

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO JBC Members  
FROM JBC Staff  
DATE March 15, 2023  
SUBJECT Figure Setting Comeback Packet 4

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

**Department of Education, page 1** (Craig Harper) Categorical Programs in Education

**Department of Early Childhood, page 10** (Eric Kurtz) R8 Records and Reports Cash Fund

**Departments of Human Services and Regulatory Agencies, page 13** (Tom Dermody) Colorado Commission for the Deaf, Hard of Hearing, and Deafblind

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
 FROM Craig Harper, JBC Staff (303-866-3481)  
 DATE March 14, 2023  
 SUBJECT JBC Staff Comeback - Categorical Programs in Education

During figure setting for school finance and categorical programs in the Department of Education, the Committee tabled the decision on request R2 (Categorical Programs Increase) and asked staff to return with an allocation of increases among the categorical programs that met the following criteria (with all increases in appropriations assumed to come from the State Education Fund):

- Set aside \$40,203,671 for Special Education Programs for Children with Disabilities, to be appropriated in S.B. 23-099 (Special Education Funding), based on the Legislative Council Staff Fiscal Note for that bill.
- Set aside \$1,058,115 for Special Education Programs for Gifted and Talented Children to support the universal identification system discussed in the Department of Education’s request for information response submitted in November 2022. The Committee did not specify a bill for this appropriation, and it is possible that the Committee could include the increase in the Long Bill. Staff’s recommendation assumes a separate bill (such as school finance) would carry the appropriation.
- Allocate increases to categorical programs other than Special Education Programs for Children with Disabilities based on the methodology that staff and the Committee have historically used to allocate the annual inflationary increase among categorical programs. That calculation uses the difference between state/federal funding for each program and actual (statewide) school district expenditures for each respective program in the most recent year for which data are available (FY 2020-21 is the most recent year for the FY 2023-24 recommendation).

**Staff recommends that the Committee approve the increases in state funding for categorical programs shown in the following table, with all increases in state funding coming as appropriations from the State Education Fund.** Staff has reflected in the table whether the increase is assumed to be in the FY 2023-24 Long Bill or in separate legislation.

COMEBACK RECOMMENDATION FOR INFLATIONARY INCREASES FOR CATEGORICAL PROGRAMS

LONG BILL LINE ITEM	FY 2022-23 APPROPRIATION	FY 2023-24			PERCENT CHANGE
		RECOMMENDED INCREASE FOR LONG BILL	SET-ASIDE FOR OTHER LEGISLATION	TOTAL STAFF REC. (STATE FUNDS)	
Special Education - Children with Disabilities	\$300,154,633	\$0	\$40,203,671	\$340,358,304	13.4%
English Language Proficiency Program	25,257,742	6,036,356	0	31,294,098	0.0%
Public School Transportation	62,771,962	5,607,275	0	68,379,237	0.0%
Career and Technical Education Programs	28,244,361	2,270,583	0	30,514,944	0.0%
Special Education - Gifted and Talented Children	12,994,942	624,475	1,058,115	14,677,532	8.1%
Expelled and At-risk Student Services Grant Program	9,493,560	5,982	0	9,499,542	0.0%
Small Attendance Center Aid	1,314,250	285,741	0	1,599,991	0.0%
Comprehensive Health Education	1,131,396	2,888	0	1,134,284	0.0%
<b>Total</b>	<b>\$441,362,846</b>	<b>\$14,833,300</b>	<b>\$41,261,786</b>	<b>\$497,457,932</b>	<b>9.3%</b>

The recommendation differs slightly from the discussion during the figure setting presentation based on the following changes:

- It includes an increase of \$285,741 for the Small Attendance Center Aid program which provides additional funding to small, geographically isolated schools. This is the increase that would have been required to fully fund that program in FY 2022-23 – and staff recommends providing that increase for FY 2023-24 (which is consistent with JBC action in prior years where there was a significant shortfall in this line item below the calculated amount).
- It includes an increase of \$5,982 for the Expelled and At-risk Student Services Grant Program. The Department requested this amount outside of the inflationary increase to annualize FY 2022-23 salary survey appropriations. Staff has built that increase into the inflationary increase, resulting in slight reductions to the increases in allocations for other line items.
- Similarly, the recommendation includes an increase of \$2,888 for the Comprehensive Health Education program. That amount includes \$1,941 requested for salary survey annualization and 947 that was requested as part of the inflationary increase. Staff is recommending the full amount as part of the inflationary increase.

Staff has often recommended denying salary survey increases for the categorical program line items and instead recommended that the programs absorb any such salary increases in the approved inflationary increases. However, both the Expelled and At-risk Student Services Grant Program and the Comprehensive Health Education program are frequently excluded from the inflationary increases as those programs do not fit within the “revenues vs. actual expenditures” framework that staff uses to allocate the recommended increases each year. Given the magnitude of overall increases for FY 2023-24 (as required by Amendment 23), staff recommends providing the salary survey increases but doing so within the overall inflationary adjustment.

