

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO JBC Members  
FROM JBC Staff  
DATE January 24, 2024  
SUBJECT Supplemental Comeback Packet 1

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Included in this packet are staff comeback memos for the following items:

**Department of Public Safety, page 2** (Gustavo Cortés): S8 Digital Trunk Radio System Appropriation Correction

**Department of Public Health and Environment, page 4** (Andrew McLeer): S7 Hazardous Substance Site Response Fund

**Department of Higher Education, page 6** (Louellen Lowe): S1/BA1 Cybersecurity Incident Remediation

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Gustavo Cortés, JBC Staff (303-866-4955)  
DATE January 24, 2024  
SUBJECT Supplemental Comeback  
Department of Public Safety  
S8 DTRS Payments Appropriation Corrections

During consideration of the supplemental requests from the Department of Public Safety, the JBC were notified that the common policy for the Digital Trunk Radio system is actually set in the Department of Public Safety. However, at the time the Supplemental Budget Request document was written, staff had not received the official prioritized request for that system. The JBC approved for staff to return to the Committee with a “comeback” to present that common policy request.

### S8/DIGITAL TRUNK RADIO PAYMENTS APPROPRIATIONS CORRECTIONS

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>(\$2,744,036)</b>	<b>(\$2,744,036)</b>
FTE	0.0	0.0
General Fund	(\$1,885,608)	(\$1,885,608)
Cash Funds	(\$808,061)	(\$808,061)
Reappropriated Funds	(\$22,896)	(\$22,896)
Federal Funds	(\$27,471)	(\$27,471)

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?** YES

[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.]

**Explanation:** Staff and the Department agree that the request is the result of a technical error in calculating the original appropriation.

**DEPARTMENT REQUEST:** The Department requests a reduction of \$2,744,036 total funds (\$1,885,608 General Fund, \$808,061 Cash Funds, \$22,896 Reappropriated Funds and \$27,471 Federal Funds) for the Digital Trunk Radio line item appropriations in five Departments (DOC, CDHE, Judicial, DOR and DPS) to align with the amount that will be billed based on the calculated rate that is determined by estimated total Office of Public Safety Communications costs and radio utilization per Department. All of these impacts will be reflected in non-prioritized requests, as the total appropriation amount does not need correction, but the billing amounts do.

### BACKGROUND

The Department stated that some of the Department Digital Trunk Radio Payments Long Bill appropriations are incorrect and need to be corrected to match the amount that will be collected by the Department for the Office of Public Communication Program. The table below summarizes the Departments appropriation totals that need to be corrected in order for the billing amounts to coincide.

# FY 2023-24 DIGITAL TRUNK RADIO APPROPRIATIONS

DEPARTMENT	FY 23-24 LONG BILL	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	CORRECT TOTAL	DIFFERENCE
Higher Education	\$0	\$144,245				\$144,245	144,245
Judicial	38,556	38,556				24,265	(14,291)
Revenue	234,160	234,160				140,874	(93,286)
Corrections	4,453,262	4,453,262				2,697,508	(1,755,754)
Public Safety	3,245,657	583,963	2,449,617	131,956	80,121	2,220,707	(1,024,950)
<b>Total</b>	<b>\$7,971,635</b>	<b>\$5,454,186</b>	<b>\$2,449,617</b>	<b>\$131,956</b>	<b>\$80,121</b>	<b>\$5,227,599</b>	<b>(\$2,744,036)</b>

**STAFF RECOMMENDATION:** The staff recommendation for these requests is pending Committee action on common policy supplementals. Staff will include the corresponding appropriations in the Department's supplemental bill based on Committee action on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Andrew McLeer, JBC Staff (303-866-4949)  
DATE January 24, 2024  
SUBJECT Staff Comeback for HSRF Spending Authority

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This memo is in response to the Committee's request for additional information on January 18, 2024 regarding the Department of Public Health and Environment's request for an additional \$1.8 million in spending authority from the Hazardous Site Response Fund (HSRF). The Department made this supplemental request to expend the funds which were transferred to the HSRF from the Hazardous Substance Site Response Fund (HSSRF) through S.B. 23-239 (Hazardous Site Response Fund Transfer). This document will briefly lay out the reasons for current need of supplemental request S7, provide some additional information on the Department's plans to bring the HSRF into solvency, and two recommendations for the committee's consideration.

