MEMORANDUM

JOINT BUDGET COMMITTEE

TO	JBC Members
FROM	JBC Staff
DATE	March 13, 2023
SUBJECT	Figure Setting Comeback Packet 2

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

Statewide Compensation comeback 1, page 1 (Alfredo Kemm) BA2 non-classified equity pay GOV/DHE/DPA

CORE Common Policy, page 4 (Tom Dermody) Technical Correction

Department of Revenue, page 8 (Jon Catlett) R6 Marijuana Enforcement Division Cash Fund Solvency

Department of Revenue, page 10 (Jon Catlett) R3 Racing Compliance Requirements

Department of Agriculture, page 13 (Mathew Valeta) Agriculture Workforce Services Program

Department of Agriculture, page 15 (Mathew Valeta) Staff-Initiated Comeback, FY 2023-24 Figure Setting FTE Technical Adjustments

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303-866-4549)
DATE	March 9, 2023
SUBJECT	Statewide Comp comeback 1 – BA2 non-classified equity pay GOV/DHE/DPA

At statewide compensation figure setting on January 27th, staff recommended that the Committee deny the BA2 request. The BA2 request narrative only identified its purpose as making adjustments for new staff requests in all agency decision items based on the targeted salary range adjustments in the revised partnership agreement. On that basis, staff recommended that those adjustments would better be addressed with each agency figure setting recommendation for new staff. The Committee tabled the request. Staff has since come to understand that there were also two components for "equity" compensation adjustments for non-classified staff in the Governor's Office and the Department of Higher Education that were included in the total request amounts but not described or detailed in the request narrative.

EQUITY REQUEST

On March 6th, staff received three equity-related request documents clarifying the BA2 request.

1. The Governor's Office requests $2,344,862 General Fund for 275 salary increase adjustments for non-classified positions across five divisions.

2. The Department of Higher Education requests $912,360 total funds, including $672,693 General Fund, $66,576 cash funds, and $173,091 federal funds for 33 salary increase adjustments for non-classified positions.

3. The Department of Personnel requests $45,000 General Fund to complete a third party analysis for executive and deputy executive directors and the executive pay schedule as maintained by the Department of Personnel.

NON-CLASSIFIED ADJUSTMENT METHODOLOGY

By definition, non-classified positions are positions outside of the classified system. However, as staff understands it, conventionally, most agencies nevertheless tie their non-classified positions to a classified position for the purpose of establishing a baseline position structure – responsibilities, tasks, and expectations – and to provide "automatic" structural compensation adjustments consistent with equivalent classified position adjustments. Conversely, agency leadership positions are generally set entirely independently. Additionally, more unique non-classified positions require the agency to describe and detail the position formally for internal program management consistency. Those positions must then be addressed by the agency on its own without automatic reference to a classified position. Custom positions take additional compensation management effort.

The Controller for the Governor's Office explained to staff that the requested Governor's Office adjustments follow the "match to classified positions" methodology. These are positions they have been defined as "classified equivalent" positions. For context, this is how staff addresses compensation adjustments for Judicial Branch agencies. Each agency establishes a "compensation plan" that sets each staff position to match an existing system job class in the Judicial Department or Office of State Public Defender systems or the executive branch classified system. This allows staff to make structural adjustments over time that are fair and consistent with system maintenance structural changes.

On March 7th, staff received spreadsheets for each of these department requests for equity adjustments. **Based on analysis of the data, staff recommends the following:**

1. **Governor's Office: $1,384,758 General Fund for 264 of 275 requested position adjustments.**

2. **Department of Higher Education: $50,018 total funds, including $4,174 General Fund, $10,047 cash funds, $19,200 reappropriated funds, and $16,597 federal funds, for 12 of 33 requested position adjustments.**

GOV

For the Governor's Office staff generated a routine compensation budget build consistent with standard compensation methodology for determining the appropriation. As staff understands, the request identified an increase for each position to 25 percent of the salary range. Instead, staff used "movement to position" methodology in building the recommended appropriation. This means identifying the current location of the position in the current salary range and placing the position at the same position in the new salary range.

