

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO JBC Members  
FROM JBC Staff  
DATE March 17, 2022  
SUBJECT Figure Setting - Comeback Packet 7

---

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

**OIT Common Policy**, page 1 (Scott Thompson): Payments to OIT (*Technical Item*)

**LAW Common Policy**, page 2 (Scott Thompson): Legal Services Rate (*Technical Item*)

**LOC**, page 7 (Andrea Uhl): FY 2021-22 CAP Severance Tax Letternote Add-on (*New, Technical Item*)

**EDU**, page 8 (Amanda Bickel): Cash Fund Waivers (*Technical Item*)

**DHS**, page 10 (Tom Dermody): Discontinuation of Footnotes Due to Reorg (*Technical Item*)

**DHS**, page 11 (Craig Harper): Eliminate OBH Footnote (*Technical Item*)

**DHS**, page 12 (Eric Kurtz): Phantom Cash Fund Authority and Line Item Name (*Technical Item*)

**TRE**, page 13 (Mitch Burmeister): Unclaimed Property and COPs (*Informational*)

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
 FROM Scott Thompson, JBC Staff (303-866-4957)  
 DATE March 17, 2022  
 SUBJECT Office of the Governor Comeback: Office of Information Technology Common Policy Agency Allocations – Technical Correction additional Component

*RECOMMENDATION:* JBC staff recommends the Committee approve another component to the Payments to OIT line items appropriated in agency centralized appropriations that reduces the Governor’s Office of Information Technology’s (OIT) overall collection by \$5,171,421 total funds. Based on current fund split estimates, this equates to approximately \$2.3 million General Fund, but the final impact will be determined after JBC staff consult with agency staff. JBC staff therefore requests permission for staff to make fund split determinations to total to the amounts included in the summary table below

The missing component of the total appropriation is changes required to account for funds over- or under-collected by OIT during FY 2020-21 using OIT’s prior methodology. OIT’s transition to real-time billing in FY 2021-22 will eliminate the need for this annual true-up in future fiscal years, which led to JBC staff not including it in the original recommendation.

RECOMMENDED FINAL TOTAL APPROPRIATIONS FOR FY 2022-23 PAYMENTS TO OIT BY AGENCY			
DEPARTMENTS	PREVIOUSLY APPROVED FY 2022-23 APPROPRIATION (EXCLUDES FY 2020-21 TRUEUP)	FY 2020-21 TRUEUP	FINAL FY 2022-23 APPROPRIATION
Agriculture	\$2,148,248	\$946,229	\$3,094,477
Corrections	27,842,424	(1,461,350)	26,381,074
Education	836,519	(88,706)	747,813
Governor	1,361,304	113,613	1,474,917
Health Care Policy and Finance	9,664,937	(660,142)	9,004,795
Higher Education (appropriated)	403,907	0	403,907
Higher Education (unappropriated)	251,209	0	251,209
Human Services	45,016,137	1,074,110	46,090,247
Judicial	5,353,123	(1,134,521)	4,218,602
Labor and Employment	19,363,413	1,491,050	20,854,463
Law	699,609	(230,465)	469,144
Legislative	29,276	2,857	32,133
Local Affairs	2,689,592	300,717	2,990,309
Military and Veterans Affairs	574,807	73,538	648,345
Natural Resources	16,818,092	(669,823)	16,148,269
Personnel and Administration	6,134,541	(588,551)	5,545,990
Public Health and Environment	13,766,339	450,928	14,217,267
Public Safety	12,724,403	126,409	12,850,812
Regulatory Agencies	4,817,564	216,013	5,033,577
Revenue	18,100,598	(7,525,737)	10,574,861
State	387,053	(19,822)	367,231
Transportation	24,699,076	2,341,367	27,040,443
Treasury	151,639	70,863	222,502
<b>Total</b>	<b>\$213,833,810</b>	<b>(\$5,171,421)</b>	<b>\$208,662,389</b>
Estimated General Fund	96,490,600	(2,333,558)	94,157,042

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Joint Budget Committee  
FROM Scott Thompson, JBC Staff (303-866-4957)  
DATE March 17, 2022  
SUBJECT Department of Law: Recommended Legal Services Rate for FY 2022-23 – Technical Correction Driven by the Office of Information Technology Common Policy Technical Correction

---

On March 14, 2022, the Committee acted on the Department of Law's legal services rate and legal services common policy allocations. One of the components that builds to the amount required to be collected through the legal services rate is a portion of the Department's Payments to OIT line item. While minor changes to OIT's common policy may not require a change to the legal services rate, including the FY 2020-21 true up reduces the Department of Law's line item from \$708,664 total funds down to \$469,144. This memo updates the original staff recommendation to reflect those changes. In the paragraphs following this one, JBC staff **bolded** sections that have changed from the previous memo to highlight the changes without losing the detail of how the common policy is constructed.

