JOINT
BUDGET
COMMITTEE

STAFF BUDGET BRIEFING
FY 2024-25

STATEWIDE COMPENSATION AND PERA

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

PREPARED BY:
MITCH BURMEISTER, JBC STAFF
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JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR · DENVER · COLORADO · 80203
TELEPHONE: (303) 866-2061 · TDD: (303) 866-3472
https://leg.colorado.gov/agencies/joint-budget-committee

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STATEWIDE COMPENSATION

STATEWIDE COMPENSATION OVERVIEW

Compensation common policies pay for any salary or benefits for current state employees. The General Assembly typically establishes common policies to budget for compensation consistently across all departments. The compensation common policies:

1. Establish a standard method for calculating base continuation personal services;
2. Determine the amounts for salary and benefit increases; and
3. Set assumptions for determining the cost of compensation for new FTE.

In the budget, statewide or total compensation refers to employee salary and benefit costs, specific to the actual and anticipated employees in each department. Compensation common policies are funded through a group of centrally appropriated line items generally found in a department's Executive Director's Office (EDO). The annual budget request for total compensation is driven by employee salaries, benefit elections, and requested policy changes for compensation components.

DEFINING COMPENSATION-RELATED COMPONENTS

The centrally appropriated line items that make up the total compensation common policies discussed in this document include:

- Salary Survey;
- Merit Pay;
- Shift Differential;
- Short-term Disability (STD);
- Health, Life, and Dental (HLD);
- Amortization Equalization Disbursement (AED);
- Supplemental Amortization Equalization Disbursement (SAED);
- Paid Family and Medical Leave Insurance; and
- PERA Direct Distribution.

DEFINING POTS

Compensation common policy line items are also known and referred to as POTS, although the term is not an acronym. Final, budgeted POTS appropriations are:

- Generated through department total compensation templates;
- Calculated on the prior July's actual payroll data with adjustments for known and anticipated staffing increases or decreases; and
- Based on Committee statewide funding decisions for each compensation policy or component.

Because POTS are centrally appropriated in the EDO or other central administration division, allocations from these line items are distributed to department divisions and programs as determined by each department's EDO. This approach simplifies the appropriations process by limiting each POTS appropriation to a single line item in each department and provides flexibility to departments to make adjustments as necessary to accommodate actual POTS needs across a department.

Additionally, for expenditure purposes, POTS allocations are, in practice, added to or "rolled into" personal services appropriations in each division or program. This practice allows these appropriations to be spent on any personal services expenditure. This flexibility has the effect of allowing departments to independently and internally subsidize programs and divisions which may be under-appropriated. In this way, this flexibility has the effect of causing state agencies to manage their personal services appropriations through annual POTS allocation adjustments to each division or program rather than through requests for structural adjustments to those divisions and programs as might otherwise be necessary.

POTS line items include the following:

- Salary Survey;
- Merit Pay;
- Shift Differential;
- Short-term Disability (STD);
- Health, Life, and Dental (HLD);
- Amortization Equalization Disbursement (AED); and
- Supplemental Amortization Equalization Disbursement (SAED).

Therefore, POTS include all compensation-related line items, <u>except</u> Paid Family and Medical Leave Insurance and PERA Direct Distribution.

DEFINING EMPLOYEE BENEFITS

Within POTS appropriations, only the following line items include current employee benefits:

- Salary Survey;
- Merit Pay;
- Shift Differential;
- Short-term Disability (STD); and
- Health, Life, and Dental (HLD).

DEFINING PERA PAYMENTS FOR THE UNFUNDED LIABILITY

Although included as request items, AED and SAED are statutorily-required contributions for *amortization payments* to improve PERA's funded status and are calculated on current payroll. The term amortization refers to payments for an existing debt or liability. AED and SAED are payments made to PERA for the legacy cost of the unfunded liability and do not help fund current employee PERA retirement benefits. Similarly, the PERA Direct Distribution is a payment to PERA for the legacy cost of the unfunded liability.

In 2018, the Joint Budget Committee set aside $225.0 million General Fund for FY 2018-19, intended as base funding for an ongoing payment to PERA. This action was intended as a "State" payment for addressing the funding policy deficiencies made by State policymakers for previous generations of PERA members that created the unfunded liability. Senate Bill 18-200 (PERA Unfunded Liability) included a provision that allows OSPB to submit a budget request to allocate payments across fund sources in order to reduce the impact on the General Fund. In FY 2019-20, the PERA Direct Distribution was added as a statewide common policy allocation to collect this payment from other fund sources besides General Fund.

The PERA Direct Distribution does not pay for an employee benefit, and is not calculated on current payroll, but is an **annuity** allocated to state agencies as charges to General Fund, cash funds, reappropriated funds, and federal funds in the same proportion as the AED and SAED components. In a similar manner, the PERA Direct Distribution does not "purchase a service" from the Department of Personnel through their "operating common policies". Therefore, the PERA Direct Distribution is neither a compensation common policy nor an operating common policy, but is simply an annual debt payment located in compensation-related common policies due to its nexus with AED and SAED.

PREVAILING COMPENSATION

Pursuant to Section 24-50-104 (1)(a)(I), C.R.S.:

> *It is the policy of the State to provide innovative total compensation that meets or exceeds total compensation provided by public or private sector employers or a combination of both, to officers and employees in the state personnel system to ensure the recruitment, motivation, and retention of a qualified and competent workforce. For purposes of this section, "total compensation" includes, but is not limited to, salary, group benefit plans, retirement benefits, merit pay, incentives, premium pay practices, and leave as specified in statute or in policies of the state personnel director. ……* ***Any monetary components of total compensation are subject to available appropriations by the General Assembly.***

A statutory policy statement is not binding, but it provides direction about the General Assembly's intent that helps guide the budget setting process. Even with a clear goal, though, it can be difficult to determine the funding necessary to provide prevailing compensation. There are a wide range of compensation practices in the market and many state jobs are either uncommon or not found outside of government. Additionally, while most market employers engage in a single or well-defined type of business operation, regardless of size or scale, the business operations of the State reflect the widest variety of types of business operations with the widest variety of staffing types and needs.

COMPENSATION REPORT

To assist in the process, the Department of Personnel annually prepares recommendations and estimated costs for state employee compensation based on the total compensation analysis and report that is submitted to the Joint Budget Committee by October 1st every four years (beginning in 2025). The General Assembly is not required to follow the recommendations of the report, but the report expresses the professional opinion of the Department regarding how compensation should be adjusted annually. Following issuance of the report, the Department of Personnel works with the Office of State Planning and Budgeting (OSPB) to build the total compensation request for the following year, and directs executive agencies to apply consistent policies in their budget requests.

THE STATE PERSONNEL SYSTEM ACT AND DIVISION OF AUTHORITY

Article 50 of Title 24, C.R.S., sets forth the State Personnel System Act. Section 24-50-101, C.R.S., sets forth two broad areas of authority and responsibility for the administration of the state personnel system (emphasis added):

> *(3)(c)* ***It is the duty of the state personnel director to establish the general criteria*** *for adherence to the merit principles and for fair treatment of individuals within the state personnel*

> *system.* ***It is the responsibility of the state personnel director to provide leadership*** *in the areas of policy and operation of the state personnel system…*
>
> *(3)(d)* ***The heads of principal departments*** *and presidents of colleges and universities* ***shall be responsible and accountable for the actual operation and management of the state personnel system*** *for their respective departments, colleges, or universities.*

While this provides a reasonable and functional split of responsibility and authority, this bifurcation has the effect of creating some ambiguity regarding responsibility over statewide, classified system, and department-specific recruitment and retention policies and practices. This briefing specifically addresses the statewide compensation-related request. Individual state agency requests will be addressed during JBC staff presentations for state departments.

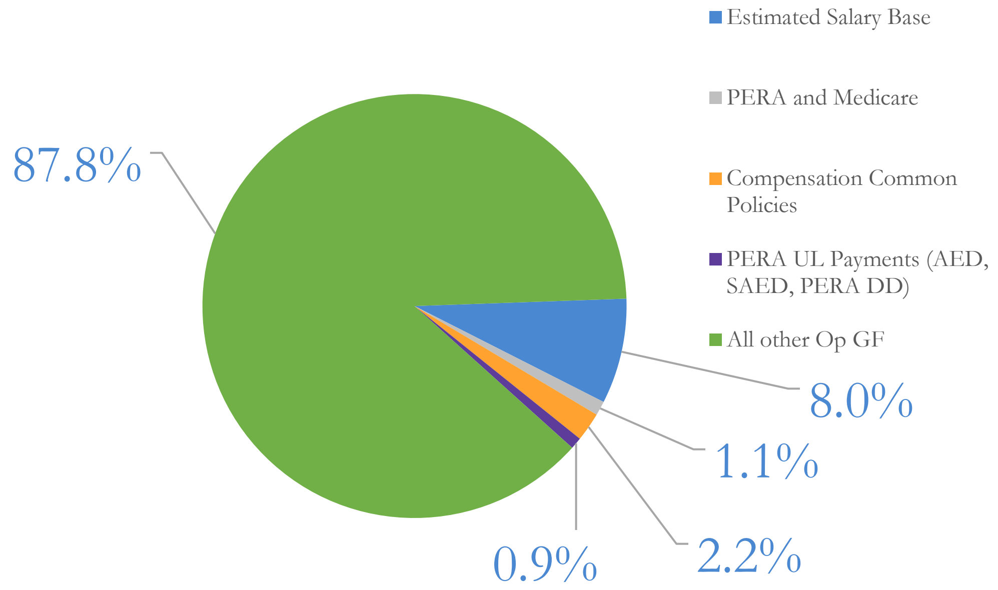
STATE PERSONNEL SYSTEM (CLASSIFIED SYSTEM)

To ensure a state workforce based on merit and fitness, the Colorado Constitution establishes a State Personnel System, commonly referred to as the classified system, after the job classes used to determine appropriate pay ranges for employees. The Department of Personnel manages the personnel system, with policy direction from the State Personnel Board. Objective criteria must be used to fill positions in the personnel system and employees hold their positions during efficient service or until reaching retirement age. Of significance from a state funding perspective, there must be standardization in the personnel system of the way people with like duties are treated with regard to grading performance and determining compensation.

