# MEMORANDUM

JOINT BUDGET COMMITTEE

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|---|---|
| TO | JBC Members |
| FROM | JBC Staff |
| DATE | March 10, 2023 |
| SUBJECT | Figure Setting Comeback Packet 1 |

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

**Capitol Complex Leased Space Common Policy, page 1** (Tom Dermody) Technical Correction

**Department of Personnel, page 3** (Tom Dermody) Office of the State Architect Footnote Correction

**Workers' Compensation Common Policy, page 4** (Tom Dermody) Technical Correction

**Document Solutions Group Common Policy, page 5** (Tom Dermody) Technical Correction

**Department of Human Services** (Tom Dermody)**, page 6** FTE transfer related to R5 Department-led IT project management

**Department of Personnel, page 7** (Tom Dermody) R3 COWINS Partnership Agreement Implementation Resources

**Department of Military & Veterans Affairs, page 13** (Jon Catlett) Revised Recommendation: R4 Technical Funding Adjustment

**Department of Military & Veterans Affairs, page 15** (Jon Catlett) BA1 Performance Audit Resources

**Office of the Governor, page 24** (Scott Thompson) Funding reduction for rescinded Education Leadership Council

**Office of the Governor, page 25** (Scott Thompson) Statewide IT Accessibility Decisions

**Department of Corrections and the Division of Criminal Justice Public Safety, page 27** (Justin Brakke) Adjustments to private prisons and local jails line items / Private prisons cash fund increase and General Fund decrease / Discussion about local jail per-diem rate / Extend FY 2022-23 adjustment to maintenance contract with DHS to FY 2023-24

**Judicial Department, page 31** (Alfredo Kemm) Page Rate Increase Court Reporters

**Judicial Department, page 32** (Alfredo Kemm) JUD Figure Setting Comeback 2 – 23rd Judicial District Counties Request

**Department of Labor and Employment, page 33** (Abby Magnus) BA2 Disability Employment First

# MEMORANDUM

JOINT BUDGET COMMITTEE

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|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 8, 2023 |
| SUBJECT | Technical Correction – Capitol Complex Leased Space Common Policy |

On February 28 and March 1, 2023, JBC staff presented the figure setting for Operating Common Policies and the Department of Personnel, including decision items that affect the Capitol Complex Leased Space (CCLS) common policy. On page 110 of the figure setting document for the Department of Personnel, staff asserts that the recommended and approved appropriation for R6/BA3 (Capitol Complex staffing) is included in the Capitol Complex Leased Space common policy calculations. However, staff omitted the personal services portion of the R6/BA3 recommendation from the CCLS operating common policy tables. The following tables reflect the Committee's decisions related to the CCLS operating common policy; the highlighted cells have been updated from staff's figure setting documents.

| Capitol Complex Leased Space Program Costs | | | | | |
|---|---|---|---|---|---|
| | FY 2022-23 Approp. | FY 2023-24 Request | FY 2023-24 Recommend | Req/Rec Increm. | Total Adjustment |
| Personal Services | $3,637,669 | $3,755,982 | $4,165,305 | $409,323 | $527,636 |
| Benefits POTS | 1,242,489 | 1,395,364 | 1,317,748 | (77,616) | 75,259 |
| OIT and Operating Common Policies | 1,759,072 | 1,759,617 | 1,759,617 | 0 | 545 |
| Operating Expenses | 2,705,456 | 3,005,456 | 3,563,699 | 558,243 | 858,243 |
| Administrative Overhead | 401,242 | 445,254 | 445,254 | 0 | 44,012 |
| Capitol Complex Repairs | 56,520 | 56,520 | 56,520 | 0 | 0 |
| Capitol Complex Security | 555,986 | 589,345 | 589,345 | 0 | 33,359 |
| Utilities | 3,398,380 | 3,737,619 | 3,737,619 | 0 | 339,239 |
| Indirect Cost Assessment | 338,799 | 490,737 | 490,737 | 0 | 151,938 |
| Depreciation | 290,000 | 290,000 | 290,000 | 0 | 0 |
| Energy Performance Depreciation | 2,140,000 | 2,140,000 | 2,140,000 | 0 | 0 |
| Sprint Leased Tower Space | (47,618) | (57,141) | (57,141) | 0 | (9,523) |
| **CCLS Program Costs Subtotal** | **$16,477,995** | **$17,608,752** | **$18,498,702** | **$889,950** | **$2,020,707** |
| Fund Balance Adjustment | (669,219) | (2,177,521) | (3,138,086) | (960,565) | (2,468,867) |
| **Total for Allocation** | **$15,808,776** | **$15,431,231** | **$15,360,617** | **($70,614)** | **($448,159)** |
| *Annual Growth of Allocation* | | | | | *-2.8%* |

| Capitol Complex Leased Space FY 2023-24 Recommended Allocation | | | | | |
|---|---|---|---|---|---|
| | | FY 2023-24 | | | |
| Department | FY 2022-23 Appropriation | Request | Recommended | Req/Rec Difference | Total Adjustment |
| Agriculture | $0 | $0 | $0 | $0 | $0 |
| Corrections | 57,186 | 0 | 0 | 0 | (57,186) |
| Early Childhood | 0 | 0 | 0 | 0 | 0 |
| Education | 880,504 | 1,124,801 | 1,117,901 | (6,900) | 237,397 |
| Governor | 643,274 | 971,755 | 965,949 | (5,806) | 322,675 |
| Health Care Policy and Financing | 624,633 | 0 | 0 | 0 | (624,633) |
| Higher Education | 0 | 0 | 0 | 0 | 0 |
| Human Services | 1,679,304 | 1,340,890 | 1,332,664 | (8,226) | (346,640) |
| Judicial | 0 | 0 | 0 | 0 | 0 |

| CAPITOL COMPLEX LEASED SPACE FY 2023-24 RECOMMENDED ALLOCATION | | | | | |
|---|---|---|---|---|---|
| | | FY 2023-24 | | | |
| DEPARTMENT | FY 2022-23 APPROPRIATION | REQUEST | RECOMMENDED | REQ/REC DIFFERENCE | TOTAL ADJUSTMENT |
| Labor and Employment | 40,488 | 40,941 | 41,374 | 433 | 886 |
| Law | 0 | 0 | 0 | 0 | 0 |
| Legislative | 2,680,382 | 2,570,295 | 2,554,527 | (15,768) | (125,855) |
| Local Affairs | 748,490 | 713,672 | 709,967 | (3,706) | (38,523) |
| Military and Veteran Affairs | 48,873 | 50,568 | 52,045 | 1,477 | 3,172 |
| Natural Resources | 1,067,890 | 825,488 | 860,440 | 34,952 | (207,450) |
| Personnel and Administration | 4,335,973 | 4,584,483 | 2,164,028 | (2,420,455) | (2,171,945) |
| Public Health and Environment | 38,952 | 38,059 | 38,600 | 541 | (352) |
| Public Safety | 1,912,171 | 2,126,647 | 2,120,230 | (6,418) | 208,059 |
| Regulatory Agencies | 0 | 0 | 0 | 0 | 0 |
| Revenue | 866,380 | 859,926 | 862,343 | 2,417 | (4,037) |
| State | 0 | 0 | 0 | 0 | 0 |
| Transportation | 121,354 | 122,208 | 123,945 | 1,737 | 2,591 |
| Treasury | 62,925 | 61,496 | 61,119 | (377) | (1,806) |
| Vacant | 0 | 0 | 2,355,485 | 2,355,485 | 2,355,485 |
| **Allocation Totals** | **$15,808,779** | **$15,431,231** | **$15,360,616** | **($70,614)** | **($448,163)** |

# MEMORANDUM

JOINT BUDGET COMMITTEE

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|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 8, 2023 |
| SUBJECT | Dept. of Personnel – Office of the State Architect Footnote Correction |

In staff's figure setting document for the Department of Personnel, presented on March 1, 2023, the recommended continuation of the footnote for the Office of the State Architect reflects staff recommendation from a prior year's figure setting. As a result of this drafting error, the recommended footnote identifies the wrong fiscal years. The footnote below corrects the error staff's FY 2023-24 figures setting document.

Staff recommends **CONTINUING AND MODIFYING** the following footnote:

N Department of Personnel, Executive Director's Office, Statewide Special Purpose, Office of the State Architect, Statewide Planning Services – This appropriation remains available until the close of the ~~2024-25~~ 2025-26 fiscal year.

**COMMENT:** This footnote expresses legislative intent that the spending authority provided in this appropriation remains available for three years. Statewide Planning Services provides funding for technical and consulting services related to the statewide planning function for state agencies, which was added to the Office of the State Architect in FY 2015-16. This line item funds, on an ongoing basis, items that might otherwise be included in the capital construction budget, which provides for three years of spending authority.

# MEMORANDUM

JOINT BUDGET COMMITTEE

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|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 7, 2023 |
| SUBJECT | Technical Correction - Workers' Compensation Common Policy |

On February 28, 2023, JBC staff presented the figure setting for Operating Common Policies. For the Workers' Compensation common policy, there was a formula error contained within the table detailing the allocation of costs by department (pages 2 and 13) that misrepresented the allocation for the Department of Human Services (DHS). This formula error does not change the recommended and approved total program cost for statewide allocation, but it incorrectly double counts the $65,000 allocated to DHS for prior year workers' compensation claim payments. The following table is the corrected version.

| CORRECTED - WORKERS' COMPENSATION FY 2023-24 RECOMMENDED ALLOCATION | | | | | | |
|---|---|---|---|---|---|---|
| | FY 2022-23 | FY 2023-24 | | | | |
| DEPARTMENT | APPROP. | ACTUARIAL ALLOCATION | REQUEST | RECOMMENDED | REQ/REC INCREM. | TOTAL ADJUSTMENT |
| Agriculture | $176,126 | 0.7% | $198,776 | $201,026 | $2,250 | $24,900 |
| Corrections | 6,956,967 | 23.3% | 6,421,558 | 6,494,251 | 72,693 | (462,716) |
| Education | 235,883 | 0.8% | 226,383 | 228,946 | 2,563 | (6,937) |
| Governor | 175,952 | 0.6% | 157,364 | 159,145 | 1,781 | (16,807) |
| Health Care Policy and Financing | 194,996 | 0.7% | 182,211 | 184,274 | 2,063 | (10,722) |
| Higher Education | 2,154,395 | 6.6% | 1,822,110 | 1,842,737 | 20,627 | (311,658) |
| Human Services | | | | | | |
| Cost Allocation Share | 9,429,018 | 27.4% | 7,491,235 | 7,576,773 | 85,538 | (1,852,245) |
| Prior Year WC Claim Payments | 65,000 | | 65,000 | 65,000 | | |
| Human Services subtotal | 9,494,018 | | 7,556,235 | 7,641,773 | | |
| Judicial | 1,254,896 | 3.6% | 988,357 | 999,545 | 11,188 | (255,351) |
| Labor and Employment | 588,134 | 2.0% | 541,111 | 547,237 | 6,126 | (40,897) |
| Law | 191,851 | 0.7% | 179,450 | 181,482 | 2,032 | (10,369) |
| Legislature | 62,902 | 0.3% | 71,780 | 72,593 | 813 | 9,691 |
| Local Affairs | 103,789 | 0.4% | 102,149 | 103,305 | 1,156 | (484) |
| Military and Veterans Affairs | 83,356 | 0.4% | 104,909 | 106,097 | 1,188 | 22,741 |
| Natural Resources | 1,336,669 | 4.0% | 1,093,266 | 1,105,642 | 12,376 | (231,027) |
| Personnel | 207,264 | 1.0% | 278,838 | 281,995 | 3,157 | 74,731 |
| Public Health and Environment | 380,557 | 1.3% | 358,900 | 362,963 | 4,063 | (17,594) |
| Public Safety | 1,909,077 | 5.7% | 1,562,597 | 1,580,286 | 17,689 | (328,791) |
| Regulatory Agencies | 217,012 | 0.7% | 196,015 | 198,234 | 2,219 | (18,778) |
| Revenue | 487,491 | 1.4% | 380,987 | 385,299 | 4,312 | (102,192) |
| State | 75,482 | 0.3% | 77,302 | 78,177 | 875 | 2,695 |
| Transportation | 5,101,357 | 18.5% | 5,101,909 | 5,159,663 | 57,754 | 58,306 |
| Treasury | 6,290 | 0.0% | 5,522 | 5,584 | 62 | (706) |
| **Allocation Totals** | **$31,394,464** | **100.00%** | **$27,607,729** | **$27,920,253** | **$312,524** | **($3,474,211)** |

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 8, 2023 |
| SUBJECT | Technical Correction – Document Solutions Group Common Policy |

On February 28, 2023, JBC staff presented the figure setting for the Operating Common Policies. For the Document Solutions Group common policy, there was an error contained within the table detailing the allocation of costs by department (pages 6 and 32), which identified an incorrect total common policy program cost to be allocated to the Departments of Revenue and State. Staff correctly identifies the total program cost to be allocated in the table on page 31 ($10.2 million total funds) of the Operating Common Policies figure setting document, but neglected to update the allocation table.

