MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Mitch Burmeister, JBC Staff (303-866-3147)
DATE	February 1, 2024
SUBJECT	Total Compensation Comeback on Step-like Increases and Pay Date Shift

In JBC staff's January 29, 2024 total compensation figure setting presentation, the JBC asked staff to provide more information related to decisions on step pay plan salary increases and potential solutions to unwind the pay date shift. This memo addresses those items and provides more information to the Committee.

STEP PLAN PAY INCREASES

STEP PLAN SALARY RANGES

In the discussion of the step pay plan increases that were requested by the executive branch, staff noted that little information was provided regarding methodology or calculations of either the pay ranges within the step plan or how the executive branch arrived at a 3.7 percent increase for employees who are not covered under the partnership agreement.

Regarding the pay ranges for the finalized step pay plan, staff assumed that the Department of Personnel (DPA) applied the 3.0 percent across-the-board increase to all pay range minimums, and then built the step increases and ranges from those numbers. The Department has confirmed that this is the methodology they used to arrive at the step pay ranges.

An example of how these calculations work is included below.

- Hypothetical position X in the current fiscal year (23-24) has a minimum salary of $3,841 and a maximum salary of $6,146.
- Applying a 3.0 percent increase to both of those numbers makes the minimum for FY 24-25 $3,956 and the maximum $6,331.

Calculations of Step Plan Pay Ranges

	MINIMUM	MAXIMUM
FY 23-24 Salary Range	$3,841	$6,146
3.0 percent Increase	115	184
Step Plan Salary Range	**$3,956**	**$6,331**

Within that salary range, the step increases are spread according to what appeared in staff's document dated January 29, 2024, with 5.0 percent increases in years 3, 5, and 8, and 2.0 percent increases in years 12, 15, 20, and 25.

STEP-LIKE INCREASES

The other component of the step pay plan increases that the Committee requested more information on is the step-like increases and how the Department arrived at an increase of 3.7 percent for all non-covered employees.

The Department has clarified that the 3.7 percent is NOT a weighted average, rather it is a simple average of all percentage increases for employees who are eligible for step increases – including those employees who received 0.0 percent increases.

To reference the example that was provided in staff's figure setting document, staff has included the example here.

> For example, consider a hypothetical employee in the Veterinarian I job class with three years of experience in job series who makes $7,460 per month. The new range minimum for that class is $7,814, and the first step increase would put that employee at $8,205 per month. If you apply only the step plan increase to their original salary, they would receive a 10.0 percent salary increase. If, however, you first apply the 3.0 percent across-the-board increase, the employee's salary is first increased to $7,684 and then increased again by **6.8 percent** to $8,205.

In this case, the percentage used as part of the calculation for step-like increases is 6.8 percent. This calculation was applied to every step-eligible employee and all of those increases were averaged together, with a result of 3.7 percent.

Staff would note that the 3.7 percent increase is not meant to be an across-the-board increase for every non-covered employee. The intent with providing the funding is to give each department a proportional amount of the total appropriation that comes with the 3.7 percent increase and allow them to determine the increases that individual employees receive. Staff feels that this is probably a better option than applying a 3.7 percent increase to every non-covered employee, as the departments will have a better understanding of how to equitably distribute those dollars to their employees.

Staff inquired about other methodologies that may have been considered, and the Department responded that there were other considerations, but ultimately as a result of time and resource constraints, this average increase was the methodology chosen. Staff believes that in the future, there could and should be more specific calculations to determine step-like increases in a more equitable way, such as benchmarking non-covered job classes to covered job classes and basing increases off of the covered classes.

The Department agreed with staff that in the future, there could and should be more specificity in determining step-like increases. However, staff does believe that for this first year, taking a simple average of all step-eligible increases and applying that to non-covered employees is a good starting point to build from.

RECOMMENDATION: **Staff recommends approval of the step pay plan cost impacts – including step pay plan increases, 3.0 percent across-the-board increases, step-like increases, and movement to minimum wage – as presented in staff's figure setting document dated January**

29, 2024 and included at the end of this document as Appendix A. Staff further recommends that the Committee sponsor legislation to codify the step pay plan in statute.