The Constitution specifically exempts some positions from the classified system, allowing potentially different pay ranges, benefits, and hiring and termination procedures. Exempt positions include education faculty and certain education administrators, the judicial branch, the legislative branch other than the State Auditor's Office, assistant attorneys general, certain employees of the Governor's office, the heads of departments, and most boards and commissions. With the exception of higher education institutions, exempt employees use the same insurance and retirement benefits as employees of the classified system. While the judicial branch is exempt from the state personnel system, the courts have developed their own version of a classified system for employees who are not judges, which largely mirrors the state personnel system with regard to salaries and hiring and termination procedures. Judges and elected officials' salaries are set in statute.

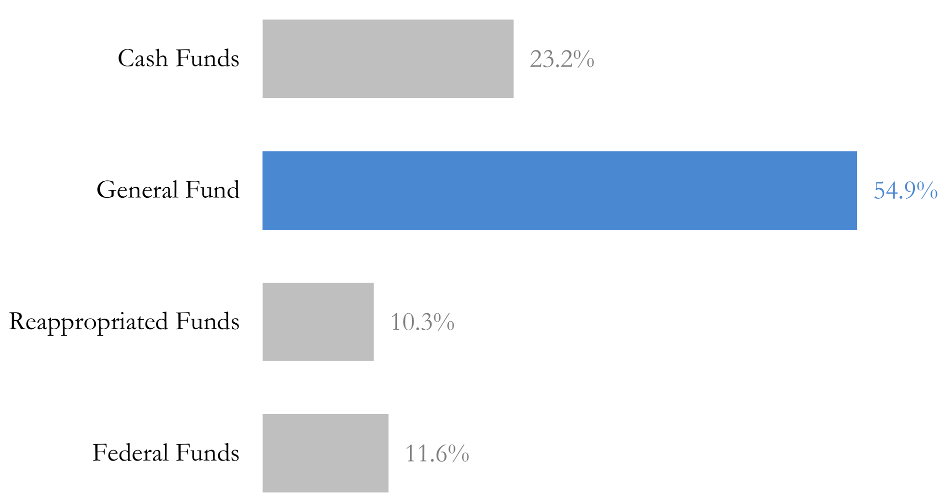
DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

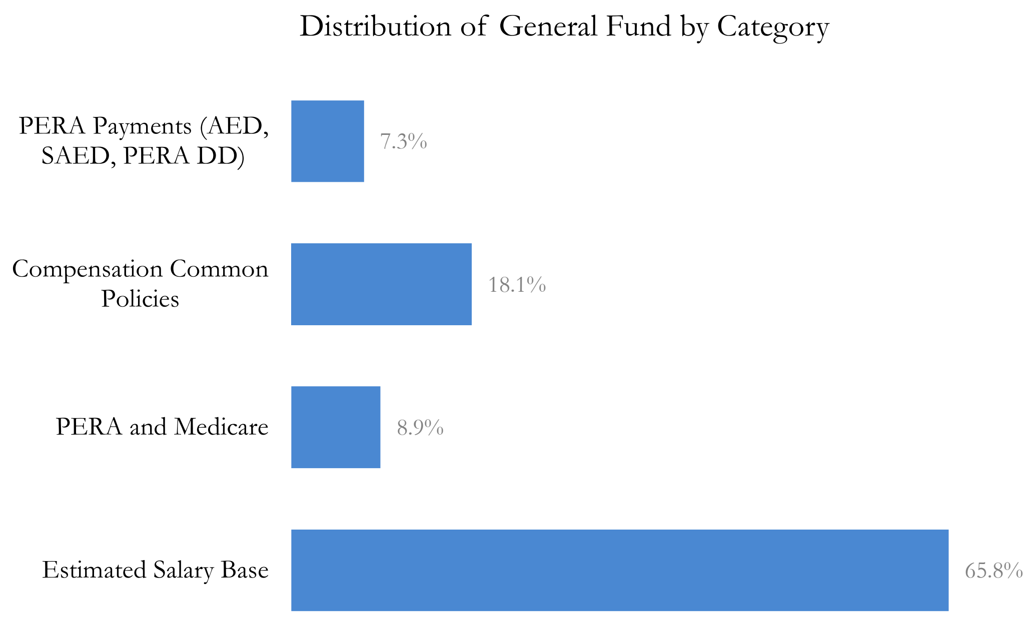


Based on the FY 2023-24 appropriation.

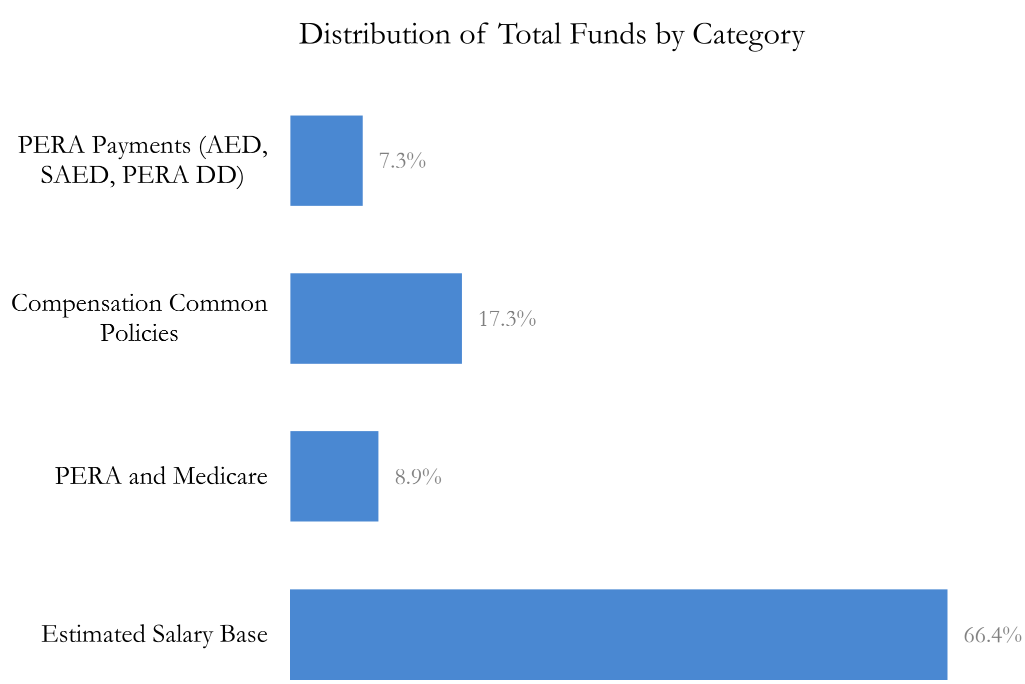
Total Compensation Funding Sources



Based on the FY 2023-24 appropriation.



Based on the FY 2023-24 appropriation.



Based on the FY 2023-24 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

NUMBER OF STATE EMPLOYEES

Statewide expenditures for compensation are driven by the number of employees, the percentage of employees who choose to participate in optional benefit plans, and contracts with the benefit providers. The following table shows the number of FTE appropriated statewide, excluding employees in the Department of Higher Education.

State Employees[1] - FTE Reflected in Appropriations										
	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24
Total FTE	31,480.9	31,878.2	32,174.8	32,412.7	32,819.4	34,650.4	35,047.3	35,467.7	37,262.0	38,238.3
Percent Change		1.3%	0.9%	0.7%	1.3%	5.6%	1.1%	1.2%	5.1%	2.6%
10-year FTE compound average annual growth rate										1.96%
10-year Colorado Population compound average annual growth rate - 2010-2019 [2]										1.03%

[1] Source: FY 2023-24 Appropriations Report excluding Department of Higher Education

[2] From population estimates, State Demography Office: https://docs.google.com/spreadsheets/d/17AMEavtc8baGlXMjn_tsG81E9Y8j5nrE/export?format=xlsx

SALARY BASE

Tied to the number of state employees, changes in the salary base reflect the actual increase in salary compensation over time. The salary base increases as a result of funding for additional FTE, salary survey and merit pay increases, and other approved salary increases by agency or occupational class. The following table outlines a ten-year history of the estimated salary base included in department compensation templates.

