

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee/ Conference Committee on S.B. 17-254
FROM Amanda Bickel, JBC Staff
DATE April 27, 2017
SUBJECT Suggested Footnote, RFI, and reappropriated funds amounts associated with new MTCF Housing Funding

As the Committee is aware, the Senate added, and the House retained, \$16,300,000 cash funds from the Marijuana Tax Cash Fund (MTCF) for Affordable Housing Grants and Loans in the Department of Local Affairs. *The following recommendations are intended to make the purpose and use of the previously-approved appropriation more transparent.*

This additional funding was described on the floor as based on the Department of Local Affairs' R3 and R4 budget requests, which the JBC had not included in the introduced Long Bill.

The Department of Local Affairs has confirmed its intent to use the MTCF funds for purposes consistent with R3 (Supportive Housing for Behavioral Health Clients) and R4 (Permanent Supportive Housing and Rapid Re-housing) to the extent feasible under existing law.

FOOTNOTE TO ALLOW TRANSFER OF FUNDS

Both R3 and R4 anticipated a *mix* of use for construction grants and rental assistance. However, the *Affordable Housing Construction Grants and Loans pursuant to Section 24-32-721, C.R.S.* line item has, to-date, been used solely for funding related to purchasing, constructing or renovating housing. The line item has not been used for rental vouchers, which are funded in a separate line item. Further, staff would be uncomfortable using the Affordable Housing Construction Grants and Loans line item for rental assistance based on the statutory language at 24-32-721.

Assuming the House and Senate intend to fund R3 and R4, staff believes that the funding included in the reengrossed and rerevised Long Bill would be most effectively used—and uses would be easier to track—if the Department were allowed to transfer funds between the Affordable Housing Grants and Loans line item (where the funds have been appropriated) and the Low Income Rental Assistance line item. **Staff recommends the following new Long Bill footnote. The Department of Local Affairs supports this proposed change:**

64a Department of Local Affairs, Division of Housing, Community Services, Low Income Rental Subsidies; and Field Services, Affordable Housing Grants and Loans pursuant to Section 24-32-721, C.R.S. -- It is General Assembly's intent that rental vouchers issued by the Division of Housing are charged to the Low Income Rental Subsidies line item. For the purpose of issuing rental vouchers, the Department may transfer up to \$3,200,000 cash funds from the Marijuana Tax Cash Fund from the line item for Affordable Housing Construction Grants and Loans pursuant to Section 24-32-721, C.R.S. to the line item for Low Income Rental Subsidies.

REAPPROPRIATED FUNDS FOR ADMINISTRATION

Staff also recommends an appropriation of \$300,000 reappropriated funds and 2.0 FTE be reflected in the Affordable Housing Program Costs line item, where administrative expenditures are shown. This is based on the portions of R3 and R4 that were described as being used for administrative purposes. The source of the funds would be amounts transferred from the Affordable Housing Construction Grants and Loans line item for administration. *Staff believes the new funds added in the Affordable Housing Construction Grants and Loans should be treated in a manner consistent with the rest of the Affordable Housing Construction Grants and Loans appropriation, i.e., there should be an associated reappropriated funds amount added in the Affordable Housing Program Costs line item for administration. Regardless of whether an appropriation is provided as staff recommends, the Department has statutory authority to use a portion of the new funding for administration.*

Section 24-32-721 (3) (b), C.R.S., says that “For any given state fiscal year, no more than three percent of the moneys appropriated from the fund may be expended for the administrative costs of the division in administering the fund”. Thus, statutory authority would permit up to \$489,000 of the total \$16,300,000 appropriated by the House and Senate for housing to be used for administration. Since no Long Bill provision can overrule statutory authority, the staff recommendation is based on the plan put forward by the Executive related to administrative funding for the new initiatives.

REQUEST FOR INFORMATION

Staff assumes spending would be based on R3 and R4 to the extent allowed by law as of July 1, 2017. Under current at Section 39-28.8-501, C.R.S, the funds could be used, pursuant to Section 39-28.8-501 (2)(b)(III)(C), C.R.S., “to treat *and provide related services* to people with any type of substance use disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of substance use disorder services.”

The allowed uses of the MTCF could change prior to the end of the session, *e.g.*, based on bills that would allow use of MTCF for services for various services for people transitioning from the criminal justice system (S.B. 17-021) or those with behavioral health needs (S.B. 17-207). Both of these bills are currently pending hearing in the Senate Appropriations Committee.

In light of potential changes in statutory authority, as well as the scale and range of uses identified in R3 and R4, staff recommends modifying a previously-approved DOLA Request for Information #3 to more comprehensively address use of these funds. (Initial caps reflect previously-approved language; small caps reflect the recommended addition to this request.)

- 3 Department of Local Affairs, Division of Housing -- The Department is requested to submit a report by September 1, 2017 on its affordable housing programs. The report should specifically address:
 - the projects funded with the affordable housing construction moneys provided;
 - the per-unit costs of these projects identifying specifically state funds and other funds;
 - how the projects funded align with the goals outlined in the Department's FY 2014-15 budget request to "end homelessness for veterans and chronically homeless" and "ensure sufficient affordable housing for persons with the lowest incomes"; and

- what progress the State has made in achieving each of these goals.

THE REPORT SHOULD ALSO PROVIDE AN UPDATE ON THE DEPARTMENT'S PLANS AND PROGRESS IN USING \$16,300,000 MARIJUANA TAX CASH FUNDS ADDED IN FY 2017-18. THIS SHOULD INCLUDE INFORMATION ON THE STEPS THE DEPARTMENT IS TAKING TO ENSURE THE ADDITIONAL FUNDS ARE USED FOR POPULATIONS AND SERVICES THAT ARE CONSISTENT WITH THE PROVISIONS OF SECTION 39-28.8-501, C.R.S.