

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUESTS FY 2023-24

DEPARTMENT OF PUBLIC SAFETY

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

PREPARED BY:
EMILY HANSEN, 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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INTERIM SUPPLEMENTAL REQUESTS

ES1 COLORADO NONPROFIT SECURITY FUNDING

	REQUEST	RECOMMENDATION
TOTAL	\$1,100,000	\$0
FTE	1.5	0.0
General Fund	1,100,000	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; **and** (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **NO**

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

Explanation: The Department states that the request meets interim supplemental criteria because the request is based on new increased threats as a result of recent world events arising while the General Assembly is not in session. Statutory authority for interim supplementals specifies the Committee's authority to approve unforeseen overexpenditures. Staff finds that the request is not within the statutory authority for consideration of interim supplementals as it is related to a programmatic increase rather than the authorization of an overexpenditure.

DEPARTMENT REQUEST: The Department requests an increase of \$1.1 million General Fund and 1.5 FTE in FY 2023-24 for the Colorado Nonprofit Security Grant Program established by H.B. 22-1077 (Colorado Nonprofit Security Grant Program). Request detail by line item is provided in the table below.

REQUEST FOR ES1 COLORADO NONPROFIT SECURITY FUNDING						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Executive Director's Office						
Health, Life, Dental	\$16,550	\$16,550	\$0	\$0	\$0	0.0
AED/SAED	10,522	10,522	0	0	0	0.0
Paid Family Leave	473	473	0	0	0	0.0
Short-term Disability	168	168	0	0	0	0.0
Office of Preparedness						
Program Administration	1,072,287	1,072,287	0	0	0	1.5
Total	\$1,100,000	\$1,100,000	\$0	\$0	\$0	0.0

STAFF RECOMMENDATION: Staff finds that the request does not meet the statutory criteria for interim supplemental requests and recommends denial of the request.

If the Committee approves the request, staff recommends an appropriation of \$1,072,287 General Fund and 1.5 FTE in FY 2023-24 to remove centrally appropriated line items pursuant to Committee common policy for FTE requests in the first year.

STAFF ANALYSIS: The Department narrative includes an increase of \$1.1 million General Fund and 1.5 FTE for the remaining six months of FY 2023-24 and \$197,665 General Fund and 2.0 FTE in FY 2024-25 and ongoing. The Department states that the request is the result of an increase in immediate security needs due to a heightened threat environment related to world events that have arisen during the legislative interim.

When asked about the FY 2024-25 impact described in the request, the Executive Branch provided the following response.

“Any FY 2024-25 resources beyond what was requested in R-07 on November 1 will be included as budget amendment requests on January 2; the executive branch does not expect the committee to use this request to make any budget actions pertaining to FY 2024-25.”

The Department’s November request includes an increase of \$1.0 million General Fund and 0.9 FTE for the Colorado Nonprofit Security Grant Program. The Department indicates that demand for the program has only continued to grow since the original November request was conceived, resulting in the interim supplemental request. Staff anticipates that the Department may submit a budget amendment in January for additional staffing in FY 2024-25 based on the interim request and follow-up response.

COLORADO NONPROFIT SECURITY GRANT

The Colorado Nonprofit Security Grant was established by H.B. 22-1077 (Colorado Nonprofit Security Grant Program) to provide grants to nonprofit organizations that applied for but did not receive a grant under the Federal Nonprofit Security Grant Program. The bill included an ongoing appropriation of \$500,000 General Fund and 1.0 FTE beginning in FY 2022-23, annualizing to \$518,280 General Fund on an ongoing basis. Grant awards are limited to \$50,000 per organization, and grant awardees must provide reporting to the Department. Reporting includes an implementation plan, quarterly progress reports, completion report, and any reimbursement requests.

The Federal Nonprofit Security Grant Program is administered by the Federal Emergency Management Agency (FEMA). FEMA awarded a total of \$305 million in FY 2022-23, including \$5.6 million within the state of Colorado.¹ Grants support physical security enhancements and activities for nonprofit organizations at high risk of terrorist attack. FEMA notes that this is one of three federal grants available for this purpose. Applicants for the State program must have applied and not been awarded the federal grant, but there are no other statutory requirements for the type of nonprofit that may apply for or be awarded the grant. State grant awards for the two existing grant cycles are provided in the table on the following page.