Statewide Salary Base 10-Year Estimated Appropriations (in millions) Total Funds										
	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24
Salary Base	$1,690.9	$1,757.2	$1,836.3	$1,864.1	$1,964.2	$2,052.2	$2,212.6	$2,246.6	$2,383.3	$2,528.5
Change		66.3	79.1	27.8	100.1	88.0	160.4	34.0	136.7	145.2
Percentage Change		3.9%	4.5%	1.5%	5.4%	4.5%	7.8%	1.5%	6.1%	6.1%
10-year Statewide Salary Base compound average annual growth rate										4.1%

COMPENSATION COMMON POLICIES AND PERA

In addition to the base salary, total compensation includes state employee compensation benefits, including health, life, and dental insurance, paid family and medical leave insurance, short-term disability, and state payments to PERA and Medicare. While paid family and medical leave insurance was a newly created common policy in FY 2022-23, pursuant to H.B. 22-1133 (Family and Medical Leave Insurance Fund), $57.0 million from the Revenue Loss Restoration Cash Fund was transferred to the Family and Medical Leave Insurance Fund to prepay state employer premiums for FY 2022-23 and into the future until the Insurance Fund balance reaches zero. Then, last session the General Assembly passed S.B. 23-234 (State Employee Insurance Premiums) which ended the prepay of state employer premiums after FY 2023-24. As a result, for FY 2022-23 and FY 2023-24 no appropriations were made to departments for this purpose, but appropriations to departments for Paid Family and Medical Leave Insurance (PFML) will resume in FY 2024-25.

BENEFITS					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2023-24 Appropriation					
PERA and Medicare	$298,667,404	$164,434,810	$69,353,685	$30,653,337	$34,225,571
Health, Life, Dental	407,609,085	226,124,623	95,010,681	38,932,342	47,541,439
Short-term Disability	3,472,190	1,894,208	800,263	366,605	411,114
Paid Family Leave and Medical Insurance	0	0	0	0	0
SUBTOTAL - Benefits	**$709,748,679**	**$392,453,641**	**$165,164,629**	**$69,952,284**	**$82,178,124**
FY 2024-25 Request/Recommendation					
PERA and Medicare	$332,902,685	$182,502,265	$78,270,059	$35,175,184	$36,955,177
Health, Life, Dental	448,523,033	249,032,811	106,722,686	42,610,045	50,157,491
Short-term Disability	4,058,551	2,234,222	940,720	431,503	452,106
Paid Family Leave and Medical Insurance	12,175,652	6,702,665	2,822,160	1,294,506	1,356,320
SUBTOTAL - Benefits	**$797,659,921**	**$440,471,964**	**$188,755,624**	**$79,511,239**	**$88,921,094**
Increase/(Decrease)	87,911,242	48,018,323	23,590,995	9,558,955	6,742,970
Percent Change	12.4%	12.2%	14.3%	13.7%	8.2%

COST OF HEALTH INSURANCE

Health insurance is traditionally the compensation component experiencing the greatest increases. The following table outlines the 10-year history of appropriations for Health, Life, and Dental (HLD).

HEALTH, LIFE, AND DENTAL 10-YEAR APPROPRIATIONS HISTORY (IN MILLIONS)										
	FY14-15	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21*	FY21-22	FY22-23	FY23-24
HLD Total Appropriations	$184.5	$217.3	$217.6	$237.8	$261.3	$287.2	$309.8	$323.2	$347.9	$407.6
Change		32.8	0.3	20.2	23.5	25.9	22.6	13.4	24.7	59.7
Percentage Change		17.8%	0.1%	9.3%	9.9%	9.9%	7.9%	4.3%	7.6%	17.2%
10-year HLD Appropriations compound average annual growth rate										8.2%

* The FY 2020-21 appropriation for HLD included a General Fund balancing action decrease totaling $57.8 million. That decrease is not included in this total to more accurately reflect the actual annual change in cost of Health, Life, and Dental in this table.

The FY 2024-25 request amount for HLD totals $448.5 million; a $40.9 million or 10.0 percent increase over the full appropriation amount identified for the prior fiscal year. This amount includes $249.0 million General Fund; this is a $22.9 million or 10.1 percent increase over the prior fiscal year.

PERA PAYMENTS FOR THE UNFUNDED LIABILITY

As part of the total compensation package received by employees and in lieu of contributions to Social Security, the state makes contributions to the Public Employees Retirement Association (PERA). The FY 2024-25 contribution rate is 11.6 percent. Appropriations for the base salary contribution to PERA are made in Personal Services or program line items in which funding to support a department's FTE are found. Actuarial analyses of PERA resulted in the passage of bills in 2004 and 2006 which increased contributions to the pension plan above the base employer and employee contribution rates. These additional state payments, defined in Section 24-51-411, C.R.S., and called Amortization Equalization Disbursement (AED) and Supplemental Amortization Equalization Disbursement (SAED), are each calculated at 5.0 percent of the base salary for most state employees and are appropriated in separate line items in each department's section of the Long Bill. AED and SAED rates for judges remained constant at 2.2 percent and 1.5 percent, respectively, until H.B. 17-1265 (PERA Judicial Division Total

Employer Contribution) enacted increases for both line items to 3.4, 3.8, 4.2, 4.6, and 5.0 percent in each succeeding year beginning in calendar year 2019.

Pursuant to S.B. 18-200 (PERA Unfunded Liability), automatic increase adjustments were triggered for employee contribution rates. For most employees, the rate increased from 8.0 to 8.75 percent in FY 2019-20; increased to 10.0 percent in FY 2020-21; increased to 10.5 percent in FY 2021-22; and increased to 11.0 percent in FY 2022-23. Job classes in the Safety Officers category have consistently and historically paid 2.0 percent higher than other state employees, resulting in a current fiscal year (2022-23) contribution rate of 13.0 percent.

In FY 2019-20, a common policy allocation to state agencies was added for the State's $225.0 million statutory PERA Direct Distribution payment. This allocation was added to common policies in order to charge cash and federal funds sources for what would otherwise be a General Fund payment. Unlike AED and SAED, the direct distribution payment is not calculated as a percentage of payroll, however the allocation of fund sources by each state agency should match the proportions determined for the AED and SAED appropriations. The following table outlines the 10-year history of AED, SAED, and PERA Direct Distribution appropriations.

PERA Unfunded Liability (UL) Payments (AED/SAED/PERA DD) 10-year Appropriations History (in millions)										
	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21*	FY21-22	FY22-23	FY 23-24	FY 24-25
AED Total Appropriation	$70.1	$78.3	$84.8	$89.8	$96.8	$98.4	$103.3	$108.9	$118.4	$135.3
SAED Total Appropriation	67.3	77.0	84.4	89.6	96.6	98.4	103.3	108.9	118.4	135.3
PERA Direct Distribution	0.0	0.0	0.0	0.0	56.5	0.0	57.6	58.1	8.9	59.1
PERA UL Payments	$137.4	$155.3	$169.2	$179.4	$249.9	$196.8	$264.2	$275.9	$245.7	$329.7
Change		17.9	13.9	10.2	70.5	(53.1)	67.4	11.7	(30.2)	84.0
Percentage Change		13.0%	9.0%	6.0%	39.3%	(21.2%)	34.2%	4.4%	(10.9%)	34.2%
PERA Amortization Payments compound average annual growth rate										9.1%

* House Bill 20-1379, Suspend PERA Direct Distribution for FY 2020-21, suspended this payment for the fiscal year. The amount appropriated in the Long Bill totaled $54.1 million.

Total Compensation General Fund

The compensation components share of state operating General Fund is determined by total operating General Fund as well as annual changes in each of the components.

Compensation Components share of State Operating General Fund			
	FY 2022-23	FY 2023-24	FY 2024-25
Operating General Fund	$13,524,194,163	$15,093,631,195	$16,015,401,306
Estimated Salary Base	1,181,558,215	1,211,993,595	1,358,470,277
percent change		2.6%	12.1%
PERA and Medicare	161,133,212	164,434,810	182,502,265
percent change		2.0%	11.0%
Compensation Common Policies	251,002,102	332,763,800	409,278,909
percent change		32.6%	23.0%
Total State Employee Compensation	1,593,693,529	1,709,192,205	1,950,251,452
percent change		7.2%	14.1%
PERA UL Payments	153,832,255	133,894,421	181,790,245
percent change		(13.0%)	35.8%
Percentage of Operating General Fund			
Estimated Salary Base	8.7%	8.0%	8.5%
PERA and Medicare	1.2%	1.1%	1.1%

Compensation Components share of State Operating General Fund			
	FY 2022-23	FY 2023-24	FY 2024-25
Compensation Common Policies	1.9%	2.2%	2.6%
State Employee Compensation	11.8%	11.3%	12.2%
PERA UL Payments	1.1%	0.9%	1.1%