All told, the recommendation results in an increase of \$56,095,086 cash funds from the State Education Fund, which is \$20,786,058 above the \$35,309,028 required by Amendment 23. As discussed by the Committee during the original figure setting presentation, the difference above the requirement is driven by the additional appropriations for Special Education Programs for Children with Disabilities and Special Education Programs for Gifted and Talented Children.

**For background purposes, staff has included the discussion of R2 from the original figure setting document below.**

## → R2 CATEGORICAL PROGRAMS INCREASE

*REQUEST:* Amendment 23 requires the General Assembly to increase total state funding for all categorical programs (in aggregate) by at least the rate of inflation in FY 2023-24. The request, based on the OSPB-projected inflation rate for CY 2022 (8.3 percent), seeks an increase of \$36.6 million cash funds from the State Education Fund to support the required increase. The request proposes to allocate the increase among seven programs, with two major components:

- Allocate \$29.0 million to special education programs for children with disabilities. The request includes a legislative proposal to increase the per pupil amount for Tier A (which includes every student identified with a disability) from \$1,750 (as increased in S.B. 22-127) to \$1,850 in FY 2023-24. Based on the estimates in the request, the proposal would allow for the increase in Tier A and still leave enough funding to increase funding for Tier B (a smaller pool of students with specific disabilities requiring more intensive services) from \$4,318 per pupil to \$5,202.

- The remainder of the money (\$7.6 million) would be distributed to six other categorical programs using a method similar to previous years and as shown in the following table.

R2 REQUESTED INCREASES IN STATE FUNDING FOR CATEGORICAL PROGRAMS				
LONG BILL LINE ITEM	FY 2022-23 APPROPRIATION	FY 2023-24 REQUEST	CHANGE IN STATE FUNDING	PERCENT CHANGE
Special Education - Children with Disabilities	\$300,154,633	\$329,174,785	\$29,020,152	9.7%
English Language Proficiency Program	25,257,742	28,416,760	3,159,018	12.5%
Public School Transportation	62,771,962	65,706,428	2,934,466	4.7%
Career and Technical Education Programs	28,244,361	29,432,629	1,188,268	4.2%
Special Education - Gifted and Talented Children	12,994,942	13,321,750	326,808	2.5%
Expelled and At-risk Student Services Grant Program	9,493,560	9,493,560	0	0.0%
Small Attendance Center Aid	1,314,250	1,317,707	3,457	0.3%
Comprehensive Health Education	1,131,396	1,132,343	947	0.1%
<b>Total</b>	<b>\$441,362,846</b>	<b>\$477,995,962</b>	<b>\$36,633,116</b>	<b>8.3%</b>

*RECOMMENDATION:* Based on the actual Denver-Aurora-Lakewood change in the consumer price index for CY 2022 (8.0 percent as compared to the 8.3 percent assumed in the request), the Constitution requires an increase of at least \$35,305,028 for categorical programs in FY 2023-24 (a decrease of \$1.3 million below the Governor’s request as a result of the change in the inflation rate). Consistent with prior years, staff recommends appropriating the additional funds from the State Education Fund although the Committee could also use General Fund.

Similar to the Committee’s action for FY 2022-23, staff is not recommending appropriating the increase for FY 2023-24 in the Long Bill. Given the magnitude of the increase required for FY 2023-24 and the General Assembly’s ongoing discussion of educational priorities relating to the categorical programs, staff recommends that the Committee defer the actual allocation of the increase among programs to take place in separate legislation.

Staff recommends that the Committee work with the members of the School Finance Interim Committee, the Education Committees, and other stakeholders to develop the allocation of the categorical programs increase for FY 2023-24. Given that the Constitution requires an increase of at least \$35.3 million, however, staff recommends that the Committee establish a “placeholder” of at least that minimum amount as part of the budget process to ensure that the funds are tracked through the passage of the subsequent legislation.

*ANALYSIS:*

*Background - Constitutional Funding Requirement:* Programs designed to serve particular groups of students (e.g., students with limited proficiency in English) or particular student needs (e.g., transportation) have traditionally been referred to as "categorical" programs. Unlike public school finance funding, there is no legal requirement that the General Assembly increase funding commensurate with the number of students eligible for any particular categorical program. However, Section 17 of Article IX of the Colorado Constitution requires the General Assembly to increase *total state funding* for all categorical programs annually by at least the rate of inflation plus one percent for FY 2001-02 through FY 2010-11, and by at least the rate of inflation for subsequent fiscal years. For example, in calendar year 2021 the percentage change in the Denver-Aurora-Lakewood consumer price index was 3.5 percent, so the General Assembly was required to increase state funding for categorical programs by at least that amount (\$12,647,700) for FY 2022-23.