¹ [FEMA FY23 NSGP Award Totals.](#)

HB 22-1077 GRANT AWARDEES		
	PROGRAM	AWARD
2022		
	Church in the City-Beth Abraham	\$50,000
	Congregation Rodef Shalom	26,103
	East Denver Orthodox Synagogue	50,000
	Jewish Community Centers of Denver	49,099
	JEWISHcolorado	50,000
	Saint John Paul II Center	50,000
	Southeast Center for Judaism	41,431
	St. Anthony of Padua Catholic Parish	41,431
	<i>Subtotal</i>	<i>\$358,064</i>
2023		
	Congregation Har HaShem	\$42,680
	Divine Redeemer Catholic School	45,475
	Encounter Church	48,500
	Girl Scouts of Colorado	48,500
	Holy Spirit Association for the Unification of World Christianity of Colorado	29,100
	Jordan Chapel AME Church	48,500
	Rocky Mountain Christian Academy	48,500
	YMCA of Northern Colorado, Boulder	48,500
	YMCA of Northern Colorado, Longmont	48,500
	<i>Subtotal</i>	<i>\$408,255</i>
	TOTAL	\$766,319

The Department states that the funding provided through H.B. 22-1077 allowed the Department to raise awareness for the program, resulting in a surge of applications. The Department states that when HB 22-1077 was passed, the difference between the requested and funded amounts for federal grants was \$5.4 million. The Department anticipates that the difference between requests and “probable” funding in 2023 is \$9.5 million. The Department further indicates that it was unable to award grants to 30 applicants due to a lack of funding.

The Colorado Information Analysis Center (CIAC) also provides physical security assessments and has a trained subject matter expert in physical security and vulnerability mitigation to provide building owners with recommendations to improve security. The request notes that these assessments are used to inform grant applications, and there is a currently an assessment backlog.

ADDITIONAL LEGISLATIVE ACTION

House Bill 22-1234 (Preventing Identity-based Violence Grant Program) established a grant program for community organizations that prevent identity-based acts of violence. The bill included an ongoing \$1.0 million General Fund appropriation to the Division of Criminal Justice. The program has awarded grants to a total of six programs over two fiscal years, including the University of Colorado Boulder, the Counterterrorism Education Learning Lab, Inside Out Youth Services, the Arapahoe County Sheriff, Castle Rock Pride, and Northeastern Junior College.

In FY 2023-24, the Committee and General Assembly also approved \$182,288 General Fund and 1.8 FTE to implement a domestic violence extremism prevention program in the Division of Homeland Security and Emergency Management. The Department indicates that these positions have been fully hired.

REQUEST

The request includes \$1.1 million General Fund and 1.5 FTE in FY 2023-24. Of that amount, \$169,251 is intended to support partial-year implementation of three FTE, and \$930,749 is intended to support additional grant awards. The Department estimates that the funding would approximately triple the FY 2023-24 grant award and support an additional 8-10 nonprofit organizations. The positions include one Grants Specialist, an Identity-based Violence Advisor/Analyst, and an Infrastructure Protective Security Advisor. The requested amounts are intended for the remaining 6 months of the fiscal year, beginning January 2024.

This is related to a request submitted by the Department in November, R7 Colorado Nonprofit Security Grant Funding. The November request includes an increase of \$1.0 million General Fund and 0.9 FTE in FY 2024-25. The Interim Supplemental request would allow the Grants Specialist requested in FY 2024-25 to begin up to six months earlier, and also includes two analyst positions not included in the November request.

Staff assumes that the Department may submit a budget amendment in January to incorporate additional positions into the FY 2024-25 request. The Department indicates that the interim request would support grant applications that have already been received and reviewed, making it unclear why additional staffing is needed on an emergency basis.