SUMMARY: FY 2023-24 APPROPRIATION & FY 2024-25 REQUEST

Salary Base, Compensation Common Policies, and PERA Payroll Components	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2023-24 Appropriation					
Base Salary Estimate	$2,229,829,465	$1,211,993,595	$522,244,320	$233,392,290	$262,199,260
PERA	266,334,875	146,860,904	61,781,141	27,269,148	30,423,682
Medicare (FICA)	32,332,528	17,573,906	7,572,544	3,384,189	3,801,889
Shift Differential	19,391,198	15,890,683	808,361	1,837,586	854,568
Salary Survey	151,080,121	88,831,343	32,272,848	13,745,615	16,230,315
Merit Pay	0	0	0	0	0
Minimum Wage	67,610	22,943	9,636	0	35,031
Health, Life, Dental	407,609,085	226,124,623	95,010,681	38,932,342	47,541,439
Paid Family Leave and Medical Insurance	0	0	0	0	0
Short-term Disability	3,472,190	1,894,208	800,263	366,605	411,114
AED	118,399,887	64,605,938	27,571,040	12,357,326	13,865,583
SAED	118,399,887	64,605,938	27,571,040	12,357,326	13,865,583
PERA Direct Distribution	8,880,925	4,682,545	2,551,394	838,485	808,501
TOTAL	**$3,355,797,771**	**$1,843,086,626**	**$778,193,268**	**$344,480,912**	**$390,036,965**
FY 2024-25 Request/Recommendation					
Base Salary Estimate	$2,494,634,429	$1,358,470,277	$586,297,877	$267,440,938	$282,425,337
PERA	296,730,123	162,804,147	69,768,703	31,297,280	32,859,993
Medicare (FICA)	36,172,562	19,698,118	8,501,356	3,877,904	4,095,184
Shift Differential	33,231,000	27,981,403	1,932,384	2,262,289	1,054,924
Salary Survey	201,801,627	116,609,822	44,035,294	20,691,962	20,464,549
Merit Pay	0	0	0	0	0
Minimum Wage	114,807	15,321	89,605	4,352	5,529
Health, Life, Dental	448,523,033	249,032,811	106,722,686	42,610,045	50,157,491
Paid Family Leave and Medical Insurance	12,175,652	6,702,665	2,822,160	1,294,506	1,356,320
Short-term Disability	4,058,551	2,234,222	940,720	431,503	452,106
AED	135,285,015	74,474,059	31,357,327	14,383,404	15,070,225
SAED	135,285,015	74,474,059	31,357,327	14,383,404	15,070,225
PERA Direct Distribution	59,096,974	32,842,128	16,989,181	7,225,771	2,039,894
TOTAL	**$3,857,108,787**	**$2,125,339,031**	**$900,814,619**	**$405,903,359**	**$425,051,777**
Increase/(Decrease)	$501,311,016	$282,252,405	$122,621,351	$61,422,447	$35,014,812
Percent Change	14.9%	15.3%	15.8%	17.8%	9.0%

FY 2024-25 Total Compensation Request

The FY 2024-25 total compensation request is estimated to be $3.86 billion total funds, including $2.13 billion General Fund, an increase of $501.3 million over the prior year appropriation, which represents a 14.9 percent increase in total compensation-related appropriations.

Base Salary, PERA, and Medicare (FICA)	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2023-24 Appropriation					
Base Salary Estimate	$2,229,829,465	$1,211,993,595	$522,244,320	$233,392,290	$262,199,260
PERA	266,334,875	146,860,904	61,781,141	27,269,148	30,423,682
Medicare (FICA)	32,332,528	17,573,906	7,572,544	3,384,189	3,801,889
TOTAL	**$2,528,496,869**	**$1,376,428,405**	**$591,598,005**	**$264,045,627**	**$296,424,831**

Base Salary, PERA, and Medicare (FICA)					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2024-25 Request/Recommendation					
Base Salary Estimate	$2,494,634,429	$1,358,470,277	$586,297,877	$267,440,938	$282,425,337
PERA	296,730,123	162,804,147	69,768,703	31,297,280	32,859,993
Medicare (FICA)	36,172,562	19,698,118	8,501,356	3,877,904	4,095,184
TOTAL	**$2,827,537,114**	**$1,540,972,542**	**$664,567,936**	**$302,616,122**	**$319,380,514**
Increase/(Decrease)	299,040,246	164,544,137	72,969,931	38,570,495	22,955,683
Percent Change	11.8%	12.0%	12.3%	14.6%	7.7%

Base salary estimate: The request includes a base salary estimate of $2.8 billion total funds, including $1.5 billion General Fund, for FY 2024-25 employee salaries.

PERA: The request includes an estimate of $296.7 million total funds, including $162.8 million General Fund, for employer payroll-related contributions to PERA.

Medicare (FICA): The request includes an estimate of $36.2 million total funds, including $19.7 million General Fund, for employer payroll-related contributions to Medicare.

Other Salary Related Adjustments					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2023-24 Appropriation					
Shift Differential	$19,391,198	$15,890,683	$808,361	$1,837,586	$854,568
Salary Survey	151,080,121	88,831,343	32,272,848	13,745,615	16,230,315
Minimum Wage	67,610	22,943	9,636	0	35,031
Merit Pay	0	0	0	0	0
TOTAL	**$170,538,929**	**$104,744,969**	**$33,090,845**	**$15,583,201**	**$17,119,914**
FY 2024-25 Request/Recommendation					
Shift Differential	$33,231,000	$27,981,403	$1,932,384	$2,262,289	$1,054,924
Salary Survey	201,801,627	116,609,822	44,035,294	20,691,962	20,464,549
Minimum Wage	114,807	15,321	89,605	4,352	5,529
Merit Pay	0	0	0	0	0
TOTAL	**$235,147,434**	**$144,606,546**	**$46,057,283**	**$22,958,603**	**$21,525,002**
Increase/(Decrease)	64,608,505	39,861,577	12,966,438	7,375,402	4,405,088
Percent Change	37.9%	38.1%	39.2%	47.3%	25.7%

Shift Differential: Shift differential funds are used for adjustments to some employee wages for work that is performed outside of standard 8:00 a.m. to 5:00 p.m. business hours. Shift differential is requested at 100 percent of prior year actual expenditures. The request includes $33.2 million total funds, including $28.0 million General Fund.

Salary Survey: The request includes $201.8 million total funds, including $116.6 million General Fund. The request includes both a 3.0 percent across-the-board increase and the implementation of the Step Payment Plan as agreed upon in the COWINS Partnership Agreement.

Minimum wage: The request includes $114,807 total funds, including $15,321 General Fund, for adjustments to wages for those employees who earned less than $16.22 per hour. This number is not a statutory minimum wage. Instead, it reflects a 3.0 percent increase from $15.75 – the current minimum wage pursuant to the Colorado Overtime and Minimum Pay Standards Order (COMPS Order) #38 – in accordance with the Partnership Agreement.

MERIT PAY: The request does not include funding for merit pay increases for state employees.

INSURANCE BENEFITS					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2023-24 Appropriation					
Health, Life, Dental	$407,609,085	$226,124,623	$95,010,681	$38,932,342	$47,541,439
Paid Family Leave and Medical Insurance	0	0	0	0	0
Short-term Disability	3,472,190	1,894,208	800,263	366,605	411,114
TOTAL	**$411,081,275**	**$228,018,831**	**$95,810,944**	**$39,298,947**	**$47,952,553**
FY 2024-25 Request/Recommendation					
Health, Life, Dental	$448,523,033	$249,032,811	$106,722,686	$42,610,045	$50,157,491
Paid Family Leave and Medical Insurance	12,175,652	6,702,665	2,822,160	1,294,506	1,356,320
Short-term Disability	4,058,551	2,234,222	940,720	431,503	452,106
TOTAL	**$464,757,236**	**$257,969,698**	**$110,485,565**	**$44,336,055**	**$51,965,917**
Increase/(Decrease)	53,675,960	29,950,868	14,674,621	5,037,108	4,013,364
Percent Change	13.1%	13.1%	15.3%	12.8%	8.4%

HEALTH, LIFE, DENTAL: The request includes $448.5 million total funds, including $249.0 million General Fund, for employee health, life, and dental benefits elected by employees as of July 2023. Additional adjustments may be included in a budget amendment based on new actuarial recommendations received in December. The base adjustment request reflects an increase of $40.9 million total funds, including $22.9 million General Fund, in FY 2024-25.

PAID FAMILY AND MEDICAL LEAVE INSURANCE: The request includes $12.2 million total funds, including $6.7 million General Fund for FY 2024-25. Pursuant to H.B. 22-1133 (Family and Medical Leave Insurance Fund), the State's portion of the insurance premium was to be prepaid until the balance in the Family and Medical Leave Insurance (FAMLI) Fund reached zero. However, in the 2023 legislative session, the General Assembly passed S.B. 23-324, which transferred the remaining balance in the FAMLI Fund back to the Restoration Loss Cash Fund. The bill also ended the State prepayment of premiums at the end of FY 2023-24. As a result, starting July 1, 2024, departments and employees will begin paying the premiums for the FAMLI program. These premiums are 0.9 percent of wages per employee, split evenly between the state and employees.

SHORT-TERM DISABILITY: Short term disability (STD) is requested at a rate of 0.15 percent of revised base salaries. STD is estimated at $4.06 million total funds, including $2.23 million General Fund.

PERA PAYMENTS FOR UNFUNDED LIABILITY (NON-BENEFIT COMPONENTS)					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2023-24 Appropriation					
AED	$118,399,887	$64,605,938	$27,571,040	$12,357,326	$13,865,583
SAED	118,399,887	64,605,938	27,571,040	12,357,326	13,865,583
PERA Direct Distribution	8,880,925	4,682,545	2,551,394	838,485	808,501

PERA Payments for Unfunded Liability (non-benefit components)					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
TOTAL	**$245,680,699**	**$133,894,421**	**$57,693,474**	**$25,553,137**	**$28,539,667**
FY 2024-25 Request/Recommendation					
AED	$135,285,015	$74,474,059	$31,357,327	$14,383,404	$15,070,225
SAED	135,285,015	74,474,059	31,357,327	14,383,404	15,070,225
PERA Direct Distribution	59,096,974	32,842,128	16,989,181	7,225,771	2,039,894
TOTAL	**$329,667,003**	**$181,790,245**	**$79,703,835**	**$35,992,579**	**$32,180,344**
Increase/(Decrease)	83,986,304	47,895,824	22,010,361	10,439,442	3,640,677
Percent Change	34.2%	35.8%	38.2%	40.9%	12.8%

AED: Amortization Equalization Disbursement is set at a statutory rate of 5.0 percent and is estimated to be $135.3 million total funds, including $74.5 million General Fund.

SAED: Supplemental Amortization Equalization Disbursement is set at a statutory rate of 5.0 percent and is estimated to be $135.3 million total funds, including $74.5 million General Fund.