The General Assembly determines on an annual basis how to allocate the required increase among the various categorical programs. Since FY 2000-01, the General Assembly has increased annual state funding for categorical programs by \$299.2 million. In certain fiscal years (including FY 2022-23), the General Assembly elected to increase state funding by more than the minimum, constitutionally-required amount, resulting in appropriations that are now \$175.7 million higher than the minimum amount that would have otherwise been required.

The following table details the allocation of the \$299.2 million increase since FY 2000-01 among categorical programs.

INCREASES IN STATE FUNDING FOR CATEGORICAL PROGRAMS SINCE FY 2000-01				
LONG BILL LINE ITEM	FY 2000-01 APPROPRIATION	FY 2022-23 APPROPRIATION	TOTAL INCREASE IN ANNUAL APPROPRIATION OF STATE FUNDS SINCE FY 2000-01	
Special Education - Children with Disabilities	\$71,510,773	\$300,154,633	\$228,643,860	319.7%
English Language Proficiency Program	3,101,598	25,257,742	22,156,144	714.3%
Public School Transportation	36,922,227	62,771,962	25,849,735	70.0%
Career and Technical Education Programs	17,792,850	28,244,361	10,451,511	58.7%
Special Education - Gifted and Talented Children	5,500,000	12,994,942	7,494,942	136.3%
Expelled and At-risk Student Services Grant Program	5,788,807	9,493,560	3,704,753	64.0%
Small Attendance Center Aid	948,140	1,314,250	366,110	38.6%
Comprehensive Health Education	600,000	1,131,396	531,396	88.6%
<b>Total</b>	<b>\$142,164,395</b>	<b>\$441,362,846</b>	<b>\$299,198,451</b>	<b>210.5%</b>

The constitution also requires that money from the State Education Fund not supplant the level of General Fund appropriations existing on December 28, 2000, for categorical programs [see Section 17 (5) of Article IX of the Colorado Constitution]. Staff's recommendations for this section maintain \$163,765,474 in General Fund appropriations to comply with this requirement. This provision actually requires the General Assembly to maintain an appropriation of at least \$141,765,474 General Fund (the amount appropriated as of December 28, 2000); however, the General Assembly added \$22.0 million General Fund to the Special Education Programs for Children with Disabilities line item in FY 2019-20 (appropriated in S.B. 19-246 (School Finance)).

Finally, please note that pursuant to Section 22-55-107 (3), C.R.S., for the 2008-09 budget year and each budget year thereafter, on or before February 15, "the education committees of the house of representatives and senate, or any successor committees, may submit to the joint budget committee of the general assembly a joint recommendation regarding the allocation of the increase in total state funding for all categorical programs as required by subsection (1) of this section for the next budget year. The joint budget committee shall consider but shall not be bound by any joint recommendations made pursuant to this subsection (3) when developing the annual general appropriation bill for the budget year for which the joint recommendation is made". To date, these Committees have not made any such recommendation.

This write-up (of R2) summarizes the staff recommendation for FY 2023-24, which is to hold appropriations constant in the Long Bill and instead allocate the increase in separate legislation. The Committee should note, however, that a more detailed description of each categorical program line item, including a description of the funds available -- other than state funds -- may be found in the Line Item Detail section for categorical programs.

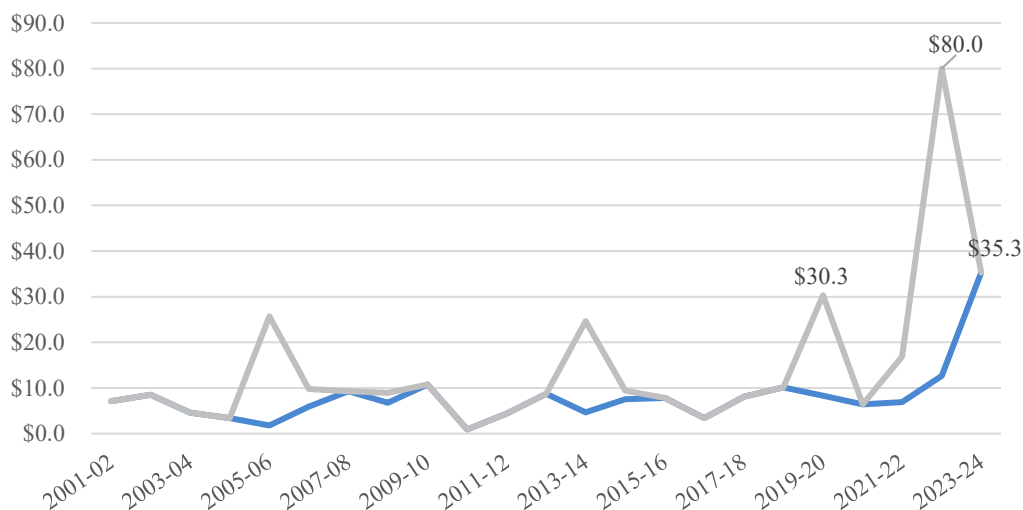
*Allocation of Required Funding Increase for FY 2023-24:* As noted above, the Constitution requires the General Assembly to increase total state funding for all categorical programs annually by at least the rate of inflation (based on the change in the Denver-Aurora-Lakewood Consumer Price Index for calendar year 2022) for FY 2023-24. Based on the actual change in the CPI for CY 2022 (8.0 percent), the Constitution requires and staff recommends adding a total of \$35,309,028 state funds for FY 2023-24. Consistent with prior years, staff recommends appropriating the increase from the State Education Fund, although the Committee could elect to use General Fund instead.

