

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0759.01 Shelby Ross x4510

SENATE BILL 21-027

SENATE SPONSORSHIP

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Lewis, Kolker, Lee, Moreno, Rodriguez, Story, Winter

HOUSE SPONSORSHIP

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Senate Committees

Health & Human Services
Appropriations

House Committees

Public & Behavioral Health & Human Services
Appropriations

HOUSE
3rd Reading Unamended
June 7, 2021

HOUSE
Amended 2nd Reading
June 3, 2021

A BILL FOR AN ACT

101 **CONCERNING EMERGENCY SUPPLIES FOR COLORADO BABIES AND**
102 **FAMILIES, AND, IN CONNECTION THEREWITH, PROVIDING**
103 **DIAPERING ESSENTIALS THROUGH DIAPER DISTRIBUTION**
104 **CENTERS AND MAKING AN APPROPRIATION.**

SENATE
3rd Reading Unamended
May 7, 2021

SENATE
Amended 2nd Reading
May 6, 2021

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 requires the department of public health and environment to select one or more nonprofit organizations to administer diaper distribution centers that provide diapering essentials to eligible

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.

individuals. Diapering essentials must be made available to all Colorado residents.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Prior to the COVID-19 pandemic, one in three families
5 reported needing more diapering essentials and with unprecedented
6 unemployment rates due to the pandemic, this need is drastically higher.
7 With 202,608 children under the age of three in Colorado, 67,536 of them
8 experienced the negative effects of diapering-essential needs.

9 (b) The National Diaper Bank Network has seen the demand for
10 diapering essentials increase by as much as 300 percent in some areas of
11 the country and Colorado diaper banks report seeing four times the need
12 for diapering essentials due to the COVID-19 pandemic's impacts on
13 families;

14 (c) Thirty-five percent of Coloradans reported finding it difficult
15 or somewhat difficult to pay for basic necessities after the COVID-19
16 pandemic began, and parents are having to cut back on necessities such
17 as food and rent in order to afford diapering essentials;

18 (d) According to the National Diaper Bank Network, it costs at
19 least \$80 a month to diaper a child and diapering essentials cannot be
20 purchased through other public assistance programs such as the
21 supplemental nutrition assistance program or the women, infants, and
22 children program. Diaper banks' distribution of diapers to low-income
23 families is associated with increases in the personal income of recipients,
24 the elimination of medical expenses, and increases in state tax revenue.

25 (e) Parents report reusing disposable diapers, plastic bags, and

1 toilet paper when they run out of money for diapering essentials, leading
2 to painful diaper rash and health complications for children; and

3 (f) An adequate supply of diapers may prove to be a tangible way
4 of reducing parenting stress, which is a critical factor that influences child
5 health and development.

6 (2) Therefore, the general assembly finds and declares that it is
7 imperative to provide emergency diapering essentials to Colorado babies
8 and families in need.

9 (3) (a) In addition, the general assembly further finds and declares
10 that:

11 (I) The federal government enacted the "American Rescue Plan
12 Act of 2021" to provide support to state, local, and tribal governments in
13 responding to the impact of COVID-19 and to assist their efforts to
14 contain the effects of COVID-19 on their communities, residents, and
15 businesses. Under the federal act, the state of Colorado received over
16 three billion dollars to be used for the purposes identified in the federal
17 act;

18 (II) Regulations construing the federal act promulgated by the
19 United States treasury identify a nonexclusive list of uses that address a
20 broad range of public health needs exacerbated by the pandemic. Under
21 these regulations, funds may be used for addressing the negative
22 economic impacts caused by the public health emergency, including food
23 assistance for households facing food insecurity; and

24 (III) The COVID-19 public health emergency has created an
25 exponential need for emergency food resources for all emergency food
26 providers and has upended many Colorado families' economic security
27 and resulted in hunger insecurity.

1 (b) Therefore, the general assembly declares that the food pantry
2 assistance program funded by transfers in this bill are appropriate uses of
3 the money transferred to Colorado under the federal act. This money will
4 be put to expeditious and efficient use in expanding access to food
5 assistance across the state.

6 **SECTION 2.** In Colorado Revised Statutes, **add 26-2-140** as
7 follows:

8 **26-2-140. Colorado diaper distribution program - diapering**
9 **essentials - report - rules - definitions.** (1) AS USED IN THIS SECTION,
10 UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 (a) "DIAPER DISTRIBUTION CENTER" MEANS A COMMUNITY-BASED
12 DIAPER BANK OR DISTRIBUTION CENTER OPERATING IN COLORADO, A
13 PUBLIC HEALTH AGENCY CREATED PURSUANT TO SECTION 25-1-506, OR A
14 COLORADO NONPROFIT ORGANIZATION WITH A MINIMUM OF THREE YEARS
15 EXPERIENCE DISTRIBUTING BABY OR TODDLER PRODUCTS.