PERA Direct Distribution: In FY 2019-20, a common policy allocation to state agencies was added for the state's $225.0 million statutory PERA Direct Distribution payment. This allocation was added to common policies to charge cash and federal funds sources for what would otherwise be a General Fund payment. The PERA Direct Distribution totals $59.1 million, including $32.8 million General Fund in FY 2024-25.

The following table outlines all PERA payments included in total compensation.

All PERA Payments					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2023-24 Appropriation					
PERA (standard employer contrib.)	$266,334,875	$146,860,904	$61,781,141	$27,269,148	$30,423,682
AED	118,399,887	64,605,938	27,571,040	12,357,326	13,865,583
SAED	118,399,887	64,605,938	27,571,040	12,357,326	13,865,583
PERA Direct Distribution	8,880,925	4,682,545	2,551,394	838,485	808,501
SUBTOTAL - Benefits	**$512,015,574**	**$280,755,325**	**$119,474,615**	**$52,822,285**	**$58,963,349**
FY 2024-25 Request/Recommendation					
PERA (standard employer contrib.)	$296,730,123	$162,804,147	$69,768,703	$31,297,280	$32,859,993
AED	135,285,015	74,474,059	31,357,327	14,383,404	15,070,225
SAED	135,285,015	74,474,059	31,357,327	14,383,404	15,070,225
PERA Direct Distribution	59,096,974	32,842,128	16,989,181	7,225,771	2,039,894
SUBTOTAL - Benefits	**$626,397,126**	**$344,594,392**	**$149,472,538**	**$67,289,859**	**$65,040,337**
Increase/(Decrease)	114,381,552	63,839,067	29,997,923	14,467,574	6,076,988
Percent Change	22.3%	22.7%	25.1%	27.4%	10.3%

COWINS PARTNERSHIP AGREEMENT

The Colorado Partnership for Quality Jobs and Services Act requires the State to enter into a partnership agreement with certified employee organizations, defines the duties of the parties, and sets standards and procedure related to disputes. The current agreement is in effect until July 31, 2024. COWINS and the State are scheduled to start meeting again the week of January 8, 2024 to begin developing a negotiations schedule for a successor agreement.

SUMMARY

- House Bill 20-1153 established a collective bargaining system between covered state employees and the State's Executive Branch. The partnership agreement identifies covered employees, defines the duties of the parties, and sets standards and procedure related to employment disputes.

- The bill's fiscal note identified the need for additional human resources staff to implement some provisions of the agreement; however, it did not identify the fiscal impact of implementing provisions of the agreement related to staffing.

- The state departments will incur a cost related to increased health, life, dental costs, the impact of increased annual leave accrual rates, holiday pay, and paid family and medical leave requirements.

DISCUSSION

House Bill 20-1153 (Colorado Partnership for Quality Jobs and Services Act), codified in Section 24-50-1101 et seq., C.R.S., created a collective bargaining system between covered state employees and the State's Executive Branch. The Act requires the State to enter into a partnership agreement with certified employee organizations, defines the duties of the parties, and sets standards and procedure related to disputes. The Act defines covered employees as those who are employed in the State's personnel system, **except** for the following:

- Confidential employees;
- Managerial employees;
- Executive employees;
- The director of the Department of Personnel, the director of the Division of Labor Standards and Statistics, the governor's designee, and employees working with either director to implement the Act;
- Administrative law judges and hearing officers;
- State troopers;
- Employees of the Legislative Branch; and
- Temporary appointees as described in Section 24-50-114, C.R.S.

Sections 24-50-1111 and 24-50-1117, C.R.S., identify the duties of the State and the oversight role of the General Assembly and requires that the costs of implementation or administration of the Act be "paid from the General Fund, subject to available appropriation." Specifically, Section 24-50-1111 (6), C.R.S., directs that:

> "The provisions of a partnership agreement that require the expenditure of money shall be contingent upon the availability of money and the specific appropriation of money by the General Assembly. If the General Assembly rejects any part of the request, or while accepting the request takes any action which would result in a modification of the terms of the cost item submitted to it, either party may reopen negotiations concerning economic issues."

For FY 2024-25, the most important aspect of the Partnership Agreement from a budgeting standpoint is the new stepped pay plan. According to this plan, each classified state employee will be placed in a 'step' based on 'time in job series'. Employees will then receive pay increases based on the step that they are placed in. The Agreement states that the State will provide employees with a preliminary step placement notice by March 31, 2024, with the final placement decisions made no later than May 15, 2024. For the purposes of requesting funding for salary increases as a result of the new pay plan, the State has estimated where it thinks employees will be placed, and based the total compensation request off of those estimates.

As described in section 31.6 of the Partnership Agreement, the schedule for the step plan will begin with the official placement of all eligible employees on July 1, 2024. Those employees will move through the step system according to the following schedule.

- After 3 years, a 5.0 percent increase from the minimum;
- After 5 years, a 5.0 percent increase from the minimum;
- After 8 years, a 5.0 percent increase from the minimum;
- After 10 years, the employee should be at the midpoint of the pay grade;
- After 12 years, a 2.0 percent increase from the minimum;
- After 15 years, a 2.0 percent increase from the minimum;
- After 20 years, a 2.0 percent increase from the minimum; and
- After 25 years, a 2.0 percent increase from the minimum.

Costs of the Agreement

The primary cost driver for FY 2024-25 resulting from the Partnership Agreement is the Step Plan pay increases that will be applied to covered employees when they are initially placed in their step. In future fiscal years, it is anticipated that the cost will be significantly less, however there will be a substantial initial investment to implement the plan as requested. The table below outlines the various aspects of the agreement that are driving increased costs for FY 2024-25.

Costs Associated with COWINS Partnership Agreement for FY 2024-25					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
FY 2024-25 Request/Recommendation					
Step Increases	$109,065,061	$66,289,893	$20,869,944	$11,047,470	$10,857,754
3.0 percent ATB increase	93,192,043	50,502,293	21,880,914	10,341,325	10,467,512
Critical Staffing Incentives (COR &DHS)	13,088,536	11,579,738	325,955	496,031	686,812
Step-like increases (3.7%)	12,881,108	4,874,679	1,931,639	4,655,572	1,419,219
Movement to Minimum Wage	114,807	15,321	89,605	4,352	5,529
TOTAL	**$228,341,556**	**$133,261,924**	**$45,098,056**	**$26,544,749**	**$23,436,826**

STEP INCREASES

The request to implement the Step Plan includes an increase of $109,065,061 total funds, including $66,289,893 General Fund. These increases are based on a "time in job series" methodology for eligible classified employees. An alternative to this methodology would be to base the increases on "time of service" in the state or at the agency. The following table outlines the difference in cost between using the two methodologies. The "time in job series" methodology was used because that is the methodology agreed to by the Governor's Office and COWINS per section 31.6 of the partnership agreement. If the "time of service" methodology were to be used for the step increases, a 28.3 percent increase in total costs would result.

TIME IN JOB SERIES VS. TIME OF SERVICE					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2024-25 Request					
Time in Job Series	$109,065,061	$66,289,893	$20,869,944	$11,047,470	$10,857,754
Time of Service	152,205,058	87,315,257	30,241,384	18,827,084	15,821,334
Difference	**$43,139,997**	**$21,025,364**	**$9,371,440**	**$7,779,614**	**$4,963,580**

The other main methodological decision that was made was the order in which increases were applied. The Department of Personnel and Administration's (DPA) method was to apply the across-the-board increase of 3.0 percent first, and then apply the step plan increases. However, an equally valid methodology would be to first apply the step plan increases and then the 3.0 percent across-the-board increases. While staff did not have time prior to this presentation to analyze the effect of applying the step plan first, staff assumes that applying the step increases first would result in a greater cost to the state.

3.0 PERCENT ACROSS THE BOARD INCREASES

The request includes $93,192,043 total funds, including $50,502,293 General Fund to implement a 3.0 percent across-the-board (ATB) increase for all classified employees. This increase, as agreed to by the Governor's Office and COWINS, follows on from the 5.0 percent ATB increase that was implemented in the current fiscal year, FY 2023-24. This is the final ATB increase in the current partnership agreement.

CRITICAL STAFFING INCENTIVES

The request includes $13,088,536 total funds, including $11,579,738 General Fund split between the Department of Corrections and the Department of Human Services as outlined in the table below.

CRITICAL STAFFING INITIATIVES					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2024-25 Request					
Corrections	$9,272,914	$9,137,740	$135,174	$0	$0
Human Services	3,815,622	2,441,998	190,781	496,031	686,812
Total	**$13,088,536**	**$11,579,738**	**$325,955**	**$496,031**	**$686,812**

This part of the request is a result of section 31.7 of the partnership agreement which states that for FY 2023-24 and FY 2024-25, the following job classifications "working in 24/7 facilities shall receive up to 10% non-base building temporary pay differential."

- Correctional Officers (DOC)
- Nurses (DOC and CDHS)
- State Teachers (DOC and CDHS)
- Social Workers (DOC)
- Legal Assistants (DOC)
- Client Care Aides (CDHS)
- Health Professionals (DOC)
- Health Care Tech (DOC and CDHS)

In the FY 2023-24 budget cycle, this part of the request was treated as a targeted salary increase and dealt with as a one-time increase for the current fiscal year with the understanding that DPA would submit formal requests for this funding for FY 2024-25. Because they did not do this, staff recommends that the Committee decide on this item during the figure setting discussions with the Departments of Corrections and Human Services.

