

**First Extraordinary Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20B-0006.01 Jane Ritter x4342

HOUSE BILL 20B-1002

HOUSE SPONSORSHIP

Kipp and Landgraf, McCluskie

SENATE SPONSORSHIP

Pettersen and Sonnenberg, Priola

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF COVID-19 EMERGENCY RELIEF**
102 **GRANT PROGRAMS FOR THE CHILD CARE SECTOR, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates 2 emergency relief grant programs to allow the state to allocate and quickly distribute money to existing licensed and start-up child care providers (providers) in Colorado.

The child care sustainability grant program (sustainability program) is created in the department of human services (department).

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 PUBLIC HEALTH EMERGENCY IS ESTIMATED TO HAVE AN ECONOMIC
2 ENABLING EFFECT OF MORE THAN FOUR BILLION FOUR HUNDRED MILLION
3 DOLLARS IN INCOME.

4 (b) THE COVID-19 PUBLIC HEALTH EMERGENCY HAS
5 SIGNIFICANTLY IMPACTED COLORADO'S CHILD CARE SECTOR BY REDUCING
6 CHILD CARE PROVIDER REVENUES WHILE AT THE SAME TIME INCREASING
7 EXPENSES. CHILD CARE PROVIDER OPERATING COSTS HAVE INCREASED TO
8 INCLUDE ADDITIONAL DAILY CLEANING, DAILY HEALTH MONITORING,
9 SUPPLYING PERSONAL PROTECTIVE EQUIPMENT FOR CHILD CARE WORKERS,
10 AND LOWER STAFF-TO-CHILD RATIOS TO ALLOW FOR SUFFICIENT PHYSICAL
11 DISTANCING.

12 (c) IN COLORADO, THIS ADDITIONAL COST BURDEN HAS FORCED
13 TEN PERCENT OF THE STATE'S CHILD CARE PROVIDERS TO CLOSE THEIR
14 DOORS SINCE MARCH 2020. ALMOST THREE-QUARTERS OF ALL CHILD
15 CARE PROVIDERS INDICATE THEY HAVE OR WILL ENGAGE IN LAYOFFS,
16 FURLOUGHS, OR PAY CUTS. FOR MINORITY-OWNED OR OPERATED CHILD
17 CARE PROVIDERS, THIS FIGURE IS EVEN HIGHER. MORE THAN TWENTY-FIVE
18 PERCENT OF EXISTING CHILD CARE PROVIDERS REPORT THAT CLOSURE IS
19 IMMINENT WITHOUT SOME KIND OF FINANCIAL INTERVENTION.

20 (d) CHILD CARE PROVIDERS GENERATE REVENUE PRIMARILY
21 THROUGH ENROLLMENT AND TUITION FEES AND THE BUSINESS MODEL
22 DEPENDS ON FULL ENROLLMENT;

23 (e) AT EVERY STAGE OF THE COVID-19 PUBLIC HEALTH
24 EMERGENCY, PARENTS HAVE BEEN FACED WITH THE DIFFICULT CHOICE TO
25 PULL THEIR CHILDREN FROM CHILD CARE, EITHER DUE TO HEALTH
26 CONCERNS OR BECAUSE THE ECONOMIC RECESSION HAS IMPACTED THEIR
27 ABILITY TO AFFORD IT. STATEWIDE, ENROLLMENT IN CHILD CARE FOR

1 CHILDREN LESS THAN FIVE YEARS OF AGE HAS DECREASED BY THIRTY-NINE
2 PERCENT SINCE THE COVID-19 PUBLIC HEALTH EMERGENCY BEGAN.

