

Joint Budget Committee



Interim Supplemental Request FY 2025-26

Department of Public Safety

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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Interim Supplemental Requests

MCPCI Grant Program Spending Authority

	Request	Recommendation
Total	\$1,123,826	\$1,123,826
FTE	0.0	0.0
General Fund	\$0	\$0
Cash Funds	\$1,123,826	\$1,123,826
Federal Funds	\$0	\$0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **Yes**

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.] **YES**

Explanation: JBC staff agrees that the request meets the JBC's supplemental criteria but not for the reasons identified by the Department. The Department's asserts that the request stems from "a technical error in calculating the original appropriation." Staff thinks it is more accurate to say that the request stems from substantive communication and reporting problems, and, to a lesser extent, data that was not available when the original appropriation was made.

Department Request: The Department requests the authority to over-expend its current \$3.9 million cash fund appropriation by \$1.1 million in FY 2024-25. The cash fund source is the Multidisciplinary Crime Prevention and Crisis Intervention (MCPCI) Grant Fund. The Department also requests roll-forward spending authority through FY 2027-28 for "any unspent balances of annual appropriations moving forward."

If the JBC approves the Department's request, the JBC would sign a letter authorizing the \$1.1 million over-expenditure from the MCPCI grant fund. During the normal supplemental process, the \$3.9 million appropriation in H.B. 24-1421 (Modify Public Safety Program Funding) would be increased to \$5.0 million. The supplemental adjustment would also provide the Department with the authority to spend that \$5.0 million appropriation through June 30, 2028.

Staff Recommendation: Staff recommends that the JBC authorize the \$1.1 million over expenditure. Staff cannot, at this time, disprove the assertion that denying the request could have negative programmatic effects. Staff recommends denial of the request for roll-forward authority. It is possible to provide more than enough spending authority through the FY 2025-26 Long Bill. Roll-forward authority provided outside of the Long Bill, as would be the case here, is less visible and therefore more difficult to track. This makes it difficult for JBC staff to provide information to the JBC about spending trends for roll-forward appropriations.

Document structure

This document is divided into two sections. The first section focuses exclusively on the request. The second section is optional reading that is more akin to a briefing issue that discusses bigger budget issues. It explains: (1) the underlying factors driving this request, and (2) how these factors constrain JBC staff's ability to independently, confidently, and quickly provide accurate information to the JBC.

Part I: Analysis of request

MCPCI program history

The MCPCI program and cash fund were created through S.B. 22-145 (Resources to Increase Community Safety). The program aims to “apply a community-based, multidisciplinary approach to crime prevention and crisis intervention strategies, specifically in areas where crime is disproportionately high.”¹

The General Fund is the only revenue source for the MCPCI cash fund. From FY 2022-23 to FY 2024-25, the General Assembly appropriated/transferred \$18.0 million General Fund:

- \$7.5 million in FY 2022-23
- \$7.5 million in FY 2023-24
- \$3.0 million in FY 2024-25

The unencumbered fund balance was \$2.9 million as of November 22, 2024. The unexpended fund balance was \$6.3 million as of the same date.

The MCPCI cash fund was created as continuously appropriated cash fund. The JBC-sponsored H.B. 24-1421 (Modifying Public Safety Program Funding) made this cash fund subject to annual appropriation.

Discussion of request for over-expenditure

The Department's justification for request

The request states that it meets the emergency supplemental requirement, “A technical error in calculating the original appropriation.” Per the request, “...the FY 2024-25 contractual awards and obligations cannot be properly funded and/or encumbered. These are multi-year contracts, roll-forward authority is needed to ensure there is enough spending authority through the end of the contracts.”

JBC staff asked what the technical error was. The Department replied with,

¹ Section 24-33.5-527 (1)(a)(I)

“The program was originally created as a continuously appropriated cash fund. Grants were awarded as multi-year commitments and the full amount of the contracts were encumbered. Encumbrances would be drawn down and spent over the full time of the award, with the remaining balances rolling into the next fiscal year. With the change to an annual appropriation in FY 2024-25, a shortage was created due to a misunderstanding that the encumbered amounts for each grant would be spent by the end of FY 2023-24, when in fact they rolled into FY 2024-25. Due to this misunderstanding, only the unobligated funds remaining in the fund were appropriated for FY 2024-25.”