STEP-LIKE INCREASES

Last year when the Committee heard about the Step Plan from JBC Staff, there was mention of costs that would be added to total compensation as a result of the Step Plan but not clearly outlined in the Partnership Agreement. These 'step-like' increases are the primary vehicle for those extra costs. In the data for the FY 2024-25 total compensation request, staff noticed that the executive branch agencies built in compensation increases for employees who are not covered by the Partnership Agreement. If the request is approved, these employees are set to receive a 3.7 percent increase on top of the 3.0 percent ATB increase. The total cost of this increase is $12,881,108, including $4,874,679 General Fund. DPA arrived at the step-like increase of 3.7 percent by estimating the weighted average step increase for each classified step-eligible position as a percentage of the base salary.

MOVEMENT TO MINIMUM WAGE

The final part of the total cost – $114,807 total funds, including $15,321 General Fund – comes from increasing wages for employees who make less than $16.22 per hour. Section 31.4 of the agreement established rules surrounding minimum wages. For FY 2022-23, the minimum wage was set at $15 per hour, for FY 2023-24, the minimum wage is set at $15.75 per hour, and for FY 2024-25, the agreement states that the minimum wage should increase by the 3.0 percent ATB increase that all salaried employee are receiving. A wage of $16.22 per hour represents a 3.0 percent increase over $15.75 per hour.

PERA UPDATE

The Public Employees' Retirement Association prepares an annual financial report that details the plan's performance for the preceding calendar year.

SUMMARY

- PERA experienced an investment return of (13.4) percent in 2022, compared with 16.1 percent in 2021. The net investment income of the plan in 2022 was ($9.9 billion). Member contributions totaled $1.4 billion and employer contributions totaled $2.2 billion.

- Despite the negative investment returns, the aggregate funded ratio improved to 69.9 percent – up from 67.8 percent a year earlier – and the aggregate unfunded liability decreased from $27.2 billion to $26.3 billion – a decrease of $0.9 billion.

- The state employee contribution rate of 11.0 percent for most state employees and 13.0 percent for Safety Officers FY 2023-24 is not scheduled to increase in 2024. This compares to the normal cost rate of 12.86 percent for the State Division as identified in the 2022 annual report. The normal cost reflects the percentage of salary required to fully fund a current employee's PERA benefits.

DISCUSSION

According the PERA 2022 Comprehensive Annual Financial Report (CAFR), PERA experienced a negative investment year in 2022, resulting in a combined return of negative 13.4 percent net-of-fees. The investment performance is only one of several factors used to calculate a retirement plan's funded status, however. Factored into this determination are actuarial assumptions related to inflation, payroll and employment, retirement rates, and member longevity. As of December 31, 2022, the plan's unfunded liability is reported at $26.3 billion giving it a funded status of 69.9 percent, as compared with 67.8 percent on December 31, 2021. For the State Division, the unfunded liability is reported at $9.3 billion, with a funded status of 66.5 percent.

Investment Return

For 2022, PERA experienced an investment return of negative 13.4 percent. PERA's annualized rate of return over extended periods include the following:

- 5.7 percent over three years;
- 6.5 percent over five years;
- 8.0 percent over 10 years; and
- 8.3 percent over 30 years.

Funded Ratio

The following table outlines the funded ratio for each division and the aggregate for PERA as a whole.

Funded Ratio (actuarial value from CAFR)							
	2016	2017	2018	2019	2020	2021	2022
Year end	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022
State	54.6%	57.5%	56.1%	58.0%	59.1%	64.0%	66.5%

Funded Ratio (actuarial value from CAFR)							
	2016	2017	2018	2019	2020	2021	2022
Judicial	66.6%	72.4%	70.6%	74.0%	78.7%	85.9%	88.5%
School	56.3%	59.4%	57.9%	59.9%	60.6%	65.3%	67.0%
DPS	75.9%	79.7%	76.8%	80.0%	81.2%	86.9%	90.3%
Local Government	74.4%	79.5%	77.7%	80.7%	82.4%	88.6%	91.0%
PERA aggregate	**58.1%**	**61.3%**	**59.8%**	**61.9%**	**62.8%**	**67.8%**	**69.9%**

Unfunded Actuarial Accrued Liability

The following table outlines the unfunded actuarial accrued liability for each division and the aggregate for PERA as a whole.

Unfunded Actuarial Accrued Liability (in millions)										
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Year end	12/31/2013	12/31/2014	12/31/2015	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022
State	$9,714.27	$9,884.83	$10,202.85	$11,643.58	$10,525.68	$11,206.13	$10,795.60	$11,077.52	$9,780.33	$9,275.67
Judicial	94.80	100.39	115.08	149.23	118.02	131.79	119.97	101.77	68.78	58.69
School	14,067.93	14,243.18	14,805.49	18,089.62	16,266.17	17,503.96	17,013.05	17,950.99	16,083.61	15,933.03
DPS	709.98	664.64	697.91	1,025.50	830.76	987.26	853.12	850.47	608.78	465.01
Local Gov.	1,210.98	981.57	1,003.54	1,333.86	1,036.52	1,170.21	1,028.11	995.87	654.44	533.96
PERA agg.	**$25,797.96**	**$25,874.61**	**$26,824.87**	**$32,241.79**	**$28,777.15**	**$30,999.35**	**$29,809.85**	**$30,976.62**	**$27,195.94**	**$26,266.36**
Agg. Change		76.65	950.26	5,416.92	(3,464.64)	2,222.20	(1,189.50)	1,166.77	(3,780.68)	(929.58)

Pursuant to S.B. 18-200 (Modifications to PERA Public Employees' Retirement Association to Eliminate Unfunded Liability), PERA must reach full funding by the end of 2047. Despite the plan's negative investment year, PERA's asset to liabilities comparison indicates that the automatic adjustment provision, which automatically adjusts member and employer contributions, will not be necessary in 2024. As a result, the employee contribution will remain 11.0 percent for most State employees and 13.0 percent for employees in the Safety Officers category. The amortization funding valuation for the State Division changed from 23 years in 2021 to 20 years in 2022.

PERA Direct Distribution Payments

Pursuant to Section 24-51-414, C.R.S., the State Treasurer is required to issue an annual warrant on July 1st to the Public Employees' Retirement Association (PERA) in the amount of $225.0 million. The annual payment, established in S.B. 18-200 is to be made until there are no unfunded actuarial accrued liabilities of any division of PERA. Pursuant to S.B. 18-200, payment may be made from the General Fund or any other fund. Subsequent legislation enacted in 2020 and 2022 made changes to the amounts to be paid to PERA on July 1st in 2020, 2023, and 2024. A brief summary of PERA-related legislation enacted since 2018 is provided below.

- S.B. 18-200 (Modifications to PERA Public Employees' Retirement Association to Eliminate Unfunded Liability) established an annual direct distribution payment of $225.0 million to be made from the General Fund or any other fund. Payments are scheduled to be made on July 1st of each year beginning July 1, 2018 and continue until there is no unfunded actuarial accrued liabilities of any division of PERA that receives the direct distribution.

- H.B. 20-1379 (Suspend Direct Distribution to PERA Public Employees' Retirement Association for 2020-21 Fiscal Year) eliminated the July 1, 2020 scheduled direct distribution payment of $225.0 million to PERA.

- S.B. 21-228 (PERA Public Employees' Retirement Association Payment Cash Fund) created the PERA Payment Cash Fund, appropriated $380.0 million General Fund to the Cash Fund, authorized the State Treasurer to use the Cash Fund to pay any employer contribution or disbursements required by statute, and required that the PERA direct distribution payment scheduled to be paid on July 1, 2022, be made from the Cash Fund as opposed to the General Fund. The bill allows for the payment of some or all of a future payment to PERA to be made from the cash fund as well.

- S.B. 22-214 (General Fund Transfer to PERA Payment Cash Fund) requires the transfer of $198.5 million General Fund to the PERA Payment Cash Fund in order to reimburse the Cash Fund for the portion of the July 1, 2022 direct distribution payment that was made from the Cash Fund pursuant to H.B. 22-1329 (FY 2022-23 Long Appropriations Bill).

- H.B. 22-1029 (Compensatory Direct Distribution to Public Employees' Retirement Association) required the State Treasurer to make a payment to PERA as soon as practicable in the amount of $380.0 million cash funds from the PERA Payment Cash Fund, in order to recompense PERA for the eliminated July 1, 2020 direct distribution payment that was required by H.B. 20-1379. The payment is in addition to the regularly scheduled July 1, 2022 $225.0 million payment (funded in the FY 2022-23 Long Bill). In addition, the bill reduced the scheduled July 1, 2023 direct distribution payment by $190.0 million and reduces the scheduled July 1, 2024 direct distribution payment by no more than $27.6 million.

- S.B. 23-056 (Compensatory Direct Distribution to PERA) requires the State Treasurer to issue a warrant on July 1, 2023 to PERA in the amount of the balance of the PERA Payment Cash Fund, plus $10.0 million General Fund for a total of $14,455,499. The payment is intended to recompense PERA for interest earnings on the repealed July 1, 2020 direct distribution payment. The bill also repeals the PERA Payment Cash Fund on July 1, 2023

It is very important to note that the payment plan established in S.B. 18-200 is an annuity and was created in order to ensure that a fixed sum of money is paid to PERA on an annual basis so that the unfunded liability is resolved in a timely fashion. Legislation making changes to the annuity has in effect birthed the concept that modifications to the PERA Direct Distribution payment is a means through which the State budget can be balanced. This is a dangerous paradigm in that PERA is a healthy investment and the unfunded liability is a debt. Without factoring in the loss of investment returns or the cost of increased debt resulting from changes to the annual payment, overall payments to PERA, under current law, will be deficient by $21.55 million over time.

