the Department request for a cash fund waiver but not increase the amount appropriated to the Unit. Approving the request includes sending a letter notifying the State Controller's Office of the action taken by the Committee. This deviates from the JBC practice since 2019 to act on cash fund waivers throughout figure setting and to send a consolidated letter to the Controller detailing all actions once the Long Bill is introduced. JBC staff recommends approving the waiver and sending the letter during the supplemental cycle because the Department's compliance with its reserve plan includes spending the excess reserve in FY 2020-21.

The Department included in the request an increase in the cash fund appropriation of \$193,429 because their budget database includes an entry for the restriction applied by the Controller. The JBC staff recommendation does not include this additional funding because the removal of the restriction will allow for the additional spending authority to come from the original appropriation. One way to think about this is the Department's request is like "1-1+1=1" while the JBC Staff recommendation is "1=1".

**STAFF ANALYSIS:** The Consumer Credit Unit (Unit) enforces the Colorado Uniform Consumer Credit Code (UCCC) (consumer lending); Uniform Debt Management Services Act (credit counseling and debt settlement); Credit Services Organization Act (credit repair), Rental Purchase Agreement Act (rent-to-own), Refund Anticipation Loans Act, and the Student Loan Ombudsperson and Student Loan Servicer Licensing Fund and related regulatory efforts.

The UCCC protects the rights of consumers who borrow money, establishes reasonable limits on interest rates and fees, fosters fair competition among lenders, and promotes an adequate supply of credit. The UCCC, also encompasses other efforts to reduce unfair business practices such as the Colorado Consumer Equity Protection Act (restricting certain terms in high-cost loans), Deferred Deposit Loan Act (payday loans), the Refund Anticipation Loans Act and Rental Purchase Agreement Act.

The Unit licenses and examines lenders who make high-rate loans, which are loans with an annual percentage rate that exceed specified thresholds including deferred deposit or “payday” lenders. Additionally, the unit licenses student loan servicers and provides assistance to student loan borrowers. Fees collected to offset the costs of licensing and regulating such entities are deposited in the Uniform Consumer Credit Code (UCCC) fund.

The UCCC fund has been out of compliance with the statutory year-end fund balance requirement, which requires funds without an alternative maximum reserve to maintain no more than 16.5 percent (i.e., about two months) of the fund’s estimated expenditures. In these instances, Section 24-75-402 (12), C.R.S provides:

“(12) If a cash fund has excess uncommitted reserves for three or more fiscal year in a row, the state controller shall restrict spending of any appropriation from the cash fund for the next fiscal year in an amount equal to the lesser of the excess uncommitted reserve or the applicable maximum reserve or alternative maximum reserve. The entity shall not expend any amount restricted pursuant to this subsection (12) unless the restriction is released. The restriction is released when the fund is in compliance with the maximum reserve or alternative maximum reserve requirement or when the joint budget committee approves a waiver for the excess uncommitted reserves in accordance with subsection (8) of this section.”

The Department of Law anticipates bringing the fund back into compliance with the statutory reserve maximum by the end of FY 2020-21, but prior year restrictions still in place prevent the State Controller from approving expenses planned to achieve compliance. The Department requests the Joint Budget Committee to approve a waiver of the FY 2019-20 restriction for FY 2020-21, which will allow for those planned expenditures and bring the fund into compliance by year-end.

Approving the Department request will include sending a letter from the Joint Budget Committee to the State Controller stating the JBC approved a waiver for \$193,429 for FY 2019-20. A draft letter for the Committee’s review is included in this document as Appendix B: Draft Cash Fund Waiver Letter to Controller on page 10. Factoring in the estimated FY 2020-21 expenses, the fund is estimated to have an end of year fund balance of roughly \$185,000, which retains about 10 percent in the fund as reserve.

**STAFF RECOMMENDATION: Staff recommends that the Committee approve the Department request for a cash fund waiver but not increase the amount appropriated to the Unit.** Approving the request includes sending a letter notifying the State Controller’s Office of the action taken by the Committee. This deviates from the JBC practice since 2019 to act on cash fund waivers throughout figure setting and to send a consolidated letter to the Controller detailing all actions once the Long Bill is introduced. JBC staff recommends approving the waiver and sending the letter during

the supplemental cycle because the Department’s compliance with its reserve plan includes spending the excess reserve in FY 2020-21.