JBC staff also asked why this issue could not wait for the normal supplemental process. The Department replied with,

“The current spending authority is not sufficient to cover the existing grant contracts, which are encumbered, as well as the newly awarded executed obligations. For FY 2024-25, the program received an additional \$3,000,000 to be awarded out as grants. The remaining, unobligated amount of \$868,229 was also appropriated for FY 2024-25- totaling \$3,868,229 in spending authority. Without an increase in spending authority, DCJ is unable to encumber the new, executed grant awards for \$3,000,000, causing DCJ to be unable to reimburse the new grantees for their expenses as they begin to request funds. Requests for reimbursements for the new grantees have begun to come in and DCJ is unable to pay reimbursements, as they have yet to be encumbered in CORE. Not being able to encumber the contracts has put DCJ in a situation where there is a statutory violation due to being unable to meet the contractual obligations to grantees. The recipients of these grants are small non-profit, community-based organizations that depend on these funds to operate and provide the services these grants cover for their communities.”

Recommendation

Staff recommends approval of the requested over-expenditure. Staff cannot disprove the assertion that denying the request could have negative programmatic effects. The need for a modest supplemental adjustment during the normal supplemental process would not have been surprising. When staff recommended the current appropriation, staff recognized that actual expenditures for FY 2023-24 would vary slightly from the \$10.9 million projected expenditure. However, staff is surprised by the amount of the request and its characterization as an emergency requiring action in December.

Discussion of request for roll-forward authority

The Department's justification for request

The request says,

“...roll-forward authority is needed to ensure any unspent funds in contracts will have the appropriated allocation each year till the end of the contracts. This will ensure local government, law enforcement, non-profits, and many more will receive payments and remain committed to providing their services in the community. The department also anticipates an increased need for spending authority in FY25-26 and will be collaborating further to ensure it meets its contractual obligations.”

Recommendation

JBC staff concludes that roll-forward spending authority is not necessary for the administration of this grant program. Nor is it fiscally necessary.

This program is supported by a finite amount of previous General Fund transfers. The only other revenue source is interest on the balance of the fund, which the Department proposes to sweep into the General Fund.

It is therefore possible to provide more than enough spending authority through the Long Bill. JBC staff expects to recommend an FY 2025-26 Long Bill appropriation that equals the unexpended balance of the MCPCI cash fund at the end of January 2025. This appropriation would probably be larger than necessary. But it would provide sufficient spending authority and also avoid supplemental adjustments. It would also make spending more visible in budget documents.

Part II: Analysis of larger issues (optional reading)

Summary

The interim supplemental request raises two larger issues: (1) the utility of cash fund reports submitted by state agencies, and (2) the visibility of roll-forward appropriations. It also speaks to the ability of the General Assembly to use its annual appropriation authority to align the budget with its priorities.

The quality of cash fund reports submitted by state agencies constrains JBC staff’s ability to independently, confidently, accurately, and quickly provide cash fund information that the JBC regularly asks for. This may constrain the JBC’s ability to make informed budget decisions that are consistent with the Committee’s priorities.

Roll-forward authority provided outside of the Long Bill is less (if at all) visible in JBC staff’s systems and department budget documents. This makes it harder to identify and track, which constrains JBC staff’s ability to provide the JBC with information about roll-forward appropriations. This may constrain the JBC’s ability to make informed budget decisions that are consistent with the Committee’s priorities.

Cash fund reporting issues contributed to interim request

Summary: The current appropriation is based on a cash fund report submitted by the Department. This report conflated FY 2023-24 expenditures and encumbrances for funds beyond FY 2023-24. This, in turn, made it look like the Department was going to spend more money in FY 2023-24 than was actually the case. This was not communicated in the report. This issue embodies larger issues with the utility of cash fund reports provided by state agencies.

Current appropriation based on Department’s cash fund report

The following table shows how JBC staff calculated the current appropriation of \$3,868,229.

Current MCPCI Cash Fund Appropriation for FY 2024-25 JBC staff calculation (excludes interest revenue)		
Line	FY 2022-23	Amount
A	General Fund appropriation via S.B. 22-145	\$7,500,000
B	Actual expenditures	-3,261,431
C	Ending balance [A + B]	\$4,238,569
Line	FY 2023-24	Amount
D	General Fund appropriation via S.B. 22-145	\$7,500,000
E	Beginning fiscal year balance [C + D]	11,738,569
F	Projected expenditures (received from Department Nov. 17, 2023)	-10,870,340
G	Ending balance [E + F]	\$868,229
Line	FY 2024-25	Amount
H	General Fund transfer via H.B. 24-1421	\$3,000,000
I	Beginning fiscal year balance [G + H]	\$3,868,229
J	Current FY 2024-25 appropriation per H.B. 24-1421	\$3,868,229

JBC staff used the report below to calculate the current appropriation. The Department provided this report to JBC staff on November 17, 2023 in response to a JBC staff inquiry during the FY 2024-25 budget cycle. The “Cash Expenditures” row highlighted in yellow (added by JBC staff) is most relevant.