In most recent years, JBC Staff and the Department and staff have used similar mechanisms to allocate the Constitutionally-required increases among categorical line items, with increases based on the difference between state and federal funding provided for a program and school districts’ actual expenditures. Thus, programs with a larger gap between state and federal funds and total district expenditures (those for which school districts are absorbing the greatest cost within their budgets) receive the largest increase. For illustrative purposes and the Committee’s consideration, staff has included a table below showing how that model would allocate the increase for FY 2023-24.

However, staff is not recommending appropriating the increase in funding for FY 2023-24 in the Long Bill for two reasons.

- First, the high inflation rate combined with a large “base” of state funding results in a historically large required increase in FY 2023-24 (see graph below). While the General Assembly did appropriate a larger amount in FY 2022-23 in S.B. 22-127, the increase for FY 2023-24 is the largest “mandatory” increase since the passage of Amendment 23 in 2000. Staff suggests that the magnitude of the mandatory increase may provide an opportunity for the Committee and the General Assembly to focus on specific priorities within the categorical programs.

The anticipated inflationary increase for FY 2023-24 is the largest-ever required increase and exceeds the actual increases for every year but FY 2022-23.



Second, and related to the first point, staff is aware of at least two specific priorities outside of the “standard” allocation of categorical funding based on actions to date (and the General Assembly may well wish to consider whether other targeted increases would achieve policy priorities):

- The Interim Committee on School Finance unanimously approved S.B. 23-099 for introduction as an interim committee bill.<sup>1</sup> Building on the FY 2022-23 appropriation in S.B. 22-127, the bill would require the General Assembly to appropriate sufficient funding for FY 2023-24 to fully fund \$6,000 per Tier B student within the **special education programs for children with disabilities** line item. According to the Legislative Council Staff Fiscal Note, S.B. 22-099 would require an appropriation of \$40.2 million for FY 2023-24 (\$4.9 million above the minimum inflationary increase for categorical funding as a whole and \$11.2 million above the Governor’s proposal for special education for FY 2023-24). Staff notes that achieving and maintaining the goal of fully funding the statutory amounts for special education would require a shift in the standard allocation model in future years to align funding with the population slated to receive those services. For the first time that staff is aware of, that would directly tie the appropriation for special education services with the population receiving those services.
- As part of the FY 2022-23 Long Bill process, the Committee included a request for information for the Department of Education seeking information on the cost to implement a universal screening program for the **special education programs for gifted and talented children**. As discussed in the FY 2023-24 briefing document for school finance and categorical programs, the Department estimates that doing so would require *annual increases* of \$1.1 million per year for five years in addition to the “standard” categorical programs increase. If the Committee wished to pursue this option, then it could carve that amount out of the inflationary increase or build it outside of that increase (at additional cost). Staff assumes that the Committee made that request for information based on interest in providing the universal screening.

While staff is not recommending appropriating the increase in funding in the Long Bill, staff has included the tables that inform the recommended allocation of funding in more typical years for the Committee’s consideration. Thus, the following pages include three tables associated with categorical funding.

- Table A shows the gap between state and federal funding and actual local expenditures in FY 2020-21 (the most recent year for which the necessary data are available).
- Table B shows the gap between FY 2021-22 funding levels and "full funding" for the programs with statutory formulas for that year.
- Table C summarizes the “standard” allocation if the Committee elected to recommended by staff, the allocation requested by the Department, and two other potential options for illustrative purposes.

<sup>1</sup> The Senate Education Committee heard the bill on February 6, 2023, and referred the bill to the Appropriations Committee.

TABLE A: CATEGORICAL PROGRAM REVENUES AND EXPENDITURES: FY 2020-21

LONG BILL LINE ITEM	(a) STATE FUNDS	(b) FEDERAL FUNDS	(c) = (a) + (b) TOTAL STATE AND FEDERAL FUNDS	(d) TOTAL DISTRICT EXPENDITURES	(e) = (c)/(d) STATE/FEDERAL SHARE OF EXPENDITURES	(f) = (d) - (c) LOCAL SHARE OF EXPENDITURES
<b>District Programs Required by Statute</b>						
Special Education - Children with Disabilities <sup>a</sup>	\$241,326,581	\$153,956,118	\$395,282,699	\$1,162,984,064	34.0%	\$767,701,365
English Language Proficiency Program <sup>b</sup>	51,104,870	9,370,067	60,474,937	286,797,477	21.1%	226,322,540
<b>Other Categorical Programs</b>						
Public School Transportation	64,050,757	0	64,050,757	274,285,674	23.4%	210,234,917
Career and Technical Education	27,978,242	5,347,846	33,326,088	118,457,588	28.1%	85,131,500
Special Education - Gifted and Talented Children	12,142,251	0	12,142,251	35,555,854	34.1%	23,413,603
<b>TOTAL</b>						<b>\$1,312,803,925</b>

<sup>a</sup> State funding includes Public School Finance Act funding for preschool children with disabilities.

