MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	JBC Staff
DATE	April 21, 2021
SUBJECT	Potential Legislation

This packet includes bill drafts and related memos for the Committee's consideration. Each individual item has page numbers but also a packet page number to help navigate the whole document. The page numbers below refer to the packet page number.

POTENTIAL LEGISLATION

Severance Tax Operational Fund Long Term Sustainability Memo (Kemm) 1

Office of Public Guardianship Extension LLS 21-0910 (Beisel) 8

Extended Recession Recovery Account LLS 21-0932 (Kampman) 11

Cash Fund Solvency LLS 21-0979 (Kampman) 16

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Alfredo Kemm JBC Staff (303-866-4549)
DATE	April 21, 2021
SUBJECT	Severance Tax Operational Fund long term sustainability recommendations

The Committee sponsored legislation in S.B. 21-220, *Reverse Transfers from Severance Tax Operational Fund*, to return $8.1 million from Department of Natural Resources grant programs to the Severance Tax Operational Fund (STOF) for core department program funding. The Department requested this legislation based on Legislative Council Services (LCS) and the Governor's Office of State Planning and Budgeting (OSPB) revenue forecasts indicating the STOF was projected to go into deficit by the end of FY 2021-22.

At Department of Natural Resources figure setting, in addition to proceeding with the short-term stabilization solution requested by the Department, Committee members also expressed interest in identifying additional changes to the structural funding mechanisms of the STOF in order to prevent future deficit situations; i.e. long-term sustainability recommendations.

There are two primary pieces to the funding structure of the STOF:

1. Core departmental program funding (formerly known as tier 1); and
2. Grant program funding (formerly known as tier 2).

In 2019, S.B. 19-016, *Severance Tax Operational Fund Distribution Methodology*, was passed which renamed tier 1 and tier 2. The bill also required a 100 percent reserve for core program funding and required that grant program funding transfers to be disbursed in arrears on August 15 of the following fiscal year. The final change included the establishment of a 100 percent reserve for grant program funding, after which any additional funds are transferred to the Perpetual Base Fund. These structural changes improved the funding mechanisms related to the STOF, and in particular the sustainability of core program funding.

However, based on the experience since calendar year 2020, in which global oil markets experienced long term sustained low oil prices that have extended into a two-year period, the one year reserve has been exhausted and is on the verge of deficit with a second year of low oil prices. This followed two fiscal year cycles of severance tax revenue to the STOF totaling $40.7 million in FY 2018-19 and $30.7 million in FY 2019-20. These fiscal year revenue totals generated grant program distribution transfers in August 2019 and August 2020 totaling $36.4 million and $14.5 million, respectively.

It appears that despite the 100 percent reserve for core program funding, the scale of statutory grant program funding at double annual core program funding, ends up depleting severance tax collections in what might be considered good years of $30-40 million in severance tax revenue to the STOF. A "good year" of severance tax revenue to the STOF is generally equal to the total of statutory distributions to grant programs ($36.4 million). Therefore, several consecutive good years of severance tax revenue, which initially lead to the replenishment of the 100 percent reserve for core program funding, functionally deliver no more than that one additional year of core program funding within the current distribution model.

In defining a "good year", keep in mind that half of all statewide severance tax collections are distributed to the Department of Local Affairs and the other half are distributed to the Department of Natural Resources (DNR). Half of the portion distributed to DNR is allocated to the Perpetual Base Account of the Severance Tax Trust Fund and the other half is allocated to the STOF. Therefore, the STOF receives 25 percent of annual statewide severance tax collections. A year with $30-40 million in revenue to the STOF represents total statewide severance tax collections of $120-160 million.

On the basis of the deficiency of the current model, staff recommends that the 100 percent reserve be increased to at least 200 percent, representing a two-year reserve, and possibly 300 percent, representing a three-year reserve. This recommendation is simply a response to actual experience. It may have been reasonable in prior years to expect that a one-year price drop or other slowdown in oil and gas activity might not be expected to exceed one year; but that appears not to be the case based on current experience.

Additionally, the last historical period with concerns related to the STOF distribution model led to S.B. 19-016, and included H.B. 18-1338, *Severance Tax Stabilization*, before that, and was the period which followed the Colorado Supreme Court's, 2016 *BP America* decision. Arguably, that period also included multi-year severance tax revenue uncertainty. However, much of the fallout related to severance tax refunds related to the *BP America* decision was anticipated and included support from the General Fund.