INTERIM SUPPLEMENTAL CRITERIA

Section 24-75-111, C.R.S., establishes the authority for the JBC to approve operating budget over-expenditures while the General Assembly is not in session. If the over-expenditure authority is not requested or approved, the Controller may restrict spending from overspent line items by the same amount in the next fiscal year. If the JBC approves the request, the JBC is required to introduce a supplemental appropriation for the fiscal year the over-expenditure occurred. The Controller's restriction is released once the supplemental bill is enacted.

The Department provided the following justification for meeting interim supplemental criteria:

"This request meets 1331 supplemental criteria because it is necessary due to unforeseen circumstances arising while the General Assembly is not in session.

This request is based on the new increased threats to faith communities as a result of the recent world events."

The request narrative does not describe any over-expenditures related to the request. Statutory criteria for interim supplementals is specific to over-expenditures arising while the General Assembly is not in session. An unanticipated issue arising during the interim is not addressed by the statute if there is no over-expenditure for the Committee to approve. Therefore, staff finds that the request does not meet statutory criteria for consideration by the Committee.

When asked about whether the request is related to approval of an over-expenditure, the Executive Branch indicated that no over-expenditure has occurred. However, the Department states that there are 30 applications it was unable to fund in FY 2023-24, "indicating an imminent risk of over-expenditure."

RECOMMENDATION

Staff recommends denial of the request for the following reasons.

- 1 **Statutory Interim Supplemental Criteria**: the request is not related to an over-expenditure, and therefore does not meet the statutory criteria to be considered by the Committee.
- 2 **Unforeseen contingency**: The Department states that the request meets interim supplemental criteria because of an increased threat environment resulting from world events that were unforeseen while the General Assembly was in session. Interim supplementals must both be an over-expenditure **and** unforeseen. The Department has had multiple budget requests and bills related to increased threat environments in recent years, indicating that even if the threat environment has increased the Department has been aware of and received increased resources to be resourced to address an increased threat environment.
- 3 **World events**: The request is driven by global events. If the Committee approves the request, the Committee is approving the request on behalf of the entire Legislature while the General Assembly is not in session. Staff cannot recommend that the Committee act on behalf of the General Assembly given the contentious political environment motivating the request.
- 4 **Ongoing funding**: While the Committee could approve the interim supplemental and deny the related FY 2024-25 request, approval of the interim supplemental would allow the Department to begin hiring for positions presumed to be ongoing.

The purpose of interim supplementals is to address emergency over-expenditures for existing programs. The purpose is not to increase existing programming and add new FTE. By approving the request, the Committee would be allowing the Department to jump start a FY 2024-25 request in January 2024, which does not align with the purpose or statutory authority of interim supplementals and does not allow the entire General Assembly to weigh in on the issue a maximum of three weeks before the new Legislative Session begins.

Without approval of the request, the Department and Committee have the following options.

- Operate within existing appropriations for FY 2023-24.
- Overexpend the FY 2023-24 appropriation and have a restriction on FY 2024-25 spending.
- Submit and consider a January Supplemental where statutory interim supplemental criteria does not apply.

If the Committee intends to approve the request, staff recommends an appropriation of \$1,072,287 General Fund and 1.5 FTE in FY 2023-24 to remove centrally appropriated line items pursuant to Committee common policy for FTE requests in the first year.

ES2 MIGRANT SUPPORT

	REQUEST	RECOMMENDATION
TOTAL	\$5,000,000	\$0
FTE	4.0	0.0
General Fund	0	0
Cash Funds	5,000,000	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **NO**

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

Explanation: The Department indicates that the request meets interim supplemental criteria because it is the result of unforeseen circumstances arising while the General Assembly is not in session. Statutory authority for interim supplementals specifies the Committee's authority to approve unforeseen overexpenditures. Staff finds that the request is not within the statutory authority for consideration of interim supplementals as it is related to a programmatic increase rather than the authorization of an overexpenditure.