<sup>b</sup> State funding includes money provided through the English Language Learners Professional Development and Student Support Program. The General Assembly eliminated funding for that program in FY 2021-22 with the creation of the English language learners factor in the school finance formula - but the program was still in place for FY 2020-21.



TABLE B: MAXIMUM AMOUNT OF STATE FUNDS DISTRICTS WERE STATUTORILY ELIGIBLE TO RECEIVE FOR FY 2021-22

LONG BILL LINE ITEM	DESCRIPTION OF WHAT DETERMINES MAXIMUM STATE FUNDING	TOTAL STATE FUNDS	MAXIMUM STATE FUNDING	PERCENT OF MAXIMUM COVERED BY STATE FUNDS	ESTIMATED INCREASE REQUIRED TO FUND STATUTORY MAXIMUM
<b>District Programs Required by Statute</b>					
Special Education - Children With Disabilities a/	Driven by the number of children requiring special education services, characteristics of the children eligible for such services, and the cost of such services	\$217,579,593	\$276,395,500	78.7%	\$58,815,907
English Language Proficiency Program b/	Driven by the number of eligible students and statewide average per pupil operating revenue	25,257,713	37,685,990	67.0%	12,428,277
<b>Other Categorical Programs (with specified statutory reimbursement levels)</b>					
Public School Transportation	Driven by total miles traveled and total transportation-related costs (excluding capital outlay expenses)	63,391,612	104,402,687	60.7%	41,011,075
Colorado Vocational Distributions Act	Driven by the number of students participating in vocational education programs and the costs of such services per FTE in relation to each districts per pupil operating revenue	28,244,361	34,666,975	81.5%	6,422,614
Small Attendance Center Aid	Driven by the number of eligible schools, such schools' enrollment, and eligible districts' per pupil funding	1,314,250	1,561,938	84.1%	247,688
<b>TOTAL</b>					<b>\$118,925,561</b>

a/ The estimated increase to fund the statutory maximum for special education for children with disabilities in FY 2021-22 is based on the following: \$132,875,000 for Tier A (\$1,250 for each student with disabilities); \$141,474,000 for Tier B (assuming districts received \$6,000 per student for 100 percent of the 23,579 students with specified disabilities, rather than for 56.5 percent of these students); \$4,000,000 for high cost grants; and \$500,000 for "educational orphans." Staff has not attempted to estimate the costs of "fully funding" the high cost grant program.

b/ The State funds provided for the English Language Proficiency Program in FY 2021-22 only reflect categorical program funding amounts. They do *not* include amounts in the school finance formula associated with the English language learners (ELL) factor added to the formula through S.B. 21-268 (School Finance).

TABLE C: OPTIONS FOR THE ALLOCATION OF THE INCREASE IN STATE FUNDING FOR CATEGORICAL PROGRAMS IN FY 2023-24

LONG BILL LINE ITEM	FY 22-23 APPROP.	EXAMPLES OF OPTIONS FOR ALLOCATING REQUIRED INCREASE							
		A :STANDARD MODEL	%	B: DEPT. REQUEST	%	C	%	D	%
Special education programs for children with disabilities	\$300,154,633	\$20,648,011	6.9%	\$29,020,152	9.7%	\$32,568,424	10.9%	\$24,012,371	8.0%
English language proficiency programs	\$25,257,742	6,087,146	24.1%	3,159,018	12.5%	\$2,740,604	10.9%	2,020,619	8.0%
Public school transportation	\$62,771,962	5,654,455	9.0%	2,934,466	4.7%	0	0.0%	5,021,757	8.0%
Career and technical education	\$28,244,361	2,289,687	8.1%	1,188,268	4.2%	0	0.0%	2,259,549	8.0%
Special education programs for gifted and talented children	\$12,994,942	629,730	4.8%	326,808	2.5%	0	0.0%	1,039,595	8.0%
Expelled and at-risk student services grant program	\$9,493,560	0	0.0%	0	0.0%	0	0.0%	759,485	8.0%
Small attendance center aid	\$1,314,250	0	0.0%	3,457	0.3%	0	0.0%	105,140	8.0%
Comprehensive health education	\$1,131,396	0	0.0%	947	0.1%	0	0.0%	90,512	8.0%
<b>Totals (may not sum due to rounding)</b>	<b>\$441,362,846</b>	<b>\$35,309,028</b>	<b>8.0%</b>	<b>\$36,633,116</b>	<b>8.3%</b>	<b>\$35,309,028</b>	<b>8.0%</b>	<b>\$35,309,028</b>	<b>8.0%</b>

Description of Potential Allocation Options

A: Standard model, based on actual 8.0 percent inflation rate.