Unwind the Pay Date Shift

The other issue that the Committee requested more information and options for in staff's presentation was ways to unwind the pay date shift.

There is no one-year solution for unwinding the pay date shift without a significant investment of General Fund. If this Committee instead is comfortable with allowing the pay date shift to slowly unwind over time, then no one-time appropriation is required. Instead, agencies could be instructed to transition their positions off the pay date shift piecemeal through staff turnover.

As staff mentioned in the discussion on January 29, this is already taking place in the executive branch agencies, but is not taking place in the independent agencies. If the Committee wishes to instruct the independent agencies to begin slowly transitioning off the pay date shift, there would need to be some statutory guidance for agencies to do so. Currently, there is no guidance on any method of paying employees in statute, so independent agencies are still using the current monthly pay date shift methodology.

It is important to note here that slowly transitioning off the pay date shift DOES NOT require agencies to begin paying employees using bi-weekly lag pay. The pay date shift is a distinctly different issue than the transition from current monthly to bi-weekly lag. The executive branch has chosen to use bi-weekly lag, but a transition off the pay date shift can be just as effectively accomplished by continuing to use a current monthly pay schedule.

Without a one-time investment for independent agencies, staff feels that it would not be worth the time or effort to pass legislation specifically requiring them to begin slowly transitioning off the pay date shift.

Recommendation: **Staff recommends the Committee take no action at this time regarding the pay date shift unwind.** Staff believes that without a one-time investment for either all agencies or only the independent agencies, there is no need to take any action considering the ongoing efforts of the executive branch to transition off the pay date shift and change their payroll methodology to bi-weekly lag.

Vacancy Savings Request for Information

Finally, the Committee asked for draft language for a new request for information from all departments related to payment for unwinding the pay date shift through vacancy savings. That language is as follows:

> All Departments – The Departments are requested to provide by November 1 of each fiscal year responses to the following:
>
> For each position vacated by an employee during the prior fiscal year, provide the following:
> - The final employee salary for the position vacated;
> - The length of time in weeks for the position to be refilled/rehired;
> - If the position is not rehired in the fiscal year, the week of the year (fifteenth, thirty-fourth, etc.) that the position was vacated;
> - The new employee starting salary for the refilled position.
>
> For each new appropriated position during the fiscal year, provide the following:
> - The total employee salary appropriated;
> - The calculated months of salary funding provided by the appropriation;
> - The week of the year (fifteenth, thirty-fourth, etc.) that the position was hired;
> - If the position was unfilled through the fiscal year, report "not filled/not hired" for that position;
> - The actual employee salary at start for the new position filled.
>
> The Departments are also requested to provide the number of employees paid on a monthly current schedule and the number of employees paid on a bi-weekly lag schedule on July 1 of the fiscal year and on June 30 of the fiscal year.

If Departments submit all of the above information as part of their annual budget requests, it will give JBC Staff the ability to calculate how much 'vacancy savings' there would be in a given year, as well as how many positions were transitioned off of the pay date shift.

APPENDIX A: STEP PAY PLAN COST IMPACTS DECISION ITEM

The following decision item is taken directly from staff's January 29, 2024 figure setting document, with no alterations.

➔ STEP PAY PLAN COST IMPACTS

REQUEST: The request includes targeted occupational classification salary range increases as required in the revised partnership agreement. Additionally, the request includes increases for employees who are not covered under the revised partnership agreement. These 'step-like' increases have been requested at a rate of 3.7 percent of the revised base salary to reflect the weighted average of step increases for all classified employees. The total cost of implementing the step pay plan is estimated to be $122.1 million, including $71.3 million General Fund.