The following table is the corrected version of the tables on pages 6 and 32 of the document. The adjustments shown are estimates provided by staff, the highlighted cells are the recommended FY 2023-24 total appropriation for the affected departments.

FY 2023-24 DSG RECOMMENDED ALLOCATIONS

| | FY 2023-24 | | | | | |
|---|---|---|---|---|---|---|
| DEPARTMENT | REC'D | TOTAL BASE ADJ. | GENERAL FUND | CASH FUNDS | REAPPROPRIATED FUNDS | FEDERAL FUNDS |
| Revenue | $9,441,137 | ($1,716,118) | ($231,784) | $0 | $0 | $0 |
| State* | 754,704 | 69,788 | 0 | 170,568 | 0 | 0 |
| **Total** | **$10,195,841** | ($1,646,330) | ($231,784) | $170,568 | $0 | $0 |

* The Department of State's appropriation includes funding for contractual services utilized in the initiative process.

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 8, 2023 |
| SUBJECT | Dept. of Human Services – FTE transfer related to R5 Department-led IT project management |

During the February 15, 2023, figure setting for the Department of Human Services, the Committee approved the Department's FY 2023-24 R5 request, transferring $3.7 million total funds ($1.3 million General Fund) from their Payments to OIT line item to a new IT Projects Administration line item in the Administration and Finance budgetary division. As part of the accompanying analysis, staff indicated an intent to bring a comeback to transfer appropriations from the (2) Administration and Finance (A) Administration subdivision to the new line item.

The propsed transfer reflects the Department's intent to repurpose existing staff within the Business Innovation, Technology and Security (BITS) team for the new Agile teams that will be part of the Department-led IT project management unit funded by this request. This transfer is in addition to the approved transfer of appropriations in the Department's R5 request. Staff **recommends the Committee approve the following budget-neutral transfers of appropriations** to accurately reflect the staffing for the new IT project management unit.

| R5 DEPARTMENT-LED IT PROJECT MANAGEMENT - FTE TRANSFER BETWEEN LINE ITEMS | | | | | | |
|---|---|---|---|---|---|---|
| DIVISION | SUB-DIVISION | LINE ITEM | TOTAL FUNDS | GENERAL FUNDS | REAPPROPRIATED FUNDS | FTE |
| Administration and Finance | Administration | Personal Services | ($731,764) | ($296,199) | ($435,565) | (7.0) |
| Administration and Finance | Administration | Operating Expenses | (25,000) | (17,769) | (7,231) | 0.0 |
| Administration and Finance | Information Technology | IT Projects Administration | 756,764 | 313,968 | 442,796 | 7.0 |
| | | **Total** | **$0** | **$0** | **$0** | **0.0** |

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Tom Dermody, JBC Staff (303-866-4963) |
| DATE | March 7, 2023 |
| SUBJECT | Dept. of Personnel – R3 COWINS Partnership Agreement Implementation Resources [Tabled] |

During figures setting for the Department of Personnel on March 1, 2023, the Committee deferred their decision on the Department's R3 request for FY 2023-24. Below, staff has provided their analysis from figure setting.

## ➔ R3 COWINS PARTNERSHIP AGREEMENT IMPLEMENTATION RESOURCES

*REQUEST*: The Department request includes an increase of $30.0 million General Fund and 58.9 FTE in FY 2023-24 to: provide implementation support of Article 31.6 of the Colorado Workers for Innovative and New Solutions (COWINS) Partnership Agreement; implement professional development incentive program; expand recruitment, marketing, and branding; and expand leadership training programs. The request annualizes to $27.7 million General Fund and 33.0 FTE in FY 2024-25 and $257,830 General Fund and 1.0 FTE in FY 2025-26 and ongoing.

| REQUEST - R3 COWINS PARTNERSHIP AGREEMENT IMPLEMENTATION RESOURCES | | | | |
|---|---|---|---|---|
| | FY 2023-24 | | FY 2024-25 | |
| REQUEST ELEMENT | GENERAL FUND | FTE | GENERAL FUND | FTE |
| Article 31.6 pay step plan implementation | $5,004,602 | 51.6 | $2,671,061 | 25.0 |
| Professional development pay | 15,000,000 | 1.8 | 15,000,000 | 2.0 |
| Statewide recruitment, marketing, & branding | 7,500,000 | 0.9 | 7,500,000 | 1.0 |
| Leadership training | 2,500,000 | 4.6 | 2,500,000 | 5.0 |
| **Total** | **$30,004,602** | **58.9** | **$27,671,061** | **33.0** |

*RECOMMENDATION*: Staff recommends the following:

- **Approval of an appropriation of $4,231,562 General Fund and 48.3 FTE in FY 2023-24** for implementation support of the Article 31.6 pay step plan, which represents the annualization of the Committee's supplemental funding decision addressing this request. The recommendation annualizes to $2.5 million General Fund and 29.2 FTE in FY 2024-25 $257,830 General Fund and 1.0 FTE in FY 2025-26 and ongoing.
- **Denial of all other requested appropriations**.

| RECOMMENDATION - R3 COWINS PARTNERSHIP AGREEMENT IMPLEMENTATION RESOURCES | | | | |
|---|---|---|---|---|
| | FY 2023-24 | | FY 2024-25 | |
| REQUEST ELEMENT | GENERAL FUND | FTE | GENERAL FUND | FTE |
| Article 31.6 pay step plan implementation[1] | $4,231,562 | 48.3 | $2,499,667 | 29.2 |
| Professional development pay | 0 | 0.0 | 0 | 0.0 |
| Statewide recruitment, marketing, & branding | 0 | 0.0 | 0 | 0.0 |
| Leadership training | 0 | 0.0 | 0 | 0.0 |
| **Total** | **$4,231,562** | **48.3** | **$2,499,667** | **29.2** |

1 Please note that this value have been updated since staff's supplemental presentation on January 24, 2023.

| R3 - FY 2023-24 Recommendation and FY 2024-25 Annualization[1] | | |
|---|---|---|
| Cost Components | FY 2023-24 | FY 2024-25 |
| Personal services | $3,061,302 | $1,857,481 |
| FTE | 48.3 | 29.2 |
| Centrally appropriated costs | 818,385 | 502,766 |
| Operating expenses | 351,875 | 139,420 |
| **Total** | **$4,231,562** | **$2,499,667** |

[1] Please note that these values have been updated since staff's supplemental presentation on January 24, 2023.

*Analysis*: The COWINS Partnership Agreement is made up of 33 Articles covering the terms and conditions of employment as a classified state employee. The Agreement details allowable union activity and rights, the rights of employees and management, compensation and benefits, workplace standards, and the expectations for implementation of the Agreement. Parties to this agreement are the State and Colorado Works for Innovative New Solutions. The Partnership Agreement was initially ratified and became effective November 18, 2021. In the Fall of 2022, the State and COWINS reopened negotiations regarding Article 31, which addresses state employee wages. The amended Partnership Agreement was ratified and became effective November 17, 2022.

**Department Staffing Plan for Article 31.6 Implementation**

The request is for staffing resources to continue the process of implementing the provisions of Article 31.6 of the Partnership Agreement. The Department requests one-time, term-limited FTE funding and vendor engagement funding for the operating impacts of the amendments to the Partnership Agreement, which requires the State to place employees on a pay step plan based on time in their current job series by July 1, 2024. The State must provide a preliminary placement notice to COWINS and each employee of their new compensation per the new pay step plan by March 31, 2024. From July 1, 2023 until March 31, 2024, the Department will partner with state agencies to review each employee's personnel file to identify individual placement in the pay plan.

| Article 31.6 - Dept. of Personnel Implementation Timeline | | | | |
|---|---|---|---|---|
| Project Phase | Begin Date | End Date | Months in Phase | Working Days |
| Step system build | 4/1/2023 | 7/1/2023 | 3 | 65 |
| Preliminary placement notice | 7/1/2023 | 4/1/2024 | 9 | 195 |
| Employee placement appeals | 4/1/2024 | 5/1/2024 | 1 | 22 |
| Appeal to determination | 5/1/2024 | 5/15/2024 | 0 | 14 |
| Finalize appeal determination | 5/15/2024 | 6/15/2024 | 1 | 30 |

This process will be primarily a manual process, as the state does not currently have a human resources information system that can accomplish in the task. Assumptions for daily workload are based upon the Department's recent experience validating similar requests for Temporary Public Service Loan Forgiveness at the federal level. This request includes 15.0 FTE, of which half are for FY 2023-24, to complete the preliminary placement review and notification phase.

| Preliminary Placement Notice - Technician Team | |
|---|---|
| Total State employees | 24,028 |
| Days for evaluation | 195 |
| Required total daily evaluations | 123 |
| Daily evaluations per employee | 8 |
| **FTE required for daily workload** | **15.0** |

The Department is also responsible for recruiting, hiring, and training a team of 27.0 term-limited FTE to be deployed to other State agencies. Once training is complete, these employees will work with the centralized teams to analyze individual employee records through the Human Resources Data Warehouse (HRDW) and EMPL systems. Approximately 60 days after the Technician Team begins review, these 27.0 FTE will verify each record, employee notification, and appointing authority notification and documentation for accuracy. Review information will be centrally stored and managed by the Department of Personnel in the event that an employee appeals their pay plan placement decision within the appeal window (April 2024 - May 2024). On May 15, 2024, preliminary placement notices will be finalized and entered into the payroll system to allow time to ensure accurate payment starting July 1 of 2024. Following are the workload estimates provided by the Department for the 27.0 FTE, as well as the distribution of those FTE throughout the various departments.

| Preliminary Placement Notice - Agency and Employee Data Validation, Documentation, and Review | |
|---|---|
| Total State Employees | 24,028 |
| Days for Evaluation | 135 |
| Required Total Daily Evaluations | 178 |
| Daily Evaluations per Employee | 8 |
| **Total FTE (term-limited)** | **27.0** |

| Data Validation, Documentation, and Review - FTE Distribution by Department | | | | | |
|---|---|---|---|---|---|
| Department | 12- month Average Classified Employee Count | % Allocation | FTE Allocation | Float Pool | Total FTE |
| Agriculture | 284 | 1% | 0.0 | 0.5 | 0.5 |
| Corrections | 5,639 | 23% | 6.0 | 0.0 | 6.0 |
| Education | 143 | 1% | 0.0 | 0.5 | 0.5 |
| Governor's Office (OIT only) | 454 | 2% | 0.0 | 1.0 | 1.0 |
| Health Care Policy and Financing | 606 | 3% | 1.0 | 0.0 | 1.0 |
| Higher Education | 5 | 0% | 0.0 | 0.0 | 0.0 |
| Human Services | 4,565 | 19% | 4.0 | 0.0 | 4.0 |
| Labor | 1,419 | 6% | 1.0 | 0.0 | 1.0 |
| Law | 200 | 1% | 0.0 | 0.5 | 0.5 |
| Local Affairs | 204 | 1% | 0.0 | 0.5 | 0.5 |
| Military Affairs | 164 | 1% | 0.0 | 0.5 | 0.5 |
| Natural Resources | 1,442 | 6% | 1.0 | 0.0 | 1.0 |
| Personnel | 360 | 1% | 0.0 | 1.0 | 1.0 |
| Public Health | 1,663 | 7% | 2.0 | 0.0 | 2.0 |
| Public Safety | 1,785 | 7% | 2.0 | 0.0 | 2.0 |
| Regulatory Agencies | 551 | 2% | 1.0 | 0.0 | 1.0 |
| Revenue | 1,477 | 6% | 1.0 | 0.0 | 1.0 |
| State | 128 | 1% | 0.0 | 0.5 | 0.5 |
| Transportation | 2,909 | 12% | 3.0 | 0.0 | 3.0 |
| Treasury | 30 | 0% | 0.0 | 0.0 | 0.0 |
| **Total** | **24,028** | **100%** | **22.0** | **5.0** | **27.0** |

**Resources for Vendor Services**

The Department requests $185,000 General Fund to procure vendor services to support the initial workload generated by the amended Partnership Agreement; this request would annualize to $100,000 General Fund in FY 2024-25 and ongoing for continuing operations. The Department expects that the selected vendor will develop a capability for the Department to efficiently extract data from existing human resources systems, including HRDW and EPML. This project is expected to take approximately three-months to complete. Additionally, this vendor is expected to provide documentation and data tracking tools to manage the pay-step placement process. The Department will use these funds to hire project management staff to:

- work with the vendor on process development design;
- develop training materials in partnership with State agency subject matter experts; and
- train additional term-limited staff to be deployed for agency assistance in managing the workload.

**NON-NEGOTIATED REQUEST ELEMENTS**

The Department requests $25.0 million General Fund and 7.3 FTE in FY 2023-24, annualizing to 8.0 FTE in FY 2024-25, for three initiatives to improve recruitment, retention, and training of state employees. The $25.0 million is split as follows:

- $15.0 million and 1.8 FTE for professional development pay;
- $7.5 million and 0.9 FTE for recruitment, marketing, and branding; and
- $2.5 million and 4.6 FTE for leadership training.

The information regarding each of these initiatives included in the Department's November 1, 2022 submission was limited. For each initiative, the Department provided one to two paragraphs and a table summarizing the anticipated expenditures for each. In the subsequent months, and at the prompting of staff, the Department provided additional information regarding the justifications and assumptions underpinning these initiatives.

*PROFESSIONAL DEVELOPMENT PAY*

As originally requested, funds for this initiative would allow the Department to offer additional compensation for training and professional development. However, both in the request and during follow-up discussions with the Department, it was made clear that the initiative was in the nascent stages of scoping and development. There was no formalized implementation plan or clear sense of who would qualify, how participation would be measured, or how additional compensation levels would be determined. From these discussions, the Department developed the following proposal for utilizing this funding.

| REVISED PROPOSAL FOR PROFESSIONAL DEVELOPMENT PAY INITIATIVE | | |
|---|---|---|
| Staffing Costs | $184,710 | |
| Additional funds for Tuition reimbursement | 12,000,000 | Assumes $8,000 reimbursement for 1,500 employees. See comment below for additional explanation |
| Center of Organizational Effectiveness | 1,500,000 | Make all courses offered through COE available to any eligible state employee at no charge to the department. |
| Colorado State Employee Assistance Program | 500,000 | Ensure CSEAP has sufficient resources to meet the need of employees. |
| **Total** | **$14,184,710** | |

The lion's share of the requested funding would be used to increase appropriations for the tuition reimbursement program. The tuition reimbursement program is in its first year of implementation, having received a $500,000 General Fund appropriation through last year's Long Bill (H.B. 22-1329; FY 2022-23 R10/BA1). The program is detailed in Article 24.5 of the COWINS Partnership Agreement.

| Tuition Reimbursement Program FY 2022-23 Participation | |
|---|---|
| Course Type | Approved Applications |
| Advanced College Degree | 36 |
| Associate Degree | 20 |
| Bachelor Degree | 32 |
| English Language Proficiency | 2 |
| General Education Development (GED) or High School Course | 2 |
| Language Classes | 2 |
| Trade School Courses or Certificates | 13 |
| Other | 7 |
| **Total applications** | **114** |
| Appropriations obligated | $228,000 |
| Total Expenditures* | $0 |

* Reimbursements occur upon verification of course completion.

The proposed orders of magnitude increase in funding for the tuition reimbursement program begs serious questions about the ability for the entirety of the $12.0 million to be utilized in a single fiscal year. As it currently stands, the program has not reach half capacity; the Department is proposing to increase funding by roughly 24,000.0 percent. Staff will also note that the requested funding was not accompanied by an analysis or data showing each programs need in a defensible request for funding.

*Recruitment, Marketing, and Branding*

The Department plans for the request $7.5 million General Fund for this initiative to establish a branding and recruiting model for the State to support agencies in recruiting, marketing, and talent acquisitions. This initiative would be in addition to any like efforts by individual departments, with $5.0 million for digital recruitment marketing, $600,000 for vendor engagement, and $1.8 million for miscellaneous marketing. The Department consulted with an internal Human Resources Directors Group in developing this funding request. However, as the Department acknowledges, it has not undertaken this type of effort before and request is based on their best estimate. Staff inquired about any research or surveys conducted with individual agencies about costs of recruitment marketing efforts and the methodology used to scale those finding for this request; however, no methodology was provided.

*Leadership Training*

The request includes $2.5 million General Fund for the Center for Organizational Excellence (COE) to act as consultants focused on leadership training, management coaching, and change management. The formal request has little information detailing how the Department calculated the level of funding for this initiative. However, in subsequent communications, it was indicated to staff that the Department assumed an average cost of $1,000 per employee for the type of training envisions. A maximum of 2,500 would therefore be eligible to participate in this initiative. However, a total of 1,061 state employees availed themselves of COE services in FY 2021-22, the last full fiscal year for which there is data. The proposed funding would effectively seek to triple COE utilization, though the Department does not provide any information that would support that level of demand for services.

Given the scale of the funding requests for the non-negotiated elements and the minimal amount of accompanying programmatic data or analysis, staff recommends denial of these portions of the request. Requests of this magnitude are normally presented to the Committee as standalone requests with full narratives and supporting documentation. Additionally, there is little discussion regarding the ability of each of these programs to fully utilize the requested funding in a single fiscal year; the Department is requesting $50.0 million General Fund across two fiscal years for unproven initiatives.

# MEMORANDUM

**JOINT BUDGET COMMITTEE**

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Jon Catlett, JBC Staff (303-866-4386) |
| DATE | March 7, 2023 |
| SUBJECT | Figure Setting Comeback<br>R4 Technical Funding Adjustment<br>Colorado State Veterans Trust Fund |

During figure setting for the Department of Military & Veterans Affairs, the JBC approved the staff recommendation for drafting of legislation that effectively increases the annual appropriation amount to the Colorado State Veterans Trust Fund by $250,000 over the next three years and provided a three-year roll forward authority for this amount. After consulting with the Office of Legislative Legal Services and senior JBC staff, staff recommends a technical change that will provide greater transparency and oversight of the State Veterans Trust Fund while allowing the Department the requested increased spending and three-year roll forward authority they seek. **Staff requests that the Committee reconsider this request, and approve the revised recommendation below**.

*DEPARTMENT REQUEST:* The Department's request includes a statutory change adjusting the appropriation duration for the Veterans Trust Fund. This change would enable Tobacco Master Settlement funds credited to the Veterans Trust Fund for capital improvements and grants to be available for three years. Additionally, the Department requests that for no more than three years, they may request from the Office of the State Controller additional spending authority of no more than $250,000 annually beyond what is appropriated by the General Assembly from the Tobacco Master Settlement, based upon the available fund balance.

*ORIGINAL RECOMMENDATION:* Staff request permission to work with the Office of Legislative Legal Services on drafting this legislation.

*REVISED RECOMMENDATION:* **Staff recommends an annual increase of $250,000 in cash funds from the Colorado State Veterans Trust Fund to the Colorado State Veterans Trust Fund Expenditures line in the Long Bill for a period of three years. Additionally, staff recommends the addition of a footnote to the Colorado State Veterans Trust Fund Expenditures line item providing three-year roll-forward spending authority for appropriations for capital improvements and grants.**

DIVISION OF VETERANS AFFAIRS, COLORADO STATE VETERANS TRUST FUND EXPENDITURES

| | TOTAL FUNDS | GENERAL FUND | CASH FUNDS | REAPPROPRIATED FUNDS | FEDERAL FUNDS | FTE |
|---|---|---|---|---|---|---|
| FY 2022-23 APPROPRIATION | | | | | | |
| HB 22-1329 (Long Bill) | $832,045 | $0 | $832,045 | $0 | $0 | 0.0 |
| **TOTAL** | **$832,045** | **$0** | **$832,045** | **$0** | **$0** | **0.0** |
| | | | | | | |
| FY 2023-24 RECOMMENDED APPROPRIATION | | | | | | |
| FY 2022-23 Appropriation | $832,045 | $0 | $832,045 | $0 | $0 | 0.0 |
| R4 Technical funding adjustment | 250,000 | 0 | 250,000 | 0 | 0 | 0.0 |
| Tobacco master settlement adjustment | 66,006 | 0 | 66,006 | 0 | 0 | 0.0 |
| **TOTAL** | **$1,148,051** | **$0** | **$1,148,051** | **$0** | **$0** | **0.0** |

| Division Of Veterans Affairs, Colorado State Veterans Trust Fund Expenditures | Total Funds | General Fund | Cash Funds | Reappropriated Funds | Federal Funds | FTE |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| **INCREASE/(DECREASE)** | **$316,006** | **$0** | **$316,006** | **$0** | **$0** | **0.0** |
| Percentage Change | 38.0% | n/a | 38.0% | n/a | n/a | n/a |
| | | | | | | |
| **FY 2023-24 EXECUTIVE REQUEST** | **$832,045** | **$0** | **$832,045** | **$0** | **$0** | **0.0** |
| Request Above/(Below) Recommendation | ($316,006) | $0 | ($316,006) | $0 | $0 | 0.0 |

**COLORADO STATE VETERANS TRUST FUND**

The Colorado State Veterans Trust Fund is funded through Tobacco Master Settlement funds and receives 1 percent annually of this distribution. Pursuant to Section 28-5-709, C.R.S., the total Tobacco Master Settlement Agreement funds may be used for:

- Capital improvements or needed amenities for state veterans nursing homes;
- Costs incurred by state veteran cemeteries;
- Costs incurred by the Division of Veterans Affairs to administer the program; and
- Grants to veteran programs operated by nonprofit veterans organizations that meet criteria adopted by the Colorado Board of Veterans Affairs and selected by that Board as grant recipients.

Currently, the Department's Veterans Trust Fund has a balance in excess of $4 million beyond what it is permitted to spend. At the same time, the demand for eligible, worthy grant programs from across the State who are serving veterans by providing housing assistance, financial resources, job training, and education opportunities is greater than the current authorized spending authority of the Department. Due to these limitations, the Department has been unable to provide grants to many eligible grantees and programs.

This legislation would allow the Department, for three years, to request from the Office of the State Controller additional spending authority of no more than $250,000 annually beyond what is appropriated by the General Assembly from the Tobacco Master Settlement. According to the Department, this would provide resources needed to address capital improvements and amenities for existing or future veterans' community living centers. Additionally, according to the Department, access to these funds would provide additional assistance to all veterans across Colorado uniformly and improve veteran outcomes.

| Veterans Trust Fund Balance | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 | FY 2021-22 |
|---|---|---|---|---|---|
| Beginning Balance | $6,129,256 | $6,335,834 | $6,642,454 | $6,858,826 | $4,005,282 |
| Revenue | 863,672 | 1,003,914 | 963,358 | 855,157 | 902,288 |
| Expenditures | (657,094) | (697,294) | (746,986) | (708,701) | (521,610) |
| Cash Sweep | | | | (3,000,000) | |
| **Ending Fund Balance** | **$6,335,834** | **$6,642,454** | **$6,858,826** | **$7,005,282** | **$4,385,960** |

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Jon Catlett, JBC Staff (303-866-4386) |
| DATE | March 7, 2023 |
| SUBJECT | Figure Setting Comeback<br>Department of Military & Veterans Affairs<br>BA1 Performance Audit Resources |

## ➔ BA1 VETERANS SERVICE OFFICER PERFORMANCE AUDIT RESOURCES

*REQUEST:* The Department requests $691,065 General Fund and 7.4 FTE to improve the quality, timeliness, and consistency of service to Colorado's 388,000 veterans. A recent Veterans Services performance audit dated September 2022, conducted by the Colorado Office of the State Auditor, made 27 recommendations to improve service and support to Colorado veterans. This budget amendment is in direct response to the performance audit findings.

*RECOMMENDATION:* **Staff recommend partial approval of the request, including appropriating $179,402 General Fund and 2.7 FTE in FY2023-24, which would annualize to 3.0 FTE and $222,435 in FY 2024-25. The recommendation includes a Training Officer, Appeals Specialist, and Grant Specialist II. Staff recommend denial of the 4.6 additional state veteran service officers at this time. Additionally, staff recommend including a request for information in FY 2023-24 for details regarding the execution of the performance audit recommendations.**

*EVIDENCE LEVEL:* The Department indicated n/a.

*BACKGROUND AND ANALYSIS:* A recent performance audit conducted by the Colorado Office of the State auditor and published in September 2022 found that the "Division of Veterans Affairs and the Colorado Board of Veterans do not sufficiently plan for, supervise, and support veteran services, which are largely provided by county veterans service officers." The audit made 27 recommendations to improve service to Colorado veterans, and the Department agreed with all of the audit findings and recommendations.