DEPARTMENT REQUEST: The Department requests an increase of \$5.0 million federal funds and 4.0 FTE in FY 2023-24 to provide grants to community-based organizations providing services to people migrating to Colorado. The request overview indicates 4.5 FTE, but all calculation information related to the request reflects 4.0 FTE. Request detail by line item is provided in the table below.

REQUEST FOR ES2 MIGRANT SUPPORT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Executive Director's Office						
Health, Life, Dental	\$44,132	\$0	\$0	\$0	\$44,132	0.0
AED/SAED	28,056	0	0	0	28,056	0.0
Paid Family Leave	1,263	0	0	0	1,263	0.0
Short-Term Disability	449	0	0	0	449	0.0
Office of Emergency Management						
Appropriation to UIR Fund	4,926,100	0	0	0	4,926,100	4.0
Total	\$5,000,000	\$0	\$0	\$0	\$5,000,000	4.0

STAFF RECOMMENDATION: Staff finds that the request does not meet statutory criteria for interim supplemental requests and recommends denial of the request. Staff further finds that the request cannot be implemented as requested, and should instead request a cash fund appropriation from the Revenue Loss Restoration Cash Fund and associated reappropriated funds spending authority from the Urgent Incident Response Fund if approved by the Committee.

If the Committee intends to approve the request, staff recommends an appropriation of \$4,926,100 cash funds from the Revenue Loss Restoration Cash Fund and \$4,926,100 reappropriated funds from the Urgent Incident Response Fund for the associated spending authority. The amount removes centrally appropriated line items pursuant to Committee common policy for FTE requests in the first year. Amounts are detailed in the table below.

ES2 MIGRANT SUPPORT STAFF IMPLEMENTATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Executive Director's Office						
Health, Life, Dental	\$0	\$0	\$0	\$0	\$0	0.0
AED/SAED	0	0	0	0	0	0.0
Paid Family Leave	0	0	0	0	0	0.0
Short-Term Disability	0	0	0	0	0	0.0
Office of Emergency Management						
Appropriation to UIR Fund	4,926,100	0	4,926,100	0	0	0.0
Urgent Incident Response	4,926,100	0	0	4,926,100	0	4.0
Total	\$9,852,200	\$0	\$4,926,100	\$4,926,100	\$0	4.0

STAFF ANALYSIS: The supplemental budget request includes an appropriation of \$5.0 million ARPA funds to the Urgent Incident Response Fund. The funding is expected to support an additional 4.0 FTE, with the remainder of funds used to reimburse the Division of Homeland Security and Emergency Management for grants to community-based organizations that provide services to individuals who have recently migrated to Colorado.

URGENT INCIDENT RESPONSE FUND

The cash fund was created by H.B. 23-1270 (Urgent Incident Response Fund). The bill included a one-time General Fund appropriation of \$1.0 million to the cash fund. The cash fund may be used to reimburse state agencies and local governments for the costs of responding to “urgent incidents” that do not rise to the level of disasters or emergencies declared by the Governor (Section 24-33.5-1623 (3), C.R.S.). Urgent incidents are not statutorily defined. The cash fund was continuously appropriated in the introduced version of the bill, but was amended in the House Appropriations Committee to require annual appropriation authority by the General Assembly.

The fund is appropriated to the Division of Homeland Security and Emergency Management (DHSEM). The bill required that any reimbursements supported by the fund be publically reported on the DHSEM website, but did not provide a timeline for this requirement. During the 2023 Public Safety JBC Staff Briefing, the Committee asked the Department to provide expenditures from H.B. 23-1270. As part of their Hearing response, the Department indicated that **of the initial \$1.0 million General Fund appropriation, \$75,342 has been expended and \$597,628 has been encumbered** to date for contract staff to support migrant sheltering operations in Denver. The Department response anticipates that the full \$1.0 million will be expended by the end of FY 2023-24 for migrant humanitarian assistance.

EXECUTIVE EMERGENCY AUTHORITY

A disaster emergency may be declared by executive order or proclamation of the governor if the governor finds a disaster or threat of disaster has occurred (Section 24-33.5-704 (4), C.R.S.). Disaster and emergency are statutorily defined as provided below.