Nevertheless, severance tax revenue to the STOF totaled $17.0 million in FY 2015-16, $16.2 million in FY 2016-17, and $13.2 million in FY 2017-18. Since FY 2015-16, including revenue forecast years through FY 2021-22, severance tax revenue to the STOF is anticipated to average $18.4 million per year. This amount of annual revenue represents just enough to fund core department programs and extends over a seven-year period.

Therefore, given the level of funding provided from severance tax revenue since FY 2015-16, it appears reasonable to also consider adjustments to grant program funding. Over the 19-year period from FY 2001-02 through FY 2019-20, expenditures by core department programs total $230.9 million, representing 33.5 percent of STOF severance tax revenue. Over the same 19-year period, distributions to grant programs and other statutory transfers total $452.1 million, representing 65.6 percent of STOF severance tax revenue. (The totals are just under 100 percent and do not include the starting balance in the STOF at the beginning of that 19-year period, however additional revenue or transfer adjustments were made over that 20-year period, which create a slight difference.)

Therefore, in order to emphasize sustainability for core program funding, staff also considered whether it might be reasonable to consider limiting payouts to grant programs to no more than 100 percent of prior year core program expenditures or $20 million.

Staff developed a basic model of severance tax revenue to the STOF over the last 10 years, with maximum annual grant program funding from $36.5 million to $20.0 million. The difference in maximum annual grant program funding did not change the 10-year grant distribution total or the final year end balance in the STOF. The larger annual amount was distributed over fewer years and

the lower annual amount was more consistently distributed from year to year. However, there was no change in total distributions over the 10-year period.

Additionally, staff ran the model with a 200 percent core reserve and a 300 percent core reserve. At a 200 percent core reserve, 10-year grant program distributions totaled $184.3 million at $36.5 million as well as at $20.0 million in annual maximum distributions. The final year end balance totaled $18.5 million. At a 300 percent reserve, 10-year grant program distributions totaled $167.4 million at $36.5 million and at $20.0 million in annual maximum distributions. The final year end balance totaled $35.4 million. In either case, the grant program funding did not change the 10-year grant distribution total or final year end balance.

The following table summarizes the assumptions analysis.

10-YEAR STOF MODEL ASSUMPTIONS ANALYSIS (IN MILLIONS)							
Core Reserve Percentage	100%	200%	200%	200%	300%	300%	300%
Annual Grant Programs Maximum	$36.5	$36.5	$30.0	$20.0	$36.5	$30.0	$20.0
10-year Total							
Core Program Funding	$151.8	$151.8	$151.8	$151.8	$151.8	$151.8	$151.8
Grant Program Funding	$201.2	$184.3	$184.3	$184.3	$167.4	$167.4	$167.4
Final Year End Balance	$1.6	$18.5	$18.5	$18.5	$35.4	$35.4	$35.4

Based on this analysis, it appears that the key to sustainability is directly related to the core program reserve percentage and not necessarily to the grant program annual maximum distribution.

However, reducing the grant program annual maximum distribution does contribute to more stable grant funding over time. This suggests that funding to particularly critical grant programs could be stabilized and even increased by more selectively funding fewer grant programs. Limiting grant program funding to key grant programs rather than simply making funds available to many potential grant programs through this mechanism could better ensure that grant program funding would also be more sustainable for grant programs.

GRANT PROGRAMS

The following grant programs are included in the current distribution:

LEAP – Low-income Energy Assistance Program	$13,000,000	35.9 percent
Water Supply Reserve Fund	10,000,000	27.6 percent
Species Conservation Trust Fund	5,000,000	13.8 percent
Aquatic Nuisance Species	4,006,005	11.1 percent
Forestry Grants	2,500,000	6.9 percent
Interbasin Compact Committee	745,067	2.1 percent
Water Efficiency Grant Program	550,000	1.5 percent
Soil Conservation District Grants	450,000	1.2 percent
Total Grant Distributions	$36,251,072	

LEAP FUNDING

Technically, there are three distributions related to LEAP:

- 25 percent to the Department of Human Services (DHS) Low-income Energy Assistance Fund for the low-income energy assistance program in DHS;
- 25 percent to the Energy Outreach Colorado Low-income Energy Assistance Fund in the Colorado Energy Office (CEO) to provide direct bill payment assistance to low-income households when DHS is not accepting client applications for the program; and
- 50 percent to the Colorado Energy Office Low-income Energy Assistance Fund in the CEO to improve the home energy efficiency of low-income households.