### **CURRENT PROBLEM**

In communications with the Department, staff and the Department identified an error in the initial request for the transfer from the Hazardous Substance Site Response Fund to the Hazardous Substance Response Fund from the Department in January of 2023. The Department requested this transfer in response to rising costs for cleanup and maintenance of Superfund sites, beginning in FY 2023-24. Discussions with Department staff indicate that they believed the transfer would be accompanied with an appropriation for the transferred funds, so no additional appropriation was requested.

Despite this technical oversight, the Department requires this \$1.8 million in cash fund spending authority to meet statutory obligations under Section 25-16-104.6(2), C.R.S. for maintenance of Colorado's Superfund sites. This need for increased spending authority is largely driven by the following four projects:

- Summitville Superfund Site: \$600,000 for operations and maintenance
- Bonita Peak Mining District Superfund Site: \$120,000 for site repository construction
- Standard Mine Superfund Site: \$300,000 for operations and maintenance
- Nelson Tunnel Superfund Site: \$600,000 for remedial actions.

The Department does note that Superfund obligations for FY 2023-24 are particularly high because of these cleanup and maintenance projects, and that expenditures from the HSRF are projected to decrease by slightly less than \$1.0 million for FY 2024-25 before another large projected expenditure increase in FY 2028-29. Crucially, the Department states that this spending authority is needed to meet statutory Superfund obligations, while staff notes that failure to do so could expose the Department to potential liability for failure to meet its statutory requirements.

### **LONG-TERM HSRF HEALTH**

The long-term solvency of the HSRF is a major problem facing the Department as Superfund sites come increasingly under the fiscal purview of the state. If this supplemental request is approved, the

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HSRF will have an estimated deficit of approximately \$2.1 million for FY 2023-24, with increasing deficits for coming years. These impacts are shown in the table below:

<b>Fiscal Year</b>	<b>Revenues</b>	<b>Expenditures</b>	<b>Net Cash Flow</b>
2023-24	\$6,377,379	\$8,448,785	(\$2,071,406)
2024-25	4,238,044	7,850,619*	(3,612,945)
2025-26	2,129,956	8,162,563	(6,032,607)
2026-27	2,129,956	8,325,089	(6,195,133)

\*Documentation received from the Department has this figure at \$4,771,619, which staff believes to be an error in calculating expenses. This difference effects net cash flow projections for FY 2024-25.

Presently, these annual deficits in the HSRF threaten the solvency of the fund, with the HSRF projected to have a negative balance of \$17,816,957 at the end of FY 2026-27. The Department would like to transfer the remaining funds from the HSSRF<sup>1</sup> to support ongoing Superfund cleanup and maintenance work while fee increases are implemented. However, without a change in the fee structure, the HSRF would still have a negative balance of between \$8.0 and 8.5 million, depending on the timing of transfers.

Staff has learned that the Department, after consultation with OSPB, will implement solid waste fee increases to pace with inflation beginning in FY 2024-25. Furthermore, staff has requested the Department identify necessary fee increases to bring the HSRF into long-term solvency, with initial analysis by OSPB indicating fees would need to increase from \$0.05/cubic yard to \$0.27/cubic yard to keep the fund solvent without General Fund through FY 2033-34, with the Department statutorily authorized to increase these fees through the Solid and Hazardous Waste Commission.

### **RECOMMENDATION**

Staff recommends approval of request S7 on the basis of a technical error in the initial request from the Department, whereby an equivalent appropriation was not requested with the transfer from the HSRF to the HSSRF. Furthermore, these funds are necessary for the Department to meet statutory Superfund obligations in the current fiscal year, with denial of the request introducing potential liability problems if these obligations are unmet.

Staff has also identified that an informal request for a long-term solvency plan was made of the Department when a cash fund maximum reserve waiver was granted to the Department for the HSRF in June of 2023, which the Department has yet to provide. Consequently, staff further recommends that the Committee approve a formal request for information from the Department for FY 2025-26 identifying a schedule of fee increases over the next 10 years which will bring the fund into solvency. In this request, the Department should also provide projections on expenditures, with workforce expenditures assuming full staffing (i.e., no vacancies) for programmatic needs.

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<sup>1</sup> The HSSRF's only purpose is to augment the HSRF, per Section 25-16-104, C.R.S.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee

FROM Louellen Lowe, JBC Staff (303-866-2981)

DATE January 24, 2024

SUBJECT Supplemental Comeback  
Department of Higher Education  
S1/BA1 Cybersecurity Incident Remediation

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During consideration of the supplemental requests from the Department of Higher Education, the JBC decided to take no action on *S1/BA1 Cybersecurity Incident Remediation* for the Department of Higher Education pending review by the Joint Technology Committee (JTC). Most of the publicly stated concerns were related to whether the State may save money over time by transitioning the Department from non-consolidated to consolidated for the purpose of OIT services. JBC members expressed a desire for more information, particularly from the JTC hearing which was postponed from January 18, 2024 to January 23, 2024.