### LEGAL SERVICES RATE CALCULATIONS

To calculate the appropriation to each state agency for the purchase legal services, and the corresponding appropriations to the Department of Law to receive and expend such payments, the Committee needs to approve an hourly legal services rate for FY 2022-23. These rates multiplied by the three-year average hours of legal services provided determines the final appropriations for each agency or program.

### STAFF RECOMMENDATION:

To date, the Committee has taking action on all common policies, which impact the determination of the legal services rate. **Staff is presenting a recommendation based on most recent Committee action and assumes the JBC adopts the staff recommendation for the Payments to OIT technical correction.** Staff requests permission to adjust the rate in the event changes are *de minimus*, but should the rate change significantly, staff will return with updated calculations **such as this one.**

To calculate appropriations for legal services line items statewide, JBC Staff recommends the Committee approve the following rates for FY 2022-23. The shading color links cells between the various tables. **The new blended rate recommended is \$105.74 per hour.**

FY 2022-23 RECOMMENDATED LEGAL SERVICES RATES		
	UPDATED MARCH 17 RECOMMENDATION	MARCH 14 RECOMMENDATION
Attorney rate	<b>\$109.63</b>	\$109.94
Legal Assistant rate	<b>\$83.40</b>	\$83.72
Blended rate	<b>\$105.74</b>	\$106.06

These rates will also be included in the final footnote that details the General Assembly's intent on legal service rates, which the Committee will review with the other Footnotes.

**CALCULATION OF THE LEGAL SERVICES BILLING RATES**

Once the cost of operating the LSSA section has been determined through figure setting, this cost must be translated into billing rates that will cover the estimated costs. Appropriations for legal services are calculated using one uniform rate for attorneys and another uniform rate for legal assistants. Staff and the Department calculate these rates as separate components:

- 1 An "attorney" component that covers the salaries and the associated Public Employees' Retirement Association (PERA) and Medicare expenses for the attorneys who supply the legal services;
- 2 A "legal assistant" component that covers the salaries and the associated PERA and Medicare expenses for legal assistants who supply the legal services; and
- 3 A "common" component that covers other expenses of the LSSA section, including administrative support staff, the Deputy Attorneys Generals that are funded through the LSSA section and supervise groups of attorneys, operating and litigation expenses, licensing fees, and various other centrally appropriated line items (*e.g.*, Carr Center leased space, employee health benefit expenses, etc.) not included in the personnel costs in the first two components.

The following two tables (1 and 2) compute these components. **There is no change to the Attorneys and Legal Assistants Components from the March 14 recommendation, which is calculated as follows.**

	A = SALARY AND RELATED COSTS	B = HOURS BILLED	A/B = ATTORNEY OR LEGAL ASSISTANT COMPONENT OF RATE
Attorneys	\$30,760,873	436,320 hours	\$70.50
Legal Assistants	3,363,425	75,960 hours	44.28
<b>Total</b>	<b>\$34,124,298</b>	<b>512,280</b>	

**However, the common component is impacted by the change to the Payment to OIT line item recommended by JBC staff. Approving the change will reduce the component for a total of \$39.12 per hour.**

	MARCH 17 UPDATED RECOMMENDATION	MARCH 14 RECOMMENDATION
Total cost of operating the LSSA section	54,166,909	54,330,550
- Salary and related cost of attorneys	(30,760,873)	(30,760,873)
- Salary and related costs of legal assistants	(3,363,425)	(3,363,425)
a = Common costs	\$20,042,611	\$20,206,252
b Total hours billed by attorneys and legal assistants	512,280 hours	512,280 hours
a/b = Common component of hourly rate	\$39.12	\$39.44

The total cost of the LSSA section includes allocations of centrally appropriated items as well as indirect cost recoveries collected by the LSSA section.