Disaster: Occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin (Section 24-33.5-703 (3), C.R.S.).

Emergency: Unexpected event that places life or property in danger and requires an immediate response through the use of state and community resources and procedures (Section 24-33.5-703 (3.5), C.R.S.).

An executive order or proclamation of a state of disaster emergency activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans. In the event of a disaster emergency, the first funding recourse is money regularly appropriated to state and local agencies (Section 24-33.5-706 (4)(a), C.R.S.). If the Governor finds that the demands placed upon this money are unreasonably great, the Governor may make money available from the Disaster Emergency Fund (DEF). If the DEF is insufficient, the Governor may transfer money appropriated for any other purposes into the DEF.

The DEF consists of any money appropriated by the General Assembly, transferred by the Governor, and reimbursements. The Director of Homeland Security and Emergency Management is authorized to establish and promulgate the rules that govern the reimbursement of funds to state agencies. The Committee designates funds available for the purpose of disaster emergencies as part of budget balancing every year.

The Governor may also transfer money from the DEF to the Resource Mobilization Fund when the Governor deems necessary that a disaster emergency is imminent. The Director of the Office of Emergency Management is authorized to use money in the fund to provide reimbursement to state agencies and jurisdictions for incidents in accordance with the state emergency mobilization plan (Section 24-33.5-705.4 (6)(b), C.R.S.).

The Executive Branch indicates that the Governor has not declared a disaster emergency related to the influx of people migrating to the state over the last year because the event has not caused severe damage, injury, or loss of life. The response further indicates that the Governor may exercise this authority at any time if conditions deteriorate and migrants are placed in harm's way due to a lack of essential services.

MIGRATION CRISIS

An influx of people have migrated to the state of Colorado over the last calendar year. The most recent reports from the City and County of Denver alone indicate that 30,944 people have been served at a cost of more than \$34.0 million.² The City and County further estimates that costs in the next year will total \$100.0 million. These expenses are not budgeted for, and therefore must be covered by reserves or absorbed by holding vacancies or cutting services. Denver currently has a vacancy review committee where departments are required to submit requests to fill vacant positions, and non-essential General Funded positions have been held vacant for over a year to cover the costs of the crisis.

Denver's response includes a wide range of services, including shelter, arranging for short- and long-term housing, food, health care, K-12 education, clothing, transportation, translation, and volunteer and donation coordination. The State has allocated ARPA funds through DHSEM and the Office of

² [City and County of Denver Migrant Sheltering Response.](#)

New Americans (ONA) in the Department of Labor to support sheltering and housing resources, including security deposits and first/last month rent for long-term housing.

Former Denver Mayor Hancock first declared a state of emergency for the City and County of Denver in December of 2022. The Governor has not declared a disaster emergency that would make additional funds available and activate interjurisdictional emergency agreements. Similarly, a Stafford Act declaration has not been made on the federal level to activate FEMA emergency funds or response. Emergency declarations may also activate non-profits such as the Red Cross or Salvation Army that are prepared to provide mass shelter. Without an emergency declaration, local governments are limited to soliciting assistance from local immigration non-profits that are not resourced or experienced with setting up short and long-term shelter.

Current Denver Mayor Johnston has stated that Denver has had the highest migrant population per capita of any interior city.³ The influx has been viewed as a problem unique to Denver that does not require a regional or statewide response. However, neighboring and even mountain communities are facing the similar service and budgetary impacts as Denver.⁴

The City and County of Denver indicates that the State has provided \$3.5 million, the federal government \$909,000, and the U.S. Department of Homeland Security has announced that Denver will receive \$9.0 million to support local response. The Department reported the following state and federal resources have been allocated for response to date.