Though the performance audit recommendations require no additional resources and were made assuming the Department's existing resources and structure, the Department has requested additional FTE to facilitate implementing the recommendations. Staff find merit to some of the requested additional FTE but recommend waiting on additional state Veterans Service Officers until a strategic plan is implemented that fully addresses all of the performance audit recommendations.

KEY FINDINGS OF THE PERFORMANCE AUDIT:

- Federal and state laws require the Department to provide training to Veteran Service Officers, however the Departmental approach to this training was found to be inadequate. According to a survey conducted during the performance audit, one-third of VSO respondents found the training to be either too complex, too late, or with significant gaps in content.
- Sensitive veteran data may not be adequately protected. According to the audit, the Division does not ensure that users of VetraSpec, the case management system, have appropriate access. The access and utilization of VetraSpec are not regularly monitored, and some users did not access the system for up to seven years, thus, their access may be unnecessary.
- Significant differences in the effective hourly rates counties receive for their VSOs, with rates ranging between $8.65 and $55.38 per hour.
- A lack of statutorily intended uniformity in the provision of veterans services across the state, with some veterans waiting in excess of two weeks for service, and others waiting no time. The Department has not defined the concept of uniformity, with the ratio of state and county veterans to VSOs in Denver county being 10,000:1 and less than 3,000:1 in all other counties.

SUMMARY OF AUDIT RECOMMENDATIONS:

1 The Division of Veterans Affairs should ensure that veterans service officers (VSOs) receive effective and timely training by:
   a. Establishing a written training program for certifying new VSOs that outlines the content that new VSO training should cover, the timeframe in which VSOs should be trained, who should provide training, who is required to complete the training, what training materials should be provided to the VSOs
   b. Implementing a continuing education training requirement for VSOs either in written policies, rules, or as a condition of its payments to counties.
   c. Implementing written procedures and a standard mechanism, such as a database, for tracking VSOs' new and continuing training, including information such as the dates training is provided and completed, training content, and who provided the training.

2 The Division of Veterans Affairs (Division) should ensure that individuals applying for accreditation meet eligibility requirements by:
   a. Defining in written policies, procedures, and/or rules what qualifies veterans service officers and administrative staff, as applicable, for accreditation, including (1) how the Division will assess good character and reputation, measure the hours worked annually, and assess whether training requirements have been met, and (2) how and at what times the Division will obtain information on qualifications.
   b. Establishing in written policies, procedures, and/or rules to what extent it will take responsibility for VSOs or administrative staff who were accredited through another recognized organization to ensure they met and continue to meet the qualifications.
   c. Establishing written policies, procedures, and/or rules for recommending education and experience qualifications for county VSOs, as required by statute.

3 The Division of Veterans Affairs should ensure that it reports accurate information as part of its SMART Government Act performance measure on accreditation by:

a. Establishing a database for storing key information about state and county veterans service officers and any relevant administrative staff.
b. Establishing written policies, procedures, and/or rules for regularly collecting and updating the data maintained as part of Recommendation 3a.
c. Defining in writing the population of individuals who are included in the measure, including whether individuals accredited through other recognized organizations and non-VSO administrative staff will be included in the measure.
d. Implementing a review process for ensuring the reported results are based on accurate and complete information.

4 The Division of Veterans Affairs (Division) should implement robust security measures to protect sensitive veteran data by establishing and enforcing written policies and procedures for:

a. Improving internal controls as recommended in the confidential report.
b. Informing county staff of policies that apply to data security and acceptable use of State IT resources, and ensuring county users' understanding and acceptance of acceptable use policies.
c. Ensuring Division and county staff who handle sensitive data are trained in data security protocols. This should include defining the frequency of training the Division will provide, the information the training will cover; and requirements for Division and county staff to attend such training on an established schedule.
d. Adhering to requirements to involve the Office of Information Technology (OIT) in IT contracts and use OIT's standard vendor agreement.

5 The Division of Veterans Affairs (Division) should ensure that it distributes county support appropriation funds to counties in a manner that aligns with the statutory intent to promote uniform access to services across the state by:

a. Developing an annual or semiannual application form for counties to request state payments and implementing written policies, procedures, instructions, and/or rules that require submission of a complete application that provides the information necessary to comply with statutory requirements as a basis for counties to receive state payments.
b. Seeking legal advice on the extent of the Division's ability and responsibility to request information from counties about their use of state payments, and based on that legal advice, designing the application developed as part of Recommendation 5A to address statutory requirements.
c. Seeking legal advice on the extent of the Division's ability and responsibility to request information from counties about their use of state payments, and based on that legal advice, designing the application developed as part of Recommendation 5A to address statutory requirements.

6 The Division of Veterans Affairs (Division) should promote uniform access to the veterans services offered by veterans service officers (VSOs) by:

a. Establishing a written interpretation in policies and/or rules of the statutory directive that the Division and the counties act to promote the provision of services to all veterans in the state on a uniform basis. This could include seeking legal guidance or statutory clarification, as needed.
b. Developing written targets and measures for the activities state and county VSOs should conduct to promote uniform services, implementing methods to collect data related to those targets and measures, and providing direction to counties on how to track and report the requested data.
c. Establishing written policies, procedures, and/or rules requiring counties to report or enter data identified as part of Recommendation 6b, including how the data should be provided (e.g., in designated forms, through a case management system, etc.) and applicable deadlines or timelines (e.g., submitting forms by certain due dates or recording case data in a case management system within certain timeframes).
d. Establishing written procedures that involve regularly examining the collected data, identifying gaps in uniformity, identifying and collecting any additional needed data not collected through other processes, identifying any strategies and tools needed to better ensure uniform access to veterans services, and working the Colorado Board of Veterans Affairs and other stakeholders as needed on any identified policy changes to improve or maintain uniformity.

DEPARTMENTAL REQUEST:
The Department is requesting $691,065 in General Fund and 7.4 FTE in FY 2023-24, including 4.6 State Veteran Service Officers, 0.9 Training Officer, 0.9 Grant Administrator, and 0.9 Appeals Specialist to address the findings in the recent performance audit.

*Training Officer:*
According to the Department, a training officer will address the division's statutory directive of holding training conferences and certifying newly appointed county veteran service officers. The training officer would also manage continuing education units of all county VSOs in maintaining annual certification, which is required for receiving VA Office of General Counsel (OGC) accreditation. VA OGC accreditation is required to assist veterans with preparing and filing their claims for compensation and other benefits.

This position would also develop, implement, and manage the division's learning management system to fulfill the division's duty of maintaining records and ensuring uniformity of training among all VSOs across the state. The training officer would also maintain the division's claim management system to further situational awareness of individual veterans' claims among VSOs across the state, which further enhances prompt and efficient service of veterans' claims on a uniformed basis.

The performance audit identified numerous gaps in the timing and consistency of training of VSOs across the state and identified training enhancements as a primary Departmental recommendation. Performance auditors found that, "The Division's approach to new VSO training is inadequate. The Division has not formalized information such as the content that the new VSO training should include, a timeframe in which VSOs should be trained (i.e., how soon after appointment/hire and how long should be allowed for completion), who should provide training, who is required to complete the training, what training materials should be provided to the VSO, or the Division's processes for certifying that a VSO has completed the program."[1]

Staff feel that a Training Officer position has significant merit and would further the Department's stated mission of timely and efficient service to veterans and bring a consistent and formalized approach to training and accrediting VSOs. Staff recommend approval of the Training Officer.

*Appeals Specialist:*
The Department requests an additional Appeals Specialist who would assist in addressing the division's statutory directive of furthering prompt and efficient services to all veterans across Colorado on a uniform basis. Veterans are waiting over 3-years to have their appeal addressed by the VA Board of Appeals. According to the Department, an additional appeals specialist will reduce Colorado veterans' wait times by 50 percent, leading to an earlier decision that could increase the compensation and well-being of Colorado veterans. Staff recommend the approval of the Appeals Specialist.

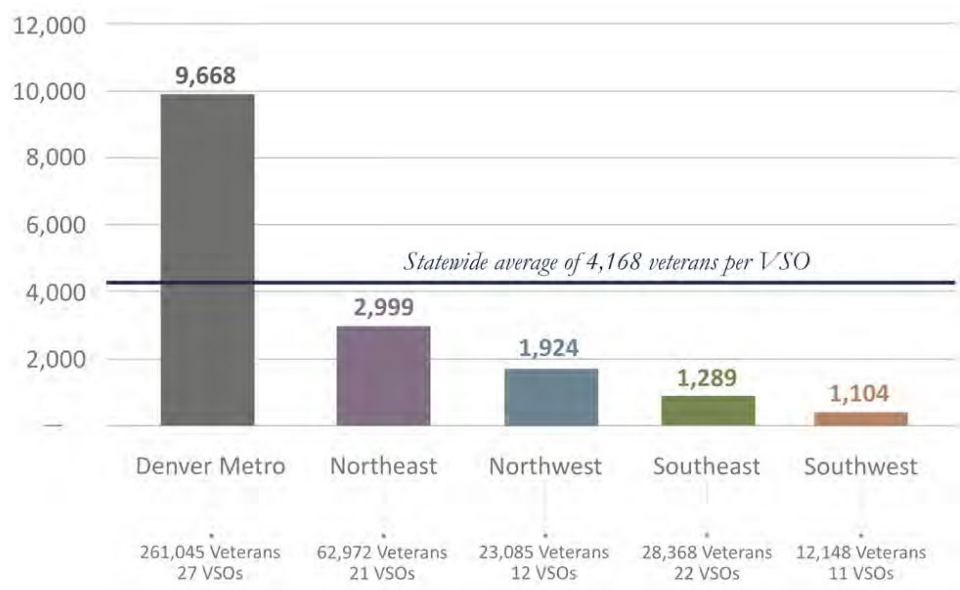
*Grant Specialist II:*
The Department requests a Grant Specialist II to comply with state fiscal rules. According to the Department, the number of high-risk Veteran Trust Fund grantees increases yearly. This position would assist with payments and other duties as assigned by the Grants Administrator. These duties include assistance with on-site monitoring, financial requirements, and data entry. This position would ensure compliance with state fiscal rules and ensure high-risk grantees receive on-site visits and any necessary technical assistance they need to succeed. The Department reports that this position is essential to ensure compliance and that with funding, they can avoid being out of compliance, which could lead to the loss of $1.7 million for Colorado veterans. Staff see merit to this request and recommend approval of the Grant Specialist II.

*State Veterans Service Officers:*
The request includes 4.6 state Veteran Service Officers. State VSOs are tasked with providing direct support to veterans and supporting, training, liaising, and assisting County Veterans Service Officers. According to the Department, adding these VSOs will assist in meeting the recommendations of the recent Division of Veterans Affairs performance audit. While there is a demonstrated need for a re-imagination of how these resources are deployed, staff are skeptical that additional VSOs are necessary or an efficient allocation of resources at this time.

According to the performance audit findings, there are significant geographical disparities in the ratio of veterans per state and county VSOs. The figures below were calculated from U.S. Veterans Administration data on the projected number of veterans living in Colorado, by county, as of September 2021. As illustrated in the graph, the average ratio of veterans per VSO statewide is 4,168:1,

[1] leg.colorado.gov/sites/default/files/documents/audits/2170p_veterans_services_performance_audit.pdf

however, the Denver metro area has a ratio of 9,668:1. Outside of Denver metro no region has a ratio greater than 3,000:1.