However, H.B. 21-1105, Low-income Utility Payment Assistance Contributions, repeals the LEAP funding from STOF grant program distributions, and replaces this funding for LEAP with a new fund source. If H.B. 21-1105 becomes law in its current form, this portion of grant funding is repealed 90 days after adjournment of the current legislative session, and the grant program funding list would include the following distributions:

Water Supply Reserve Fund	10,000,000	43.0 percent
Species Conservation Trust Fund	5,000,000	21.5 percent
Aquatic Nuisance Species	4,006,005	17.2 percent
Forestry Grants	2,500,000	10.8 percent
Interbasin Compact Committee	745,067	3.2 percent
Water Efficiency Grant Program	550,000	2.4 percent
Soil Conservation District Grants	450,000	1.9 percent
Total Grant Distributions	$23,251,072	

RECOMMENDATIONS

1 Staff recommends increasing the core program reserve from 100 percent to 200 or 300 percent.

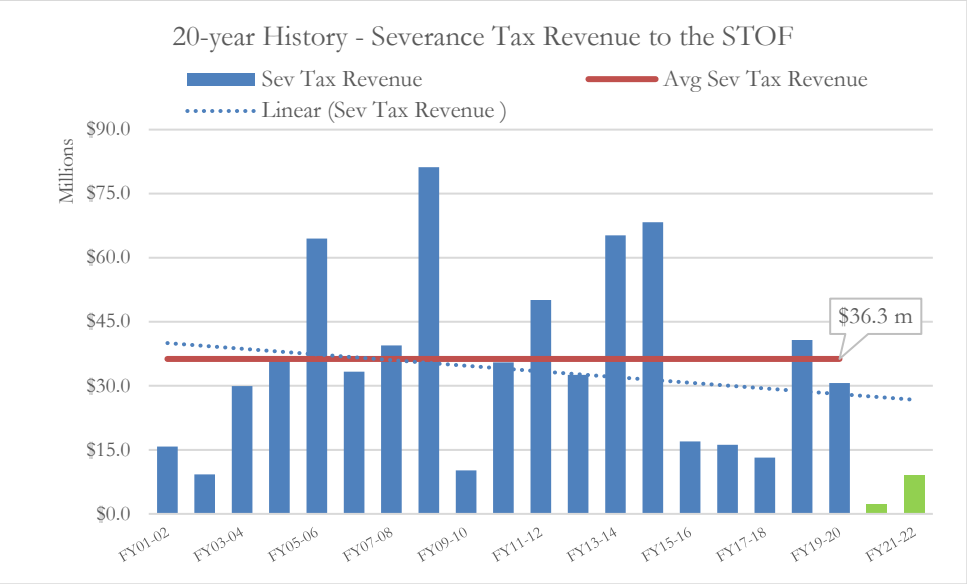
2 Staff recommends no adjustments to grant program funding with the expectation that if H.B. 21-1105 becomes law in its current form, it eliminates LEAP funding of up to $13.0 million from STOF grant program transfers, representing 35.9 percent of current grant program transfers.