On average across all positions for the Governor's Office request, positions are at 27.6 percent of the salary range, suggesting that the 25 percent of the salary range included in the request appears to be a reasonable methodology. However, taking each position individually and making an individual adjustment is more accurate to ensure that each position is accorded a proper adjustment. Calculating each position separately identifies 11 positions with salary higher than the recommended adjustment; therefore, staff makes no appropriation adjustment for those positions. In total, staff's recommendation generates an appropriation that is $1.0 million lower than the request. Staff did not attempt to replicate the request build methodology, therefore staff is unable to explain the reason for the difference. Nevertheless, staff is comfortable and confident with the recommendation for the Governor's Office.

DHE

For the Department of Higher Education, staff identified that of the 33 positions, one position did not include a classified equivalent position; that adjustment was immediately excluded. Additionally, staff identified that for the additional 20 positions not recommended for adjustment, those positions reflected adjustments that averaged a 47.0 percent salary increase, while the job class salary range adjustment averaged a 3.4 percent increase for the same positions. This indicates that these position salary increases appear to be requests for "reclassification" rather than compensation adjustment. On that basis, staff excluded these positions in the recommendation.

The remaining 12 positions reflect increase adjustments that average a 6.8 percent increase, while the job class salary range adjustment averaged a 4.9 percent increase. This is well within the range for structural adjustments for equivalent job class. For comparison, the adjustments included for the

Governor's Office positions average a 6.6 percent increase, while the equivalent job classes average a 3.9 percent salary range adjustment.

DPA EXECUTIVE PAY STUDY

The third request is for $45,000 to complete a third party compensation analysis of executive pay. The work is anticipated to be completed by October 1, 2023 and, therefore, available to inform the next budget cycle requests.

The request document states the following (emphasis added):

> *Currently 100% of the department's FTE are compensated below the middle of the Classified-equivalent salary range, with 75% of FTE compensated below their classified-equivalent minimum salary. The Partnership Agreement, if funded by the General Assembly, will move salaries up for employees represented by COWINS. <u>This will further widen the salary gap between these employees and other employees within the Governor's purview. Parity between all employees performing similar functions is a fundamental element of equity</u> and becoming an employer of choice and was a point of emphasis for the state during recent negotiations with Colorado WINS.*
>
> *<u>Since the amended Partnership Agreement will move classified salaries systematically upwards this will further widen the divide between the two state staff categories.</u> An adjustment to pay ranges for executive employees is critical to managing the full organization at both a statewide and department level. Additionally this will enable consistency between the two systems of employee classification and maintain compensation incentives for movement between classification status.*

The request narrative speaks to "parity between all employees performing similar functions". Staff agrees with that statement as a fundamental requirement for maintaining a fair and equitable compensation system. However, parity between frontline staff and executive staff is the issue at hand in this request, and the vast difference in these broad job categories regarding responsibility and compensation do not lend themselves to discussions of parity across them. Additionally, the narrative warns of the revised partnership agreement leading to a further widening of "the divide between the two staff categories".

Staff is not now convinced, nor has staff ever believed, that executive level compensation is underpaid relative to the market or other state employees. Staff has always spoken to the fluidity with which professional, managerial, and technical staff are able to traverse the state agency landscape to increase pay on an individual basis. Whereas traditional, frontline, blue collar, trades, administrative, public safety, and healthcare employees who engage in their positions as a career-long or extended profession and practice, are the positions that have struggled to progress meaningfully in the statewide compensation system over the last two decades. When state agencies are unable to fill their executive level positions with willing recruits and those positions remain vacant for extended periods, at that point the state should engage in efforts to increase executive level compensation.

<u>**Staff recommends denial of the DPA executive pay study component of the request.**</u>

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Tom Dermody, JBC Staff (303-866-4963)
DATE	March 9, 2023
SUBJECT	CORE Common Policy – Technical Correction

On February 28, 2023, JBC staff presented the figure setting for Operating Common Policies. For the Colorado Operations Resource Engine (CORE) Operations common policy, staff identified the incorrect FY 2022-23 beginning cash balance for the Statewide Financial Information Technology Systems Cash Fund. The amount staff identified in the figure setting document overestimated the cash balance by approximately $1.0 million. As a result, staff recommended a fund balance adjustment higher than could be sustained by the Cash Fund, which would result in a negative cash fund balance in FY 2023-24. Taking this into consideration, staff has revised their recommendation for the CORE Operations common policy to lower the cash fund balance adjustment for the Statewide Financial Information Technology Systems Cash Fund by $1.0 million, which will affect the statewide allocations to the various departments and agencies. The following table summarized the difference between figure setting and staff's revised recommendation.