The hourly legal rates are then computed as follows, **which includes updates driven by the OIT common policy change:**

TABLE 3: CALCULATION OF HOURLY LEGAL RATES		
	MARCH 17 UPDATED RECOMMENDATION	MARCH 14 RECOMMENDATION
Attorney component (from Table 1)	\$70.50	\$70.50
+ Common component (from Table 2)	39.12	39.44
Hourly attorney rate	\$109.62	\$109.94
Legal assistant component (from Table 1)	\$44.28	\$44.28
+ Common component (from Table 2)	39.12	39.44
Hourly legal assistant rate	\$83.4	\$83.72

The blended legal rate, which is used to convert the estimated hours to be billed into recommended appropriations for the Long Bill, is calculated using total recommended appropriations and total hours billed and **includes the adjustments for the OIT common policy:**

TABLE 4: CALCULATION OF BLENDED LEGAL RATE		
	MARCH 17 UPDATED RECOMMENDATION	MARCH 14 RECOMMENDATION
Total of Appropriations for LSSA section	\$54,166,909	\$54,330,550
÷ Total hours billed	512,280 hours	512,280 hours
= Blended Legal Rate	\$105.74	\$106.06

The blended legal rate for FY 2022-23 represents an decrease of \$0.60 per hour (0.6 percent) compared to the FY 2020-21 blended legal rate of \$106.34, which is a more representative year than comparing it to the FY 2021-22 rate, which was reduced to \$98.57.

As noted last year and during briefing, the legal services rate for the 2022-23 fiscal year returns to one closer to those calculated prior to the FY 2021-22 rate. This was due on the decision last year to authorize a one-time spend down of the Department’s fund reserve.

Approving JBC staff recommendation will result in the amounts summarized in Table 5 on the following pages being allocated through the Long Bill legal services line items. The shading in Table 5 does not correlate to Tables 1-4 and is included to highlight JBC staff’s new recommendation.

TABLE 5: RECOMMENDED LEGAL SERVICES ALLOCATION BY CLIENT AGENCY			
LONG BILL DEPARTMENT	CLIENT AGENCY	MARCH 17 UPDATED RECOMMENDATION	MARCH 14 FY 2022-23 RECOMMENDATION
Agriculture	Agriculture and State Fair	\$970,527	\$973,423
Corrections	Corrections	3,891,719	3,903,156
Education	Education	1,019,771	1,022,808
Governor's Office	Governor's Office	885,941	888,487
Governor's Office	Governor's Energy Office	759,285	761,548
Governor's Office	Office of Information Technology	358,016	359,099
Health Care Policy & Financing	Health Care Policy & Financing	959,008	962,034
Human Services	Human Services	4,390,461	4,403,626
Judicial	Judicial	235,691	236,331
Judicial	Alternate Defense Council	10,505	10,537
Judicial	Child Protection Ombudsmen	16,840	16,891
Judicial	Child Representation	14,638	14,682
Judicial	Independent Ethics Commission	105,521	105,841
Judicial	Attorney Regulation Counsel	14,301	14,344
Judicial	Public Defender	7,311	7,333
Judicial	Office of the Public Guardianship	71,181	71,396
Judicial	Respondent Parents Counsel	5,724	5,741
Labor & Employment	Labor and Employment	883,161	885,820
Law	Attorney General's Office	85,019	85,277
Legislature	General Assembly	22,011	22,078
Local Affairs	Local Affairs	240,771	241,491
Military and Veterans Affairs	Military and Veterans Affairs	20,856	20,911
Natural Resources	Natural Resources	5,633,768	5,650,505
Personnel	Personnel and Administration	458,408	459,020
Personnel	Personnel Board	61,632	61,818
Personnel	Risk Management & Workers Compensation	7,334,330	7,356,399
Public Health & Environment	Public Health and Environment	4,864,124	4,878,252
Public Safety	Public Safety	374,140	375,271
Regulatory Agencies	Regulatory Agencies	11,079,395	11,112,927
Revenue	Revenue	5,846,609	5,864,006
State	State	877,423	880,070
Transporation	Transporation	1,636,923	1,641,994
Treasury	Treasury	282,638	283,492
Higher Education	Commission on Higher Education	100,014	100,314
Higher Education	Arapahoe Community College	3,302	3,312
Higher Education	Adams State University	72,594	72,813
Higher Education	Auraria Higher Education Center	0	0
Higher Education	Board of Governors	0	0
Higher Education	Aurora Community College	0	0
Higher Education	Community College of Auraria	0	0
Higher Education	Community College of Denver	0	0
Higher Education	CCCOES	14,952	14,997
Higher Education	Colorado State University	213,948	214,600
Higher Education	University of Colorado - Boulder	123,560	123,935
Higher Education	University of Colorado - Health Science	0	0
Higher Education	State Colleges Employee Disability Insurance	4,182	4,195
Higher Education	Fort Lewis College	77,500	77,736
Higher Education	Front Range Community College	32,356	32,449
Higher Education	College Assist	75,117	75,334
Higher Education	State Historical Society of Colorado	31,134	31,229
Higher Education	Institute of Cannabis Research	13,647	13,688
Higher Education	Lamar Community College	7,209	7,230
Higher Education	Metropolitan State University of Denver	294,570	295,323
Higher Education	Colorado School of Mines	126,763	127,154
Higher Education	Colorado Mesa University	123,948	124,320
Higher Education	University of Northern Colorado	38,898	39,009

