

# JOINT BUDGET COMMITTEE



## INTERIM SUPPLEMENTAL BUDGET REQUEST FY 2020-21

## DEPARTMENT OF REVENUE

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

PREPARED BY:  
ANDREA UHL, JBC STAFF  
JUNE 18, 2021

## INTERIM SUPPLEMENTAL REQUESTS

### LOTTERY RETAILER COMPENSATION

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$13,500,000</b>	<b>\$13,500,000</b>
FTE	0.0	0.0
General Fund	0	0
Cash Funds	13,500,000	13,500,000
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.] **YES**

**Explanation:** Section 24-75-111, C.R.S., includes a requirement that the overexpenditure is due to *unforeseen circumstances arising while the General Assembly is not meeting in regular or special session*. This request was submitted on June 7, 2021, while the General Assembly was in session. Notwithstanding the failure to meet this statutory requirement, JBC staff and the Department agree that this request is the result of an unforeseen contingency.

**DEPARTMENT REQUEST:** The Department of Revenue requests an increase of \$13,500,000 in spending authority from the Lottery Fund for FY 2020-21 for retailer compensation.

**STAFF RECOMMENDATION:** Staff does not believe this request satisfies the statutory interim supplemental criteria due to the request being submitted while the General Assembly was in session. However, staff recommends the Committee approve the request and send the attached corresponding letter to the State Controller on the basis that denial would result in the Lottery failing to meet its contractual obligations to compensate retailers.

#### STAFF ANALYSIS:

The Lottery contracts with 2,900 businesses statewide to sell scratch and jackpot tickets. The Lottery pays these retailers commissions of 8.1 percent for scratch sales and 6.7 percent for jackpot sales; these rates are set by the Lottery Commission. The Retailer Compensation line item is used only for the payment of retailer commissions and bonuses; spending authority in this line has been set at \$54.6 million since FY 2018-19. Approximately 5.5 percent and 8.4 percent of spending authority in the line item was unused in FY 2018-19 and FY 2019-20, respectively. The State Lottery is a TABOR enterprise under Article X, Section 20, of the Colorado Constitution and is entirely cash funded from the Lottery Fund. However, individual line item spending authority within the State Lottery Division is appropriated by the General Assembly.

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The increase in retailer compensation and subsequent overexpenditure is a result of record high sales, especially in the second half of the fiscal year. The Lottery projects FY 2020-21 scratch sales will exceed \$550 million, compared to a previous high of \$491 million in FY 2019-20. Jackpot sales are projected to exceed \$215 million, which would be the second highest in the Lottery's history. The Lottery also had two approximately billion dollar jackpots at the same time for the first time in history in the early months of 2021 and several long stretches with no jackpot winners, which causes the prize to grow and sales to increase. With several instances of jackpots rolling over with no winners in recent months, and a several week lag between sales and when retailer compensation is owed, the Lottery did not become certain they would exceed their line item spending authority until the final weeks of the legislative session.

The Lottery's increase in sales and retailer compensation also corresponds with an increase in distributions to beneficiaries. Lottery proceeds (after payment of lottery-related administrative expenses, retailer compensation, prizes, and operating reserves) are distributed to the Conservation Trust Fund, Great Outdoors Colorado, Colorado Parks and Wildlife, and the Building Excellent Schools Today fund based on Constitutional and statutory requirements. The Lottery estimates that a total of \$165.3 million will be distributed to beneficiaries from FY 2020-21 sales, which is significantly higher than the five-year average of \$145.4 million from FY 2015-16 through FY 2019-20.

Although the request does not technically meet interim supplemental criteria because the overexpenditure became apparent and the request was submitted while the General Assembly was in session, staff recommends the Committee approve the request. The requested overexpenditure is from cash funds from an enterprise, and denial of the request would result in the Lottery being unable to pay retailers what they are contractually owed.

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JOINT BUDGET COMMITTEE  
LEGISLATIVE SERVICES BUILDING  
200 EAST 14TH AVENUE, 3RD FLOOR  
DENVER, CO 80203  
TELEPHONE 303-866-2061  
<http://leg.colorado.gov/agencies/joint-budget-committee>

June 18, 2021  
Robert Jaros, State Controller  
Office of State Controller  
1525 Sherman Street  
Denver, CO 80203

Dear Mr. Jaros:

The Joint Budget Committee has considered an interim supplemental request submitted by the Department of Revenue under the provisions of H.B. 98-1331. This request concerns the overexpenditure for Lottery retailer compensation and a subsequent restriction of funds. Pursuant to Section 24-75-111 (1), C.R.S., the Committee authorizes the overexpenditure listed below, and will sponsor a supplemental appropriations bill during the 2022 legislative session that reflects an adjustment for the fiscal year in which the overexpenditure occurred.

DEPARTMENT OF REVENUE		
JBC APPROVED ADJUSTMENT TO FY 2020-21 APPROPRIATION		
	TOTAL	CASH FUNDS
State Lottery Division, Retailer Compensation	\$13,500,000	\$13,500,000

The additional cash funds shall be from the Lottery Fund created in Section 44-40-111 (1), C.R.S.

If you have any questions or concerns, please contact Andrea Uhl of our staff at 303-866-4956.

Sincerely,

Senator Dominick Moreno, Chair  
Joint Budget Committee

cc: Mrs. Carolyn Kampman, Staff Director, Joint Budget Committee  
Lauren Larson, Executive Director, Office of State Planning and Budgeting  
Lorri Dugan, Chief Financial Officer, Department of Revenue