The audit also examined the wait time for veterans to be seen by a VSO to discuss their individual needs and available federal assistance. The survey findings are unsurprising, given the substantial regional differences in the ratio of veterans per VSO.[2]

| Survey Question: Currently, what is the approximate wait time for a veteran to meet with you to discuss their needs for assistance? | | | | | |
|---|---|---|---|---|---|
| Region | Number of counties per region that responded. | Responses | | | |
| | | No wait time. I can meet or speak with a veteran at their earliest convenience. | I have no availability in the next week. | I have no availability within the next 2-3 weeks. | I have no availability for 4 or more weeks. |
| Denver Metro | 5 out of 10 | 40% | - | 40% | 20% |
| Northeast | 7 out of 15 | 57% | 29% | 14% | - |
| Northwest | 6 out of 10 | 50% | 33% | - | 17% |
| Southeast | 9 out of 19 | 100% | - | - | - |
| Southwest | 7 out of 10 | 100% | - | - | - |

Additionally, the audit assessed the number of veterans that county VSOs were assisting by geographic region. The results varied widely, but generally were consistent with the findings that the Denver

[2] leg.colorado.gov/sites/default/files/documents/audits/2170p_veterans_services_performance_audit.pdf. Note: The Division does not collect information on veterans wait times for services from VSOs. As a result, auditors used the only data available related to timeliness of services, which were the self-reported information received from 34 of the 64 counties. Neither the audit team nor the Division had any means to verify these data.

metro region has inadequate resources to serve the needs of its large veteran population in an efficient and timely manner.[3]

| Survey Question: Currently, how many veterans are you assisting? This would include working to file one or more claims for a veteran or their family and monitoring pending claims. | | | |
|---|---|---|---|
| Region | Number of counties per region included in the survey response. | Veterans Being Assisted by Individual VSOs, Range of Responses for the Region | Veterans Being Assisted by Individual VSOs, Average for the Region |
| Denver Metro | 5 out of 10 | 20-1,000 | 396 |
| Northeast | 7 out of 15 | 4-60 | 22 |
| Northwest | 5 out of 10 | 1-250 | 71 |
| Southeast | 9 out of 19 | 4-426 | 61 |
| Southwest | 5 out of 10 | 5-120 | 38 |

While there are evident differences in the service levels and workloads of VSOs in different regions across the state, staff do not feel that adding additional VSOs is a quick fix to address these different service levels. Appropriating additional VSOs before fully addressing the underlying inefficiencies and oversight gaps in the current Veterans Service Operations model, may only mask the misallocation of resources, and hinder the necessary changes to optimize uniform, timely, efficient, and effective service delivery to Colorado veterans.

The performance audit recommendations were made assuming that the Department utilized its existing resources. No additional FTE was required or recommended in the performance audit recommendations. Staff feel that substantial improvements and efficiencies can be recognized by fully implementing the audit's recommendations without committing to additional VSOs at this time. A strategic plan guided by the Colorado Board of Veterans Affairs and Departmental leadership that re-envisions how state and county VSOs serve veteran populations uniformly, efficiently, and within statute could vastly improve the current operating model while delivering enhanced service to veterans and a greater return to Colorado taxpayers.

Inefficiencies and income disparities between county VSOs are illustrated in the following survey findings regarding the workload and reimbursement rate of county VSOs across Colorado. Based on the survey data collected, auditors were able to calculate the effective hourly rate of county VSOs.[4]

[3] leg.colorado.gov/sites/default/files/documents/audits/2170p_veterans_services_performance_audit.pdf. Note: The Division does not collect consistent or comprehensive information on VSO workloads. As a result, auditors asked county VSOs about the number of veterans they serve at a point in time. The responses in this table represent the information that was self-reported by VSOs in 31 counties who responded to the survey. Neither the audit team nor the Division had any means to verify these data.

[4] Source: Office of the State Auditor analysis of survey responses provided by County VSOs, April 2022, and information provided by the Division of Veterans Affairs about amounts paid to counties for July to December 2021.

| County | Survey Question: Thinking about the last 2 months, approximately how many hours a week on average have you spent on your VSO duties? | Number of Hours in a Semiannual Pay Period (x 26 weeks) | County's Reimbursement Rate July-Dec 2021 | Effective Hourly Rate |
|---|---|---|---|---|
| County A | 5-7 | 130-182 hours | $7,200 | $39.56-$55.38 per hour |
| County B | 32 | 832 hours | $7,200 | $8.65 per hour |
| County C | 35 | 910 hours | $14,280 | $15.69 per |
| County D | 40 | 1,040 hours | $14,280 | $13.73 per hour |

Before adding additional state VSOs, staff feel that it is essential for the Department to have addressed the underlying issues that generated these significant income disparities between counties. While a need may exist for these additional resources in the future, staff feel it is essential to fully address all of the issues and recommendations laid out in the performance audit. Once all recommendations have been implemented, the Department and Board will have a clearer perspective on what resources are genuinely needed and where to deploy them.

Additionally, the Department reports that 3 of the 13 positions appropriated for veteran services are currently vacant, equating to a vacancy rate of 23%. These vacancies include the Women Veterans Service Officer position, funded through the Department's FY 2022-23 R1 (State Women Veterans Service Officer) request. The Department states that the search for this candidate is currently ongoing. The Department also reports that they are currently seeking to fill the VSO supervisor position. Staff feel that filling the VSO supervisor position should be a high Departmental priority and could make a meaningful impact in carrying out the performance audit recommendations.

Staff feel that it is important to note that as part of this request, the Department did reference the recent passing of the Promise to Address Comprehensive Toxics Act (PACT) in 2022. This federal legislation expands VA health care and benefits for Veterans exposed to burn pits, Agent Orange, and other toxic substances. It is one of the most significant expansions of benefits and services for veterans who have been exposed to toxic substances in over 30 years.

The Department stated that they anticipate a 39 percent increase in claims and benefits assistance due to the PACT Act. While this is an important consideration, staff feel that it is more important to address the underlying inefficiencies and seemingly lack of uniformity in service to veterans before appropriating additional VSOs in anticipation of a projection that is not yet fully understood. Staff recommend denial of this component of the request.

The table below outlines the Department's request, staff recommendation, and the FY 2024-25 recommended annualization.

| MIL BA1 Veterans Performance Audit Resourcing | | | | | | |
|---|---|---|---|---|---|---|
| | FY 2023-24 request | | FY 2023-24 Recommendation | | FY 2024-25 Rec. Annualization | |
| | FTE | Cost | FTE | Cost | FTE | Cost |
| State Veterans Service Officers | 4.6 | $346,691 | 0.0 | - | 0.0 | - |
| Training Officer | 0.9 | 50,290 | 0.9 | 50,108 | 1.0 | 54,664 |
| Appeals Specialist | 0.9 | 52,809 | 0.9 | 52,617 | 1.0 | 57,401 |
| Grant Specialist II | 0.9 | 52,809 | 0.9 | 52,617 | 1.0 | 57,401 |
| **Subtotal - Personal Services** | **7.4** | **$502,599** | **2.7** | **155,342** | **3.0** | **$169,466** |
| Employee Benefits | | 127,055 | | - | | 48,919 |
| Standard Operating Expense | | 5,410 | | 4,050 | | 4,050 |
| Capital Outlay | | 56,000 | | 20,010 | | |
| **TOTALS** | **7.4** | **$691,065** | **2.7** | **$179,402** | **3.0** | **$222,435** |

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Scott Thompson, JBC Staff (303-866-4957) |
| DATE | March 10, 2022 |
| SUBJECT | Funding reduction for rescinded Education Leadership Council |

According to a new press release from March 3, 2023:

"Governor Polis issued an Executive Order to cut red tape and make government more efficient, rescinding prior Executive Orders that created the Governor's Education Leadership Council. The Council has successfully fulfilled its mission and will be integrated into the Polis administration's broader work to provide high-quality education to all Coloradans. 'Over the past six years, the Council has met its original purpose and fulfilled its requirement to provide a report on its activities and recommendations to the Governor, General Assembly, State Board of Education, and Colorado Commission on Higher Education. While the Council is no longer necessary, its work will continue on through other groups, as Colorado maintains its focus on improving the State's educational system and preparing the next generation workforce,' the Governor's Executive Order reads."

**After discussing funding related to the Education Leadership Council with staff from the Governor's Office, JBC staff recommends and the Office agrees that the Committee reduce the appropriation to the Governor's Office and Residence line item by $100,000 to reflect the council disbanding.**

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Scott Thompson, JBC Staff (303-866-4957) |
| DATE | March 10, 2023 |
| SUBJECT | Statewide IT Accessibility Decisions |

On March 7, 2023, the Joint Budget Committee asked JBC Staff to compile all decisions made by or pending before the Committee related to implementation of H.B. 21-1110 IT Accessibility due to changes expected in a forthcoming late session bill yet to be introduced. JBC Staff has not been involved in the special bill discussions at this stage and cannot provide any additional information on what changes are being considered in the potential legislation.

The following table summarizes all the decisions made by the Committee and recommended changes to the JBC staff recommendations presented to the Committee.

| | Total Funds | General Fund | Cash Funds | Reappropriated Funds | Federal Funds | FTE |
|---|---|---|---|---|---|---|
| **Approved Adjustments Related to H.B. 21-1110 IT Accessibility Compliance** | | | | | | |
| | | | | | | |
| FY 2022-23 Appropriations | | | | | | |
| SB22-120 Judicial Courts and Probation S4/BA3 ADA IT Compliance | 250,000 | 0 | 250,000 | 0 | 0 | 0.0 |
| **Total FY 2022-23 Appropriations** | **$250,000** | **$0** | **$250,000** | **$0** | **$0** | **0.0** |
| | | | | | | |
| **Approved FY 2023-24 Changes** | | | | | | |
| Judicial Independent Ethics Commission | 50,000 | 50,000 | 0 | 0 | 0 | 0.0 |
| Legislative Appropriation Bill | 261,000 | 261,000 | 0 | 0 | 0 | 1.0 |
| State R3 Website Modernization and System Updates | 417,000 | 0 | 417,000 | 0 | 0 | 0.0 |
| Treasury R5 IT Accessibility | 367,630 | 183,815 | 183,815 | 0 | 0 | 0.0 |
| | | | | | | |
| **Pending FY 2023-24 Changes** | | | | | | |
| Statewide BA1 IT Accessibility Testing and Remediation | 33,279,693 | 13,665,917 | 9,654,291 | 6,574,296 | 3,385,189 | 37.5 |
| OIT BA1 IT Accessibility Testing and Remediation | 3,769,639 | 0 | 0 | 3,769,639 | 0 | 4.0 |
| **Total FY 2023-24 Approved or Pending Changes** | **$38,144,962** | **$14,160,732** | **$10,255,106** | **$10,343,935** | **$3,385,189** | **42.5** |
| | | | | | | |
| | | | | | | |
| **Recommended Changes** | | | | | | |
| SB22-120 Judicial Courts and Probation S4/BA3 ADA IT Compliance | 0 | 0 | 0 | 0 | 0 | 0.0 |
| Judicial Independent Ethics Commission | (50,000) | (50,000) | 0 | 0 | 0 | 0.0 |
| Legislative Appropriation Bill | 0 | 0 | 0 | 0 | 0 | 0.0 |
| State R3 Website Modernization and System Updates | (337,000) | 0 | (337,000) | 0 | 0 | 0.0 |
| Treasury R5 IT Accessibility | (367,630) | (183,815) | (183,815) | 0 | 0 | 0.0 |
| Statewide BA1 IT Accessibility Testing and Remediation | (33,279,693) | (13,665,917) | (9,654,291) | (6,574,296) | (3,385,189) | (37.5) |
| OIT BA1 IT Accessibility Testing and Remediation | (3,769,639) | 0 | 0 | (3,769,639) | 0 | (4.0) |
| **Total Adjusted Recommended Changes to Approved or Pending Decisions** | **(37,803,962)** | **(13,899,732)** | **(10,175,106)** | **(10,343,935)** | **(3,385,189)** | **(41.5)** |

**JBC Staff recommends denying the Office of Information Technology's BA1 request, both the statewide piece and the part that impacts the Office of Information Technology. JBC Staff does not recommend running a Long Bill add-on to reduce funding appropriated to the Courts and Probation ($250,000 cash funds) section in the Judicial Department.** This FY 2022-23 appropriation provides funding for Courts to perform tasks the Executive branch has already accomplished with resources already provided by the bill and prior year decisions. This work will be required regardless of changes to delay or slow implementation and provides spending authority for FY 2022-23 and FY 2023-24. This recommendation is being made with the support of the Judicial Department JBC Analyst.

The Department of State's request included a somewhat unrelated amount of $80,000 cash funds from the Department of State Cash Fund to acquire a document management system. The system would securely organize and maintain all personnel records and financial documents. The Department does not have an existing electronic system. Currently, HR staff must enter the same employee data into multiple databases to complete necessary HR functions. These databases are incompatible, so data cannot be transmitted or accessed across databases. **Thus JBC Staff recommends only reducing the Department of State appropriation by $337,000 cash funds.** This recommendation is being made with the support of the Department of State JBC Analyst.