B: Department's request, based on OSPB September Revenue Forecast inflation rate (8.3 percent), and funding the proposed policy changes for special education programs for children with disabilities.

C: Provide a 10.9% increase for children with disabilities and English language proficiency programs (the two programs required by statute).

D: Provide the same percentage increase for all programs.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Eric Kurtz, JBC Staff (303-866-4952)  
DATE March 15, 2023  
SUBJECT Early Childhood Staff Comeback – R8 Records and Reports Cash Fund

At the recommendation of the JBC staff, the JBC delayed a decision on R8 Records and Reports Cash Fund pending additional information.

### → R8 RECORDS AND REPORTS CASH FUND

#### REQUEST

The Department requests transferring 2.0 FTE from the Department of Early Childhood to the Department of Human Services. These FTE were transferred from Department of Human Services to the Department of Early Childhood in H.B. 22-1295 but they support the Child and Adult Mistreatment Dispute Review Section (CAMDRS), which is housed in the Department of Human Services, and so the funding should be in the Department of Human Services. This technical relocation of the appropriation can be accomplished in the Long Bill.

In addition, the Department requests that the JBC *sponsor legislation* to separate the Records and Reports Cash Fund from unrelated costs of the Department of Human Services. The change would result in an increase in General Fund appropriations but also a similarly-sized decrease in fee revenue that would otherwise be required. The fees are subject to TABOR, so the reduction in fee revenue decreases the General Fund obligation for a TABOR refund.

The Records and Reports Cash Fund receives fees paid for background checks of child abuse or neglect and covers the Department's administrative costs in providing the information. The fund also currently supports the Child and Adult Mistreatment Dispute Review Section (CAMDRS) in the Department of Human Services. CAMDRS reviews appeals of county decisions involving individuals with a substantiated finding of child abuse or neglect or mistreatment of an at-risk adult. The primary costs of CAMDRS are legal costs, which have risen from \$167,677 in FY 2017-18 to \$807,323 in FY 2021-22.

The Department argues that there is no direct connection between the people on whom the Department performs background checks and the people appealing county findings of abuse or neglect. The majority of the Department's background checks are on people seeking employment to work with vulnerable children. The majority of the CAMDRS appeals involve family members of the alleged victim.

The revenue to the Records and Reports Cash Fund is more than sufficient to cover the cost of the Department's background checks. If the fund must continue to support the CAMDRS reviews, then the Department estimates it will need to raise background check fees from \$35 to \$55 to cover increasing costs for the CAMDRS, having a negative impact on early childhood providers that pay the majority of the fees. Also, the Department of Early Childhood will continue to be in a position of managing the fees to pay for costs it does not control or oversee that are associated with the

Department of Human Services' CAMDRS. If General Fund is appropriated to support the CAMDRS instead of requiring the Records and Reports Cash Fund to support it, then the Department could reduce the background check fees from \$35 to \$30 while still maintaining a sufficient reserve in the fund.

#### RECOMMENDATION

Staff recommends both the requested net \$0 technical transfer of staff between departments and the requested legislation to separate CAMDRS from the Records and Reports Cash Fund, since these costs are unrelated to who pays fees into the Records and Reports Cash Fund. The bill would include an increase in General Fund appropriations to the Department of Human Services for CAMDRS and an equal decrease in cash funds appropriations. It would also include a decrease in reappropriated funds collected through the indirect cost recovery plan. The statutory change would allow the Department of Early Childhood and the Department of Human Services to reduce fees, resulting in a decrease in TABOR revenue and a decrease in the General Fund obligation for a TABOR refund that is similar in size to the increase in General Fund appropriations.

The recommendation is summarized in the tables below. There are several technical differences between the staff recommendation and the request (for example, the request omitted the decrease in cash funds appropriations that corresponds with the increase in General Fund appropriations in the Department of Human Services) but it is consistent with the request in terms of the policy change.

R8 Records and Reports Cash Fund - Long Bill					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FTE
Department of Early Childhood					
(1) Executive Director's Office					
Health, Life, and Dental	(\$400)	\$0	(\$400)	\$0	0.0
Sort-term Disability	(3)	0	(3)	0	0.0
Amortization Equalization Disbursement	(86)	0	(86)	0	0.0
Supplemental Amortization Equalization Disbursement	(86)	0	(86)	0	0.0
Salary Survey	(40)	0	(40)	0	0.0
(5) Licensing and Administration					
Background Investigation Unit	(270,520)	0	(270,520)	0	(2.0)
<b>Subtotal - Early Childhood</b>	<b>(\$271,135)</b>	<b>\$0</b>	<b>(\$271,135)</b>	<b>\$0</b>	<b>(2.0)</b>
Department of Human Services					
(1) Executive Director's Office					
(A) General Administration					
Health, Life, and Dental	\$400	\$0	\$400	\$0	0.0
Short-term Disability	3	0	3	0	0.0
Amortization Equalization Disbursement	86	0	86	0	0.0
Supplemental Amortization Equalization Disbursement	86	0	86	0	0.0
Salary Survey	40	0	40	0	0.0
(2) Administration and Finance					
(D) Special Purpose					
Records and Reports of Child Abuse and Neglect	270,520	0	270,520	0	2.0
<b>Subtotal - Human Services</b>	<b>\$271,135</b>	<b>\$0</b>	<b>\$271,135</b>	<b>\$0</b>	<b>2.0</b>
<b>TOTAL - Long Bill Changes</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0</b>