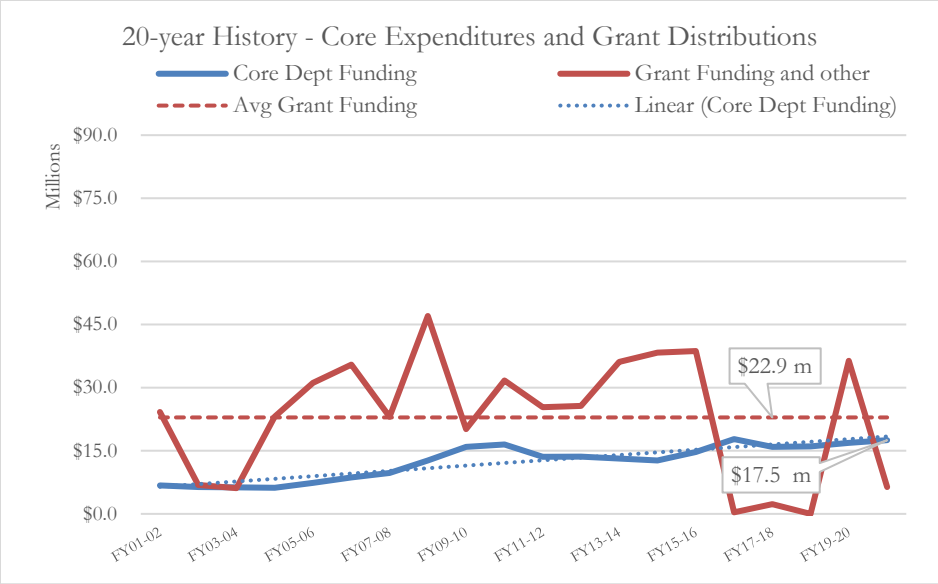
3 Staff recommends that the Committee might consider the elimination of the grant program reserve and the additional distribution to the Perpetual Base Fund. The model shows that over a period of several good years of severance tax revenue, funding might be directed to the Perpetual Base Fund. Given the current interest in prioritizing core program funding as well as stabilizing grant program funding, it may be reasonable to eliminate the additional distribution to the Perpetual Base Fund. This would allow the STOF to carry a larger balance into a following year and reduce the impact in future years with lower severance tax revenue. By eliminating the additional distribution to the Perpetual Base Fund there is no reason to keep the grant program reserve in place.

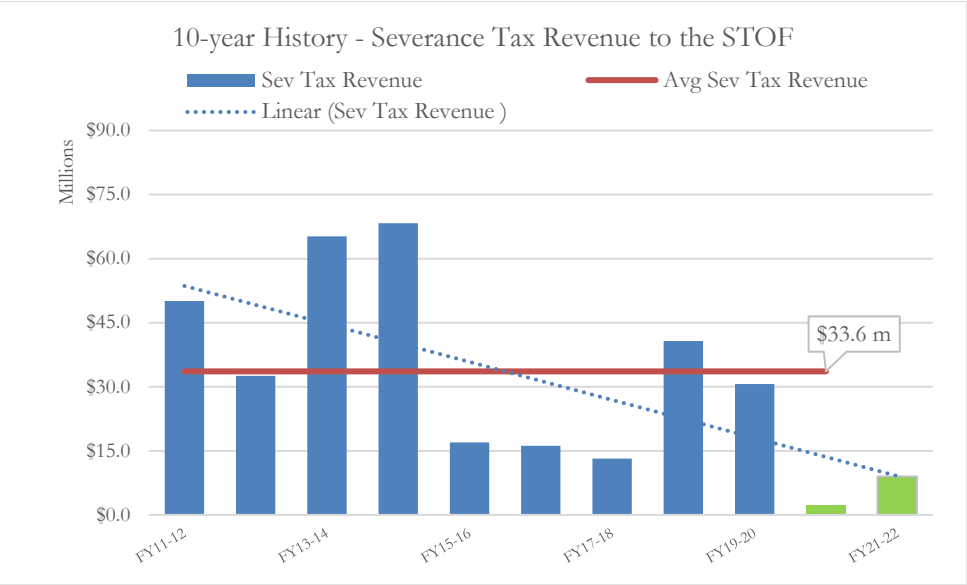
Severance Tax Operational Fund - Core Departmental Programs (LCS March 2021 Forecast)					
	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Appropriation	FY 2022-23 Projected
Revenue					
Beginning Fund Balance	$9,414,921	$54,115,867	$31,540,173	$9,367,369	$897,927
Grant Program Distribs in Arrears	0	(36,378,072)	(14,487,413)	0	0
Balance after NREG Distributions	*9,414,921*	*17,737,795*	*17,052,760*	*9,367,369*	*897,927*
HB 18-1338 Transfers from GF	20,030,925	0	0	0	0
SB 21-220 Transfers back to STOF	0	0	8,113,141	0	0
Revenue/Projected Revenue*	40,027,039	30,064,651	2,225,472	8,988,577	24,985,657
Interest/Projected Interest	685,781	594,606	227,703	0	0
Total Available Revenue	**$70,158,666**	**$48,397,052**	**$27,619,076**	**$18,355,946**	**$25,883,584**
Core Departmental Programs - DNR & CGS					
Oil & Gas Conservation Commission	$6,148,067	$6,148,067	$6,148,067	$6,148,067	$6,148,067
CO Geo Survey	1,585,133	1,390,257	1,627,932	1,660,491	1,693,701
Avalanche Information Center	638,057	699,089	989,726	964,065	992,987
Reclamation, Mining, & Safety	3,875,106	4,921,418	4,867,448	4,874,597	5,020,835
CO Water Conservation Board	1,268,802	1,276,150	1,319,250	1,319,250	1,319,250
CPW - Parks	2,473,291	2,367,555	2,499,936	2,437,206	2,437,206
CPW - Wildlife	54,343	54,343	54,343	54,343	54,343
Core Programs Total	**$16,042,799**	**$16,856,879**	**$17,506,702**	**$17,458,019**	**$17,666,389**
Other Expenditures					
DRMS Inactive Mines Prog Rollforward	$0	$0	$745,005	$0	$0
Other Expenditures Total	**$0**	**$0**	**$745,005**	**$0**	**$0**
Core Reserve Requirement (100%)	**$17,214,854**	**$17,052,760**	**$17,506,702**	**$17,458,019**	**$17,666,389**
Revenue Held in Section 1 Reserve	17,214,854	17,052,760	9,367,369	897,927	8,217,195
% Held in Section 1 Reserve	*100.0%*	*100.0%*	*53.5%*	*5.1%*	*46.5%*
End Fund Balance**	**$54,115,867**	**$31,540,173**	**$9,367,369**	**$897,927**	**$8,217,195**
*Based on the Mar 2021 Legislative Council Staff Revenue Forecast					
**End Fund Balance includes Grant Program distributions held and reserves					