3 (f) COLORADO FACES OTHER ONGOING THREATS TO THE CHILD
4 CARE SECTOR'S SUSTAINABILITY, INCLUDING HIGH TURNOVER AND LOW
5 PAY IN THE CHILD CARE PROFESSION, AS WELL AS THE PROHIBITIVELY
6 EXPENSIVE COST OF OPENING AND OPERATING A CHILD CARE PROGRAM;

7 (g) MORE THAN HALF OF COLORADANS LIVE IN A "CHILD CARE
8 DESERT", WHERE THERE ARE MORE THAN THREE CHILDREN LESS THAN FIVE
9 YEARS OF AGE FOR EACH SINGLE AVAILABLE CHILD CARE OPENING. SOME
10 RURAL AREAS COMPLETELY LACK LICENSED CHILD CARE PROVIDERS.
11 STATEWIDE, COLORADO FACES A DRAMATIC SHORTAGE OF AT LEAST
12 THIRTY-NINE THOUSAND SPOTS FOR INFANTS AND TODDLERS.

13 (h) MOST CHILD CARE IN COLORADO IS OWNED OR OPERATED BY
14 WOMEN, AND MORE THAN FORTY PERCENT OF OUR CHILD CARE
15 WORKFORCE IS COMPOSED OF WOMEN OF COLOR. FURTHERMORE,
16 THROUGHOUT THE COVID-19 PUBLIC HEALTH EMERGENCY, WOMEN OF
17 COLOR HAVE BEEN MORE LIKELY TO BE ON THE FRONT LINES AS ESSENTIAL
18 WORKERS AND ARE MORE LIKELY TO LOSE THEIR JOBS.

19 (i) DESPITE WOMEN'S STEADILY INCREASING LABOR PARTICIPATION
20 RATES AND EARNING TRAJECTORIES OVER THE PAST TWENTY-FIVE YEARS,
21 THE COVID-19 PUBLIC HEALTH EMERGENCY THREATENS TO SET BACK A
22 GENERATION OF PROGRESS. WHEN WOMEN EXIT THE WORKFORCE, THEY
23 FACE MORE BARRIERS THAN MEN DO TO RETURN, AND THEIR FUTURE
24 EARNING POTENTIAL AND PATH TO RETIREMENT SECURITY SUFFERS.

25 (j) WOMEN HAVE BEEN DISPROPORTIONATELY IMPACTED BY THE
26 COVID-19 PUBLIC HEALTH EMERGENCY: ALMOST ONE HUNDRED
27 SEVENTY-NINE THOUSAND WOMEN LEFT COLORADO'S LABOR FORCE

1 BETWEEN FEBRUARY AND MAY 2020, COMPARED TO EIGHTY-EIGHT
2 THOUSAND MEN. NATIONALLY, FOUR TIMES AS MANY WOMEN AS MEN
3 DROPPED OUT OF THE LABOR FORCE IN SEPTEMBER 2020 ALONE. THE
4 IMPACT OF THIS TREND ON THE UNITED STATES' ECONOMY AND THE
5 WELL-BEING OF WOMEN AND FAMILIES IS ESTIMATED TO AMOUNT TO
6 APPROXIMATELY SIXTY-FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS
7 IN LOST INCOME AND ECONOMIC ACTIVITY.

8 (2) (a) THEREFORE, THE GENERAL ASSEMBLY FINDS IT IS A MATTER
9 OF STATEWIDE CONCERN THAT WE TAKE IMMEDIATE ACTION TO SAVE AND
10 PROTECT OUR CHILD CARE INFRASTRUCTURE. DOING SO ENABLES THE
11 STATE TO INVEST IN ITS CHILDREN'S FUTURES, ADVANCE GENDER EQUITY
12 IN THE HOME AND THE WORKPLACE, AND REBUILD AN ECONOMY THAT
13 WORKS FOR ALL COLORADANS. WHEN COLORADO FAMILIES HAVE ACCESS
14 TO CHILD CARE, EVERYONE BENEFITS.

15 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT, TO ASSIST THE
16 STATE'S WORKFORCE IN RETURNING TO WORK AND MAINTAINING
17 EMPLOYMENT WITHOUT FACING THE DIFFICULT CHOICE BETWEEN
18 WORKING AND ACCESSING QUALITY CHILD CARE, IT IS CRITICAL THAT THE
19 STATE ALLOCATE AND QUICKLY DISTRIBUTE FUNDING TO EXISTING AND
20 NEW CHILD CARE PROVIDERS THROUGHOUT THE STATE.