Lastly, the appropriation for the Legislative Department ($361,000 General Fund and 1.0 FTE) would be included in the Legislative appropriation bill. The funding approved by the Executive Committee is similar to the funding provided to the Judicial Department and funds some of the upfront costs of auditing the legislative information technology components, but the funding has yet to be appropriated. **If the Joint Budget Committee or Executive Committee wishes to eliminate this funding from the Legislative appropriation bill, JBC staff can draft an amendment to that bill when the Appropriations Committee first hears it.**

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Justin Brakke, JBC Staff (303-866-4958) |
| DATE | March 8, 2023 |
| SUBJECT | JBC Staff Comebacks for the Department of Corrections and the Division of Criminal Justice (Public Safety) |

The memo is the first of two comeback memos related to the Department of Corrections. This memo contains the following items:

- FY 2022-23 adjustments to private prisons and local jails line items
  - *Net General Fund impact = $0*
- FY 2023-24 private prisons cash fund increase and General Fund decrease
  - *Net General Fund impact = ($493,386)*
- Discussion about local jail per-diem rate
  - *Net General Fund impact = $0*
- Extend FY 2022-23 adjustment to maintenance contract with DHS to FY 2023-24
  - *Net General Fund impact = $750,927*

This memo also contains a technical adjustment to an appropriation in the Division of Criminal Justice in the Department of Public Safety. Specifically, staff needs to correct the FY 2023-24 annualization of S.B. 22-150 (Missing and Murdered Indigenous Relatives).

## DEPARTMENT OF CORRECTIONS - NEW DECISION ITEMS

### ➔ STAFF INITIATED FY 2022-23 ADJUST PRIVATE PRISON AND LOCAL JAILS LINE ITEMS

*REQUEST:* The Department did not request this decision item.

*RECOMMENDATION:* Staff recommends a net-zero adjustment involving two line items in the Department's External Capacity Subprogram. Staff recommends an *increase* of $2,149,397 to the *Payments to In-state Private Prisons* line item and a *decrease* of $2,149,397 to the *Payments to Local Jails* line.

The recommendation reflects the actual utilization of appropriations in both line items. Specifically, the average monthly population of DOC inmates in private prisons has exceeded what the current appropriation can support, while the average monthly population in local jails has been far lower than what the appropriation can support. The table below show these calculations along with the recommended adjustments to each line item.

| JBC STAFF RECOMMENDED FY 2022-23 PRIVATE PRISONS AND LOCAL JAILS ADJUSTMENTS | |
|---|---|
| PRIVATE PRISONS ADJUSTMENT | |
| FY23 Payments to Private Prisons appropriation | $59,322,367 |
| Per-diem | $63.32 |
| Days | 365 |
| **FY23 currently funded beds** | **2,567** |

| JBC Staff Recommended FY 2022-23 Private Prisons and Local Jails Adjustments | |
|---|---|
| | |
| FY23 estimated actual utilization (monthly reports July 22 - Feb. 23) | 2,660 |
| FY23 difference between appropriated beds & actual utilization | 93 |
| **FY23 private prisons adjustment** | **$2,149,397** |
| Recommended payments to private prisons appropriation | $61,471,764 |
| | |
| Local Jails Adjustment | |
| FY23 Payments to Local Jails appropriation | $13,284,306 |
| Per-diem | $60.61 |
| Days | 365 |
| **FY23 currently funded beds** | 600 |
| | |
| FY23 estimated actual utilization (monthly reports July 22 - Feb. 23) | 373 |
| FY23 difference between appropriated beds & actual utilization | (227) |
| FY23 possible adjustment | ($5,246,379) |
| **FY23 recommended adjustment to local jails line item to offset private prison increase** | **($2,149,397)** |
| Recommended Payments to County Jails appropriation | $11,134,909 |
| | |
| Additional Transfer Authority per Long Bill Footnote #5<br>(5.0% of total appropriations in the Payments to House State Prisoners sub-subprogram) | $3,657,412 |

The recommendation aligns appropriations with actual utilization, but it also provides the Department with additional flexibility in managing the prison population through the remainder of the current fiscal year. Footnote #5 in H.B. 22-1329 (FY 2022-23 Long Bill) provides the Department with the ability to transfer up to 5.0 percent of the total appropriation for external capacity subprogram between line items in the external capacity subprogram. That amount comes to $3,657,412. If the *Payments to Local Jails* line item is underutilized by that amount or more, the DOC can transfer that amount to the *Payments to In-state Private Prisons* line item to support up to 158 private prison beds above the 2,660 supported by this recommendation. Prior analysis has shown that existing funded prison capacity (both state and private) exceeds the FY 2022-23 prison population forecasts, so this adjustment provides additional prison management flexibility that is not strictly necessary, but is noted here as a secondary benefit.

## ➔ Staff initiated FY 2023-24 private prison cash fund increase and General Fund decrease

*Request:* The Department informally requested that JBC staff make this adjustment during comebacks.

*Recommendation:* Staff recommends a net-zero adjustment to the FY 2023-24 appropriation for the *Payments to In-state Private Prisons* line item by increasing the cash funds appropriation by $493,386 and decreasing the General Fund appropriation by the same amount.

The change stems from a federal grant award that is deposited into the State Criminal Alien Assistance Program Cash Fund created in Section 17-1-107.5 (1), C.R.S. The Department was notified of an award totaling $2,893,386. The currently approved cash funds appropriation for FY 2023-24 is

$2,400,000. Thus the cash funds appropriation can be increased by $493,386 and the General Fund appropriation can be decreased by the same amount.

## ➔ JBC REQUESTED DISCUSSION ON PER-DIEM REIMBURSEMENT RATES FOR LOCAL JAILS

*REQUEST:* The JBC requested that JBC staff bring information to the Committee regarding the per-diem rate used to reimburse local jails for housing DOC inmates and the costs associated with changing those rates.

*RECOMMENDATION:* **To give the Committee a recommendation to react to, staff recommends a per diem rate of $75.65 in FY 2023-24.** This recommendation aligns with a previous JBC staff recommendation in March 2019 to progressively increase local jail reimbursement rates through FY 2028-29.[1] The currently approved per-diem rate for local jails is $62.43.

**Staff concludes that it is possible to increase the per-diem rate to $75.65 within existing appropriations and still support an adequate bed count.** Specifically, increasing the per-diem rate to $75.65 means that the DOC can provide reimbursements for an average daily jail population of 496, which is about 136 beds above the historical norm. The following table shows how staff calculated the recommendation.

| Recommended and Possible Local Jail Per-diem Rate Changes within Existing Appropriations | | | | | |
|---|---|---|---|---|---|
| | Currently approved for FY24 | **Recommended change for FY24** | 5% | 10% | 15% |
| Currently approved FY24 appropriation | $13,720,292 | **$13,720,292** | $13,720,292 | $13,720,292 | $13,720,292 |
| Per-diem | $62.48 | **$75.65** | $65.60 | $68.73 | $71.85 |
| Days | 366 | **366** | 366 | 366 | 366 |
| Funded beds | 600 | **496** | 571 | 545 | 522 |

## ➔ STAFF-INITIATED EXTEND FY23 INCREASE FOR CONTRACT WITH HUMAN SERVICES TO FY24

*REQUEST:* The Department informally requested that JBC staff make this adjustment during comebacks. The JBC previously approved an FY 2022-23 increase of $750,927 General Fund related to the DOC's maintenance contract with the Department of Human Services Colorado Mental Health Institute at Pueblo (CMHIP). This decision was connected to the DOC's supplemental request S5 Increase for Facilities Maintenance. That supplemental request did not include a budget amendment indicating an FY 2023-24 impact, which was a mistake.

*RECOMMENDATION:* Staff recommends approval of the request for an increase of $750,927 General Fund to the *Maintenance Pueblo Campus* line item in FY 2023-24.

[1] https://leg.colorado.gov/sites/default/files/jail_survey_03-08-19.pdf

## DEPARTMENT OF PUBLIC SAFETY – TECHNICAL CORRECTION

### ➔ CORRECT S.B. 22-150 ANNUALIZATION

*RECOMMENDATION:* Staff recommends that the *DCJ Administrative Services* line item be increased by $13,970 General Fund to correctly reflect the FY 2023-24 impact of S.B 22-150 (Missing and Murdered Indigenous Relatives).

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Alfredo Kemm, JBC Staff (303-866-4549) |
| DATE | March 7, 2023 |
| SUBJECT | JUD figset comeback 1 – Page Rate Increase Court Reporters |

The Colorado Court Reporters Association submitted a request directly to Committee members for a per-page rate increase for court transcripts. The current page rate is $3.00. The request is for a page rate of $4.00. The request states that the page rate has not been changed since 2014. Staff confirmed that page rates increased from $2.35 to $2.75 in 2014 and from $2.75 to $3.00 in 2015.

The equivalent federal rate will be $4.00 effective October 2023 and $4.40 effective October 2024. Staff found a news report that stated federal rates had not increased since 2007 and were approved for two consecutive 10 percent increases from the current rate of $3.65. The request also identifies the following state rates: Kansas – $3.50; Nebraska – $3.75; Wyoming – $3.25; Oklahoma – $3.50.

For comparison: The Committee approved introduction of a bill for a targeted rate of 75 percent of the federal Criminal Justice Act (CJA) rate for attorney contractors. The current CJA rate is $164 per hour and the Committee has approved funding for a rate of $100 per hour for FY 2023-24, equal to 61.0 percent of the current CJA rate. The target rate will not be achieved for at least five years with annual $5 increases.

A court reporter per-page rate of 75 percent of the October 2023 federal rate is $3.00, the current rate. A target rate of 90 percent of the upcoming $4.00 federal rate is $3.60, and would be $3.96 for the October 2024 $4.40 federal rate. The current rate of $3.00 is 82.2 percent of the current federal rate of $3.65.

The following table outlines the estimated fiscal impact from affected Judicial agencies at the requested $4.00 per page rate.

| Page Rate Increase Court Reporters | | |
|---|---|---|
| | $4.00/page | $3.60/page* |
| Courts | $73,623 | $44,174 |
| OSPD | 429,000 | 257,400 |
| OADC | 135,000 | 81,000 |
| OCR** | 2,000 | 1,200 |
| ORPC | 175,681 | 105,409 |
| **total** | **$815,304** | **489,182** |

*JBC staff estimated at 60 percent of $1.00/page increase
** OCR estimated cost can be absorbed, no adjustment requested

The request narrative included an estimate of an additional $450,000 General Fund. Based on the fiscal impacts identified by the Judicial agencies, and the rate as compared to neighboring states and the federal rate, **staff recommends a $3.60-per-page rate for FY 2023-24. Additionally, the Committee may wish to include an annualization to a $4.00-per-page rate for FY 2024-25 as a part of this budget action (the annualization cost is estimated to equal the balance of the $4.00 per page rate shown in the table, approximately $325,000).**

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Alfredo Kemm, JBC Staff (303-866-4549) |
| DATE | March 7, 2023 |
| SUBJECT | JUD figset comeback 2 – 23rd Judicial District Counties Request |

The Counties of the 18th Judicial District, Arapahoe, Douglas, Elbert, and Lincoln, request special funding to be provided in legislation for transition costs related to the implementation of the 23rd Judicial District. Specifically, these costs relate to transitioning and standing up the 23rd Judicial District Attorney's (DA) Office. (The Judicial Department addresses transition costs for court operations.)

The Counties request state assistance for FY 2023-24 totaling $668,600 for consulting fees ($193,600) and transition contractor project management fees ($475,000). The Counties also identify an additional $3.6 million in FY 2023-24 transition costs that they are absorbing. Those costs include forensic accounting, casefiles and records management, and DA office personnel costs related to compensation bonuses for staff retention through the transition.

The Counties request state assistance for FY 2024-25 totaling $4,000,000:

- Half of this amount ($2.0 million) is identified as staff costs related to annual and sick leave payouts for staff transitioning from the 18th to the 23rd JD. These staff will be leaving the employment of Arapahoe County's benefits system and entering employment in Douglas County's benefits system. Therefore, these leave-related payouts are addressed in the same way as any other staff resignation or retirement.
- The other half ($2.0 million) is for one-time, transition and implementation of IT infrastructure, equipment, software, implementation, integration and modification, data preservation, separation, and migration, and one-time IT transition staffing.

The Counties identify $3.8 million in FY 2024-25 transition costs that they are absorbing. Of that amount $1.6 million is identified as first-year IT-related operating costs, $2.0 million in first-year personnel benefits, and additional accounting and HR-related support. The Counties state that the general division of costs for FY 2024-25 is split along one-time, transition costs, and first-year operating costs.

Should the Committee wish to fund this request, the appropriation will be located in a special line item placed in the Judicial budget for two years: *23rd Judicial District Attorney's Office Transition and Implementation*. The Counties will submit reimbursement requests to the Judicial Department to access reimbursement funding. Staff anticipates that the Courts can absorb this minimal, non-oversight, gate-keeping responsibility within current appropriations.

**Staff recommends that the Committee consider supporting this request**. House Bill 20-1026 (*Create Twenty-third Judicial District*) includes a non-statutory legislative declaration that expresses legislative intent to assist the counties; however, the statutory provisions did not provide for state support for the counties. This request appears to be a reasonable split of costs between the counties and the State entirely related to transitioning and standing up the 23rd Judicial District Attorney's office.