PERA Direct Distribution Payments				
Fiscal Year	S.B. 18-200	S.B. 20-1379	H.B. 22-1029 (Current Law)	S.B. 23-056
FY2019-20	$225 million	$225 million	$225 million	$225 million
FY2020-21	225 million	0	0	0
FY2021-22	225 million	225 million	225 million	225 million
FY2022-23	225 million	225 million	605 million	605 million
FY2023-24	225 million	225 million	35 million	49.45 million
FY2024-25	225 million	225 million	225 million	225 million
FY2025-26	225 million	225 million	225 million	225 million
FY2026-27	225 million	225 million	225 million	225 million
	$1,800 million	$1,575 million	$1,765 million	$1,779.45 million

JBC staff has provided an estimate of annual gains in the tables below. Based on an annual return of 17.4 percent, 16.1 percent, and negative 13.4 percent for calendar years 2020, 2021, and 2022, respectively, JBC staff estimates that the lost gains resulting from the canceled July 1, 2020 $225.0 million payment to PERA were addressed by the additional $380.0 million payment required pursuant to H.B. 22-1029. However, with the required reductions in the July 1, 2023 payment along with negative investment returns in 2022, lost gains are again projected beginning in FY 2023-24 and ongoing. JBC staff estimates the lost gains resulting from the reduced July 1, 2023 payment to be $65.3 million by the end of FY 2023-24 and $70.0 million by the end of FY 2024-25. To realign the schedule with the original intent of S.B. 18-200, an additional appropriation of $70.0 million would be needed in FY 2024-25.

Payments to PERA under S.B. 18-200 as amended by H.B. 20-1379, H.B. 22-1029, and S.B. 23-056					
Year (July 1)	Interest Earned[1]	Scheduled Payment (on July 1)	Extra Annual Payment	Estimated End of Year Balance	Difference Between S.B. 18-200 and Current Law
2020	$0	$0	$0	$0	($225,000,000)
2021	0	225,000,000	0	225,000,000	(262,687,500)
2022	3,037,500	225,000,000	380,000,000	833,037,500	113,766,219
2023	(25,615,903)	35,000,000	14,455,499	856,877,096	(65,276,593)
2024	62,123,589	225,000,000	0	1,144,000,685	(70,009,147)
2025	82,940,050	225,000,000	0	1,451,940,735	(75,084,810)
2026	105,265,703	225,000,000	0	1,782,206,438	(80,528,458)
2027	129,209,967	225,000,000	0	2,136,416,405	(86,366,772)
2028	154,890,189	225,000,000	0	2,516,306,594	(92,628,362)
2029	182,432,228	225,000,000	0	2,923,738,823	(99,343,919)
2030	211,971,065	225,000,000	0	3,360,709,887	(106,546,353)

[1] 2023 earned interest is calculated at a blended rate of -3.075 percent (-13.4 percent for the last six months of 2022 and 7.25 percent for the first six months of 2023). For all of other years, the earned interest is calculated at 7.25 percent.

Payment to PERA under S.B. 18-200 (unamended)				
Year (July 1)	Interest Earned[1]	Scheduled Payment (on July 1)	Extra Annual Payment	Estimated End of Year Balance
2020	$0	$225,000,000	$0	$225,000,000
2021	37,687,500	225,000,000	0	487,687,500
2022	6,583,781	225,000,000	0	719,271,281
2023	(22,117,592)	225,000,000	0	922,153,689
2024	66,856,142	225,000,000	0	1,214,009,832
2025	88,015,713	225,000,000	0	1,527,025,545
2026	110,709,352	225,000,000	0	1,862,734,897
2027	135,048,280	225,000,000	0	2,222,783,177
2028	161,151,780	225,000,000	0	2,608,934,957
2029	189,147,784	225,000,000	0	3,023,082,741
2030	219,173,499	225,000,000	0	3,467,256,240

[1] 2021 earned interest is calculated at a blended rate of 16.75 percent (17.4 percent for the last six months of 2020 and 16.1 percent for the first six months of 2021). 2022 earned interest is calculated at a blended rate of 1.35 percent (16.1 percent for the last six months of 2021 and -13.4 percent for the first six months of 2022). 2023 earned interest is calculated at a blended rate of negative 3.075 (negative 13.4 percent for the last six months of 2022 and 7.25 percent for the first six months of 2023). For all of other years, the earned interest is calculated at 7.25 percent.

PERA Direct Distribution Payment Fund Sources

Statute allows for regularly scheduled direct distribution payments to be made from the General Fund or other sources of funding. Only a portion of the payment is attributable to the State (typically approximately $57 million), therefore "other sources of funding" refers to cash funds, reappropriated funds, or federal funds to which state departments have access and that can be used to cover pension plan costs. This language allows for Long Bill appropriations for each department's portion of the direct distribution payment to be made up of various sources, thereby reducing the impact of the annual payment on the General Fund.

Regularly scheduled $225.0 million payments are typically comprised of approximately 88.2 percent General Fund, 7.2 percent cash funds from various sources, 2.5 percent reappropriated funds, and 2.1 percent federal funds. The fund type splits for each department are determined through the use of the total compensation templates, however the statewide percentages reflected in the Long Bill change very little from year to year. It is important to note that these other sources of funding are only available for the portion of the payment attributable to the State Divisions. The portion of the liability associated with other PERA divisions are solely covered by General Fund. Under current law, the FY 2024-25 payment can be no less than $197.45 million, but is expected to be the full $225.0 million because the total fund investment return for 2022 was less than 0.0 percent.

Refresh of the Comprehensive Study Comparing PERA's Defined Benefit Plan to Alternative Plan Designs

In the 2014 legislative session, the General Assembly passed S.B. 14-214 (PERA Studies Conducted By Actuarial Firm) which required the State Auditor to contract with a nationally recognized and enrolled actuarial firm with relevant experience in public sector pension plans to perform a comprehensive study comparing the cost and effectiveness of the hybrid defined benefit plan design to alternate plan designs in the public and private sector. The legislation required that the study include the following components:

- A comparison of the benefits, costs, and portability of benefits provided by the association in its current plan design with the benefits, costs, and portability of benefits provided by alternative plan designs;

- A comparison of the current plan design to other statewide plans, private sector retirement plans, and any other appropriate plans as determined by the association and the office of the State Auditor;
- An analysis of the cost to employees and employers that would be incurred by transitioning from the current plan design administered by the association to alternative plan designs;
- The impact that a change from the current plan design to alternative plan designs would have on expected retirement benefits for current and future retirees of the association;
- The incremental impacts that a change from the current plan design to alternative plan designs would have on the association's ability to fully amortize the unfunded actuarial liability of each division of the association; and
- The impact that a change from the current plan design to alternative plan designs would have on employers and taxpayers relative to the plan design currently specified in law.

From that legislation came the most comprehensive study that exists on PERA's hybrid defined benefit plan design. Staff believes that after 10 years and various pieces of legislation affecting the payback of the unfunded actuarial liability, it is time to do another study of PERA's plan designs to ensure that the quality of plans is still as high as it was at that time.

In the original bill, there was an appropriation of $375,000 to the State Auditor's Office to hire the firm that conducted the study. Staff believes that a similar or slightly larger appropriation would be necessary if the Committee were to sponsor such a bill.

Staff recommends that the JBC sponsor a bill that would require the State Auditor's Office to contract with a nationally recognized actuarial firm with experience in public sector pension plans to conduct a comprehensive study on PERA's defined benefit plan design.

PAY DATE SHIFT

The pay date shift is a budgeting and accounting mechanism that was originally employed by the General Assembly in 2003 as a way to save General Fund by shifting the payment date of all state employees on a monthly current pay schedule from June 30 to July 1, providing a fiscal savings of one month's worth of payroll.

SUMMARY

- The pay date shift was enacted via S.B. 03-197 to save approximately $90.0 million General Fund in FY 2002-03. It is still in effect today.

- Recent legislation and payroll rules have created a prime opportunity to unwind the pay date shift with much less likelihood that it gets reinstated in the future.

- While the executive branch has been slowly unwinding the pay date shift over the past several years by paying for it through vacancy savings, staff believes it would be beneficial to formally unwind the shift to bring all state employees into alignment regarding payroll.

DISCUSSION

HISTORY

Senate Bill 03-197 shifted the pay date of all state employees from June 30 to the first working day in July starting in 2003. This small change saved the General Assembly approximately $90.0 million General Fund at the time by shifting one month (1/12th of annual) of payroll into the next fiscal year. Since then, there have been a few attempts to 'unwind' the pay date shift, and one piece of legislation that repaid a small portion of the original $90.0 million in savings. House Bill 12-1246 unwound the pay date shift for all part-time employees, who were paid on a bi-weekly basis, and repaid approximately $2.1 million of the initial General Fund savings.

There have also been several conversations on the Joint Budget Committee over the years discussing the possibility of fully unwinding the pay date shift for all state employee. The Committee has never taken that action on the basis that the Governor and the General Assembly would use this mechanism at the next revenue downturn. To avoid that scenario, past JBCs chose to keep the pay date shift in place.

WHY NOW?

There a few reasons why the current moment is a good opportunity to unwind the pay date shift and repay for the use of the mechanism initiated 20 years ago.

The first reason is because last session S.B. 23-180 (Restore Current Pay Periods for State Employees) was passed. This legislation did two things. First, it cleaned up language in statute that was left over from a prior attempt to shift employees to bi-weekly lag pay as opposed to monthly pay. Second, it deleted from statute the provision that required employees be paid via the pay date shift. This would have been fine had that bill required an appropriation across all departments for the repayment of the shift, but the fiscal note did not identify a fiscal impact. While the statutory provision requiring the pay date shift is no longer in statute, the state has never repaid for the budget savings created in the use of the mechanism from 2003.