**S2 CONSUMER CREDIT UNIT LETTERNOTE**

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Collection Agency Cash Fund or		
Uniform Consumer Credit Code Cash Fund	(280,000)	(280,000)
Student Loan Ombudsperson and Student Loan	280,000(I)	280,000(I)
Servicer Licensing Fund		
Federal Funds	0	0

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

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

**Explanation:** JBC staff and the Department agree that this request is the result of a technical error in calculating the original appropriation due to the appropriation being approved by the Committee but not reflected into the 2020 Long Bill.

**DEPARTMENT REQUEST:** The Department requests an edit to the letternote on the cash fund appropriation to the Consumer Credit Unit line item to reflect funds associated with the annualization of S.B. 19-002 (Regulation of Student Loan Servicers) that were recommended by JBC staff during 2020 figure setting and adopted by the Committee. Despite those decisions, the letternote, which details the sources of the appropriation, erroneously omitted the correct fund in its description. The request is to therefore reflect \$280,000 of the total \$2,414,383 cash funds appropriated to the Consumer Credit Unit as coming from the Student Loan Ombudsperson and Servicer Fund, created in Section 5-20-104 (3)(a), C.R.S., noting that the fund is included for informational purposes only because the fund is continuously appropriated to the Department.

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

**STAFF ANALYSIS:** Established by S.B. 19-002 (Regulation of Student Loan Servicers), the Student Loan Ombudsperson and Student Loan Servicer Licensing Fund (Fund) and supports regulatory activities performed by the department. For the 2020 Long Bill, JBC staff recommended and the Committee approved the inclusion of funding for annualizing the second-year impact of the bill as part of the total appropriation to the Consumer Credit Unit line item. However, the letternote that describes the sources of the appropriation in the actual bill text references only the Unit’s two other cash funds the Collection Agency Cash Fund and the Uniform Consumer Credit Code Cash Fund.

The current text of the letternote reads as follows:

“c This amount shall be from the Collection Agency Cash Fund created in Section 5-16-134(1)(a), C.R.S., or from the Uniform Consumer Credit Code Cash Fund created in Section 5-6-204(1), C.R.S.”

To correct this error, the Department proposes modifying the letternote to read:

“c Of this amount, \$1,940,954 shall be from the Collection Agency Cash Fund created in Section 5-16-134 (1)(a), C.R.S., or from the Uniform Consumer Credit Code Cash Fund created in Section 5-6-204 (1), C.R.S., and \$280,000 shall be from the Student Loan Ombudsperson and Servicer Licensing Fund created in 5-20-104 (3)(a), C.R.S., which amount is included for informational purposes as the fund is continuously appropriated pursuant to Section 5-20-104 (3)(c), C.R.S.”

Staff recommends the Committee approve the Department request and grant JBC staff authority to adjust the footnote to be congruent with current JBC staff drafting conventions, if necessary. JBC staff also recommends including an (I) notation to the appropriation, due to the fund being continuously appropriated.

### S3 PERA DIRECT DISTRIBUTION TECHNICAL CORRECTION

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$2,073</b>	<b>\$2,073</b>
FTE	0.0	0.0
General Fund	(46)	(46)
Cash Funds	1,997	1,997
Reappropriated Funds	122	122

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

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

**Explanation:** JBC staff and the Department agree that this request is the result of a technical error in calculating the original appropriation.

**DEPARTMENT REQUEST:** The Department requests a technical correction to address an error made in the H.B. 20-1379 appropriation clause that adjusts the appropriation in the 2020 Long Bill and results in the total amount of General Fund appropriated to the PERA Direct Distribution line item in FY 2020-21 to sum to less than zero.

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

**STAFF ANALYSIS:** Due to forecasted revenue concerns, the Joint Budget Committee (JBC) sponsored several bills during the 2020 legislative session, to reduce General Fund obligations. One bill, H.B. 20-1379 (Suspending Direct Distribution to PERA for the 2020-21 Fiscal Year) intended to eliminate the figure setting decisions for the PERA Direct Distribution line item for each state agency



in their sections of H.B. 20-1360 (Long Bill). For the Department of Law, the figure in the bill did not match the appropriated Long Bill amount and results in the final General Fund appropriated to the line item to be less than zero.

The Department requests and JBC staff recommends a technical correction to address this error and to make the total amount appropriated to the PERA Direct Distribution line item in FY 2020-21 to equal zero, as intended by H.B. 20-1379. The result is an increase of \$2,073 total funds including a reduction of \$46 General Fund and increases of \$1,997 cash funds, and \$122 reappropriated funds.