Below is follow up information regarding the request including a revised recommendation for consideration by the JBC. Additionally, the original staff write up on the supplemental request is provided at the end. The revised staff recommendation is as follows:

- 1) Refer the supplemental request to the JTC.
- 2) Sponsor or co-sponsor legislation with the JTC directing OIT to conduct the necessary reviews of the Department systems with the goal of transitioning it to consolidated status in future years.
- 3) Contingent on JTC recommendation tomorrow, approve the supplemental but at a lower-than-requested amount, given the anticipated timeline of hiring new staff.

## FOLLOW UP INFORMATION

### **Joint Technology Committee Hearing**

On January 23, 2024, at 8:00AM, the Department of Higher Education met in executive session with the Joint Technology Committee to discuss the data breach, the timeline of events, the remediation efforts, and the supplemental request. Because the Committee met in executive session, the contents of the hearing are privileged. A vote on the Department's supplemental request was not taken, but will be scheduled for Thursday, January 25, 2024, pending referral from the Joint Budget Committee.

Certain JTC members have expressed interest in moving the Department towards consolidation to receive IT services from the Office of Information Technology. Per discussions with staff from the OIT, this transition would require significant time to conduct a thorough review of all systems at the Department and develop a plan, including a cost estimate, to move forward. According to OIT staff, this could not be accomplished within the budget-setting timeline for FY 2024-25.

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OIT staff indicates the Department's request is reasonable, needed, and would ultimately support the Department's transition to consolidation for OIT services should that be the goal of the Legislature. To accomplish consolidation, staff recommends legislation directing OIT to conduct a review of the Department and develop a plan for consolidation with the intent that the Department (and/or OIT) would return to the Legislature with a request for FY 2025-26 for the necessary resources to achieve the next steps towards consolidation. OIT staff communicated that additional funding would be necessary for the investigatory process.

### **Funding for FTEs**

The Department has noted that OIT does not provide data management services; therefore, Department's request for additional 3.0 FTE for this purpose would stand, regardless of the transition. The Department has reiterated its need for the data management-related 3.0 FTE, indicating that it needs additional resources to appropriately manage the data it collects in alignment with best practices and GDAB guidelines. OIT staff has suggested that the requested 1.0 FTE specifically for IT may be folded into its plans for consolidation in future years.

In discussions with the Department regarding hiring timelines in the current year, it was suggested that more time might be given for the hiring process, reducing the supplemental personnel costs. Utilizing a later start date than originally proposed by the Department, staff estimates this would reduce the supplemental request by \$71,912 General Fund in FY 2023-24.

### **Staff Amended Recommendation**

Staff recommends the JBC refer the supplemental request to the JTC for a vote, and that it approve a reduced amount for the Department's supplemental request with changes reflected in the chart below, pending a supportive recommendation from the JTC. Additionally, staff recommends legislation directing the Office of Information Technology to conduct the necessary reviews of the Department systems with the goal of transitioning it to consolidation status in future years.

S1/BA1 CYBERSECURITY INCIDENT REMEDIATION FUNDING REQUEST				
ITEM	FY 2023-24 FUNDING	FY 2023-24 FTE	FY 2024-25 FUNDING	FY 2024-25 FTE
Subscription Services (including Managed Service Provider)	\$294,360		\$294,360	
<b>Personnel Costs</b>	<b>\$147,094</b>	<b>1.0</b>	<b>\$476,378</b>	<b>4.0</b>
One-time Upgrades to IT infrastructure	\$204,625		\$0	
Contracted Professional Services	\$920,000		\$0	
<b>Total Supplemental Request</b>	<b>\$1,566,079</b>	<b>1.0</b>	<b>\$770,738</b>	<b>4.0</b>

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## ORIGINAL SUPPLEMENTAL WRITE UP

### S1/BA1 CYBERSECURITY INCIDENT REMEDIATION

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$1,637,991</b>	<b>\$1,637,991</b>
FTE	1.6	1.6
General Fund	1,637,991	1,637,991
Cash Funds	0	0
Federal Funds	0	0

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?** **YES**

[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.]

**Explanation:** JBC staff and the Department agree that this request is the result of an unforeseen contingency, specifically the cyber ransomware attack in June 2023.