EXISTING STATE AND FEDERAL RESOURCES	
	AMOUNT (IN MILLIONS)
State Resources	
ARPA	\$11.9
Federal Funds reimbursed to ARPA	2.0
Urgent Incident Response Fund	1.0
DOLA Energy Impact Assistance Fund	3.5
<i>Subtotal</i>	<i>\$18.4</i>
Federal Resources	
FEMA Emergency Food and Shelter Program to State	\$0.4
FEMA Shelter and Services Program to State	1.6
FEMA Emergency Food and Shelter Program to Denver	1.0
FEMA Shelter and Services Program to Denver	9.0
<i>Subtotal</i>	<i>\$12.0</i>
TOTAL	\$30.4

ARPA FUNDS

The Executive Branch has already utilized ARPA funds for the purpose of supporting housing and humanitarian support for people who have migrated to the state. Executive Branch reports indicate that \$7.3 million has been allocated to the Department of Public Safety, and \$130,000 to the Department of Labor and Employment for this purpose.⁵ This amount is lower than the total reported by the Department of Public Safety, and does not include allocations or expenditures that may have

³ [NBC \(2023\). Denver's mayor asks Biden administration for more work authorizations to get migrants off streets.](#)

⁴ [Colorado Sun \(2023\). Carbondale community comes together to help 80 Venezuelan migrants sleeping below a bridge.](#)

⁵ [Executive Branch ARPA Reporting.](#)

occurred after September 30, 2023. All reported allocations are supported by the American Rescue Plan Act of 2021 Cash Fund created by S.B. 21-288 (American Rescue Plan Act of 2021 Cash Fund). Reported allocations are provided in the table below.

S.B. 21-288 (ARPA OF 2021 CASH FUND) MIGRANT SERVICES ALLOCATIONS					
DEPARTMENT	BILL	ALLOCATION	EXPENDITURE	ENCUMBRANCE	PURPOSE
Public Safety	S.B. 21-288	\$5,053,000	\$3,360,716	\$1,057,959	Supports service providers to provide humanitarian relief for migrant families to reduce the number of people experiencing homelessness
Public Safety	S.B. 21-288	1,436,325	186,432	305,904	Direct contracts with service providers to provide humanitarian relief to migrant families to reduce the number of people experiencing homelessness.
Public Safety	S.B. 21-288	667,000	464,926	157,608	Provides grants to service providers to provide humanitarian relief in the form of housing and case management to migrant families and individuals to reduce the number of people experiencing homelessness.
Labor	S.B. 21-288	130,000	28,061	0	Support 1.0 FTE for the coordination of humanitarian service to providers from nonprofit, governmental, and private sources and liaise between the ONA, DHSEM, and local governments.
TOTAL		\$7,286,325	\$4,040,135	\$1,521,471	

The ARPA of 2021 Cash Fund received the original ARPA allocation to the state, and was used to support transfers to other cash funds created by the General Assembly for certain purposes. Statute specifies that the General Assembly cannot appropriate from the Fund, and the Governor may utilize up to \$300.0 million remaining in the fund after Legislative transfers (Section 24-33.5-226, (4)(a), C.R.S.). Any allocations made by the Governor’s office are continuously appropriated to the Department that receives the allocation and therefore does not require an appropriation from the General Assembly for expenditure.

The request provides an additional \$5.0 million ARPA funds from the Revenue Loss Restoration Cash Fund to the UIR Fund in addition to the \$7.3 million ARPA funds the Executive Branch has already allocated for this purpose without action by the General Assembly. It is unclear to JBC Staff why the Executive Branch now requests that the JBC take action to approve further expenditures a few weeks before the full General Assembly is in session when authority was not requested for previous expenditures.

OFFICE OF NEW AMERICANS

As discussed during the November 28, 2023 staff briefing on the Department of Labor, the Office of New Americans (ONA) serves refugees, asylees, Special Immigrant Visa holders, victims of trafficking, Deferred Action for Childhood Arrival (DACA) recipients, and all other immigrants and aspiring citizens in the state. ONA currently includes 7.4 FTE, and the FY 2024-25 Executive Branch request includes funding to support an additional 1.6 FTE.

The interim supplemental request indicates that ONA is providing programmatic support and management of grant funds distributed by DHSEM. The Governor’s November 2023 Budget Request

Letter also includes legislative placeholders of \$2.5 million General Fund for a grant program and community support fund to support nonprofits that provide services to migrants through ONA.