16 (b) "DIAPERING ESSENTIALS" INCLUDES DIAPERS, WIPES, AND
17 DIAPER CREAMS.

18 (c) "ELIGIBLE INDIVIDUAL" MEANS A PARENT, GUARDIAN, OR
19 FAMILY MEMBER OF A CHILD WHO WEARS DIAPERS AND RESIDES IN
20 COLORADO.

21 (d) "PROGRAM" MEANS THE COLORADO DIAPER DISTRIBUTION
22 PROGRAM CREATED IN SECTION SUBSECTION (2) OF THIS SECTION.

23 (2) THERE IS CREATED IN THE STATE DEPARTMENT THE COLORADO
24 DIAPER DISTRIBUTION PROGRAM TO PROVIDE DIAPERING ESSENTIALS TO
25 ELIGIBLE INDIVIDUALS.

26 (3) (a) NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE
27 OF THIS SECTION, THE STATE DEPARTMENT SHALL SOLICIT INTEREST AND

1 COST DISTRIBUTION PROPOSALS FROM DIAPER DISTRIBUTION CENTERS TO
2 ADMINISTER THE PROGRAM. UPON THE STATE DEPARTMENT'S APPROVAL,
3 THE DIAPER DISTRIBUTION CENTERS MAY SUBCONTRACT MONEY RECEIVED
4 PURSUANT TO THIS SECTION TO THEIR PARTNERS AS NECESSARY TO SERVE
5 ELIGIBLE INDIVIDUALS. THE SELECTED DIAPER DISTRIBUTION CENTERS
6 MUST BE OPERATIONAL NO LATER THAN THIRTY DAYS AFTER ENTERING
7 INTO A CONTRACT WITH THE STATE DEPARTMENT. THE SELECTION
8 PROCESS DESCRIBED IN THIS SUBSECTION (3) IS NOT SUBJECT TO THE
9 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

10 (b) NOTWITHSTANDING THE REQUIREMENT IN SUBSECTION (3)(a)
11 OF THIS SECTION, THE SELECTED DIAPER DISTRIBUTION CENTERS MAY
12 OPERATE FOR NOT MORE THAN TWELVE MONTHS AFTER WHICH THE STATE
13 DEPARTMENT MUST COMMENCE A SELECTION PROCESS THAT COMPLIES
14 WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

15 (4) THE STATE DEPARTMENT MAY PROMULGATE RULES FOR THE
16 IMPLEMENTATION OF THIS SECTION.

17 (5) FOR THE 2021-22 STATE FISCAL YEAR, THE STATE DEPARTMENT
18 SHALL SUBMIT A PRELIMINARY REPORT, AND BEGINNING IN STATE FISCAL
19 YEAR 2022-23, AND EACH FISCAL YEAR THEREAFTER, THE STATE
20 DEPARTMENT SHALL REPORT TO THE PUBLIC THROUGH THE ANNUAL
21 HEARING, PURSUANT TO THE "STATE MEASUREMENT FOR ACCOUNTABLE,
22 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2
23 OF ARTICLE 7 OF TITLE 2. AT A MINIMUM, THE REPORT MUST INCLUDE:

24 (a) THE TOTAL NUMBER OF DIAPER DISTRIBUTION CENTERS
25 CONTRACTED WITH THE STATE DEPARTMENT PURSUANT TO SUBSECTION
26 (3) OF THIS SECTION, INCLUDING ANY SUBCONTRACTORS;

27 (b) THE TOTAL AMOUNT OF MONEY AWARDED TO EACH DIAPER

1 DISTRIBUTION CENTER;

2 (c) THE LOCATION OF EACH DIAPER DISTRIBUTION CENTER AND THE
3 COUNTIES SERVED; AND

4 (d) THE TOTAL NUMBER OF ELIGIBLE INDIVIDUALS WHO RECEIVED
5 DIAPERING ESSENTIALS EACH YEAR, DISAGGREGATED BY EACH MONTH.