RECOMMENDATION: **Staff recommends that the Committee approve the entirety of the step pay plan presented here – step pay plan increases, 3.0 across-the-board increases, step-like increases, and movement to minimum wage.**

ANALYSIS:

THE JBC AND GA ROLE IN THE COLLECTIVE BARGAINING PROCESS

The Colorado Partnership for Quality Jobs and Services Act is set forth in Part 11 of Article 50 of Title 24, C.R.S. Section 24-50-1111 (6), C.R.S. The Act defines a collective bargaining process between the State, as represented by the Governor, and the state employee union on behalf of covered employees.

The Act provides guidance regarding the General Assembly's authority to appropriate funding pursuant to the partnership agreement and the procedural consequences if the request is not funded (emphasis added):

> *The provisions of a partnership agreement that require the expenditure of money <u>shall be contingent upon the availability of money and the specific appropriation of money by the general assembly</u>. <u>If the general assembly rejects any part of the request</u>, or while accepting the request takes any action which would result in a modification of the terms of the cost item submitted to it, <u>either party may reopen negotiations</u> concerning economic issues.*

The partnership agreement process in statute establishes the Governor as the negotiating representative for the State; and establishes the General Assembly as having authority over funding components of negotiated agreements. Therefore, while the General Assembly retains authority over appropriations, it is necessarily cumbersome for the General Assembly to recommend minor technical or incremental adjustments to the negotiated agreement that could entail additional negotiations.

While the General Assembly is not authorized to provide oversight in a direct role within the negotiating process, the General Assembly may express its concerns and preferences through the legislative process; particularly by codifying significant systems and mechanisms that should apply to all employees of the State, and not simply covered employees or employees within the executive branch. Significant refers to large system changes typically accompanied by greater fiscal impacts.

On that basis, staff approaches its analysis and recommendation responsibility with the sense that negotiated components should broadly enhance the sustainability of the statewide compensation system and deliver benefits to the State in its position as an employer. And only in cases where negotiated components might not appear transparent or sustainable as presented in the budget request process, that the unsustainability should be identified and communicated to prevent large scale fiscal mismanagement.

To say it more simply, staff should necessarily only recommend denial of negotiated components if fiscal harm is readily apparent, given the consequences of delays and costs associated with the negotiation process. And, for components where fiscal impacts may not appear to be transparent, that the General Assembly should avail itself of the bill and fiscal note process to better quantify and understand the fiscal mechanisms involved. Future fiscal impacts should not come as a surprise.

COWINS PARTNERSHIP AGREEMENT ESTIMATED COSTS

The executive branch identifies the following components and estimated fiscal impacts related to the revised partnership agreement.

COSTS ASSOCIATED WITH COWINS PARTNERSHIP AGREEMENT FY 2024-25					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2024-25 Request					
Step Pay Plan Increases	$109,065,061	$66,286,284	$20,856,017	$11,050,501	$10,872,259
3.0 percent ATB increase	93,192,043	50,502,293	21,880,914	10,341,325	10,467,512
Critical Staffing Incentives (COR &DHS)	13,088,536	11,579,738	325,955	496,031	686,812
Step-like Increases (3.7%)	13,060,334	4,989,384	1,940,600	4,678,871	1,451,480
Movement to Minimum Wage	114,578	15,317	89,605	4,144	5,512
TOTAL	**$228,520,553**	**$133,373,016**	**$45,093,091**	**$26,570,872**	**$23,483,575**

The above table outlines the total costs of the COWINS Partnership Agreement as requested. These amounts are 'total pay-for amounts' to attempt to capture what the full cost to the State might be. As a result, the numbers here may differ slightly from numbers elsewhere in the document for the same item. Costs included in the 'total pay-for amount' are for PERA, Medicare, AED, SAED, STD, and FAMLI. While these are not all considered direct benefits to the employee, they still must be funded by the State, hence their inclusion in this table.

While the above table includes all the costs associated with the partnership agreement, this document will only cover four of the items. The Critical Staffing Incentive item will be described in the respective departments by the analysts responsible for those departments.

As such, the following table outlines the aspects of the agreement that will be described in the sections that follow.