The letter further identifies \$7.5 million ARPA funds for reallocation to “build Colorado’s nonprofit infrastructure to help welcome Colorado’s newest arrivals.” The letter indicates that \$2.5 million of that amount will support the ONA, while the remaining \$5.0 million would be submitted in a proposal to the JBC, assumed to be this interim supplemental or a request not yet submitted. The ARPA reallocation originates as “SFLRF Emergency Rental Assistance.” The letter does not provide a bill number for the origin of these rental assistance funds, and no funds that have been allocated to the Departments of Labor or Public Safety match this description. Staff therefore assumes that the ARPA funds identified for this request have been reallocated from Emergency Rental Assistance allocations to the Department of Local Affairs.

REQUEST

The Executive Branch request includes an appropriation of \$5.0 million federal funds to the Urgent Incident Response (UIR) Fund to reimburse the Division of Homeland Security and Emergency Management for grants to community-based organizations that support people arriving to the state.

The request reflects ARPA funds as federal funds rather than an appropriate ARPA cash fund as established by the General Assembly. The request narrative did not specify which ARPA cash fund was intended to be utilized for the request. Through additional follow-up, the Department identified the Revenue Loss Restoration Cash Fund as the requested fund source.

Of the \$5.0 million requested, an estimated \$424,000 is intended to support FTE, however, the cost calculation is based on 4.0 FTE while the summary detail shows 4.5 FTE. The Department indicates that FTE are requested on a one-time basis, but staff questions whether the FTE would become an ongoing General Fund obligation. The FTE as described in the request narrative are provided below.

- 1.5 FTE for communication with community-based organizations;
- 1.0 FTE for compliance with federal regulations and reviewing contracts and reimbursements;
- 1.0 FTE for a Migrant Operations Branch Chief; and,
- 0.5 FTE for a Migrant Operations Branch planner.

The UIR Fund can only be used to reimburse state and local agencies, and cannot be utilized to make grants to community-based organizations directly. Therefore, the Department indicates that the Office of Preparedness within the Division of Homeland Security and Emergency Management will administer grants, and the UIR Fund will be used to reimburse the Office for the cost of those grants. The Department further indicates that the Office of Preparedness is executing grant agreements with community-based organizations and working with the Office of New Americans to transition grants to the Department of Labor in the future.

While the Department did not provide a name of a grant program or statutory authority utilized to grant out funds to community-based organizations, the Office of Preparedness has the statutory authority to administer any grants authorized by the Governor (Section 24-33.5-1606.5 (3)(a)(IX), C.R.S.). The request indicates that funding could support a range of purposes, described below.

- Conduct an intake and assessment of needs;
- Provide cultural orientation;
- Provide case management;

-
- Distribute emergency and transitional supplies including food and clothing;
 - Provide access to stable housing or referrals to housing throughout the state including signing leases, security deposits, conducting background checks, and home visits for sponsors, orientation to rent and online payments;
 - Provide English as second language classes or a referral to ESL classes;
 - Provide financial orientation;
 - Refer or provide mental health services;
 - Refer to physical health services;
 - Help enroll children in school;
 - Provide interpretation and translation;
 - Provide transportation, bus orientation, bus passes, etc.; or,
 - Provide immigration legal assistance or referrals to immigration legal services.

The request does not describe specific community-based organizations that may be supported, or the locations and services provided by those organizations.

SUPPLEMENTAL CRITERIA

The Department provided the following narrative to justify interim supplemental criteria.

“This request meets 1331 supplemental criteria because it is necessary due to unforeseen circumstances arising while the General Assembly is not in session. It did not meet the criteria to be considered by the legislature during the November 2023 Special Session.

This request is based on the increased influx of migrants from the southwest border in recent months.”

The request narrative does not describe any over-expenditures related to the request. Statutory criteria for interim supplementals is specific to over-expenditures arising while the General Assembly is not in session. An unanticipated issue arising during the interim is not addressed by the statute if there is no over-expenditure for the Committee to approve. Therefore, staff finds that the request does not meet statutory criteria for consideration by the Committee.