R8 Records and Reports Cash Fund - Recommended Legislation					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FTE
Department of Human Services					
(1) Executive Director's Office					
(A) General Administration					
Health, Life, and Dental	\$0	\$400	(\$400)	\$0	0.0
Short-term Disability	0	3	(3)	0	0.0
Amortization Equalization Disbursement	0	86	(86)	0	0.0
Supplemental Amortization Equalization Disbursement	0	86	(86)	0	0.0
Salary Survey	0	40	(40)	0	0.0
PERA Direct Distribution	0	3,603	0	(3,603)	0.0
Workers Compensation	0	1,481	0	(1,481)	0.0
Legal Services	0	807,323	0	(807,323)	0.0
Administrative Law Judge Services	0	203,273	0	(203,273)	0.0
Payments to Risk Management and Property Funds	0	253	0	(253)	0.0
(2) Administration and Finance					
(A) Administration					
Personal Services	0	32,639	0	(32,639)	0.0
(B) Information Technology					
Payments to OIT	0	13,617	0	(13,617)	0.0
(C) Operations					
Capitol Complex Leased Space	0	8,240	0	(8,240)	0.0
(D) Special Purpose					
Records and Reports of Child Abuse and Neglect	0	270,520	(270,520)	0	0.0
(7) Office of Adults, Aging, and Disability Services					
(E) Indirect Cost Assessment	(1,070,429)	0	(1,070,429)	0	0.0
<b>Subtotal - Human Services</b>	<b>(\$1,070,429)</b>	<b>\$1,341,564</b>	<b>(\$1,341,564)</b>	<b>(\$1,070,429)</b>	<b>0.0</b>

R8 Records and Reports Cash Fund - Revenues				
	FY 22-23 Actual Fee	FY 23-24 Projected Fee	Projected Fee with Bill	Decrease in Revenue
Adult Protective Services	\$9	\$9	\$5	(\$788,757)
Early Childhood	\$35	\$55	\$30	(\$682,500)
<b>TOTAL</b>				<b>(\$1,471,257)</b>

The actual fees are set by the State Board of Human Services and the Executive Director of the Department of Early Childhood. These are projections based on expected revenues and costs but do not represent actual action by the entities that set the fees.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
 FROM Tom Dermody, JBC Staff (303-866-4963)  
 DATE March 14, 2023  
 SUBJECT Colorado Commission for the Deaf, Hard of Hearing, and Deafblind

*REQUEST:* On March 10<sup>th</sup>, the Departments of Human Services and Regulatory Agencies submitted a joint request for an increase of \$315,946 cash funds from the Colorado Telephone Users With Disabilities Fund (CTUDF), created in Section 40-17-104 (1)(a), C.R.S., to the Colorado Commission of the Deaf, Hard of Hearing, and Deafblind Cash Fund line item in the Department of Regulatory Agencies. This line item provides the revenue that supports the Colorado Commission for the Deaf, Hard of Hearing, and Deafblind (Commission), which is overseen by the Department of Human Services. The cash funds appropriated through the line item in the Department of Regulatory Agencies are reappropriated to a similar line item the Department of Human Services. The FY 2023-24 appropriation in the Department of Regulatory Agencies is currently set at \$1,992,589 cash funds, while the corresponding appropriation in the Department of Human Services for the Commission is currently set at \$2,308,535 reappropriated funds. The requested increase would align these two appropriations.

The Colorado Commission of the Deaf, Hard of Hearing, and Deafblind, created Article 21 of Title 26, C.R.S., is directed to address the needs and concerns of Colorado’s deaf, hard-of-hearing, and deafblind populations. The Commission’s staff provide information referral and consultation, coordination and provision of auxiliary services, distribution of communications resources and tools, the annual distribution of grants, environmental navigating support for deafblind individuals, assisting state agencies and community organizations in building their capacity to serve deaf, hard-of-hearing, and deafblind individuals, and oversight of the Colorado Early Hearing Detection and Intervention Alliance.

*RECOMMENDATION:* Staff **recommends the Committee approve an increase of \$315,946 cash funds** to the Colorado Commission of the Deaf, Hard of Hearing, and Deafblind Cash Fund line item in the Department of Regulatory Agencies **for FY 2023-24 only**. Staff expects the Departments of Human Services and Regulatory Agencies to submit a joint decision item for any ongoing appropriations for the FY 2024-25 budget cycle.