21 **26-6-802. Child care sustainability grant program - created -**
22 **timeline and criteria - grant awards - definitions - repeal.** (1) AS USED
23 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 (a) "CHILD CARE PROVIDER" MEANS A CHILD CARE CENTER, AS
25 DEFINED IN SECTION 26-6-102 (5), OR A FAMILY CHILD CARE HOME, AS
26 DEFINED IN SECTION 26-6-102 (13), THAT HOLDS AN OPEN LICENSE IN
27 GOOD STANDING WITH THE STATE DEPARTMENT.

1 (b) "ELIGIBLE ENTITY" MEANS A LICENSED CHILD CARE PROVIDER
2 OR A NEIGHBORHOOD YOUTH ORGANIZATION, AS DEFINED IN SECTION
3 26-6-102 (26), THAT IS OPEN AND OPERATING.

4 (c) "GRANT PROGRAM" MEANS THE CHILD CARE SUSTAINABILITY
5 GRANT PROGRAM CREATED IN SUBSECTION (2) OF THIS SECTION.

6 (d) "OPEN AND OPERATING" MEANS AN ELIGIBLE ENTITY THAT IS
7 ACTIVELY PROVIDING SERVICES OR CARE FOR CHILDREN AND THAT HAS
8 UPDATED ITS OPERATIONAL STATUS WITH THE STATE DEPARTMENT'S CHILD
9 CARE LICENSING AND ADMINISTRATION UNIT.

10 (2) THE CHILD CARE SUSTAINABILITY GRANT PROGRAM IS CREATED
11 IN THE STATE DEPARTMENT. THE PURPOSE OF THE GRANT PROGRAM IS TO
12 ADDRESS THE EXTENT TO WHICH REDUCED ENROLLMENT AND INCREASED
13 COSTS ARE IMPACTING THE SUSTAINABILITY OF LICENSED CHILD CARE IN
14 COLORADO, INCLUDING LICENSED CHILD CARE CAPACITY AND QUALITY
15 LEVEL. THE GRANT PROGRAM WILL PROVIDE FINANCIAL SUPPORT TO
16 ELIGIBLE ENTITIES, INCLUDING THOSE THAT ARE IN DANGER OF CLOSING.

17 (3) THE STATE DEPARTMENT SHALL CREATE A PROCESS FOR
18 SOLICITING, VETTING, AWARDING, AND MONITORING GRANTS, PURSUANT
19 TO THE SOLE SOURCE PROCUREMENT AUTHORITY SPECIFIED IN SECTION
20 24-103-205.

21 (4) (a) THE STATE DEPARTMENT SHALL DEVELOP A FORMULA TO
22 ALLOCATE MONEY FROM THE GRANT PROGRAM TO ALL ELIGIBLE ENTITIES.
23 THE KEY CRITERIA FOR A GRANT AWARD TO AN ELIGIBLE ENTITY IS THE
24 ELIGIBLE ENTITY'S LICENSED CHILD CARE CAPACITY. IN DETERMINING
25 GRANT AWARDS, THE DEPARTMENT SHALL ALSO TAKE INTO
26 CONSIDERATION THE CRITERIA SET FORTH IN SUBSECTION (4)(b) OF THIS
27 SECTION. THE STATE DEPARTMENT IS RESPONSIBLE FOR COMMUNICATING

1 IMPORTANT DATES AND THE CRITERIA FOR GRANT AWARDS TO ELIGIBLE
2 ENTITIES IN THE STATE. GRANT AWARDS MUST RANGE FROM AT LEAST FIVE
3 HUNDRED DOLLARS TO NO MORE THAN THIRTY-FIVE THOUSAND DOLLARS.

4 (b) THE STATE DEPARTMENT SHALL CONSIDER, AT A MINIMUM:

5 (I) AWARDING GRANTS TO A WIDE ARRAY OF ELIGIBLE ENTITIES OF
6 VARYING TYPES AND SIZES;

7 (II) ENSURING THAT THE GRANT MONEY GOES DIRECTLY TO
8 ELIGIBLE ENTITIES LOCATED IN A VARIETY OF REGIONS THROUGHOUT THE
9 STATE;

10 (III) REQUIRING THAT THE ELIGIBLE ENTITY HAS PROVIDED
11 WRITTEN COMMITMENT TO SUBMIT ANY REPORTS REQUIRED BY THE STATE
12 DEPARTMENT;

13 (IV) SUPPORTING, AS MUCH AS POSSIBLE, ELIGIBLE ENTITIES THAT
14 ARE NOT ALREADY FULLY SUPPORTED THROUGH EXISTING STATE OR
15 FEDERAL FUNDS, SUCH AS THE HEAD START PROGRAM, AS DEFINED IN
16 SECTION 26-2-802.5 (4), OR THE COLORADO PRESCHOOL PROGRAM,
17 CREATED IN ARTICLE 28 OF TITLE 22; AND

18 (V) CONSIDERING AN ELIGIBLE ENTITY'S QUALITY RATING
19 THROUGH THE COLORADO SHINES SYSTEM, ESTABLISHED IN SECTION
20 26-6.5-106 (5).

21 (5) THE DEPARTMENT SHALL DETERMINE GRANT AWARD AMOUNTS
22 FOR ELIGIBLE ENTITIES AS SOON AS POSSIBLE, BUT NO LATER THAN
23 JANUARY 31, 2021, AND DISTRIBUTE THE MONEY FOR GRANT AWARDS NO
24 LATER THAN FEBRUARY 28, 2021.

25 (6) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2023.

26 **26-6-803. Emerging and expanding child care grant program**
27 **- created - timeline and criteria - grant awards - definitions - repeal.**

1 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "CHILD CARE CENTER" HAS THE SAME MEANING AS SET FORTH
4 IN SECTION 26-6-102 (5).

5 (b) "CHILD CARE DESERT" MEANS A COMMUNITY OR AREA IN THE
6 STATE WHERE THERE ARE MORE THAN THREE CHILDREN LESS THAN FIVE
7 YEARS OF AGE FOR EACH SINGLE AVAILABLE CHILD CARE SLOT.

8 (c) "CHILD CARE PROVIDER" OR "PROVIDER" MEANS A CHILD CARE
9 CENTER OR A FAMILY CHILD CARE HOME THAT HOLDS AN OPEN LICENSE IN
10 GOOD STANDING WITH THE STATE DEPARTMENT.

11 (d) "EARLY CHILDHOOD COUNCIL" MEANS AN EARLY CHILDHOOD
12 COUNCIL IDENTIFIED OR ESTABLISHED LOCALLY IN COMMUNITIES
13 THROUGHOUT THE STATE PURSUANT TO SECTION 26-6.5-103 OR
14 26-6.5-106.

15 (e) "ELIGIBLE ENTITY" MEANS A LICENSED CHILD CARE PROVIDER
16 THAT IS OPEN AND OPERATING OR AN APPLICANT ACTIVELY PURSUING A
17 CHILD CARE PROVIDER LICENSE THROUGH THE STATE DEPARTMENT'S CHILD
18 CARE LICENSING AND ADMINISTRATION UNIT. "ELIGIBLE ENTITY"
19 INCLUDES FAMILY, FRIENDS, OR NEIGHBORS WHO PROVIDE
20 LICENSE-EXEMPT CHILD CARE PURSUANT TO THIS ARTICLE 6, BUT WHO ARE
21 ACTIVELY OBTAINING A LICENSE THROUGH THE STATE DEPARTMENT'S
22 CHILD CARE LICENSING AND ADMINISTRATION UNIT.

23 (f) "EXPANSION" MEANS LICENSED CHILD CARE CAPACITY
24 EXPANSION, BY ANY MEANS, FOR AN EXISTING LICENSED CHILD CARE
25 PROVIDER.

26 (g) "FAMILY CHILD CARE HOME" HAS THE SAME MEANING AS SET
27 FORTH IN SECTION 26-6-102 (13).

1 (h) "GRANT PROGRAM" MEANS THE EMERGING AND EXPANDING
2 CHILD CARE GRANT PROGRAM CREATED IN SUBSECTION (2) OF THIS
3 SECTION.

4 (i) "OPEN AND OPERATING" MEANS A CHILD CARE PROVIDER THAT
5 IS ACTIVELY PROVIDING CARE FOR CHILDREN AND THAT HAS UPDATED ITS
6 OPERATIONAL STATUS WITH THE STATE DEPARTMENT'S CHILD CARE
7 LICENSING AND ADMINISTRATION UNIT.

8 (2) (a) THE EMERGING AND EXPANDING CHILD CARE GRANT
9 PROGRAM IS CREATED IN THE STATE DEPARTMENT. THE PURPOSE OF THE
10 GRANT PROGRAM IS TO EXPAND ACCESS AND AVAILABILITY OF LICENSED
11 CHILD CARE THROUGHOUT THE STATE.

12 (b) AN AWARD FROM THE GRANT PROGRAM MAY BE USED FOR
13 COSTS ASSOCIATED WITH EXPANDING AN OPEN AND OPERATING CHILD
14 CARE CENTER OR FAMILY CHILD CARE HOME OR TO ASSIST A CHILD CARE
15 PROVIDER WITH START UP OF A NEW CHILD CARE CENTER OR FAMILY CHILD
16 CARE HOME. COSTS MAY INCLUDE, BUT ARE NOT LIMITED TO, STAFF
17 TRAINING, BACKGROUND CHECK FEES, CLEANING SUPPLIES, EDUCATIONAL
18 SUPPLIES, AND CAPITAL AND FACILITY IMPROVEMENT COSTS.

19 (3) THE STATE DEPARTMENT SHALL CREATE A PROCESS FOR
20 SOLICITING, VETTING, AWARDING, AND MONITORING GRANTS THROUGH
21 STATEWIDE EARLY CHILDHOOD COUNCILS.

22 (4) (a) ON OR BEFORE JANUARY 2, 2021, THE STATE DEPARTMENT
23 SHALL DEVELOP AN APPLICATION PROCESS FOR AN ELIGIBLE ENTITY TO
24 FOLLOW WHEN REQUESTING A GRANT FROM THE GRANT PROGRAM. THE
25 APPLICATION MUST INCLUDE THE AWARD CRITERIA SET FORTH IN
26 SUBSECTION (4)(c) OF THIS SECTION AND ANY APPLICABLE TIMELINES
27 ESTABLISHED BY THE STATE DEPARTMENT. THE STATE DEPARTMENT

1 SHALL AWARD GRANTS TO AN ELIGIBLE ENTITY BASED ON THE ELIGIBLE
2 ENTITY'S NEED AS WELL AS THE APPLICATION CRITERIA SET FORTH IN
3 SUBSECTION (4)(c) OF THIS SECTION.

4 (b) A GRANT AWARD MUST RANGE FROM AT LEAST THREE
5 THOUSAND DOLLARS TO NO MORE THAN FIFTY THOUSAND DOLLARS. IN
6 AWARDING A GRANT, THE STATE DEPARTMENT SHALL USE THE
7 APPLICANT'S EXISTING OR PROPOSED LICENSED CHILD CARE CAPACITY, AS
8 WELL AS THE APPLICANT'S NEED, AS KEY CRITERIA IN DETERMINING THE
9 AMOUNT OF THE GRANT AWARD.