UPDATED LEGAL SERVICES RATES  
MARCH 17, 2022

TABLE 5: RECOMMENDED LEGAL SERVICES ALLOCATION BY CLIENT AGENCY			
LONG BILL DEPARTMENT	CLIENT AGENCY	MARCH 17 UPDATED RECOMMENDATION	MARCH 14 FY 2022-23 RECOMMENDATION
Higher Education	Northwestern Community College	0	0
Higher Education	Collegeinvest	2,531	2,539
Higher Education	Otero Junior College	3,522	3,532
Higher Education	Auraria Parking Enterprise	0	0
Higher Education	Pikes Peak Community College	0	0
Higher Education	Private Vocational Schools	19,608	19,668
Higher Education	Pueblo Community College	16,781	16,831
Higher Education	Red Rocks Community College	0	0
Higher Education	Colorado State University - Pueblo	8,407	8,433
Higher Education	Colorado Scholarship Initiative	0	0
Higher Education	Trinidad State Junior College	5,283	5,299
Higher Education	Western State Colorado University	163,515	164,006
Higher Education	CSU Global	0	0
Higher Education	Northeastern Junior College	0	0
Higher Education	Colorado Mountain College	38,397	38,513
Higher Education	Morgan Community College	880	883
Higher Education	University of Colorado - Colorado Springs	9,545	9,571
	<b>Total</b>	<b>\$55,039,811</b>	<b>\$55,203,520</b>
	Total for Higher Education Client Agencies	\$1,622,162	\$1,626,912
	Other Client Agencies	\$53,417,648	\$53,576,608

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Andrea Uhl, JBC Staff (303-866-4956)  
DATE March 15, 2022  
SUBJECT DOLA/CAP: Technical Correction to FY 2021-22 Letternote (*New Item*)

---

The Department of Local Affairs has identified a technical issue within a letternote in the Capital Construction section of the FY 2021-22 Long Bill, under an appropriation to the Department of Transportation for a Weather Radar System in Southwest Colorado. DOLA contributed \$1.7 million of the \$1.8 million reappropriated funds for the project; the letternote reads as follows:

“bOf this amount, \$1,700,000 shall be from funds received from the Department of Local Affairs and \$100,000 shall be from funds received from the Department of Natural Resources.”

DOLA contributed these funds by awarding a grant to La Plata County through the Local Government Mineral and Energy Impact Assistance Grant Program. DOLA anticipates the above wording could cause an issue during future audits, as DOLA does not have the statutory authority to transfer funds from the Local Government Severance Tax Fund to the Department of Transportation. DOLA proposes the following technical clarification to the letternote, which would more accurately reflect the underlying statutory authority in this situation:

“bOf this amount, \$1,700,000 shall be from funds received from THE LOCAL GOVERNMENT SEVERANCE TAX FUND CREATED IN SECTION 39-29-110 (1)(a)(I), C.R.S., AND TRANSFERRED FROM THE LOCAL GOVERNMENT MINERAL AND ENERGY IMPACT GRANTS AND DISBURSEMENTS LINE ITEM IN the Department of Local Affairs and \$100,000 shall be from funds received from the Department of Natural Resources.”

The suggested language is used in a similar scenario elsewhere in the FY 2021-22 Long Bill. **Staff recommends the Committee approve this change**, which would be included in the 2022 Long Bill as an add-on.



# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Amanda Bickel, JBC Staff (303-866-4960)  
DATE March 15, 2022  
SUBJECT Waiver for Alternative Maximum Reserve - Educator Licensure Cash Fund

---

*REQUEST:* The Department of Education requests a 2-year alternative maximum reserve of \$1,500,000 for the Educator Licensure Fund in order to better assess the impact of H.B. 21-1104. The fund receives fees from K-12 Educator licensure applications and renewals to fund the direct and indirect costs of administering the Colorado Educator Licensing Act. House Bill 21-1104 appropriated \$2,922,976 from the General Fund to the Department of Education to account for the loss of revenue that will occur as a result of extending the licensure period from five years to seven years. Due to a majority of the program's expenses being charged to the General Fund appropriation in FY 2021-22, the Cash Fund is projected to exceed the 16.5 percent reserve requirement for FY 2021-22 and FY 2022-23.

*RECOMMENDATION:* Staff recommends the request for a 2-year alternative maximum reserve of \$1,500,000 for the Educator Licensure Fund created in Section 22-60.5-112, C.R.S.

*ANALYSIS:* Section 24-75-402, C.R.S., requires that the uncommitted reserves of a cash fund at the conclusion of a given fiscal year shall not exceed 16.5 percent of the amount expended from the fund for that fiscal year, except for funds exempted by statute or receiving a waiver from the JBC. The JBC may waive the maximum reserve requirement or establish an alternative reserve for a fund for up to three years for an entity that demonstrates a specific purpose for which the entity needs to maintain an uncommitted reserve greater than the maximum reserve otherwise allowed.

The following table from the Department of Education's budget schedules shows the projected growth in the Department of Education's Educator Licensure Cash Fund by the end of FY 2021-22. As shown, the Department projects a reserve of \$1.2 million at the end of FY 2021-22 due to a lower level of FY 2021-22 cash fund expenditures. Whether the balance will also be too high at the end of FY 2022-23 is uncertain (current estimates put the fund balance at the end of FY 2022-23 at 15.7 percent of FY 2022-23 expenditures). Nonetheless, staff agrees that a two-year waiver is prudent.

As described in the request, during the 2021 legislative session the General Assembly changed the length of time for educator license renewal from five to seven years and appropriated General Fund to backfill the related lost revenue. The General Assembly provided a General Fund appropriation for FY 2021-22 and provided roll-forward authority into FY 2022-23 for any amounts not expended in FY 2021-22. The General Assembly appears to have expected the Department to spend both appropriated cash fund revenue and appropriated General Fund amounts as needed over this two year period. Given this, **staff believes it is reasonable to provide a waiver that allows the Department to spend Educator Licensure cash funds and General Fund over the two fiscal years in any mixture it deems appropriate (i.e., more General Fund in one year and more cash funds in the next) without triggering an excess cash fund reserve violation.**

JBC STAFF MEMO: EDUCATOR LICENSURE CASH FUND

PAGE 2

MARCH 15, 2022

Schedule 9: Cash Funds Reports  
 Department of Education  
 FY 2022-23 Budget Request  
 Fund 2930 - Educator Licensure Cash Fund  
 22-60.5-112, C.R.S.

	Actual	Actual	Appropriated	Requested	Projected
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
<b>Year Beginning Fund Balance (A)</b>	<b>\$1,100,638</b>	<b>\$885,277</b>	<b>\$688,128</b>	<b>\$1,213,611</b>	<b>\$373,522</b>
Changes in Cash Assets	-\$214,633	-\$214,002	\$525,483	-\$840,089	\$27,751
Changes in Non-Cash Assets	\$0	\$0	\$0	\$0	\$0
Changes in Long-Term Assets	\$0	\$0	\$0	\$0	\$0
Changes in Total Liabilities	-\$728	\$16,853	\$0	\$0	\$0
<b>TOTAL CHANGES TO FUND BALANCE</b>	<b>-\$215,361</b>	<b>-\$197,149</b>	<b>\$525,483</b>	<b>-\$840,089</b>	<b>\$27,751</b>
<b>Assets Total (B)</b>	<b>\$1,060,669</b>	<b>\$846,667</b>	<b>\$1,372,150</b>	<b>\$532,061</b>	<b>\$559,812</b>
Cash	\$983,045	\$803,804	\$1,372,150	\$532,061	\$559,812
Receivables	\$77,624	\$42,863	\$0	\$0	\$0
<b>Liabilities Total (C)</b>	<b>\$175,392</b>	<b>\$158,539</b>	<b>\$158,539</b>	<b>\$158,539</b>	<b>\$158,539</b>
Cash Liabilities	\$175,392	\$158,539	\$158,539	\$158,539	\$158,539
<b>Ending Fund Balance (D)</b>	<b>\$885,277</b>	<b>\$688,128</b>	<b>\$1,213,611</b>	<b>\$373,522</b>	<b>\$401,273</b>
<b>Logical Test</b>	<b>TRUE</b>	<b>TRUE</b>	<b>TRUE</b>	<b>TRUE</b>	<b>TRUE</b>
<b>Net Cash Assets - (B-C)</b>	<b>\$885,277</b>	<b>\$688,128</b>	<b>\$1,213,611</b>	<b>\$373,522</b>	<b>\$401,273</b>
<b>Change from Prior Year Fund Balance (D-A)</b>	<b>-\$215,361</b>	<b>-\$197,149</b>	<b>\$525,483</b>	<b>-\$840,089</b>	<b>\$27,751</b>