REVISED RECOMMENDATION FOR APPROPRIATIONS RELATE TO THE COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND						
DEPARTMENT	TOTAL FUNDS	GENERAL FUD	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
<u>Figure setting</u>						
Regulatory Agencies	\$1,992,589	\$0	\$1,992,589	\$0	\$0	0.0
Human Services	2,411,749	103,214	0	2,308,535	0	13.3
<b>Total</b>	<b>\$4,404,338</b>	<b>\$103,214</b>	<b>\$1,992,589</b>	<b>\$2,308,535</b>	<b>\$0</b>	<b>13.3</b>
<u>Revised Recommendation</u>						
Regulatory Agencies	\$2,308,535	\$0	\$2,308,535	\$0	\$0	0.0
Human Services	2,411,749	103,214	0	2,308,535	0	13.3
<b>Total</b>	<b>\$4,720,284</b>	<b>\$103,214</b>	<b>\$2,308,535</b>	<b>\$2,308,535</b>	<b>\$0</b>	<b>13.3</b>
<b>Difference</b>	<b>\$315,946</b>	<b>\$0</b>	<b>\$315,946</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0</b>

*ANALYSIS:* The Colorado Telephone Users With Disabilities Fund is under the purview of the Colorado Public Utilities Commission, which sets a monthly surcharge to generate revenue for the Fund. Pursuant to Section 40-17-103 (3), C.R.S., the Colorado Public Utilities Commission (PUC) sets a monthly surcharge to generate revenue to “recover its costs and the cost to voice service providers in implementing and administering telecommunications relay services.” Statute directs a portion of this surcharge be used to provide revenue to the Colorado Commission of the Deaf, Hard of Hearing, and Deafblind Cash Fund (Commission’s Cash Fund), created in Section 40-17-104 (1)(a), C.R.S. The current monthly surcharge applied by PUC is \$0.06 per telephone access line. On February 1, 2023, citing an increase of 1.1 million access lines to which the surcharge is applicable, a reduction in administration costs, and an adjustment to the payment remittance schedule for the surcharge, the PUC reduced the monthly surcharge to \$0.03 per telephone access line. The fee change takes effect April 1, 2023.

In the Department of Human Services, the Office of Adults, Aging, and Disability Services oversees the Commission. For FY 2023-24, the Committee approved an appropriation of \$2,411,749 total funds, including \$103,214 General Fund and \$2,308,535 reappropriated funds, and 13.3 FTE to the Colorado Commission for the Deaf, Hard of Hearing, and Deafblind line item. This line item has the community provider rate applied to its reappropriated funds, resulting in annual increases in the amount of reappropriated funds appropriated. In FY 2021-22, the last full fiscal year for which we have data, revenue transferred from the CTUDF to the Commission’s Cash Fund represents 54.9 percent of all revenue generated by the monthly surcharge on telephone access line charged by the PUC. The annual increase to the Department of Human Services’ line item, driven by the community provider rate, will continue to drive revenue needs from the CTUDF.

COLORADO TELEPHONE USERS WITH DISABILITIES FUND - CASH FLOW SUMMARY*				
	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Beginning balance	\$117,169	\$262,492	\$625,288	\$441,650
Revenue	3,872,772	4,168,775	3,751,930	3,751,930
Expenditures	(3,727,449)	(3,805,979)	(3,935,568)	(3,947,600)
Surplus/(deficit)	\$262,492	\$625,288	\$441,650	\$245,980

\* Data from Nov. 1, 2022 Schedule 9

The Department of Regulatory Agencies assures JBC staff that the revenue impact of the fee reduction adopted by the PUC will be minimal and that the CTUDF will be able to support the requested increase. However, given the timing of this request, the Department of Regulatory Agencies is unable to provide staff with updated revenue projections taking into account surcharge reduction; nor is the Department able to provide staff with the analysis used by the PUC in setting the surcharge. In examining the data provided in the CTUDF Schedule 9, submitted by the Department of Regulatory Agencies on November 1, 2022, the Fund will have a sufficient beginning balance in FY 2023-24 to cover the requested increase.

Staff’s recommendation is for a one-time increase of \$315,946 cash funds appropriation to the Department of Regulatory Agencies Colorado Commission of the Deaf, Hard of Hearing, and Deafblind Cash Fund line item. Without full documentation of the revenue impacts of the PUC

surcharge reduction and the expenditure impacts of an ever-increasing appropriation for the Commission, staff is unable to provide the analysis and due diligence necessary for recommending an ongoing increase. However, the services provided by the Commission are critical to assisting a highly marginalized and at-risk community, and staff is sensitive to those funding needs. Given the many moving parts and interactions associated with the affected appropriations, staff believes a prioritized decision item providing a full analysis from the Executive Branch is necessary before any ongoing appropriation is approved by the Committee.