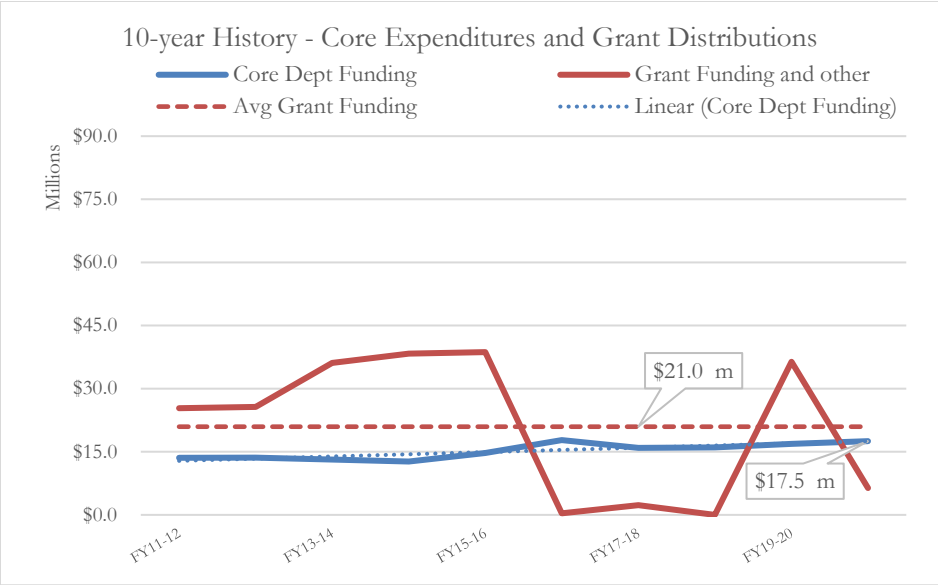
Severance Tax Operational Fund - Core Departmental Programs (OSPB March 2021 Forecast)					
	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Appropriation	FY 2022-23 Projected
Revenue					
Beginning Fund Balance	$9,414,921	$54,115,867	$31,540,173	$3,045,840	($1,470,219)
Grant Program Distribs in Arrears	0	(36,378,072)	(14,487,413)	0	0
Balance after NREG Distributions	*9,414,921*	*17,737,795*	*17,052,760*	*3,045,840*	*(1,470,219)*
HB 18-1338 Transfers from GF	20,030,925	0	0	0	0
SB 21-220 Transfers back to STOF	0	0	8,113,141	0	0
Revenue/Projected Revenue*	40,027,039	30,064,651	-4,096,057	12,941,960	20,709,923
Interest/Projected Interest	685,781	594,606	227,703	0	0
Total Available Revenue	**$70,158,666**	**$48,397,052**	**$21,297,547**	**$15,987,800**	**$19,239,704**
Core Departmental Programs - DNR & CGS					
Oil & Gas Conservation Commission	$6,148,067	$6,148,067	$6,148,067	$6,148,067	$6,148,067
CO Geo Survey	1,585,133	1,390,257	1,627,932	1,660,491	1,693,701
Avalanche Information Center	638,057	699,089	989,726	964,065	992,987
Reclamation, Mining, & Safety	3,875,106	4,921,418	4,867,448	4,874,597	5,020,835
CO Water Conservation Board	1,268,802	1,276,150	1,319,250	1,319,250	1,319,250
CPW - Parks	2,473,291	2,367,555	2,499,936	2,437,206	2,437,206