	Actual	Actual	Appropriated	Requested	Projected
	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Year Beginning Fund Balance (A)	\$0	\$0	\$4,388,870	\$1,804,924	\$2,123,793
Changes in Cash Assets	\$0	\$5,786,102	-\$3,282,563	\$668,177	\$1,090,400
Changes in Non-Cash Assets	\$0	\$0	\$0	\$0	\$0
Changes in Long-Term Assets	\$0	\$0	\$0	\$0	\$0
Changes in Total Liabilities	\$0	-\$1,397,232	\$698,616	-\$349,308	\$0
Total Changes to Fund Balance	\$0	\$4,388,870	-\$2,583,947	\$318,869	\$1,090,400
Assets Total	\$0	\$5,786,102	\$2,503,540	\$3,171,717	\$4,262,117
Cash (B)	\$0	\$5,786,102	\$2,503,540	\$3,171,717	\$4,262,117
Other Assets (Detail as necessary)	\$0	\$0	\$0	\$0	\$0
Receivables	\$0	\$0	\$0	\$0	\$0
Liabilities Total	\$0	\$1,397,232	\$698,616	\$1,047,924	\$1,047,924
Cash Liabilities (C)	\$0	\$1,397,232	\$698,616	\$1,047,924	\$1,047,924
Long Term Liabilities	\$0	\$0	\$0	\$0	\$0
Ending Fund Balance (D)	\$0	\$4,388,870	\$1,804,924	\$2,123,793	\$3,214,193
Net Cash Assets - (B-C)	\$0	\$4,388,870	\$1,804,924²	\$2,123,793	\$3,214,193
Grant Obligations (Encumbrances)			\$11,568,956	\$7,915,845	\$7,500,000
Change from Prior Year Fund Balance (D-A)	\$0	\$4,388,870	-\$2,583,947	\$318,869	\$1,090,400
Cash Flow Summary					
Revenue Total	\$0	\$7,650,301	\$7,587,777	\$7,536,098	\$7,542,476
5900 - Interest Income - Nonexempt	\$0	\$150,301	\$87,777	\$36,098	\$42,476
900R - Operating Transfer from Public Safety	\$0	\$7,500,000	\$7,500,000	\$7,500,000	\$7,500,000
Expenses Total	\$0	\$3,261,431	\$10,870,340	\$6,867,921	\$6,452,076
Cash Expenditures	\$0	\$3,261,431	\$10,870,340	\$6,867,921	\$6,452,076
Change Requests (If Applicable)	\$0	\$0	\$0	\$0	\$0
Net Cash Flow	\$0	\$4,388,870	-\$3,282,563	\$668,177	\$1,090,400
Fund Expenditures Line-Item Detail	Actual	Actual	Estimated	Requested	Projected
	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Division of Criminal Justice					
Personal Services	\$0	\$107,507	\$161,789	\$166,643	\$171,642
Operating	\$0	\$7,551	\$2,500	\$2,500	\$2,500
Grants - Cities & Counties		\$365,231	\$3,137,594	\$1,751,412	\$2,444,503
Grants - Intergovernmental		\$71,492	\$59,025	\$65,258	\$62,142
Grants - Non Governmental and Non-Subrecipient		\$2,709,651	\$7,509,432	\$4,882,108	\$3,771,289
TOTAL	\$0	\$3,261,431	\$10,870,340	\$6,867,921	\$6,452,076

² The actual FY 2023-24 net cash balance of the fund was \$5.2 million, almost three times larger than the balance shown here.

Reported “cash expenditures” are not actually cash expenditures

The Department’s report conflated actual spending with promised spending. In reviewing the interim supplemental request, JBC staff learned that the “Cash Expenditures” shown in the report are not actually expenditures. Rather, they are FY 2023-24 cash expenditures plus encumbrances, including encumbrances beyond FY 2023-24. An expenditure is actual payment for something, reducing the actual amount of cash in a fund. Per the State’s fiscal rules, an encumbrance is “An amount reserved...to reflect a formal obligation of the State.” An encumbrance is a contractual obligation to pay at some point in the future. However, the cash fund report treats them both as expenditures.

For example, the report shows a “cash expenditure” of \$3,261,431 in FY 2022-23, the fiscal year that ended 4.5 months before the Department provided the report. The Department did not actually spend \$3.3 million in FY 2022-23. It actually spent \$1.9 million and the remainder of \$1.4 million was encumbered but not actually spent. The \$1.4 million encumbrance carried forward into the FY 2023-24 fund balance, even though it is shown as an FY 2022-23 expense.

Through FY 2022-23 and FY 2023-24, the Department encumbered the full amount of the multi-year contract when the grant contract was signed. In staff’s reading of the State’s fiscal rules, this is allowable with a continuously appropriated funding source. Those rules state that, regardless of the term of the contract, state agencies, “shall only encumber funds for the current State fiscal year” of the contract, “unless the Agency or Institution of Higher Education has continuous spending authority...”³ That the Department encumbered the full cost of the grant contract in one fell swoop is not the problem because it is an allowable practice.

The problem is that the full cost of grant contract showed up in the Department’s cash fund report as an expenditure in the year it was signed, well before the Department actually planned to spend the money. Imagine a \$1.0 million contract signed in FY 2023-24, with \$250,000 expected to be spent in FY 2023-24 and \$750,000 in FY 2024-25. The Department’s cash fund report showed the full \$1.0 million as an FY 2023-24 expense.

Discussion

In JBC staff’s view, the interim supplemental request stems from a substantive communication and reporting problem, not a technical error in the calculation for the original appropriation. It was not easy to acquire the cash fund report in the first place. It was excluded from the November 1, 2023 budget request package. When JBC staff asked for it, the report provided by the Department was incorrect. This back and forth produced a second report that was used to calculate the current appropriation.

Yet this second report conflates two distinct terms—expenditures and encumbrances—without explanation. This artificially inflated the amount and speed at which money was projected to leave the cash fund in FY 2023-24.

³ https://osc.colorado.gov/sites/osc/files/Adopted_Fiscal_Rules_All_Chapters_accessible.pdf, pg. 40.

Staff does not know whether this practice is widespread. Cash fund reports vary considerably between and within state agencies. Prior experience and discussions among JBC staff suggest that cash fund reports across state agencies consistently difficult to interpret and sometimes demonstrably inaccurate, but the specifics vary from agency to agency.

If JBC staff must question every term, no matter how basic, and every number in these cash fund reports, they have extremely limited utility when it comes to analysis and decision making. This is a problem for two reasons. First, these cash fund reports are the primary source of cash fund information provided by state agencies. Second, it forces JBC staff to be reliant on state agencies to supplement information in these reports. This constrains JBC staff's ability to independently, confidently, accurately, and quickly provide cash fund information that the JBC regularly asks for, which may constrain the JBC's ability to make informed budget decisions that are consistent with its priorities.

The JBC may consider directing state agencies to clearly differentiate and identify the expenditures, encumbrances, and obligations (e.g. grant awards for contracts not yet signed). It would also be help to see fund balances organized around these differentiated terms. The JBC could technically sweep money that is not yet encumbered. JBC staff does not want to preclude the JBC from doing so to support other priorities, even if it means rescinding grant awards that are not yet encumbered.

Challenges with roll-forward authority

Key Takeaway: In the 2025 legislative session and beyond, the JBC and General Assembly can increase budget discipline and transparency by:

- 1 Ensuring that bills passing through Appropriations Committees do not include continuous, roll-forward, or statutory appropriations beyond FY 2025-26. State agencies would therefore have to submit requests for roll-forward or continuous appropriations through the annual budget process. This would allow the JBC to determine whether continuous appropriations or roll-forward authority are warranted. It also allows JBC staff to provide analyses and recommendations about these issues. JBC staff does not make recommendations to the Appropriations Committees.
- 2 Including the 2nd year impact of a bill in the Long Bill. If roll-forward authority is warranted, include the 2nd year appropriation in the Long Bill along with a Long Bill Footnote.

Roll-forward example from S.B. 22-001 (Crime Prevention Safer Streets)

This example shows how roll-forward authority for a different appropriation came about, how it works in practice, and why it is less visible and therefore more difficult to track.