PARTNERSHIP AGREEMENT COSTS COVERED IN THIS DOCUMENT					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2024-25 Request					
Step Pay Plan Increases	$109,065,061	$66,286,284	$20,856,017	$11,050,501	$10,872,259
3.0 percent ATB increase	93,192,043	$50,502,293	$21,880,914	$10,341,325	$10,467,512
Step-like Increases (3.7%)	13,060,334	$4,989,384	$1,940,600	$4,678,871	$1,451,480
Movement to Minimum Wage	114,578	$15,317	$89,605	$4,144	$5,512
TOTAL	**$215,432,017**	**$121,793,278**	**$44,767,136**	**$26,074,841**	**$22,796,763**

STEP PAY PLAN INCREASE

The first and most expensive aspect of the request related to the partnership agreement is an increase in funding to enact the step pay plan. Staff has calculated the full pay-for amount of this implementation at $109.1 million total funds, including $66.3 million General Fund.

In last year's Total Compensation Figure Setting document, staff outlined the structure of the proposed pay plan as follows:

- Five percent increases at years 3, 5, and 8;
- An increase to midpoint at year 10; staff calculations identify:
  - a 12.3 percent increase in year 10 for salaries with a 55.3 percent range (from minimum);
  - a 3.7 percent increase in year 10 for salaries with a 35.9 percent range;
- Two percent increases at years 12, 15, 20, and 25;
- At year 25, staff calculates that the position is at:
  - 73.6 percent in the pay range for salaries with a 55.3 percent range; and
  - 83.2 percent in the pay range for salaries with a 35.9 percent range.

After receiving the budget request for FY 2024-25, the final structure of the plan is mostly unchanged from what the Committee saw last year, but there are some differences. The final structure of the plan is outlined here.

- Five percent increases at years 3, 5, and 8;
- An increase to midpoint at year 10, including;
  - a 16.7 percent increase in year 10 for salaries with a 71.4 percent and 67.7 percent range (from minimum);
  - a 23.1 percent increase in year 10 for salaries with a 62.5 percent range;
  - a 26.5 percent increase in year 10 for salaries with a 58.2 percent range;
- Two percent increases at years 12, 15, 20, and 25;
- At year 25, positions are:
  - 74.8 percent into the pay range for salaries with a 71.4 percent range;
  - 62.7 percent into the pay range for salaries with a 67.7 percent range;
  - 67.9 percent into the pay range for salaries with a 62.5 percent range; and
  - 65.6 percent into the pay range for salaries with a 58.2 percent range.

Similar to last year, again the executive branch did not include any methodology or theory behind why the pay ranges are the way they are. It seems that the executive branch likely arrived at these pay ranges by applying the request 3.0 percent across the board increase to the current ranges and then applied the step increases as described above. Staff received no supporting documentation on why the ranges are what they are, so cannot make a judgement on whether the increases described above are appropriate for the step plan or not.

Something else to keep in mind regarding the total costs associated with the step pay plan is that the costs you see in this document are still estimates because employees are not actually placed into a step until July 1, 2024. The executive branch is in the process of estimating in which steps it believes employees should be placed, and according to the partnership agreement will provide COWINS with its preliminary placements by March 31, 2024. At that time, employees may appeal their step placement by no later than April 30, 2024, and will receive final confirmation of their step placement by May 15, 2024. Even though the costs are estimates, staff believes that additional changes to employee step placement will likely have a marginal impact on the totals, so the Committee can be confident that any amounts that are approved will be very close to the ultimate cost.

The initial cost of implementing the step pay plan is significant, but staff believes it is worth the cost to establish a functional compensation system for the State as opposed to continuing the prior practice of simply applying across-the-board increases to all positions year after year. If the General Assembly ultimately approves the funding requests based on the partnership agreement, it is reasonable to assume that that would come with a commitment from the State to its employees that the step pay system will continue into the future. Currently, there is no such commitment.

The current partnership agreement is set to expire on July 31, 2024. There are ongoing negotiations for the next partnership agreement, but there is no guarantee that those negotiations will be successful. If no new agreement is signed, then it would be the sole responsibility of the General Assembly to continue funding a step pay system for state employees. Staff finds this prospect somewhat concerning when considering the General Assembly's history of funding compensation plans. The Merit Pay system was funded at lower and lower levels until the General Assembly stopped funding it altogether in FY 2018-19.