Severance Tax Operational Fund - Core Departmental Programs (OSPB March 2021 Forecast)					
	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Appropriation	FY 2022-23 Projected
CPW - Wildlife	54,343	54,343	54,343	54,343	54,343
Core Programs Total	**$16,042,799**	**$16,856,879**	**$17,506,702**	**$17,458,019**	**$17,666,389**
Other Expenditures					
DRMS Inactive Mines Prog Rollforward	$0	$0	$745,005	$0	$0
Other Expenditures Total	**$0**	**$0**	**$745,005**	**$0**	**$0**
Core Reserve Requirement (100%)	**$17,214,854**	**$17,052,760**	**$17,506,702**	**$17,458,019**	**$17,666,389**
Revenue Held in Section 1 Reserve	17,214,854	17,052,760	3,045,840	(1,470,219)	1,573,315
% Held in Section 1 Reserve	*100.0%*	*100.0%*	*17.4%*	*-8.4%*	*8.9%*
End Fund Balance**	**$54,115,867**	**$31,540,173**	**$3,045,840**	**($1,470,219)**	**$1,573,315**
*Based on the Mar 2021 Governor's Office of State Planning and Budgeting Revenue Forecast					
**End Fund Balance includes Grant Program distributions held and reserves					


20-year History - Severance Tax Revenue to the STOF
Sev Tax Revenue
Avg Sev Tax Revenue
Linear (Sev Tax Revenue)
Millions
$90.0
$75.0
$60.0
$45.0
$30.0
$15.0
$0.0
$36.3 m
FY01-02
FY03-04
FY05-06
FY07-08
FY09-10
FY11-12
FY13-14
FY15-16
FY17-18
FY19-20
FY21-22


20-year History - Core Expenditures and Grant Distributions
Core Dept Funding
Grant Funding and other
Avg Grant Funding
Linear (Core Dept Funding)
Millions
$90.0
$75.0
$60.0
$45.0
$30.0
$15.0
$0.0
$22.9 m
$17.5 m
FY01-02
FY03-04
FY05-06
FY07-08
FY09-10
FY11-12
FY13-14
FY15-16
FY17-18
FY19-20


10-year History - Severance Tax Revenue to the STOF
Sev Tax Revenue
Avg Sev Tax Revenue
Linear (Sev Tax Revenue)
Millions
$90.0
$75.0
$60.0
$45.0
$30.0
$15.0
$0.0
$33.6 m
FY11-12
FY13-14
FY15-16
FY17-18
FY19-20
FY21-22


10-year History - Core Expenditures and Grant Distributions
Core Dept Funding
Grant Funding and other
Avg Grant Funding
Linear (Core Dept Funding)
Millions
$90.0
$75.0
$60.0
$45.0
$30.0
$15.0
$0.0
$21.0 m
$17.5 m
FY11-12
FY13-14
FY15-16
FY17-18
FY19-20

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
3.30.21

DRAFT

LLS NO. 21-0910.01 Conrad Imel x2313 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Office Of Public Guardianship Extension"

A BILL FOR AN ACT

101 **CONCERNING THE EXTENSION OF THE OFFICE OF PUBLIC**
102 **GUARDIANSHIP.**

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/.)