	Actual	Actual	Appropriated	Requested	Projected
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
<b>Cash Flow Summary</b>					
Revenue Total	\$3,240,962	\$3,493,244	\$1,475,699	\$1,532,574	\$3,439,183
Fees	\$3,240,962	\$3,493,244	\$1,475,699	\$1,532,574	\$3,439,183
Interest	\$0	\$0	\$0	\$0	\$0
<b>Expenses Total</b>	<b>\$3,456,323</b>	<b>\$3,695,965</b>	<b>\$907,353</b>	<b>\$2,372,663</b>	<b>\$3,411,432</b>
Cash Expenditures	\$3,456,323	\$3,675,433	\$907,353	\$2,372,663	\$3,411,432
Accrued Expenditures	\$0	\$20,532	\$0	\$0	\$0
<b>Net Cash Flow</b>	<b>-\$215,361</b>	<b>-\$202,721</b>	<b>\$568,346</b>	<b>-\$840,089</b>	<b>\$27,751</b>

Fund Expenditures Line Item Detail	Actual	Actual	Appropriated	Requested	Projected
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
<b>(1) Management and Administration, (A) Administration and Centrally-Appropriated Line Items, Office of Professional Services</b>					
Personal Services	\$2,011,866	\$1,870,848	\$0	\$1,100,000	\$2,000,000
Purchased Services	\$339,467	\$610,464	\$121,994	\$125,654	\$129,423
Operating	\$704,224	\$792,514	\$682,921	\$853,921	\$853,921
Travel	\$0	\$0	\$0	\$0	\$0
Transfers	\$400,766	\$401,607	\$102,438	\$293,088	\$428,088
<b>TOTAL</b>	<b>\$3,456,323</b>	<b>\$3,675,433</b>	<b>\$907,353</b>	<b>\$2,372,663</b>	<b>\$3,411,432</b>

As described during staff's figure setting presentation, staff believes additional analysis will be required to determine whether cash revenue will be sufficient for FY 2023-24 and future years to cover costs associated with the educator licensure process or whether an ongoing General Fund subsidy or other structural change will be required. If an excess cash fund balance remains at the end of FY 2022-23, this will help support expenditures in FY 2023-24 that might otherwise require program cuts or an additional General Fund subsidy.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Tom Dermody, JBC Staff (303-866-4963)  
DATE March 14, 2022  
SUBJECT Dept. of Human Services – Technical adjustment to DYS Footnotes

---

During Figure Setting for the Department of Human Services on February 23, 2022, the Committee approved staff's recommendation to reorganize the Department's section of the Long Bill. Because of this reorganization, some Personal Services and Operating Expenses line items will be combined into a single Program Administration line items. The merging of these line items makes some of the approved footnotes for the Department no longer necessary. The following footnotes should be discontinued, as the line items referenced no longer exist and the transfer authority granted by these footnotes is no longer necessary.

### Division of Youth Services

- N Department of Human Services, Division of Youth Services, Institutional Programs, Personal Services and Operating Expenses -- The Department is authorized to transfer up to \$300,000 of the total appropriations within the line items designated with this footnote.
- N Department of Human Services, Division of Youth Services, Community Programs, Personal Services and Operating Expenses -- The Department is authorized to transfer up to \$50,000 of the total appropriations within the line items designated with this footnote.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Craig Harper, JBC Staff (303-866-3481)  
DATE March 16, 2022  
SUBJECT Technical Comeback to Eliminate Obsolete Footnote

---

During figure setting for the Office of Behavioral Health (within the Department of Human Services), the Committee approved a staff recommendation to continue the following Long Bill footnote (erroneously labeled as #55 in the figure setting document). However, the Department has since clarified that the footnote is no longer necessary. The footnote specified the use of *new* appropriations to the Mental Health Institute at Pueblo for FY 2021-22 (annualizing a decision item from FY 2019-20). However, there is no additional funding provided specifically for this purpose in FY 2022-23. Thus, the footnote is no longer necessary.