6 (6) FOR STATE FISCAL YEAR 2021-22, THE GENERAL ASSEMBLY
7 SHALL APPROPRIATE TWO MILLION DOLLARS FROM THE GENERAL FUND TO
8 THE STATE DEPARTMENT FOR USE BY THE DIAPER DISTRIBUTION CENTERS
9 FOR THE IMPLEMENTATION OF THIS SECTION. THE STATE DEPARTMENT
10 MAY USE UP TO ONE HUNDRED THOUSAND DOLLARS OR SEVEN AND A HALF
11 PERCENT OF ANY MONEY APPROPRIATED BY THE GENERAL ASSEMBLY FOR
12 ADMINISTRATIVE COSTS INCURRED BY THE STATE DEPARTMENT PURSUANT
13 TO THIS SECTION.

14 **SECTION 3.** In Colorado Revised Statutes, 26-2-139, **amend** (2),
15 (3)(a), (3)(b), and (4)(a) introductory portion; and **add** (4.5) as follows:

16 **26-2-139. Food pantry assistance grant program - created -**
17 **timeline and criteria - grants - definitions - repeal.** (2) There is created
18 in the state department the food pantry assistance grant program. The
19 purpose of the grant program is to aid Colorado food pantries and food
20 banks in the purchase of foods that better meet the needs of their
21 clientele, which has expanded significantly as a result of the COVID-19
22 public health emergency. It is the intent of the general assembly that all
23 money awarded by the grant program is expended by ~~July 31, 2021~~ JULY
24 1, 2022.

25 (3) (a) ~~The state department may create a process for soliciting,~~
26 ~~vetting, awarding, and monitoring grants, pursuant to the sole source~~
27 ~~procurement authority specified in section 24-103-205~~ CONTRACT WITH

1 A THIRD PARTY VENDOR TO SOLICIT, VET, AWARD, AND MONITOR GRANTS.
2 THE SELECTION OF ANY VENDOR PURSUANT TO THIS SUBSECTION (3)(a) IS
3 EXEMPT FROM THE REQUIREMENTS OF THE "PROCUREMENT CODE",
4 ARTICLES 101 TO 112 OF TITLE 24.

5 (b) The state department is authorized to use ~~seventy thousand~~
6 ~~dollars~~ UP TO FIVE PERCENT of the total funds appropriated to the grant
7 program for the direct and indirect costs of administering and monitoring
8 the grant program.

9 (4) (a) ~~On or before December 30, 2020, but as soon as~~
10 ~~practicable after June 22, 2020,~~ The state department OR THIRD PARTY
11 VENDOR shall award one or more grants ~~out of the federal CARES Act to~~
12 eligible entities ~~On or before March 31, 2021, but as soon as practicable~~
13 after the effective date of this section ~~the state department shall award one~~
14 ~~or more grants to eligible entities~~ using state money appropriated to the
15 grant program. In awarding grants, the state department shall, at a
16 minimum, consider:

17 (4.5) (a) FOR STATE FISCAL YEAR 2021-22, THE GENERAL
18 ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE
19 ECONOMIC RECOVERY AND RELIEF CASH FUND, CREATED IN SECTION
20 24-75-228, AS ENACTED BY SENATE BILL 21-291, ENACTED IN 2021, TO
21 THE STATE DEPARTMENT FOR THE GRANT PROGRAM THAT CONFORMS WITH
22 THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL "AMERICAN
23 RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY BE
24 SUBSEQUENTLY AMENDED.

25 (b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JULY 1, 2023.

26

27 SECTION 4. Appropriation. (1) For the 2021-22 state fiscal

1 year, \$2,000,000 is appropriated to the department of human services for
2 use by the office of self sufficiency. This appropriation is from the
3 general fund and is based on an assumption that the office will require an
4 additional 1.9 FTE. To implement this act, the office may use this
5 appropriation for the Colorado diaper distribution program.

6 (2) For the 2021-22 state fiscal year, \$5,000,000 is appropriated to
7 the department of human services for use by the office self sufficiency.
8 This appropriation is from the economic recovery and relief cash fund
9 created in section 24-75-228, C.R.S., and of money the state receives
10 from the federal coronavirus state fiscal recovery fund. To implement this
11 act, the office may use this appropriation for the food pantry assistance
12 grant program created in section 26-2-139 (2), C.R.S.

13 **SECTION 5. Effective date.** Section 3 of this act takes effect
14 only if Senate Bill 21-288 becomes law, and, in which case, section 3 of
15 this act takes effect either upon the effective date of this act or one day
16 after the effective date of Senate Bill 21-288, whichever is later.

17 **SECTION 6. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety.