

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Emily Hansen, JBC Staff (303-866-4961)
DATE June 20, 2023
SUBJECT Department of Public Safety CBI Cash Fund Waiver

Section 24-75-402, C.R.S., establishes a reserve limit for all cash funds equal to 16.5 percent of the total expenditures from the fund each fiscal year. This amount is intended to be roughly equal to a 2-month spending reserve. If a cash fund is out of compliance for three fiscal years, spending out of the cash fund is restricted by the State Controller. Cash funds may be exempted from the reserve limit in statute, or be granted a waiver by the JBC to temporarily operate with excess reserves.

The JBC may waive the maximum reserve requirement or establish an alternative reserve for up to three fiscal years when a state agency demonstrates a specific purpose for which it may be necessary to maintain an excess uncommitted reserve. Any cash funds approved for a waiver by the JBC are provided to the Controller in a letter with no further action required by the General Assembly.

COLORADO BUREAU OF INVESTIGATION IDENTIFICATION UNIT FUND

REQUEST: The Department of Public Safety requests a two-year waiver for FY 2022-23 and FY 2023-24 for the Colorado Bureau of Investigation Identification Unit Fund created in Section 24-33.5-426, C.R.S.

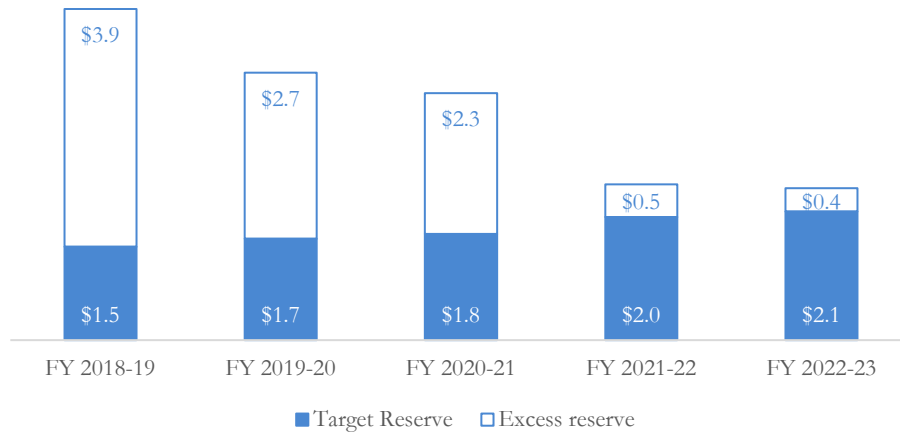
RECOMMENDATION: **Staff recommends approval of the request** for a two-year waiver.

ANALYSIS: The Colorado Bureau of Investigation Identification Unit Fund receives fees from name and fingerprint criminal history record checks. Revenue in the fund is appropriated by the General Assembly for the direct and indirect costs of administering background checks. Appropriations out of the fund support the personal services and operating expenses for the Biometric Identification Unit in the Colorado Bureau of Investigation (CBI).

The Biometric Identification Unit is the state repository for criminal history information. Criminal histories are updated continuously with a wide variety of arrest, court, and identifying information. The Unit receives and catalogs information through electronic and paper records from law enforcement agencies across the state. It also responds to records requests from local, state, and federal agencies, private entities, and the general public.

The cash fund built up a fund balance that allowed the Department to support a large IT capital project beginning in FY 2019-20. The fund was therefore granted a cash fund waiver for FY 2018-19 and FY 2019-20 to allow the Department to support the project. The cash fund has been out of compliance for the last three fiscal years since the original waiver expired. The excess reserve for each fiscal year is provided in the chart below.

Excess Uncommitted Reserve by Fiscal Year (in millions)



The Department was approved for a \$2.1 million capital IT project in FY 2020-21 for the Colorado Crime Information Center supported by the cash fund. The project is intended to transition existing software and databases from outdated agency-procured hardware to a cloud environment. The Department states that the cash fund waiver will allow the necessary expenditures to complete the project and bring the cash fund into compliance.

In addition to the IT project, adjustments have been made to revenues and expenditures that the Department anticipates will improve long term compliance. Primarily, the Department has decreased administrative fees on at least three occasions since FY 2019-20. Operating costs have also increased through legislation that allowed records to be sealed automatically without fees, H.B. 21-1214 (Record Sealing Collateral Consequences Reduction) and S.B. 22-099 (Sealing Criminal Records). House Bill 21-1214 created an automatic sealing process for records when no criminal charges are filed. The CBI is also required to automatically seal arrest records after one year, and automatically seal records for non-violent crimes. These bills have the effect of increasing administrative costs for the unit while also decreasing revenues received into the fund.

The Department states that if the waiver is not approved, the Controller may restrict spending from the cash fund by up to \$386,000 in the next fiscal year. If spending is restricted the Department anticipates that the operations of the Biometric Identification Unit will be impacted and completion of the approved capital IT project may be interrupted.

Staff is concerned about the Department's ability to bring the cash fund into compliance in the long-term, but recommends approval of the request to allow for completion of the capital IT project. The Department has successfully decreased the reserve over the last three years, but that has primarily been due to the one-time expenditures associated with the multimillion dollar IT project. The Department has also decreased fees and increased workload during this time, but further adjustments to fees may be necessary to maintain compliance once the IT project is complete.