Joint Budget Committee. In 2019, the general assembly extended the office of public guardianship (office) until 2023. The bill corrects 2 dates that should have been extended. If the office is not further extended, it will need additional time to wind up its affairs. The repeal of the article creating the office is extended to June 30, 2024, to allow time for the office to wind up its affairs.

Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The general assembly increased certain court fees to fund the office. The bill requires the office, if it is not further extended, to notify the joint budget committee that those fees can be reduced.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-94-102, **amend**
3 (2)(b) as follows:

4 **13-94-102. Legislative declaration.** (2) In establishing the office
5 of public guardianship, the general assembly intends:

6 (b) That the office is a pilot program, to be evaluated and then
7 continued, discontinued, or expanded at the discretion of the general
8 assembly in ~~2021~~ 2023.

9 **SECTION 2.** In Colorado Revised Statutes, 13-94-108, **amend**
10 (2) as follows:

11 **13-94-108. Office of public guardianship cash fund - created.**
12 (2) The money in the fund is annually appropriated to the judicial
13 department to pay the expenses of the office. All interest and income
14 derived from the investment and deposit of money in the fund is credited
15 to the fund. Any unexpended and unencumbered money remaining in the
16 fund at the end of a fiscal year must remain in the fund and not be
17 credited or transferred to the general fund or any other fund; except that
18 any money remaining in the fund on June 30, ~~2021~~ 2024, shall be
19 transferred to the general fund.

20 **SECTION 3.** In Colorado Revised Statutes, **amend** 13-94-111 as
21 follows:

22 **13-94-111. Repeal - wind-up.** (1) This article 94 is repealed,
23 effective ~~December 31, 2023~~ JUNE 30, 2024. Prior to such repeal, the
24 general assembly, after reviewing the report submitted by the director

1 pursuant to section 13-94-105 (4), shall consider whether to enact
2 legislation to continue, discontinue, or expand the office.
3 (2) If the general assembly has adjourned the legislative session
4 beginning in January of 2023 sine die without enacting legislation to
5 continue or expand the office, the office shall NOTIFY THE JOINT BUDGET
6 COMMITTEE THAT THE OFFICE WILL NOT BE CONTINUED AND THAT COURT
7 FEES MAY BE REDUCED BY THE AMOUNT DEPOSITED TO THE OFFICE OF
8 PUBLIC GUARDIANSHIP CASH FUND, implement its discontinuation plan
9 developed pursuant to section 13-94-105, and wind-up its affairs prior to
10 the repeal of this article 94.
11 **SECTION 4. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
4.14.21

DRAFT

LLS NO. 21-0932.01 Ed DeCecco x4216 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Extended Recession Recovery Account"

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE EXTENDED RECESSION**
102 **RECOVERY ACCOUNT IN THE GENERAL FUND.**

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/.)

Joint Budget Committee. The bill creates the extended recession recovery account (account) within the general fund. Beginning with the current state fiscal year, the state treasurer will deposit 70% of all appropriations that revert to the general fund in the account up to a target amount. The general assembly may only appropriate money from the account for a state fiscal year if:

- The national bureau of economic research declared that the United States entered into, or continued to be in, a recession during the state fiscal year or the 2 preceding state fiscal years;
- The amount of the general fund reserve is less than or equal to 5%; and
- The total appropriations and transfers from the general fund, including the money from the account, for the state fiscal year will be less than or equal the total appropriations and transfers from the general fund for the preceding state fiscal year increased by 3.5%.

In such circumstances, appropriations may be made for any purpose. Otherwise, the general assembly is prohibited from appropriating money from the account. Money in the account may be designated as a TABOR emergency reserve, but it may not constitute any part of the general fund statutory reserve.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-75-226 as
3 follows:

4 **24-75-226. General fund - extended recession recovery**
5 **account - reversions - limitations - legislative declaration -**
6 **definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

8 (a) WHILE COLORADO HAS ENJOYED MANY YEARS OF GROWTH
9 AND PROSPERITY, IT HAS ALSO PERIODICALLY ENDURED DIFFICULT
10 ECONOMIC DOWNTURNS;