Alternately, there is currently no requirement that the General Assembly fund the step plan increases on a yearly basis, so even if a new agreement is signed, there is no guarantee that it will be funded. Essentially, the system that the executive branch has signed on to requires some degree of cooperation between the executive and legislative branches, and right now that cooperation is only kept in place through a metaphorical handshake agreement that the provisions agreed to by the executive branch will be funded by the legislative branch.

Staff believes that formalization of this cooperation is necessary, appropriate, and proper. For this reason, staff recommends that the step pay plan be codified in statute through legislation. This legislation could solve a few different lingering issues with the partnership agreement. First, as mentioned, it would give state employees some comfort to know that the State is dedicated to maintaining a compensation system that will not fall behind the market significantly. This will make the State an employer of choice in Colorado and equip employees with the knowledge that their compensation packages will generally keep pace with the private market.

The other issue that legislation would help solve is to clarify how employees are placed in steps, when they can expect to move into the next step, and what the status of their position is as it relates to the step plan. This will increase transparency for employees, and require that any changes be made in a public way through action by the General Assembly.

Without this codification, it is likely that one or more things will happen at some point in the future: the General Assembly will stop or pause funding for step pay increases; the executive branch will be unable to come to an agreement with the union, so no agreement that continues the step plan will be in place; or the executive branch and legislative branch will have such disagreement that funding is refused for a signed agreement. Depending on the level of specificity included in any legislation, any and all of these issues can be avoided.

For these reasons, staff recommends that the Committee sponsor legislation to codify the step pay plan in statute. Staff further recommends, irrespective of legislation, that a new line item be created in each department that clearly shows the annual cost of the step plan in the Long Bill.

3.0 PERCENT ATB INCREASE

The next aspect of the compensation request is a 3.0 percent across-the-board increase. This piece of the request related to the partnership agreement is expected to cost $93.2 million total funds, including $50.5 million General Fund.

Across-the-board increases are generally used to keep the entire compensation system broadly aligned with the market and often address cost-of-living or inflationary concerns. In recent history, this component has been the only increase component or mechanism regularly requested by the executive branch and funded, often at 3.0 percent. Typically, the request is the result of an equivalent or approximate 3.0 percent average in the anticipated increase in market salaries identified in the annual compensation survey each year.

The following list outlines ATB (and merit pay) increases since FY 2013-14:

- **FY 2024-25 – 3.0 percent across-the-board; no merit pay (request);**
- FY 2023-24 – 5.0 percent across-the-board; no merit pay;
- FY 2022-23 – 3.0 percent across-the-board; no merit pay;
- FY 2021-22 – 3.0 percent across-the-board; no merit pay;
- FY 2020-21 – no across-the-board; no merit pay;
- FY 2019-20 – 3.0 percent across-the-board; no merit pay;
- FY 2018-19 – 3.0 percent across-the-board; no merit pay;
- FY 2017-18 – 2.0 percent across-the-board; 0.75 percent merit pay;
- FY 2016-17 – no across-the-board; no merit pay;
- FY 2015-16 – 1.0 percent across-the-board; 1.0 percent merit pay;
- FY 2014-15 – 2.5 percent across-the-board; 1.0 percent merit pay; and

- FY 2013-14 – 2.0 percent across-the-board; 1.5 percent merit pay.

In the future, the Committee should expect to see either no across-the-board increase requests, or requests at a lower level. The step pay plan should account for most market comparable increases, and across-the-board increases should only be requested at 1-2 percent per year to account for inflation or cost of living adjustments. There may be cases in the future when one or more specific job classes is out of alignment with the market, and in those cases, staff would expect that larger, targeted adjustments would be requested to deal with those specific classifications. Unfortunately, there is not much evidence to suggest that will actually be the case. The State has historically responded to misalignment in specific classifications with blanket increases, as evidenced in the list above. When the annual compensation report shows that the state as a whole is out of alignment by a certain percentage, that is an average, with some job classes much lower than the percentage, and some much higher. When the executive branch requests an across-the-board increase based on the percentage that the state is out of alignment with the market, that only serves to bring those classes below market up to the minimum while pushing those classes above market even higher.