10 (c) IN DETERMINING GRANT AWARDS, THE STATE DEPARTMENT
11 SHALL CONSIDER ELIGIBLE ENTITIES LOCATED IN A CHILD CARE DESERT.
12 THE STATE DEPARTMENT SHALL ALSO CONSIDER ELIGIBLE ENTITIES THAT
13 HAVE OR ARE ACTIVELY PURSUING:

14 (I) A FISCAL AGREEMENT WITH THE COLORADO CHILD CARE
15 ASSISTANCE PROGRAM, CREATED IN PART 8 OF ARTICLE 2 OF THIS TITLE 26;

16 (II) A COMMITMENT TO ENGAGING IN QUALITY IMPROVEMENT
17 ACTIVITIES THROUGH THE COLORADO SHINES SYSTEM, ESTABLISHED IN
18 SECTION 26-6.5-106 (5), WITHIN EIGHTEEN MONTHS OF RECEIPT OF THEIR
19 GRANT AWARD;

20 (III) A MEMORANDUM OF UNDERSTANDING IN PLACE WITH THEIR
21 EARLY CHILDHOOD COUNCIL TO ENSURE SUPPORT FROM THE COUNCIL; AND

22 (IV) AN APPLICATION TO THE STATE DEPARTMENT'S CHILD CARE
23 LICENSING AND ADMINISTRATION UNIT AND ARE WORKING WITH THEIR
24 LICENSING SPECIALIST TO DETERMINE CAPITAL OR FACILITY IMPROVEMENT
25 OR EXPANSION NEEDS AND OPPORTUNITIES.

26 (d) ELIGIBLE ENTITIES THAT ARE APPLYING FOR A GRANT AWARD
27 SHALL:

1 (I) PROVIDE ASSURANCE TO THE STATE DEPARTMENT THAT
2 ZONING, FIRE, AND, IF APPLICABLE, HEALTH APPROVAL ARE UNDERWAY
3 PRIOR TO RECEIVING GRANT FUNDING; AND

4 (II) PROVIDE A WRITTEN COMMITMENT TO SUBMIT ANY REPORTS
5 REQUIRED BY THE STATE DEPARTMENT TO DEMONSTRATE PROGRESS
6 TOWARD SUCCESSFUL LICENSING OR EXPANSION THROUGH THE STATE
7 DEPARTMENT'S LICENSING AND ADMINISTRATION UNIT.

8 (5) ON OR BEFORE JANUARY 31, 2021, OR AS SOON AS
9 PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE
10 DEPARTMENT SHALL BEGIN THE GRANT AWARD PROCESS TO ELIGIBLE
11 ENTITIES.

12 (6) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2023.

13 **SECTION 2. Appropriation.** (1) For the 2020-21 state fiscal
14 year, \$45,016,340 is appropriated to the department of human services for
15 use by the office of early childhood. This appropriation is from the
16 general fund. To implement this act, the office of early childhood may use
17 this appropriation as follows:

18 (a) \$432,961 for administration, which amount is based on an
19 assumption that the office will require an additional 1.2 FTE. Money
20 appropriated in this subsection (1)(a) not expended prior to July 1, 2021,
21 is further appropriated to the department of human services for use by the
22 office of early childhood for the 2021-22 state fiscal year for the same
23 purpose.

24 (b) (I) \$34,806,917 for the child care sustainability grant program
25 created in section 26-6-802, C.R.S.

26 (II) Up to \$300,000 of any appropriation made pursuant to
27 subsection (1)(b)(I) of this section for state fiscal year 2020-21 for the

1 child care sustainability grant program created in section 26-6-802,
2 C.R.S., must be made available to neighborhood youth organizations.

3 (c) \$8,751,329 for the emerging and expanding child care grant
4 program created in section 26-6-803, C.R.S. Money appropriated in this
5 subsection (1)(c) not expended prior to July 1, 2021, is further
6 appropriated to the department of human services for use by the office of
7 early childhood for the 2021-22 state fiscal year for the same purpose.

8 (d) \$875,133 for early childhood councils, as defined in section
9 26-6.5-101.5 (2), C.R.S., in support of the emerging and expanding child
10 care grant program created in section 26-6-803, C.R.S. Money
11 appropriated in this subsection (1)(d) not expended prior to July 1, 2021,
12 is further appropriated to the department of human services for use by the
13 office of early childhood for the 2021-22 state fiscal year for the same
14 purpose.

15 (e) \$150,000 for linguistic and culturally competent outreach and
16 technical application assistance in support of the emerging and expanding
17 child care grant program created in section 26-6-803, C.R.S.

18 **SECTION 3. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.