JBC Staff recommends the Committee approve the Department request.

## STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

This request is not prioritized and is not analyzed in this packet. The JBC will act on these items when it makes decisions regarding common policies.

DEPARTMENT'S PORTION OF STATEWIDE SUPPLEMENTAL REQUEST	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
NP1 Annual fleet vehicle supplemental true-up	\$2,245	\$745	\$300	\$1,200	\$0	0.0
<b>DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS</b>	\$2,245	\$745	\$300	\$1,200	\$0	0.0

**STAFF RECOMMENDATION:** The staff recommendation for this request is pending Committee action on common policy supplementals. Staff will include the corresponding appropriation in the Department's supplemental bill based on Committee action on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis.

*JBC Staff Supplemental Recommendations - FY 2020-21  
Staff Working Document - Does Not Represent Committee Decision*

**Appendix A: Numbers Pages**

	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2020-21 Requested Change	FY 2020-21 Rec'd Change	FY 2020-21 Total w/Rec'd Change
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**DEPARTMENT OF LAW**  
**Phil Weiser, Attorney General**

**S1 Consumer Credit Unit fund restriction**

**(5) CONSUMER PROTECTION**

Consumer Credit Unit	<u>1,925,826</u>	<u>2,220,954</u>	<u>193,429</u>	<u>0</u>	<u>2,220,954</u>
FTE	21.4	23.0	0.0	0.0	23.0
General Fund	115,273	0	0	0	0
Cash Funds	1,810,553	2,220,954	193,429	0	2,220,954
<b>Total for S1 Consumer Credit Unit fund restriction</b>	1,925,826	2,220,954	193,429	0	2,220,954
<i>FTE</i>	<u>21.4</u>	<u>23.0</u>	<u>0.0</u>	<u>0.0</u>	<u>23.0</u>
General Fund	115,273	0	0	0	0
Cash Funds	1,810,553	2,220,954	193,429	0	2,220,954

*JBC Staff Supplemental Recommendations - FY 2020-21*  
*Staff Working Document - Does Not Represent Committee Decision*

	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2020-21 Requested Change	FY 2020-21 Rec'd Change	FY 2020-21 Total w/Rec'd Change
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**S2 Consumer Credit Unit letternote technical**

**(5) CONSUMER PROTECTION**

Consumer Credit Unit	<u>1,925,826</u>	<u>2,220,954</u>	<u>0</u>	<u>0</u>	<u>2,220,954</u>
FTE	21.4	23.0	0.0	0.0	23.0
General Fund	115,273	0	0	0	0
Cash Funds	1,810,553	2,220,954	0	0	2,220,954
Reappropriated Funds	0	0	0	0	NaN

<b>Total for S2 Consumer Credit Unit letternote technical</b>	1,925,826	2,220,954	0	0	2,220,954
<i>FTE</i>	<u>21.4</u>	<u>23.0</u>	<u>0.0</u>	<u>0.0</u>	<u>23.0</u>
General Fund	115,273	0	0	0	0
Cash Funds	1,810,553	2,220,954	0	0	2,220,954
Reappropriated Funds	0	0	0	0	NaN

APPENDIX B: DRAFT CASH FUND WAIVER  
LETTER TO CONTROLLER  
STATE OF COLORADO

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January 21, 2021

Mr. Robert Jaros, State Controller  
Department of Personnel  
1525 Sherman Street, 5th Floor  
Denver, CO 80203

Dear Mr. Jaros:

The Joint Budget Committee has considered a waiver request from the statutory maximum cash fund reserve requirement submitted by the Department of Law during the 2021 supplemental budget cycle. On January 20, 2021 and pursuant to Section 24-75-402 (8), C.R.S., the Committee approved a waiver from the maximum reserve for FY 2019-20 for the Uniform Consumer Credit Code Fund, created in Section 5-6-204, C.R.S. The amount approved for the 2019-20 fiscal year is \$193,429.

If you have any questions or concerns, please contact Scott Thompson of our staff at 303-866-4957 or [scott.thompson@state.co.us](mailto:scott.thompson@state.co.us).

Sincerely,

Senator Dominick, Chair  
Joint Budget Committee

cc:

Mr. Jon Reitan, Budget Director, Colorado Department of Law  
Ms. Carolyn Kampman, Staff Director, Joint Budget Committee