CORE Common Policy - Revised Recommendation						
		Estimated Statewide Impact of Departmental Adjustments				
	Total Allocation	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
Figure Setting	$7,673,683	($3,472,166)	($1,451,214)	($960,131)	($884,160)	($176,661)
Revised Recommendation	8,676,272	(2,469,576)	(1,031,015)	(706,228)	(606,452)	(125,879)
Diff.	**$1,002,589**	**$1,002,589**	**$420,198**	**$253,903**	**$277,708**	**$50,782**

REVISED RECOMMENDATION FOR CORE OPERATIONS COMMON POLICY

The red, italicized figures in the tables below show the figures affected by staff's revised recommendation.

6. CORE OPERATIONS

CORE Operations is the common policy for the state's accounting and financial reporting system, the Colorado Operations Resource Engine. In FY 2015-16, the COFRS Modernization program was transferred from the Governor's Office of Information Technology to the Division of Accounts and Control in the Department of Personnel and located in a new subdivision known as CORE Operations. Consistent with that change, state agency line items were renamed from COFRS Modernization to CORE Operations.

CORE OPERATIONS PROGRAM COSTS

The following table outlines total CORE Operations program costs for allocation to state agencies. The table includes program costs, a payment from the Supplier Database Cash Fund, and a fund balance reserve adjustment for the Statewide Financial Information Technology Systems Cash Fund.

FY 2023-24 CORE Operations Program Costs					
	FY 2022-23	FY 2023-24			
	Appropriation	Request	Recommend	Req/Rec Increm.	Total Adjustment
Personal Services	$2,054,039	$2,118,506	$2,224,068	$105,562	$170,029
Benefits POTS	557,744	577,435	556,796	(20,639)	(948)
Operating and OIT Common Policies	518,039	1,393,919	1,393,919	0	875,880
Operating Expenses	59,590	59,590	59,590	0	0
Payments for CORE and Support Modules	6,671,656	5,890,480	5,890,480	0	(781,176)
Indirect Costs	389,935	372,646	372,646	0	(17,289)
Depreciation	4,799,040	4,998,246	4,998,246	0	199,206
CORE Operations Program Costs Subtotal	**$15,050,043**	**$15,410,822**	**$15,495,745**	**$84,923**	**$445,702**
Payment from Supplier Database Cash Fund	(2,223,407)	(4,399,708)	(4,399,709)	(0)	(2,176,302)
Fund Balance Reserve Adjustment	(1,680,788)	(2,257,537)	*(2,419,764)*	(162,227)	(738,976)
Total for Allocation	**$11,145,848**	**$8,753,576**	***$8,676,272***	**($77,304)**	**($2,469,576)**

Personal services and operating expenses are based on figure setting recommendations for the next fiscal year. Program share of departmental benefits pots and OIT and operating common policy items are estimated by the Department and based on current year appropriations; the Department's request amount differs from the recommended amount by the amount of indirect costs.

Payments for CORE and Support Modules are figure setting recommendations for the next fiscal year. This line item pays for CORE system and modules annual licensing and operating costs to CORE vendors for Managed Services, Labor Data Collection and Electronic Content Management.

Indirect costs match those included in the statewide indirect costs plan.

Depreciation provides a 10-year straight-line depreciation schedule for the total value of the CORE asset set of $46,477,361. The recommendation includes the correct amount of depreciation for this item. Lease-purchase payments are made in the CORE Lease Purchase Payments line item at an amount lower than depreciation, set at $4,998,246 for FY 2023-24. However, it is necessary to bill the depreciable value rather than the lease purchase payment in order to properly bill federal sources of revenue for their proportional share of the implementation costs of the system. The straight-line method decreases the amount of variance between fiscal years for depreciation.

Fund Balance Reserve Adjustment

The Department requests and staff recommends a 16.5 percent reserve of the prior year fund balance for the Supplier Database Cash Fund and an 8.25 percent reserve for the Statewide Financial Information Technology Systems Cash Fund (SFITS). An 8.25 percent reserve is equal to approximately one month of operating revenue and 16.5 percent is two months.