There are two ways the JBC could proceed: Assume that the mechanism was non-substantive and trust that over a long enough time period, each department will be forced to unwind the shift piecemeal through staffing turnover if they so choose; or, the JBC could provide a budgeted amount intended to unwind the shift for all affected agencies. The budgeted amount would equate to one month's worth of payroll appropriated to each agency in one fiscal year. Staff believes that to remain consistent with the traditional practice and spirit of balancing anticipated revenue and expenses, it would be fiscally prudent and the proper thing to do to affirmatively and formally unwind the pay date shift.

The second reason why now is a good time to unwind the pay date shift is to preserve consistency with Legislative Council Fiscal Note Staff and across the state. In the past twenty years, when General Fund has been used to fund FTE in legislation, included in the assumption for the cost is a 'lag' of one month. This is because if an employee is hired on July 1 of any fiscal year, they will only be paid for 11 months of work in that year because their 12th month of work will be paid on the following July 1 instead of June 30. As such, both Fiscal Note Staff and JBC Staff have taken this into account and only appropriated enough funding for 11 months in the first year.

Over the interim, JBC Staff received guidance from Legislative Council Fiscal Note Staff that their assumptions are changing for the coming legislative session. Instead of appropriating 11 months of General Fund for new FTE, they will now be basing their assumptions off a lag system based on bi-weekly payroll. This follows the current de facto payroll methodology across the executive branch for all new employees, despite a lack of statutory guidance or authority for the executive branch to implement this methodology on their own. This lag system works in that when an employee is hired, they are not paid until the end of their second pay period, so at the end of their fourth work week, they will be paid for the work they did through their first two work weeks.

Functionally, this will not be much different than assuming a pay date shift, as new employees still will not be paid until four weeks after their employment has begun. However, if JBC Staff continues to assume the pay date shift for all new FTE funded through General Fund, there will be slight differences in the amount assumed for every new FTE. While it might be possible to provide legislators with the necessary information regarding the dual assumptions of Fiscal Note Staff and JBC Staff, staff believes that it would add considerable workload to both staffs, and increase the amount of information that legislators will need to understand and digest for every single piece of legislation with funding for FTE.

The third reason why now is a good time to unwind the pay date shift is because the executive branch has functionally already switched to bi-weekly lag pay and left the pay date shift behind. The premise of S.B. 23-180 is that it codified the reality of how payroll already works in the executive branch. By removing the parts of statute that required the pay date shift, the executive branch has declared that it no longer considers the pay date shift the required method of paying state employees. Additionally, the executive branch has for several years given new employees the option of being paid monthly or bi-weekly, and it is staff's understanding that currently, all new employees are simply put on a bi-weekly lag pay schedule with no option. Finally, per the COWINS Partnership Agreement and at the behest of the Department of Personnel and Administration, executive branch agencies were required to offer the option to switch to bi-weekly lag payroll to all existing employees. Formally unwinding the pay date shift would align all state employees, not just those in the executive branch.

Finally, the aforementioned movement toward bi-weekly lag pay schedules in the executive branch is the last reason to consider unwinding the pay date shift. In the past, the main reason that the JBC cited for not unwinding the shift was that the next time there was an economic downturn or if the Governor and/or General Assembly simply wanted to free up some funding, the shift would be reinstated and the whole cycle would start again. Because the executive branch is now moving toward bi-weekly lag pay for all employees, it would be much more difficult to employ this tactic as a budget balancing maneuver. To do so, employees would have to wait until the beginning of July to receive payment for work done over the last two weeks of May and the first two weeks of June every year. Logistically, this would be much more difficult to do, to the point that staff believes the level of difficulty would be strong deterrence against reinstating the shift.

HOW TO UNWIND

In the most basic sense, the way to unwind the pay date shift is to pay current monthly employees 13 times in a 12-month period just one time. This would include the initial payment on the first working day of July, then at the end of every month, including the following June. To do this, each department would need funding equal to the amount it would cost to pay all of their current monthly employees for one extra month. However, staff believes that not all of that funding would need to be appropriated.

When a department is appropriated funding for an FTE but that FTE is not hired in the first month of a fiscal year, departments typically keep the extra appropriation as vacancy savings. Theoretically, on an "accounting basis", for each new FTE that is appropriated and not hired in the first month, a department can afford to transition one of its employees off the pay date shift. It is staff's belief that the executive branch agencies have been doing just this for the past several years. In fact, as of October 2023, roughly 25.6 percent of state employees have already transitioned to a bi-weekly lag pay schedule. Part of this number is a result of new hires who are automatically placed on a bi-weekly lag schedule and part of this is a result of existing employees switching over to bi-weekly per the Partnership Agreement. In both instances, it is staff's assumption that vacancy savings were used to pay for the extra paycheck for each employee that has been moved off the current monthly pay schedule.

Functionally, there are a couple of different ways to unwind the pay date shift. One method, which staff finds most appealing, is to sponsor a supplemental bill that might appropriate a total of $30.0 million to be spread out proportionally amongst all departments and require departments to pay current monthly employees at the end of June 2024 instead of the beginning of July 2024. Staff assumes that the full $30.0 million would not be spent, as the bill should include very specific instructions on the order of operations for the June payment. Staff would advise requiring departments to utilize vacancy savings first, then if extra funds are needed, departments can use the appropriation. If, after exhausting the $30.0 million appropriation, there were any remaining pay date shifted employees that still needed to be unwound, the remaining funding could be handled through a final true-up supplemental appropriation.

Another way to go about this would be to run a bill in the normal legislative session that would appropriate a similar amount for FY 2024-25 and make the first June payment in June 2025. In either case, instead of picking a number like $30.0 million, the Committee could choose to base the appropriation on a percentage of total payroll. Staff would advise a small percentage like 1.0 or 2.0

percent. Again, vacancy savings should be used first with the appropriation only used when all or most vacancy savings are depleted.

A third possible way to unwind the shift would be to assume that the executive branch will continue to slowly transition staff to a bi-weekly lag pay schedule through the use of vacancy savings as existing staff leave or retire and new staff are hired on, but appropriate funding through a FY 2023-24 supplemental bill only for the use of the independent agencies. The reason to handle the executive branch and the independent agencies differently is because the independent agencies have no history of moving employees to a bi-weekly system, and would need more funding to do so. Whereas the executive branch has implied that the pay date shift is no longer an issue for them, staff is unaware of any similar efforts within any of the independent agencies.

If the Committee were to pursue this path, an appropriation of $43.0 million would be necessary. This amount represents one month of FY 2023-24 payroll for the Judicial Branch, the Department of Law, the Legislature, and the Department of the Treasury. The Department of State is not included in this calculation because it has no FTE that are funded through General Fund. Again, for the same reason stated above, staff anticipates that the full $43.0 million would not be necessary, as the independent agencies generally also keep vacancy savings (with the exception of Treasury and a few of the independent offices within the Judicial Branch) that could be used first before the appropriated funds were used.

TECHNICAL NOTE

Conceptually, there are two ways to think about the pay date shift. On one hand, it is an accounting mechanism that provided real one-time savings and has real recurring effects on state employees' lives at the end of June/beginning of July every year. On the other hand, it is a budget construct whose reason for being was to provide a balanced budget in that first budget year in which it was used.

To the accounting mechanism concept, there are many, particularly in the executive branch, who believe that the pay date shift was paid off long ago through reversions from vacancy savings. While this may or may not be entirely true, it remains the case that a majority of state employees are paid at the beginning of July instead of the end of June. The executive branch's solution to this is to simply 'wave away' the pay date shift and proceed as if it no longer exists while placing all new employees on a bi-weekly lag pay schedule.

To the budget construct concept, because it was employed 20 years ago as a budget balancing action, the only way to unwind it is through an opposing budget action that would 'repay' it; a symbolic budget set-aside that 'pays' to unwind it.

Either way it is considered, there is a cost associated with unwinding the pay date shift. It is staff's opinion that on an accounting basis, it should cost less than a full month's worth of payroll based on the fact that executive branch agencies have been gradually moving employees to the bi-weekly lag pay system for several years now. Because of this, the largest cost associated with unwinding the shift will likely come from the independent elected official agencies and the judicial branch, who remain on a monthly current payroll system and would require an additional appropriation to pay for the 13th month of payroll in a single fiscal year.

RECOMMENDATION

Staff recommends the JBC sponsor a supplemental bill with a $30.0 million General Fund set-aside for all departments with specific language that would ensure departments use their vacancy savings first to unwind the pay date shift. Staff recommends that the State Controller be charged with allocating funds as necessary from that set-aide to achieve the unwind for all agencies. Staff also recommends including in the legislation a reporting requirement from the State Controller once the pay date shift has been fully unwound that details how much of the set-aside was spent; and if necessary how much additional supplemental General Fund is required to complete the true-up.

APPENDIX A
UPDATE ON INFORMATION REQUESTS

The Joint Budget Committee annually submits requests for information to executive departments and the judicial branch via letters to the Governor, other elected officials, and the Chief Justice. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as an Appendix in the annual Appropriations Report (Appendix H in the FY 2022-23 Report):
https://leg.colorado.gov/sites/default/files/fy22-23apprept.pdf

The requests for information relevant to this document are listed below.

There were no requests for information concerning Total Compensation or PERA for FY 2023-24.