Because the executive branch has not in the past made an effort to target specific job classifications, there are many employees necessarily at their range minimums because those minimums continue to increase whether the market dictates that movement or not. In the future, if the executive branch requests across-the-board increases higher than 1-2 percent, the Committee should strongly consider the justification given for such an increase. An across-the-board increase is generally only good for keeping salaries broadly aligned with inflationary, cost-of-living adjustments. It is not a good tool for maintaining a compensation system that functionally responds to market adjustments by occupational classification or for rewarding experience and career growth in any job with movement through the salary range.

With regard to the current across-the-board increase request, staff recommends approval – not because staff believes there is a compelling reason for it, but because in the current request, if the step plan increase is approved it does not matter if the across-the-board increase is approved or denied. The reason for this is because the executive branch calculated the 3.0 percent across-the-board increase first, and then applied the step plan increases to that, so any employee who would have received an increase by being placed in a step will simply receive a smaller increase as a result of the across-the-board increase.

For example, consider a hypothetical employee in the Veterinarian I job class with three years of experience in job series who makes $7,460 per month. The new range minimum for that class is $7,814, and the first step increase would put that employee at $8,205 per month. If you apply only the step plan increase to their original salary, they would receive a 10.0 percent salary increase. If, however, you first apply the 3.0 percent across-the-board increase, the employee's salary is first increased to $7,684 and then increased again by 6.8 percent to $8,205. So either way, the employee receives the same salary and the 3.0 percent across-the-board increase does not matter much.

While in the current request the across-the-board increase is not so important, it will be more impactful in the future. The main reason that it is not impactful this year is because the pay ranges for the step plan implementation were presumably set with the 3.0 percent increase in mind. In the future, an across-the-board increase will necessarily shift the pay range structure up, which will have a much greater impact on the cost of the step increases.

With all that said, staff recommends approval of the 3.0 percent across-the-board increase.

STEP-LIKE INCREASES

The third aspect of the costs associated with the partnership agreement is what the executive branch has dubbed 'step-like' increases. These increases are for employees who are not covered under the partnership agreement, but who without comparable salary increases would be placed in a difficult situation where their colleagues received raises but they did not because of their position classification.

The executive branch basically took the weighted average of all the step increases across the state and applied that average to those employees who did not receive step increases. The executive branch calculated this weighted average at 3.7 percent. This results in an increase of $13.1 million, including $5.0 million General Fund.

JBC staff is taking the executive branch's 3.7 percent number in good faith, because no supporting documents were provided to staff to independently calculate this average, and staff has not had time to analyze the step increases for every single state employee covered under the partnership agreement.

As far as staff can tell, the executive branch took the revised base salary and multiplied it by 3.7 percent to determine the step increase. Staff is unsure if this is a reasonable methodology, as that judgement depends on how the weighted average was calculated.

Staff does believe, however, that employees not covered under the partnership agreement do need some kind of increase that is at least somewhat comparable to those employees covered under the agreement, and staff feels that this is a good starting point. In future years, the Committee should expect to see more detail on how the step-like increases are calculated.

Staff recommends approval of the step-like increase request.

MOVEMENT TO MINIMUM WAGE

The minimum wage increase included in the revised partnership agreement increases the minimum wage from $15.75 per hour to $16.22 per hour for FY 2024-25. This minimum wage increase adjustment is equal to the 3.0 percent across-the-board increase requested for salaried positions.

The executive branch estimates the fiscal impact tied to the minimum wage adjustment at $114,578 total funds, including $15,317 General Fund for FY 2024-25. There are very few positions statewide that are impacted by this adjustment. Based on the scale of this change, staff recommends approval of the movement to minimum wage request.