**Staff recommends eliminating the footnote and not including it in the FY 2022-23 Long Bill.**

51 Department of Human Services, Office of Behavioral Health, Mental Health Institutes, Mental Health Institute at Ft. Logan, Personal Services; and Mental Health Institute at Pueblo, Personal Services -- It is the General Assembly's intent that \$1,148,010 of these appropriations be used to increase salaries for contract medical personnel in a manner that appropriately considers relevant factors such as certifications and experience.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Eric Kurtz, JBC Staff (303-866-4952)  
DATE March 16, 2022  
SUBJECT Staff Comebacks – Department of Human Services, Office of Early Childhood

---

### → PHANTOM CASH FUNDS SPENDING AUTHORITY

Staff recommends removing \$385 cash funds spending authority from the Child Care Grants for Quality and Availability and Federal Targeted Funds Requirements line item. The amount has been appropriated to the line item for several years in a row, but there is no source of cash fund revenue to support the expenditure. Department staff suspect the funding was originally added many years ago for one-time gifts, grants, and donations and then mistakenly never removed. The JBC staff did not research the origins of the error. There is no cash fund revenue to support this level of expenditure in FY 22-23.

### → CHILD CARE ASSISTANCE PROGRAM STIMULUS -- ELIGIBILITY EXPANSION AND INFANT AND TODDLER CARE REIMBURSEMENT

Staff recommends moving \$25,970,215 federal Child Care Development Funds from the Intrastate Child Care Assistance Program Redistribution line item to a new line item titled Child Care Assistance Program Stimulus -- Eligibility Expansion and Infant and Toddler Care Reimbursement. The money is part of the Department's early childhood federal stimulus spending plan.

The Department has concerns about putting the money in the main Child Care Assistance Program line item because it would not follow the statutory distribution formula that counties expect for the appropriations to the Child Care Assistance Program line item. However, the Department's proposed alternative of putting the money in the Intrastate Child Care Assistance Program Redistribution line item is not really descriptive of the purpose of the appropriation. The Intrastate Child Care Assistance Program Redistribution line item was added in FY 2018-19 to cover costs to the receiving county when an individual who is eligible for child care assistance in one county moves to a new county where that individual would not normally be eligible. The receiving county must continue child care assistance for the family until the scheduled eligibility redetermination for that family.

The proposed staff solution would create a new line item. There are two things the Department is planning to spend the money on. Of the total, the Department expects to spend approximately \$15,489,869 to expand eligibility for CCCAP to an estimated 3,000 families. The eligibility expansion is designed in a way that it has the biggest impact on eligibility in counties with low average income, so it is not distributed to counties according to the normal statutory formula. The Department plans to spend the remaining approximately \$10,470,346 to pay for infant and toddler care enrollment rather than attendance. Infant and toddler care is the most expensive and hardest type of care to procure due to the higher staff to child ratios required. Paying for enrollment rather than attendance provides a more reliable and predictable revenue stream to providers and matches private pay practices. Both of these strategies are designed so they can be stopped when the federal stimulus money expires, although the Department hopes to find a way to continue paying for infant and toddler care enrollment in the future.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Mitch Burmeister, JBC Staff (303-866-3147)  
DATE March 15, 2022  
SUBJECT JBC staff informational comeback for the Department of the Treasury

---

Items in this packet include:

- Information on any potential overlap between S.B. 18-148 and S.B. 18-247;
- Information on measures the Department is taking to be more proactive regarding unclaimed property;
- Information on the possibility of early repayment on any of the State's certificates of participation (COPs); and
- Information on the ongoing performance of the S.B. 17-267 COPs.

### **POTENTIAL OVERLAP BETWEEN S.B. 18-148 AND S.B. 18-247**

Senate Bill 18-148 (Medical Benefits after State Employee Work-related Death) provides the continuation of dental or medical benefits for dependents of State employees who die in a work-related death for twelve months from the end of the month in which the work-related death occurred. In order to qualify, the dependents of the employee must have had dental or medical benefits at the time of the employee's work-related death, and the same benefits are continued. The applicable State agency is responsible for paying the cost of providing the dental or medical benefits for the twelve month period.

At the time of passage, there was no appropriation to any agency as it was assumed that any necessary payment could be absorbed within existing appropriations. The fiscal note assumed that these costs could range from \$6,000 to \$23,000 per incident.