**DEPARTMENT REQUEST:** The Department requests an increase of \$1,637,991 General Fund and 1.6 FTE in FY 2023-24 in response to the 2023 cybersecurity breach and data incident. Of the total amount requested, \$1,124,625 would be one-time funds for which the Department is requesting roll forward authority. The Department also submitted a budget amendment request for FY 2024-25 for \$770,738 ongoing General Fund which would be impacted by the Committee's decision regarding this supplemental request. Funding would be used to address IT infrastructure upgrades and needs related to the incident. The funding will allow the Department to harden its IT infrastructure and hire additional staff to maintain a more secure cyber environment.

**STAFF RECOMMENDATION:** Staff recommends approval of the request.

#### STAFF ANALYSIS:

##### Background

On June 19, 2023, the Department became aware that a cybersecurity ransomware incident had taken place impacting its network systems. In addition to significant disruption of network systems, the Department's investigation revealed that certain data was copied from the CDHE systems during the breach, including personally identifiable information. The incident also interrupted and corrupted certain required data submissions from institutions of higher education.



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CDHE has been working with a third-party specialist to investigate the extent of the breach and notify impacted individuals. CDHE is offering complimentary access to credit monitoring and identify theft protection services through Experian to impacted individuals. As this is considered an ongoing criminal investigation, and for security reasons, all details of the breach cannot be made publicly available.

### **System Remediation Update and Next Steps**

Following the incident, priority was placed on returning the Department to “neutral” and immediate hardening of its IT security. According to the Department, this has been accomplished, and the Department has returned to near-normal operations. Furthermore, this remediation work has been approved for coverage by the Department’s insurance or the State Office of Risk Management. Data recovery and the rebuilding of its data systems are still ongoing, costs for which have been approved by insurance coverage.

Insurance will not cover any upgrades to its infrastructure security or database upgrades as providers will only cover costs pertaining to getting the Department back to its previous status. However, the Department recognizes that its previous cybersecurity status has proven to be insufficient to protect against threats and is working with outside entities to chart a better path forward.

As part of the remediation process, the Department reviewed its data governance policies and determined additional measures are necessary to align with the state’s data security and data sharing standards. Additionally, the Department consulted other Colorado state agencies, higher education coordinating and governing bodies in Colorado and other states, federal higher education agencies, and multiple outside data security experts to determine best practices and recommended measures to ensure student data are exchanged and stored securely. Through this consultation process, the Department overhauled its data policies to align with OIT’s Government Data Advisory Board and created an initial implementation plan to reduce risks and improve the quality and reliability of the database.

Part of the Department’s plans to immediately further harden its cybersecurity includes contracting with a Managed Service Provider for four months at an additional cost of \$100,625 which is not covered by insurance and, therefore, the Department has charged towards its administrative appropriations. Further costs were incurred to upgrade its backup and storage which were not covered by insurance. Both will increase ongoing costs to the Department which are part of related ongoing costs discussed below.

### **Department Request and JBC Staff Analysis**

As a companion to the supplemental request, the Department submitted a budget amendment for ongoing costs to implement and maintain best practices. The supplemental and budget amendment requests can be broken into the parts shown in the chart on the next page.

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S1/BA1 CYBERSECURITY INCIDENT REMEDIATION FUNDING REQUEST				
ITEM	FY 2023-24 FUNDING	FY 2023-24 FTE	FY 2024-25 FUNDING	FY 2024-25 FTE
Subscription Services (including Managed Service Provider)	\$294,360		\$294,360	
Personnel Costs	\$219,006	1.6	\$476,378	4.0
One-time Upgrades to IT infrastructure	\$204,625		\$0	
Contracted Professional Services	\$920,000		\$0	
<b>Total Supplemental Request</b>	<b>\$1,637,991</b>	<b>1.6</b>	<b>\$770,738</b>	<b>4.0</b>

#### *SUBSCRIPTION SERVICES AND ONE-TIME SECURITY-RELATED UPGRADES TO IT INFRASTRUCTURE*

As stated previously, in response to the cybersecurity incident the Department contracted with a Managed Service Provider (MSP) and believes this to be critical to maintain a secure data environment. Currently, the Department is utilizing FY 2023-24 administrative funds to cover the costs of this agreement but is on track to over expend its administrative budget before the close of the fiscal year. Both the supplemental and the budget amendment request include services provided by the MSP, continued enhanced storage backup, and an application to protect against future ransomware attacks.