Original Appropriation: \$10.3 million General Fund for FY 2022-23

This was originally a one-time General Fund appropriation. Nothing in the bill or the fiscal note indicated that roll-forward authority was necessary or that funding should continue beyond

that year. The program created in the bill, now the subject of a one-time \$3.4 million budget request for FY 2025-26, was originally scheduled to repeal on November 1, 2023.⁴

Indefinite roll-forward granted in S.B. 23-277 (Public Safety Programs Extended Uses)

On March 9, 2023, the Department sent a proposal to JBC staff to provide roll-forward authority for the original \$10.3 million appropriation. This would have required JBC staff to initiate a recommendation for the JBC’s consideration at the end of the budget process, when both the JBC and JBC staff are trying to finalize the Long Bill. Given time constraints, and no evident error in the original appropriation, JBC staff declined the informal request.

This proposal emerged as S.B. 23-277. This bill amended statute to allow the Department to spend the \$10.3 million appropriation “until fully expended without further appropriation...”⁵ In other words, the unspent balance of that appropriation rolls forward year after year until it is gone.

Tracking the appropriation and spending

JBC staff’s systems only record the initial appropriation. In this case, they show an appropriation of \$10.3 million General Fund in FY 2022-23. Because it was a one-time appropriation, this \$10.3 million was removed from JBC staff’s systems for FY 2023-24, even though S.B. 23-277 allowed the Department to continue spending the FY 2022-23 appropriation in future fiscal years.

The Department’s budget documents only show spending for the initial appropriation (see image below). One sees that the Department only spent \$1.6 million in FY 2022-23 and the remainder rolled into FY 2023-24.

Crime Prevention Through Safer Streets Grant Program

SB22-001 Crime Prevention Through Safer Streets	\$10,300,000	2.0	\$10,300,000
FY 2022-23 Final Appropriation	\$10,300,000	2.0	\$10,300,000
EA-03 Rollforward Authority	(\$8,655,603)	0.0	(\$8,655,603)
FY 2022-23 Final Expenditure Authority	\$1,644,397	2.0	\$1,644,397
FY 2022-23 Actual Expenditures	\$1,644,397	0.0	\$1,644,397
FY 2022-23 Reversion (Overexpenditure)	\$0	2.0	\$0
FY 2022-23 Personal Services Allocation	\$80,153	0.0	\$80,153
FY 2022-23 Total All Other Operating Allocation	\$1,564,245	0.0	\$1,564,245

Other than the above, JBC staff is not aware of any other budget document that shows how the Department spent this appropriation beyond FY 2022-23. An FY 2025-26 hearing question aimed to identify the remaining balance. The hearing agenda for Public Safety included the following question: “Of the original \$10.0 million General Fund appropriation from S.B. 22-001, how much has been spent for the grant program? How much has been encumbered?”

⁴ The current request is for \$3.4 million from the Marijuana Tax Cash Fund.

⁵ 24-33.5-117 (7), C.R.S.

The Department did not supply the requested information. Rather, it replied with the amount that has been awarded. It is possible that JBC staff misinterpreted the aim of the question. It is also possible that the Department clarified the aim of the question with the JBC offline. However, it is worth noting that awards are not necessarily expenditures, nor are they necessarily encumbrances. Should the JBC decide to reallocate unencumbered money for some other priority, JBC staff would have to acquire that information from the Department.

Discussion

Like the cash fund reporting issue, roll-forward authority for appropriations that are not in the Long Bill make it harder for the JBC and its staff to identify and communicate spending trends. This in turn may constrain its ability to reallocate funding in a manner consistent with revised spending priorities.

Appendix A: Key spending authority terms

Continuous appropriations

Continuous appropriation authority usually applies to cash funds or subaccounts within cash funds. It sometimes applies to reappropriated funds. Statute provides this authority, which allows state agencies to spend money from a cash fund without seeking further approval from the General Assembly through the annual budget process. This authority applies to the existing balance of the fund and any future transfers to the fund.

Roll-forward authority

Roll-forward authority may be applied to appropriations from almost any source unless otherwise prohibited by statute. Both statute and appropriations clauses provide this authority. It allows state agencies to spend an appropriation in specified years without seeking further approval from the General Assembly. May also be thought of as “continuous appropriation lite.” Rather than applying to a cash fund balance, it usually applies to a single appropriation.