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Abby Magnus, JBC Staff (303-866-2149) |
| DATE | March 10, 2023 |
| SUBJECT | JBC staff comebacks for Department of Labor and Employment, BA2 Disability Employment First |

During figure setting for the Department of Labor and Employment on February 9, 2023, the Committee delayed decision on BA2 (Disability Employment First). This was based on staff recommendation to deny or table the request based on concern for a lack of reporting on and accountability for the recommendations being made by the requested positions. The Department has provided additional information to the request to respond to these concerns.

*DEPARTMENT REQUEST*

The Department requests an increase of $312,653 in General Fund spending authority and 1.8 FTE in FY 2023-24 and $289,491 in General Fund spending authority and 2.0 FTE in FY 2024-25 with roll forward authority for $40,000 for contracted services in the Division of Vocational Rehabilitation and Independent Living Services to expand disability employment first philosophy, policy and practice across relevant state government agencies, work with the Employment First Advisory Partnership and communicate disability employment first philosophy to the public.

The Department's goal with this request is to build upon existing momentum around Employment First efforts in the state, and continue to work towards the increased expectation of employment for people with disabilities. At the end of the two years, it is the expectation that these positions, with support from the Division, Employment First Advisory Partnership (EFAP), and relevant agencies, will have built a roadmap for the state to move forward with Employment First efforts. These positions will explore new policies, funding mechanisms, structures, and communications that could expand Employment First. The request includes:

- 2.0 FTE in FY 2023-24 and FY 2024-25 who will work with state agencies in order to advise next steps for the State to continue forwards with Employment First, identifying where agencies can reduce barriers or positively affect outcomes for individuals with disabilities seeking employment:
- $40,000 in FY 2023-24 with roll forward authority through FY 2024-25 for those FTE to contract with services and individuals for assistance with communications, change management, and strategic planning to support these efforts; and
- $65,000 in FY 2023-24 and FY 2024-25 to fund the DB 101 website.

*INITIAL STAFF RECOMMENDATION*

Staff recommends the Committee deny or table discussion on the request until the Executive Branch is able to speak to the documentation of the recommendations from these positions as well as the accountability measures for enacting the recommended changes.

*DEPARTMENT RESPONSE*

The Division of Vocational Rehabilitation (DVR), recommends a preliminary report on January 2, 2024 and a final report on April 1, 2025, providing updates on the identified barriers within the state's purview that limit employment opportunities for persons with disability; steps being taken to resolve the barriers; and any legislative or budget requests needed to address the barriers. DVR can provide this information and any additional information the JBC is interested in through the RFI process.

While DVR does not have the authority to mandate that agencies implement the recommendations, it can use its expertise to help agencies, as well as the legislature, better understand what can be done to improve disability employment outcomes in Colorado by reducing barriers within the state's control. With the requested term-limited staffing and funding, DVR will collaborate with state agencies and stakeholders to create these recommendations for operational, budgetary and legislative action, and will report those recommendations back to the agencies and the legislature, including the JBC. DVR's recommendations will better equip each agency to take action and improve disability employment outcomes within their capacity, and request additional resources or legislative support as needed.

Examples of potential actions DVR plans to explore through this collaboration with agencies and stakeholders include:

- Ensuring families have accurate information about opportunities for employment, the impact of earnings on critical disabilities benefits, and supports available;
- Ensuring vocational services to incarcerated individuals with disabilities and planning for release includes disability perspective and coordination of ongoing support that will be needed for long term employment success;
- Tackling systemic barriers impacting interest in work for people with disabilities, such as concerns about loss of SSI/SSDI, healthcare, housing vouchers, SNAP, or other benefits;
- Improving utilization of and development of newer programs like Medicaid Buy-In for Working Adults with Disabilities and ABLE accounts, which make meaningful, gainful employment and prosperity an option for Coloradans with significant disabilities.
- Identifying restrictions on licensure, credentialing, or other requirements that prevent people with certain disabilities from entering certain occupations.

*UPDATED STAFF RECOMMENDATION*

Based on the reporting and accountability measures offered by the Department, staff recommends approval of the request including 1.8 FTE and $270,508 General Fund in FY 2023-24 and 2.0 FTE in $271,703 in FY 2024-25, with the requested roll forward authority on $40,000 of the appropriation. Staff also recommends adding an RFI to include the JBC as recipients of the reports in January 2024 and April 2025.

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Abby Magnus, JBC Staff (303-866-2149) |
| DATE | March 10, 2023 |
| SUBJECT | JBC staff comebacks for Department of State – R1 2022 HAVA Election Security Grant State Match |

The Joint Budget Committee approved staff recommendation for this request during the FY 2023-24 Department of State figure setting presentation on March 6, 2023, however, there are some technical details that were not clear in the recommendation and must be approved in order for the Department to meet the requirements of the grant.

## ➔ R1 2022 HAVA ELECTION SECURITY GRANT STATE MATCH

*REQUEST*

The Department requests $234,488 in one-time DOS Cash Fund spending authority for FY 2023-24 to match a federal HAVA grant for $1,172,438. The State must match 20.0 percent of the grant in order to access the federal funds, and must have the spending authority by March 2024. The funding is to support ongoing election administration improvements and must be spent by September 2027.

*PREVIOUS RECOMMENDATION*

Staff recommends approval of the request. The recommendation includes $234,488 in increased cash fund spending authority in FY 2024-25 with roll-forward spending authority through FY 2026-27.

*ANALYSIS*

In March 2022, the US Election Assistance Commission awarded the Department of State $1,172,438 as an additional tranche of HAVA Election Security funds. In order for the Department to leverage the additional federal funding, the State must provide a match of 20.0 percent or $234,488. The grant requires that:

- The State have legal spending authority for the matching funds within two years of the date that Congress appropriated these funds, not later than March 2024; and
- The Department transfer the full amount of the match into the Federal Elections Assistance Fund in accordance with Section 104(d) of HAVA.

Funding in the Federal Elections Assistance Fund is continuously appropriated to the Department. Accrued interest on the funds must be expended for the purposes of the grant. The matching funds must be expended in full by the September 30, 2027, the end of the grant budget period.

*UPDATED RECOMMENDATION*

Staff recommends approval of the request including:

- $234,488 in increased DOS cash fund spending authority in FY 2024-25; and
- Authority to transfer the $234,488 for the State match to the Federal Elections Assistance Fund.

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Andrea Uhl, JBC Staff (303-866-4956) |
| DATE | March 7, 2023 |
| SUBJECT | Technical Comeback – H.B. 22-1242 Appropriations Clause |

Staff requests permission to make a technical correction to the appropriations clause for H.B. 22-1242 (Regulate Tiny Homes Manufacture Sale and Install). This will be done by amending the appropriations clause in an add-on attached to the end of the Long Bill. The appropriations clause incorrectly references the Department of Local Affairs instead of the Department of Regulatory Agencies when providing reappropriated funds to the Department of Personnel for fleet vehicles.

(5) For the 2022-23 state fiscal year, $86,946 is appropriated to the department of regulatory agencies. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) $50,440 for use by the division of professions and occupations for personal services, which amount is based on an assumption that the division will require an additional 0.9 FTE;

(b) $26,989 for use by the division of professions and occupations for operating expenses; and

(c) $9,517 for use by the executive director's office and administrative services for vehicle lease payments.

(6) For the 2022-23 state fiscal year, $9,517 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of local affairs under subsection (5)(c) of this section. To implement this act, the department of personnel may use this appropriation to provide vehicles to the department of regulatory agencies.

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Mitch Burmeister, JBC Staff (303-866-3147) |
| DATE | March 10, 2023 |
| SUBJECT | DNR Technical Adjustments Comeback |

Included in this packet are requests for permission to implement technical adjustments related to the Department's R1 COGCC Mission Change Operational and Regulatory Support.

- An increase of $263,239 cash funds to Staff's original recommendation;
- A reversal of BA1 COGCC Mission Change Operational and Regulatory Support; and
- Technical adjustments to the newly created Orphaned Wells Mitigation Enterprise line item.

**R1 COGCC MISSION CHANGE OPERATIONAL AND REGULATORY SUPPORT**

In staff's calculations for the positions requested at the range minimum + 15.0 percent, staff erroneously used 1.5 percent instead of 15.0 percent to calculate the necessary funding level. Staff also mistakenly used the Data Management II job classification instead of the requested Data Management III job classification. These mistakes resulted in staff recommending a total of $2,820,455 cash funds, as detailed in the following table.

| DNR R1 OGCC MISSION CHANGE REQUEST AND RECOMMENDATION | | | | | | |
|---|---|---|---|---|---|---|
| | FY 2023-24 Request | | FY 2023-24 Recommendation | | FY 2024-25 R1 Rec. Annualiz. | |
| | FTE | Cost | FTE | Cost | FTE | Cost |
| Personal Services | | | | | | |
| Env. Prot. Spec I | 3.0 | $230,782 | 3.0 | $215,194 | 3.0 | $215,194 |
| Env. Prot. Spec II | 13.0 | 1,156,047 | 13.0 | 1,028,182 | 13.0 | 1,028,182 |
| Env. Prot. Spec III | 1.0 | 102,544 | 1.0 | 96,136 | 1.0 | 96,136 |
| Env. Prot. Spec IV | 2.0 | 222,498 | 2.0 | 201,876 | 2.0 | 201,876 |
| Compliance Spec II | 2.0 | 120,209 | 2.0 | 110,967 | 2.0 | 110,967 |
| Hearings Officer II | 4.0 | 345,620 | 4.0 | 307,676 | 4.0 | 307,676 |
| Hearings Officer III | 1.0 | 99,514 | 1.0 | 89,050 | 1.0 | 89,050 |
| Hearings Officer II | 1.0 | 83,746 | 1.0 | 76,919 | 1.0 | 76,919 |
| Administrator IV | 1.0 | 83,746 | 1.0 | 76,919 | 1.0 | 76,919 |
| Data Management III | 1.0 | 67,006 | 1.0 | 54,664 | 1.0 | 54,664 |
| **Subtotal - Personal Services** | **29.0** | **$2,511,712** | **29.0** | **$2,257,583** | **29.0** | **$2,257,583** |
| | | | | | | |
| Employee Benefits | | $545,889 | | $424,922 | | $433,922 |
| Standard Op Ex | | 64,525 | | 54,940 | | 84,035 |
| Capital Outlay | | 203,000 | | 83,010 | | 0 |
| **Totals** | **29.0** | **$3,325,126** | **29.0** | **$2,820,455** | **29.0** | **$2,775,540** |

After correcting these errors, the new recommendation is $3,083,694. This represents an increase of $263,239. The new recommendation is outlined below.

| DNR R1 OGCC Mission Change Request and Recommendation | | | | | | |
|---|---|---|---|---|---|---|
| | FY 2023-24 Request | | FY 2023-24 Recommendation | | FY 2024-25 R1 Rec. Annualiz. | |
| | FTE | Cost | FTE | Cost | FTE | Cost |
| Personal Services | | | | | | |
| Env. Prot. Spec I | 3.0 | $230,782 | 3.0 | $243,813 | 3.0 | $243,813 |
| Env. Prot. Spec II | 13.0 | 1,156,047 | 13.0 | 1,164,930 | 13.0 | 1,164,930 |
| Env. Prot. Spec III | 1.0 | 102,544 | 1.0 | 108,922 | 1.0 | 108,922 |
| Env. Prot. Spec IV | 2.0 | 222,498 | 2.0 | 228,726 | 2.0 | 228,726 |
| Compliance Spec II | 2.0 | 120,209 | 2.0 | 125,725 | 2.0 | 125,725 |
| Hearings Officer II | 4.0 | 345,620 | 4.0 | 307,676 | 4.0 | 307,676 |
| Hearings Officer III | 1.0 | 99,514 | 1.0 | 89,050 | 1.0 | 89,050 |
| Hearings Officer II | 1.0 | 83,746 | 1.0 | 76,919 | 1.0 | 76,919 |
| Administrator IV | 1.0 | 83,746 | 1.0 | 76,919 | 1.0 | 76,919 |
| Data Management III | 1.0 | 67,006 | 1.0 | 76,417 | 1.0 | 76,417 |
| **Subtotal - Personal Services** | **29.0** | **$2,511,712** | **29.0** | **$2,499,097** | **29.0** | **$2,499,097** |
| | | | | | | |
| Employee Benefits | | $545,889 | | $446,647 | | $456,610 |
| Standard Op Ex | | 64,525 | | 54,940 | | 84,035 |
| Capital Outlay | | 203,000 | | 83,010 | | 0 |
| **Totals** | **29.0** | **$3,325,126** | **29.0** | **$3,083,694** | **29.0** | **$3,039,742** |

**Staff is recommending an increase of $263,239 to the approved appropriation to a total of $3,083,694 cash funds from the Oil and Gas Conservation and Emergency Response Fund for FY 2023-24.**

### Reversal of BA1 COGCC Mission Change Operational and Regulatory Support

Related to the above correction, in the course of investigating that issue, staff found that the original recommendation already includes the annualization request in BA1. As such, staff should have recommended denial of BA1.