Senate Bill 18-247 (Local Government Medical Benefits in Work-related Death) created the Law Enforcement Officers' and Firefighters' Continuation of Benefits Board (CBB) and the associated fund for any county, municipality, special district, or county improvement district to voluntarily contribute to for the purpose of continuing dental or medical benefits of dependents of employees who die in a work-related death for twelve months from the end of the month in which the work-related death occurred. The dependents must have had dental or medical benefits at the time of the work-related death, and the same benefits are continued.

With the exception of State Patrol, law enforcement officers and firefighters are not employees of the State, and so would not be covered under S.B. 18-148. Senate Bill 18-247 specifies counties, municipalities, special districts, and county improvement districts as those eligible to contribute to the fund because these are the primary entities that employ law enforcement officers and firefighters. For this reason, staff does not believe that these bills overlap in any significant way. The only instance in which they could overlap is if there are any law enforcement officers or firefighters that are State employees. So in the case of State Patrol, there seems to be overlap, but State Patrol has no obvious motivation for contributing to the CBB Fund, as their continued dependent benefits would be paid for by the Department of Public Safety.

### **UNCLAIMED PROPERTY**

The first topic addressed here regarding the Unclaimed Property Program is related to the Department's goal of proactively returning money. The primary ways that the Department has tried to be more proactive in recent years have been through mail and email. In FY 2020-21, the Department sent approximately 60,000 notifications. In the current fiscal year, the Department has sent over 55,000 notifications already and plans to send another 20,000 before the fiscal year end.

The Department has also initiated a pilot program with the goal of returning low-dollar amounts to claimants prior to them filing a claim. The Department is still evaluating whether it would be appropriate to expand this program.

The second topic is about the methods of communication and how proof of ownership is established. There are two thresholds where the method of communication changes. The first is at \$500, with any potential claims higher than this receiving a postcard notification. The second is at \$1,000, with any potential claims higher than this receiving a letter. Any potential claims with an associated email address receive email notification as well.

The Department has also recently updated its rules to streamline claim returns. As of November 30, 2021 notarization of claims is no longer required for claims under \$1,000. For larger claims, a heightened level of identification and additional information is needed to connect claimants to funds. This heightened level of identification is primarily applicable to claims greater than \$25,000.

### **EARLY REPAYMENT OF COPs**

A question was raised during staff's figure setting presentation about the possibility of early repayment of State Certificates of Participation (COPs). The Department reports that it regularly reviews existing financing to determine whether savings can be achieved by refinancing. Currently, there is only one opportunity that the Department has identified, and that is related to BEST financing. This financing would cost \$12.0 million to pay off this year, and would save the State approximately \$700,000.

The primary reason there is only one opportunity for early repayment is that COPs are generally sold with a ten-year no-call provision. This allows the State to pay a lower rate of interest while assuring the investor a lower level of risk. If a no-call provision were to be broken by repaying the COP early, it could cost the State significantly more because all of the interest due for the life of the COP would be due at the time of repayment, not only the principle owed.

The Department identified two other options that could be considered if the Committee were to pursue other options for maximizing the current surplus of funds. The first is to create an escrow for upcoming payments, thus assuring payment at a future date. This would not necessarily save money, but it would guarantee that the payments are made without having to carve out General Fund in the future when money might be more restricted. The second would be to use available funds that could have been used for early repayment to instead pay for upcoming projects. Because of expected interest rate increases in the near future, this could lead to greater cost savings than early repayment might.

**PERFORMANCE OF S.B. 17-267 COPs**

A final question that arose during staff's presentation was related to the performance of the S.B. 17-267 COPs. The following table describes the performance of each tranche and how the premiums in excess of the target \$500 million have been used.

S.B. 17-267 ISSUANCE PERFORMANCE AND USAGE			
TRANCHE	WHEN ISSUED	AMOUNT RAISED	PREMIUM UTILIZATION
1st	Fall 2018	\$540 million	\$40 million for transportation needs
2nd	Spring 2020	\$611 million	HB 20-1377 \$49 million for controlled maintenance
			Remaining \$62 million for transportation needs
3rd	Spring 2021	\$621 million	Entire premium of \$121 million for transportation needs
4th	Spring 2022	Much lower premium expected	

An important note here is that the same issues that were discussed above regarding no-call provisions apply to this COP as well. So the earliest the State could begin early repayments is 2028.