Staff does acknowledge the crisis the request seeks to address. However, staff does not agree that the request is the result of unforeseen circumstances as the migration influx began over one year ago and was discussed by the General Assembly during the 2023 Legislative Session.

The bill that created the Urgent Incident Response fund was first identified as a placeholder in the Governor’s November 2022 Request. Throughout the legislative process, the bill sponsors indicated that the purpose of the fund was to support the migrant crisis. While the issue has progressed and may require further action by the General Assembly during the 2024 Session, it was not unforeseen or unaddressed in the 2023 Session.

Further, the Executive Branch has already allocated ARPA funds for this purpose without requesting or requiring appropriation authority from the General Assembly. While transparency is always preferred, it is unclear why the Executive Branch is requesting an appropriation to the UIR Fund rather than directly allocating other emergency or ARPA funds. Requesting an interim supplemental requires the Committee to make a decision on the request on the behalf of the entire General

Assembly, putting the Committee in a potentially contentious position and stalling emergency resources from getting out the door.

RECOMMENDATION

Staff recommends denial of the request for the following reasons.

- 1 **Interim Supplemental Criteria:** Staff finds that the request does not meet the statutory criteria to be considered by the Committee as an interim supplemental as it is not pertaining approval for an overexpenditure.
- 2 **Unforeseen circumstance:** To meet criteria, interim supplementals must be unforeseen **and** an overexpenditure. An unforeseen circumstance alone does not meet statutory criteria. Further, staff does not agree that the circumstance was unforeseen as the issue was considered and addressed through legislation during the 2023 Legislative Session.
- 3 **Cash Fund Statutory Authority:** The purpose of the cash fund is to reimburse local and state agencies, not provide grants to community-based programs.
- 4 **ARPA funds:** The Executive Branch has already allocated ARPA funds for this purpose and it remains unclear why the Executive Branch requests that the Committee act in the absence of the entire General Assembly to approve action within the existing statutory authority of the Executive Branch. Further, the request includes an inaccurate and incomplete reflection of the ARPA cash fund source.
- 5 **ARPA reallocation:** Based on the Governor’s Letter, staff assumes that the ARPA funds utilized for the request were originally dedicated for Emergency Rental Assistance. While sheltering migrants may fit within this purpose, staff questions if it aligns with the intent of the original legislation enacted on this topic and whether migrant assistance will and should come at the cost of other housing programs.
- 6 **Ongoing impact:** Staff is concerned that the FTE included in the request, even if intended to be one-time, will become an ongoing General Fund obligation.
- 7 **Placeholders:** The Governor’s Letter indicates General Fund and ARPA fund placeholders for the Office of New Americans to support migrants into the state.
- 8 **Impacts to other agencies:** The request does not specify how the implementation of the request and FTE will or will not overlap with the Office of New Americans, and how these operations may be transferred to the Department of Labor in the long term.

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- 9 **Emergency declaration:** If the Executive Branch intended to provide meaningful relief in response to a crisis event, the Governor could declare a disaster emergency to make funding and resources available to local governments, and activate interjurisdictional agreements.
 - 10 **Lack of implementation and ongoing planning:** Local governments are relying on vacancy savings and service cuts to address the migrant crisis. State and federal financial support has been limited and piecemeal. Local governments have emphasized a need for funding they can plan for and rely on, rather than large one-time influxes.

The purpose of Interim Supplementals is to address emergency over-expenditures for existing programs. The purpose is not to add new FTE. By approving the request, the Committee would be providing additional funding to legislation passed in the last session that went through a prioritization process against other legislation during the 2023 session, at a maximum of three weeks before the 2024 legislative session begins.

It is within the authority of the Executive Branch to allocate ARPA funds or declare a disaster emergency to provide immediate assistance and relief. Legislative action should be reserved for the regular session when the full General Assembly can debate the prioritization of allocating resources for this issue against other legislative priorities.