Supplier Database Cash Fund Reserve Adjustment

The adjustment for the Supplier Database Cash Fund is essentially a payment for CORE Operations from the cash fund.

Supplier Database Cash Fund[1]	
Recommended Reserve Adjustment	
FY 2022-23	
Beginning Fund Balance	$5,895,806
Revenue	2,985,713
Expenditures	(3,612,407)
Ending Fund Balance	$5,269,112
FY 2023-24	
Fund Balance Target Reserve	16.5%
Fund Balance Reserve Amount	869,403
Fund Balance Reserve Adjustment	**($4,399,709)**

[1] Figures taken from Schedule 9.

The FY 2022-23 beginning fund balance is taken from the Department's FY 2023-24 budget request Schedule 9 for the Supplier Database Cash Fund created in Section 24-102-202.5 (2)(a), C.R.S. Revenue and expenditure amounts are from Department estimates. The Supplier Database Cash Fund receives revenues from rebates on statewide price agreements. Because this fund is not a typical, common policy operational revenue cash fund, the fund balance target reserve amount is calculated on the prior year ending fund balance.

Statewide Financial Information Technology Systems Cash Fund Reserve Adjustment
The adjustment for the SF-ITS is a more typical reserve adjustment for a common policy operational cash fund. The SF-ITS created in Section 24-30-209 (2)(a), C.R.S., was added effective May 1, 2015. Revenue and expenditures were taken from the Department's Schedule 9 for the Fund Report. The fund balance reserve amount is calculated on expenditures that include program costs minus depreciation plus CORE Lease Purchase Payments minus payments from the Supplier Database Cash Fund. The following table outlines the fund balance reserve adjustment recommendation.

Statewide Financial Information Technology Systems Cash Fund[1]	
Recommended Reserve Adjustment	
FY 2022-23	
Beginning Cash Balance	*$2,283,219*
Revenue	13,481,316
Expenditures	(12,478,727)
Ending Fund Balance	*$3,285,808*
FY 2023-24	
Expenditures	$10,497,499
Fund Balance Target Reserve	8.25%
Fund Balance Reserve Amount	866,044
Fund Balance Reserve Adjustment	***($2,419,764)***

[1] Figures taken from Schedule 9.

State Agency Utilization and Allocation

The costs of CORE Operations are allocated to state agencies, based upon actual usage for the most recent fiscal year for which actual data is available. The FY 2023-24 allocation is determined by the FY 2022-23 actual utilization. The following table outlines recommended allocations.

CORE OPERATIONS FY 2023-24 RECOMMENDED ALLOCATION						
		FY 2023-24				
DEPARTMENT	FY 2022-23 APPROPRIATION	UTILIZATION	REQUEST	RECOMMENDATION	REQ/REC INCREM.	TOTAL ADJUSTMENT
Agriculture	$156,241	1.69%	$148,223	*$146,914*	*($1,309)*	*($9,327)*
Corrections	446,137	3.89%	340,453	*337,446*	*(3,007)*	*(108,691)*
Early Childhood	0	0.82%	72,183	*71,546*	*(637)*	*71,546*
Education	245,466	2.64%	230,845	*228,806*	*(2,039)*	*(16,660)*
Governor	449,634	4.86%	425,558	*421,800*	*(3,758)*	*(27,834)*
Health Care Policy and Financing	169,033	1.55%	135,385	*134,190*	*(1,195)*	*(34,843)*
Higher Education	256,309	2.21%	193,126	*191,421*	*(1,705)*	*(65,902)*
Human Services	1,295,497	9.22%	807,241	*800,112*	*(7,129)*	*(495,385)*
Judicial	1,887,328	18.09%	1,583,558	*1,569,573*	*(13,985)*	*(317,755)*
Labor and Employment	430,413	3.92%	342,993	*339,964*	*(3,029)*	*(90,449)*
Law	49,216	0.50%	43,713	*43,327*	*(386)*	*(5,889)*
Legislature	37,302	0.38%	32,935	*32,645*	*(290)*	*(4,657)*
Local Affairs	617,841	4.88%	427,099	*423,327*	*(3,772)*	*(194,514)*
Military and Veteran Affairs	75,708	0.69%	59,969	*59,440*	*(529)*	*(15,275)*
Natural Resources	624,718	6.28%	549,674	*544,819*	*(4,855)*	*(79,899)*
Personnel	304,732	2.83%	247,366	*245,181*	*(2,185)*	*(55,553)*
Public Health and Environment	1,081,804	10.62%	929,398	*921,191*	*(8,207)*	*(160,613)*
Public Safety	417,115	3.97%	347,251	*344,184*	*(3,067)*	*(72,931)*
Regulatory Agencies	365,367	3.24%	283,425	*280,922*	*(2,503)*	*(84,445)*
Revenue	1,680,683	10.49%	918,237	*910,128*	*(8,109)*	*(770,555)*
State	23,056	0.17%	14,952	*14,820*	*(132)*	*(8,236)*
Transportation	156,522	1.42%	124,698	*123,596*	*(1,102)*	*(32,926)*
Treasury	379,703	5.66%	495,294	*490,920*	*(4,374)*	*111,217*
Allocation Totals	**$11,149,825**	**100%**	**$8,753,576**	***$8,676,272***	***($77,304)***	***($2,469,576)***
Percentage Change from FY 2021-22						*(22.2%)*

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Jon Catlett, JBC Staff (303-866-4386)
DATE	March 9, 2023
SUBJECT	Figure Setting Comeback Department of Revenue R6 Marijuana Enforcement Division Cash Fund Solvency

During figure setting for the Department of Revenue, staff recommended the Committee grant staff permission to work with the Office of Legislative Legal Services to begin drafting legislation to transfer $2.1 million from the Marijuana Tax Cash Fund to the Marijuana Cash Fund, with the funds to be reimbursed to the Marijuana Tax Cash Fund at a future date. After consulting with the Department, the Department has decided to utilize the Cash Fund Solvency Fund established in S.B. 21-283 (Cash Fund Solvency) to maintain the solvency of the Marijuana Cash Fund through FY 2022-23. Consequently, no further action is required by the JBC.

REQUEST: The request asks the JBC to consider sponsoring legislation to transfer one-time funding of $2.1 million from the Marijuana Tax Cash Fund to the Marijuana Cash Fund as a current-year, FY 2022-23 transfer. The Marijuana Cash Fund is the only funding mechanism for the Marijuana Enforcement Division. This transfer would allow the Marijuana Enforcement Division to maintain its current base operations and end the fiscal year with a positive fund balance in the Marijuana Cash Fund. The Division is currently consulting with stakeholders on a revised fee schedule, to be implemented in FY 2023-24, to restore the Marijuana Cash Fund to solvency.

RECOMMENDATION: Staff recommends approving the Department's request.

REVISED RECOMMENDATION: **No further action is necessary**.

ANALYSIS: The Marijuana Enforcement Division (MED) regulates the commercial marijuana sector. It prioritizes public safety through the administration of applicable laws, the licensure of medical and retail marijuana businesses, the licensure of owners, and enforcement efforts. The Marijuana Enforcement Division is funded entirely from the Marijuana Cash Fund (MCF).

Prior to FY 2016-17 the MCF had a balance that exceeded the statutory limit for excess reserves. To remedy this, the MED implemented a 22% fee reduction in FY 2016-17. Consequently, the MCF has been intentionally operating at a deficit since FY 2017-18. The current annual projected deficit is approximately $6.4 million. This long-term financial strategy to lower the excess reserves was accelerated by transferring a total of $15.2 million to other agencies over the past four fiscal years to fund legislation and other initiatives related to the marijuana industry, as well as budget balancing actions taken by the JBC.

The MCF came into statutory compliance in FY 2020-21, and the Division's next planned phase was to set fees to the appropriate break-even level in FY 2020-21 to reestablish long-term solvency for the MCF. However, due to the pandemic and the associated economic challenges, fees were not increased in FY 2020-21. In FY 2021-22, fees were restored to the same level as FY 2015-16, prior to the 22% fee reduction, but were not increased to the necessary level to support ongoing operations. This transfer will allow the

MED to meet operational business needs and statutory requirements while it engages with stakeholders on a new fee schedule for FY 2023-24, which will restore the MCF to solvency.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Jon Catlett, JBC Staff (303-866-4386)
DATE	March 9, 2023
SUBJECT	Figure Setting Comeback Department of Revenue R3 Racing Compliance Requirements

During figure setting for the Department of Revenue, the Committee deferred their decision on the Auditor IV position included in the R3 Racing Compliance requirements request. The Committee requested additional information pertinent to the request from the Department. Below, staff has provided the Department's response.

DEPARTMENT REQUEST: This request includes $129,653 cash funds from the Racing Cash Fund and 1.0 FTE in FY 2023-24, and ongoing to audit year-round wagering data and ensure that statutory liabilities incurred by wagering facilities are a result of said activity are appropriately tracked and paid.

RECOMMENDATION: **Staff recommends approving the track Auditor IV position, including $109,879 cash funds from the Racing Cash Fund and 1.0 FTE in FY 2023-24, annualizing to $126,477 cash funds from the Racing Cash Fund and 1.0 FTE in FY 2024-25. Differences are due to JBC common policies related to salaries and centrally appropriated costs.**

COMMITTEE QUESTIONS:

What will the auditor do for the rest of the year since the race season is only four months long? Are we just creating work for a full-time position?

The auditor's workload is not tied to the live racing season. The auditor has responsibilities during the live race meet, such as tracking and ensuring that various monies statutorily earmarked to be paid to purses at the live meet are correctly routed and spent.

The auditor's year around responsibilities include auditing wagering data and ensuring that statutory liabilities incurred by a wagering facility as a result of said activity are properly tracked and paid. The vast majority of pari-mutuel wagering activity in Colorado occurs from imported simulcast signals from out-of-state tracks over 360 days per year. Because of the system's complexity, the auditor spends a large portion of their time analyzing daily wagering data. The Division is requesting a 1.0 FTE auditor position to allow the auditor to develop a regulatory system to streamline regulatory operations in addition to the daily review and analysis of wagering data, which occurs 360 days a year and often 24 hours a day.

What is the cost comparison to outsource the auditing function versus hiring a full-time position?

Hiring an external auditor on a consulting basis ranges from $150 to $250 per hour. Even if one was used seasonally, the cost would quickly exceed the cost for a full-time state employee at the requested level of Auditor IV which has a minimum annual salary of $95K. At $200 per hour, an external auditor would only be able to work for less than 12 weeks before reaching the total annual cost of a full-time permanent state employee. Additionally, there are also training costs and time investments along with onboarding costs to hire a temporary position or someone on a consulting basis and get them up to speed year after year. Personnel rule limits the length of time that a temporary employee can work for the state to no more than nine months.

ADDITIONAL INFORMATION:

- For the 2022 race season, approximately $1.6 million total was wagered at pari-mutuel facilities in Colorado on Arapahoe Park races and another $5.9 million was wagered at out-of-state facilities on Arapahoe Park races. There were 42 race days in 2022, so an average daily handle from Arapahoe Park races is about $178 thousand.
- Approximately $50 million was wagered through Colorado simulcast facilities in 2022.
- Over 98 percent of the Division's funding comes from source market fees, which are fees assessed on a simulcast operator called an advance-deposit wagering that takes wagers directly from Colorado consumers. The Division Director can redirect the fees into the purse trust to release to the track to pay purses. ***It is extremely important to note that this money does not belong to the track and is exclusively the property of the horsemen running for purses.***

Arapahoe Park generates revenue from conducting pari-mutuel operations in three ways:

1. When a wager is placed at the track or one of its off track betting locations (0TB), the track keeps what is called the pool take-out which is a percentage of the wagering pool which is determined by the type of pool the wager was made into. For example, the Win pool (single betting interest to win the race) take-out is 19 percent. The track keeps the 19 percent as revenue and the remaining 81 percent is added to the pool to be shared among all the winning bettors.
2. A racetrack generates revenue from exporting the live races to other simulcast facilities and operators. Colorado only has one track and all the in-state simulcast facilities operate as additional facilities, so there are currently no in-state exports. When the signal is exported to an out-of-state facility, the facility may conduct wagering operations on the signal. For every wager the facility takes, it keeps the pool take-out and the remainder is owed to the track's pari-mutuel betting pool to be paid to the winning bettors. The track gets nothing from the "pool operations" but charges the out-of-state facility a "signal fee." The signal fee is approximately 3% of the wagers taken at the out-of-state facility. As an example, if a $100 bet is made at a California OTB on a horse to win an Arapahoe Park race, the OTB keeps $19 and owes the Arapahoe Park pool $81. The OTB owes Arapahoe Park $3 as a signal fee. It's important to note that this $3 is not part of the "pool operation" because it's a contractual fee that has no effect on odds or payouts.
3. A racetrack also generates revenue from importing live races from other tracks and conducting pari-mutuel wagering operations on those signals. The track keeps the take-out and the remainder is owed to the out-of-state host-track's pari-mutuel pool. The revenue is the take-out, but for reference, the track then owes a signal fee to the out-of-state host track.

The request, recommendation, and annualization for R3: Auditor IV position are outlined in the table below. The differences are due to JBC common policies related to salaries and centrally appropriated costs.

REV R3: AUDITOR IV						
	FY 2023-24 REQUEST		FY 2023-24 RECOMMENDATION		FY 2024-25 REC ANNUALIZATION	
	FTE	Cost	FTE	Cost	FTE	Cost
Auditor IV	1.0	$101,844	1.0	$101,859	1.0	$101,859
Subtotal - Personal Services	**1.0**	**$101,844**	**1.0**	**$101,859**	**1.0**	**$101,859**
Operating &						
Centrally Appropriated Costs						
Employee Benefits		20,194				20,568
Standard Operating Expense		615		1,350		4,050
Capital Outlay		7,000		6,670		
TOTALS	1.0	**$129,653**	1.0	**$109,879**	1.0	**$126,477**

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Matthew Valeta, JBC Staff (303-866-5434)
DATE	March 10, 2023
SUBJECT	Department of Agriculture Comeback – Agriculture Workforce Services Program

Representative Bird requested that staff research a request from Rocky Mountain Farmer's Union to provide $75,000 General Fund in additional support to the Agricultural Workforce Services Program.

➔ C1 AGRICULTURAL WORKFORCE SERVICES PROGRAM

REQUEST: The request is for $75,000 General Fund for FY 2023-24 to the Department of Agriculture to develop resources for farm workers and employers about statutory requirements for agricultural workers' compensation and working condition requirements.

BACKGROUND: Senate Bill 21-087 (Agricultural Workers' Rights) removed the agricultural worker exemption from the Colorado Labor and Peace Act and granted agricultural workers the right to organize and join labor unions, engage in collective bargaining and strike. The bill also guaranteed agricultural workers' rights to meal breaks, rest periods, to have visitors at employer-provided housing, and created rules for overtime pay. Additionally, the Department was required to promulgate rules on agricultural working conditions and create a process for reviewing applications for certificates of variance for more than occasional or intermittent hand weeding. In order to review applications, process certificates, conduct site visits when necessary, and work with the Department of Law on appeals, ongoing funding for 1.0 FTE was appropriated to the Department. Ongoing funding of $33,800 was also provided to fund the maintenance of the tracking system for farm applications for certificates of variance.

SB 21-087 AGRICULTURAL EMPLOYER RESPONSIBILITIES AND WORKERS' RIGHTS PROVISIONS		
COLORADO REVISED STATUTES SECTION	NEW RULES	DESCRIPTION
Section 8-6-101.5	Minimum Wage; Meal Breaks; Rest Breaks	• The minimum wage requirements in the state constitution apply to agricultural workers • 30-minute meal breaks for shifts longer than five consecutive hours • 10 minute rest breaks within each four hours of work
Section 8-6-120	Overtime Rules	• The director shall promulgate rules providing meaningful overtime and maximum hours protections to agricultural employees
Section 8-13.5-202	Key Service Provider Access	• Reasonable access to visitors • At least one day per week, the employer shall provide transportation to a location where workers can access basis necessities
Section 8-13.5-203	Heat Stress and Hand Weeding	• Protections when outside temperatures reach eighty degrees or higher • Prohibition of weeding and thinning by hand or with a short-handled tool • Additional rest periods for workers engaged in hand weeding
Section 8-14.4-109	Employer Provided Housing during Public Health Emergencies	• Minimum space and air filtration requirements for employer-provided housing

During last year's legislative session, HB 22-1308 created the Agricultural Workforce Services Program and appropriated $100,000 General Fund to the Department to implement the program and create an online resource portal for agricultural employees to access information about their rights under labor laws and for agricultural employers to access information about compliance with labor laws. The portal must include a wage and hour calculator, and explanations of the provisions of Senate Bill 21-1087 regarding wages and workplace protections.

HB 22-1308 AGRICULTURAL WORKFORCE SERVICES PROGRAM DEPARTMENT OF AGRICULTURE FINAL FISCAL NOTE		
COST COMPONENTS	FY 2022-23	FY 2023-24
Personal Services	$22,211	$29,615
Operating Expenses	675	675
Capital Outlay Costs	6,200	
Portal Creation and Maintenance	70,914	18,600
Centrally Appropriated Costs		7,667
FTE – Personal Services	0.4 FTE	0.5 FTE
Total	**$100,000**	**$56,557**

HB 22-1308's fiscal note was updated twice after introduction. The original fiscal note appropriated $443,443 for the Department including $285,223 for a grant program to fund workplace improvements to comply with labor and workplace standards. The second fiscal note reduced the grant program to $200,000 and the final fiscal note removed funding for the grant program and translation services entirely.

HB 22-1308 IMPLEMENTATION UPDATE

The Department hired a program manager who started on January 3rd this year to engage with agricultural employees and employers, state agencies, and nonprofit associations. The program manger's initial direct outreach will focus on San Luis Valley, Arkansas River Valley, Grand Valley, Northwest Colorado, and Northeastern Colorado. The first series of workforce resources and the wage and hour calculator are expected to be released in early April 2023.

ADDITIONAL FUNDING REQUEST

If the Department is appropriated $75,000 General Fund for FY 2023-24, they plan to use it to implement the following non-required educational resources on the Department's online resource portal suggested by HB 22-1308:

- A publicly available page on the Department's official website that includes a portal to resources for use by agricultural employees and agricultural employers. If created, the website is required to be available in both English and Spanish. (mandatory in the introduced version of HB 22-1308).
- Video modules to help employers comply with labor laws and help employees understand the rights they are afforded (mandatory in the introduced version of HB 22-1308).
- Online portal information concerning agricultural employee safety and working conditions, agricultural employee labor rights, mental health, and agricultural employers' labor requirements.

These resources are intended to provide employers with information about whether they are in compliance with the new requirements and help employees assess whether their current working conditions meet the updated standards required by Colorado labor law.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Matthew Valeta, JBC Staff (303-866-5434)
DATE	March 10, 2023
SUBJECT	Department of Agriculture Staff-Initiated Comeback – FY 2023-24 Figure Setting FTE Technical Adjustments

During the March 2, 2023, figure setting for the Department of Agriculture, the Committee approved staff's recommendations for FTE positions for a Climate Drought-Smart Agriculture Marketing Specialist (R1), an Insectary Lab Technician (R4), and an Agricultural Water Advisor (BA1). In staff's figure setting document, the total amount appropriated for the position was correct but the removal of the centrally appropriated costs was incorrectly applied. JBC policy is to excluded centrally appropriated costs in the first year of an appropriation for new FTE. Staff's error did not impact the total amount appropriated to the Department for FY 2023-24.

In the Commissioner's Office and Administrative Services Division the Health, Life, and Dental, Short-term Disability, Supplemental Amortization Equalization Disbursement, and Amortization Equalization Disbursement line items need to be updated. In the Agricultural Markets Division, the Program Costs line item and in the Agriculture Services Division the Program Costs and Plan Industry Division line items need to be updated. The table below summarized the changes to line items that would match the approved FTE with JBC's common policy for centrally appropriated costs.

Staff request permission to make the General Fund and Cash Fund changes to line items listed in the table below.

Staff-Initiated Recommended Technical Adjustments for Department of Agriculture Approved FTE for FY 2023-24			
Line Item	Total Funds	General Fund	Cash Fund
Commissioner's Office - Health, Life, and Dental	($32,216)	($21,183)	($11,033)
Commissioner's Office - Short-term Disability	(341)	(268)	(73)
Commissioner's Office - Amortization Equalization Disbursement	(10,768)	(8,478)	(2,290)
Commissioner's Office - Supplemental Amortization Equalization Disbursement	(10,768)	(8,478)	(2,290)
Agriculture Services - Conservation Services Division	20,487	20,487	
Agriculture Services - Plant Industry Division	15,686		15,686
Agricultural Markets - Program Costs	17,920	17,920	-