To maximize the partnership with the Managed Service Provider and leverage the support of an experienced Security Operations Center, the Department requests one-time funding for upgrades to the department's IT infrastructure to create and/or replace existing systems in multiple areas including but not limited to remote monitoring and management of PCs, Internet Service Provider, core network equipment, and servers; monitoring, detection, response, and remediation of threats and vulnerabilities; and account security, management, data backup, and more. These initial upgrades are intended to bring the Department in line with best cyber security practices and situate it to maximize an ongoing partnership with the MSP.

#### *CONTRACTED PROFESSIONAL SERVICES FOR DATABASE CHANGES*

The Department requests \$920,000 to enlist temporary assistance from contract professional services to bring its data system in line with the Department's new data governance policies. This requires several changes including migrating program data into the secure database, redesigning the database architecture to align with the new data archive and retention policy, modifying the database to ensure compliance with the database audit policy, reducing the amount of and accessibility to personally identifiable information (PII) in the database, updating SQL code and stored procedures to ensure compatibility with security methods, reviewing all data management practices and frameworks to ensure proper data and cyber security practices, and implementing best practices for data storage.

Costs for these services are estimated based on the scope of work and quotes provided by an outside contractor. The Department indicates that the timeline for completion of the necessary changes depends on

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the speed of contracting and the vendor. The Department is requesting roll forward authority of the one-time funds as the expenditure of these funds depends on the contracting process and the efficiency of the contractor.

#### *PERSONNEL COSTS*

The Department requests an increase of \$219,006 to hire 4.0 new positions in FY 2023-24, equating to 1.6 FTE in the partial year, to oversee the implementation and maintenance of the new cybersecurity infrastructure and student information databases. The requested positions include: a Data Security Manager, a Database Support Professional, a Data Integration Manager, and a System Administrator. Costs for the FTEs in FY 2023-24 are prorated to reflect the timing of hiring during the current fiscal year and would increase to \$476,378 and 4.0 FTE in FY 2024-25 and ongoing. These additional FTEs will ensure future programs and data collections are fully integrated and comply with Department policies. The Description of responsibilities for each can be found in Appendix B.

Currently, the Department employs a total of 3.5 dedicated IT staff for the Commission on Higher Education IT-related needs. This includes 1.5 FTE responsible for building, structuring, and managing two database servers containing 26 individual databases, each of which hold sensitive information. These FTE are also responsible for data backup, websites, and report development. The Department employs 2.0 IT staff that handle all IT infrastructure and security as well as HelpDesk inquiries, employee training, user account creation and maintenance, network traffic monitoring, and any cross-agency liaison services. The request would more than double the Department's dedicated IT staff.

#### **JBC Staff Analysis and Recommendation**

The Department collects, maintains, and reports an enormous amount of data, including but not limited to individual student information as well as institutional information. Though the Department indicates it has made significant strides to secure its data and IT systems, the cyber ransomware attack illuminated the need for enhanced security and significant database modifications. Staff has reached out to the Joint Technology Committee to get feedback on the request, ensuring it is the most reasonable approach. The Department is scheduled to meet with the Joint Technology Committee in an executive session on January 18, 2024, and if as a result of the JTC meeting the department suggests a different approach, staff will return to the Joint Budget Committee with a "comeback" including the new information.

The Department indicates that as a non-affiliated agency, it does not receive services from OIT but engaged with the office to ensure the most cost-beneficial option informed the request. To become an affiliated agency for OIT, a requirement to receive support services from the office, would require between \$200,000 and \$300,000 with a first-year implementation of the "lift and shift" totaling more than \$4.0 million. Therefore, OIT and the Department agree that the submitted request represents the most prudent option for the State at this time.

Approval of this request could precipitate the need to approve the Department's budget amendment request as well, though perhaps not at the requested levels. Currently, the Department does not employ adequate staff to accomplish and maintain the needed extensive IT security and database infrastructure changes. Furthermore, in recent years the General Assembly has tasked the Department with improving and enhancing its data collection, analysis, and reporting capabilities to provide additional guidance to policy

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and budget decisions. The occurrence and timing of the cyber incident were such that the Department could not have foreseen the acute need for additional resources.

Staff anticipated receiving a supplemental request for this item far sooner than when it was submitted. With the Department having already put itself in the position of overspending its administrative lines, the Joint Budget Committee is in the awkward position of having to approve a decision that has already been effectively made or risk putting the Department in a negative financial situation. A timely supplemental submission via the 1331 process would have allowed the Joint Budget Committee to provide greater oversight and proactively address the funding needs. However, given current circumstances and having reviewed the submitted documents, staff recommends that the Committee approve the request.