BA1 included a net decrease of $11,103 cash funds, so reversing that decision would provide the Department with the correct amount of funding in concert with staff's intended recommendation. The explanation of staff's intended recommendation from the figure setting document is as follows:

> Salaries
>
> The Department is asking for 26.0 FTE at the range minimum plus 15.0 percent and the remaining 3.0 FTE at the second quartile. Because 18.0 of these FTE have already been approved for the current fiscal year as well as FY 2023-24, staff feels that it would be appropriate to continue the same level of funding for those FTE. Of those 18.0 FTE, only 17.0 were approved at the range minimum plus 15.0 percent, and 1.0 was approved at the second quartile.

For the remaining 11.0 FTE that would be added to the existing 18.0 if this request is approved, staff recommends funding 4.0 FTE at the range minimum plus 15.0 percent and the last 7.0 FTE at the range minimum. The 4.0 FTE at the elevated rate would match the positions already approved by the Committee, and the Department did not provide a compelling argument for why the remaining 7.0 FTE would need to be funded at the second quartile.

**Staff is recommending that the Committee reverse their action on BA1 COGCC Mission Change Operational and Regulatory Support to deny that budget amendment.**

### TECHNICAL ADJUSTMENTS TO ORPHANED WELLS MITIGATION ENTERPRISE LINE ITEM

In conversations with the Department prior to staff's figure setting presentation, staff was informed that the Department expected to receive funding from two different sources to expand the plugging and reclaiming orphaned wells program. Those two sources are the Orphaned Wells Mitigation Enterprise (OWME), which expects to collect around $9.5 million per year for the program, and federal funds from the Infrastructure Investment and Jobs Act (IIJA). The level of federal funding is expected to be somewhere around $14.5 million per year, up to approximately $124.0 million in total. In staff's figure setting document, these two numbers were combined and rounded up to show $25.0 million informational cash funds.

This has proven difficult for the Department to implement, as staff combined enterprise funds and federal funds into the same total amount in the recommendation.

The Department reports that they don't have the necessary backend coding infrastructure in place to mix the federal funds and the enterprise funds in the same line item, but staff doubts that this is an insurmountable obstacle. Additionally, the OWME is not the entity that manages the federal funds, so staff believes that it would be inappropriate to have the total informational amount all in a single fund source, but that it would be better to at least split the funding between cash and federal funds. Because these are informational funds, the General Assembly doesn't appropriate them, but staff feels that it is still important to include the enterprise funds in the Long Bill for transparency purposes.

That said, the Committee has a couple of options. First, it could simply split out the $25.0 million shown in the line into $9.5 mil cash funds and $14.5 million federal funds. Both would remain informational. While this would be the cleanest option in terms of total lines in the Long Bill, the Department has repeatedly told staff that this would be much more difficult in practice than it sounds in theory.

Second, the Committee could retain the original Plugging and Reclaiming Orphaned Wells line item to display the federal funds, and keep the enterprise revenue in the newly created enterprise line item. This solution would be effectively the same as the first option but easier for the Department to adapt to. It would also create a clearer distinction between federal funds and enterprise funds. The main reason that this would be beneficial is because the OWME doesn't actually manage the orphaned wells program. The Enterprise simply collects the revenue and then the program is run with those funds, but not by the Enterprise. As such, the federal funds never pass through the OWME so reflecting the federal funds there would be inaccurate. In this option, the Plugging and Reclaiming Orphaned Wells line item would contain $14.5 million in the federal funds column, and the Orphaned Wells Enterprise line item would contain $9.5 million in the cash funds column, both of which would be informational.

Finally, the Committee could leave the IIJA funding out of the budget altogether and instead receive information through the RFI on how much funding came in and how much was spent on plugging and reclaiming wells. If the Committee chooses this option, staff recommends amending the approved RFI as follows:

> Department of Natural Resources, Oil and Gas Conservation Commission, Orphaned Wells Mitigation Enterprise -- The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all ENTERPRISE REVENUES COLLECTED, FEDERAL FUNDS RECEIVED, AND expenditures made in the previous year from this line item AND FROM FUNDING RECEIVED THROUGH THE FEDERAL INFRASTRUCTURE INVESTMENT AND JOBS ACT and an inventory of all known orphaned wells that are in the process of being plugged and reclaimed or remain to be plugged and reclaimed.

Similarly, even if the Committee chooses one of the first two options, this RFI language could still be inserted to ensure that the General Assembly is getting the full picture on how much federal funding is coming in and how it is being spent.

**Staff recommends implementing the third option presented – adding language to the existing RFI to include how much federal funding the Department is receiving and spending related to plugging and reclaiming orphaned wells. Staff further recommends reflecting an informational appropriation in the Orphaned Wells Mitigation Enterprise line item of $9,500,000 cash funds as opposed to the $25,000,000 approved in staff's figure setting document.**

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Mitch Burmeister, JBC Staff (303-866-3147) |
| DATE | March 10, 2023 |
| SUBJECT | Treasury Letternote and PERA Direct Distribution Line Item |

## DIRECT DISTRIBUTION FOR UNFUNDED ACTUARIAL ACCRUED PERA LIABILITY

In staff's figure setting document for the Department of the Treasury, the Committee delayed action on one line item – Direct Distribution for Unfunded Actuarial Accrued PERA Liability. There was no formal write-up related to this line, but the Committee requested a comeback because it was unsure of staff's recommendation. At question was the inclusion of $4,500,000 cash funds from the PERA Payments Cash Fund in the FY 2023-24 recommendation.

If the Committee chooses not to appropriate those cash funds, that amount should instead be appropriated as General Fund, which would increase the total General Fund amount in the line item to $26,119,075.

Whatever happens with this line and the bill referenced by the Committee in staff's figure setting presentation that will potentially utilize the $4,500,000 in the PERA Payments Cash Fund, staff would recommend that the Committee take action to repeal the PERA Payments Cash Fund. Once it is empty, there will be no further use for it, and maintaining it would serve no practical purpose. This repeal can be accomplished either in the bill that proposes to utilize the remaining fund balance, or in a separate bill.

## BUSINESS PERSONAL PROPERTY TAX EXEMPTION LETTERNOTE

The business personal property tax exemption line item is a relatively new line item, and staff intended to discuss the addition of a letternote attached to the informational General Fund appropriation in the line. The following letternote would be attached to the appropriation in the line to clarify that the amount is not subject to the limitation on General Fund appropriations.

> This amount is not subject to the limitation on General Fund appropriations set forth in Section 24-75-201.1 (1)(a)(III)(A), C.R.S., because it is not a state general fund appropriation. This amount reflects the estimate of the money that shall be paid to fully reimburse counties pursuant to section 39-3-119.5 (3)(e), C.R.S., for the aggregate value of business personal property that is exempt from property tax.

**Staff recommends approving the addition of this letternote.**

# MEMORANDUM

JOINT BUDGET COMMITTEE

| | |
|---|---|
| TO | Members of the Joint Budget Committee |
| FROM | Mitch Burmeister, JBC Staff (303-866-3147) |
| DATE | March 10, 2023 |
| SUBJECT | Colorado Energy Office R1 EPC Feasibility Study Comeback |

In staff's figure setting presentation dated March 7, 2023, the Committee tabled the R1 EPC Feasibility Studies decision item to get more information on why the amount requested can't be included in the contracts with the Energy Service Companies (ESCO). The Committee was also curious about the procurement process and how competitive the solicitation of an ESCO is.

There are four main reasons why this funding cannot instead be rolled into the total cost of the EPCs from this stage in the process:

- A subject matter expert is required for this type of analysis;
- Unjust Enrichment and intent;
- Risk to ESCOs; and
- Best practices.

### SUBJECT MATTER EXPERT

To the first point, these studies are highly technical exercises that typical facilities managers are not equipped to perform. A facility manager's main task is to maintain the existing systems within a building and ensure that those systems work on a daily basis. A feasibility study is a detailed examination of a buildings utility usage patterns, operational and maintenance costs, potential changes to utility rate design, and potential avoided capital expenses. All of these factors work together to create a complex system where changes might have unintended consequences. Hiring a third party to do this type of analysis would be much cheaper than increasing capacity to accommodate people with this skillset.

### UNJUST ENRICHMENT

The second point is the idea of unjust enrichment. This concept basically means that the State can't receive services for free at the expense of another entity. If, for example, an ESCO conducts a feasibility study on one or more state-owned buildings and determines that they are not suitable candidates for an EPC, then the State is required to pay for those studies because a service was rendered. Requiring that this funding be rolled into the EPCs from the start would either lock an ESCO into performing the services even if the building turns out to be unsuitable or prevent ESCOs from engaging with the State in the first place.

By requiring this, the State would essentially be forcing ESCOs to declare their intent to install the upgrades before they even know if the building can produce enough savings to pay the contract back within the payback period. No ESCO would agree to this.

The studies are done by a third party so that an ESCO can come look at the study and make a decision on if that company wants to pursue a contract based on how much they believe they would be able to make from an investment.

The Office reports that all of the above is operationalized as follows:

1. A third party conducts a feasibility study on a building.
2. The ESCOs that have agreed to work within the State's guidelines can look at the study to determine if they want to perform the upgrade installations.
3. If an ESCO takes the contract, the amount paid for the feasibility study is rolled into the total cost of the project, freeing up the cost of the study for other studies to be done.
4. If no ESCO takes the contract, then the study must be paid for by the State – using the requested $750,000 General Fund in this case.

RISK TO ESCOs

In the past, the Office reports that State agencies have failed to move forward on EPCs, which has led to ESCOs being reluctant to provide feasibility analyses prior to entering into a contract. This is a source of risk for the ESCO because they don't want to incur costs without an expectation of returns. Even if they are reimbursed for their work, they have still lost time and energy that could have been spent on projects that have a better change of resulting in monetary returns.

The Office also reports that, "Our [the State] level of commitment and follow-through has been lacking and this would be the first step in walking-the-walk and would help build confidence in the State again." Staff agrees with this perspective. If the State wants to become more involved in these types of initiatives, there must be a certain level of trust between it and the ESCOs providing the services, just as there must be a level of trust in any transaction. Staff believes that providing this funding will help to repair the State's reputation in the minds of the ESCOs.

BEST PRACTICES

Finally, CEO's EPC program encourages all public entities to identify budget to cover the cost of an investment grade audit/feasibility study to prepare for three possible outcomes.

1. The ESCO performs the investment grade audit/feasibility study and the project moves forward to an EPC implementation project. In this case, the cost of the study would be rolled into the EPC total project cost and be repaid along with the facility improvements.

2. The ESCO performs the investment grade audit/feasibility study and the public entity does not move forward with an implementation project. The entity would then need to repay the cost of the study.

3. The ESCO determines that the EPC is not feasible. Typically, this occurs when the study is 30.0 to 60.0 percent complete. In this case, no fees are incurred for the incomplete study and the funding that would have gone to the ESCO for the study can be used for an additional study.

The Office has requested this funding to align with the best practices that it recommends to other public entities interested in EPCs.

### PROCUREMENT

The Office reports that:

> Procurement for EPC feasibility studies is competitive amongst Colorado Energy Office's Pre-qualified ESCOs. Each of these firms were competitively selected through an open RFQ process based on their performance qualifications and history of working on energy performance contracts. CEO, in collaboration with OSA and under the guidance of Article 24, Section 30 of the C.R.S., have managed this process through standardized procurement rules, pricing schedules and contract templates since 1995. The ESCOs have a 5yr base contract agreement with the State. They agree to follow program policies and procedures and utilize template contracts developed and approved by the Colorado Energy Office, Attorney General, and Office of the State Architect. This competitive procurement process involving pre-qualification of ESCOs has been used by CEO to support other public entities across the state for multiple decades and CEO envisions extending that experience and process to help state agencies pursue EPCs at an accelerated pace.

### RECOMMENDATION

Staff's recommendation has not changed from the figure setting document. **Staff recommends approving an increase of $750,000 General Fund for FY 2023-24.**