11 (b) ECONOMIC DOWNTURNS MAY LAST FOR MORE THAN A YEAR
12 AND REDUCE STATE REVENUES BILLIONS OF DOLLARS, AS WAS THE CASE
13 WITH THE GREAT RECESSION FROM 2007 TO 2009;

14 (c) THE STATE'S GENERAL FUND RESERVE ALLOWS THE STATE TO
15 WITHSTAND TEMPORARY DECREASES IN REVENUE, BUT GIVEN ITS
16 STRUCTURE AND AMOUNT, IT IS ONLY A SHORT-TERM TOOL;

1 (d) THE STATE'S EXISTING GENERAL FUND RESERVE IS
2 INADEQUATE TO MAINTAIN ESSENTIAL STATE SERVICES DURING AN
3 EXTENDED RECESSION;
4 (e) IT IS ADVISABLE TO CREATE AND ALLOCATE MONEY TO THE
5 EXTENDED RECESSION RECOVERY ACCOUNT WITHIN THE GENERAL FUND
6 TO ADDRESS FUTURE RECESSIONS; AND
7 (f) THE MONEY IN THE ACCOUNT SHOULD ONLY BE AVAILABLE IN
8 VERY LIMITED CIRCUMSTANCES.
9 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:
11 (a) "ACCOUNT" MEANS THE EXTENDED RECESSION RECOVERY
12 ACCOUNT IN THE GENERAL FUND CREATED IN SUBSECTION (3) OF THIS
13 SECTION.
14 (b) "GENERAL FUND REVENUE" MEANS THE AMOUNT OF MONEY
15 THAT IS CREDITED TO THE GENERAL FUND IN A STATE FISCAL YEAR AND
16 DOES NOT INCLUDE ANY AMOUNTS TRANSFERRED TO OR FROM THE
17 GENERAL FUND OR THE BEGINNING BALANCE IN THE FUND.
18 (c) "REVERSION AMOUNT" MEANS THE FINAL, ADJUSTED AMOUNT
19 OF STATE MONEY APPROPRIATED FROM THE GENERAL FUND FOR A STATE
20 FISCAL YEAR THAT IS UNEXPENDED AND UNENCUMBERED AS OF THE DATE
21 THE STATE CONTROLLER PUBLISHES THE COMPREHENSIVE ANNUAL
22 FINANCIAL REPORT OF THE STATE FOR THE STATE FISCAL YEAR, BUT
23 EXCLUDING ANY AMOUNT THAT IS REQUIRED TO BE TRANSFERRED TO THE
24 LEGISLATIVE DEPARTMENT CASH FUND IN ACCORDANCE WITH SECTION
25 2-2-1601 (2.6).
26 (3) (a) THERE IS HEREBY CREATED IN THE GENERAL FUND THE
27 EXTENDED RECESSION RECOVERY ACCOUNT. EXCEPT AS SET FORTH IN

1 SUBSECTION (3)(b) OF THIS SECTION, THE STATE TREASURER SHALL
2 CREDIT SEVENTY PERCENT OF THE REVERSION AMOUNT TO THE ACCOUNT
3 FOR STATE FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2020. THE
4 STATE TREASURER SHALL CREDIT TO THE ACCOUNT ALL INTEREST AND
5 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
6 ACCOUNT.
7 (b) THE STATE TREASURER SHALL NOT TRANSFER TO THE
8 ACCOUNT ANY PORTION OF THE REVERSION AMOUNT THAT WOULD CAUSE
9 THE ACCOUNT BALANCE TO EXCEED THE TARGET AMOUNT FOR THE STATE
10 FISCAL YEAR, WHICH IS EQUAL TO TWENTY-FIVE PERCENT OF THE
11 GENERAL FUND REVENUE FOR THE PRECEDING STATE FISCAL YEAR.
12 (4) (a) FOR A STATE FISCAL YEAR, THE GENERAL ASSEMBLY MAY
13 APPROPRIATE MONEY FROM THE ACCOUNT FOR ANY PURPOSE IF:
14 (I) THE NATIONAL BUREAU OF ECONOMIC RESEARCH DECLARED
15 THAT THE UNITED STATES ENTERED INTO, OR CONTINUED TO BE IN, A
16 RECESSION DURING THE STATE FISCAL YEAR OR THE TWO PRECEDING
17 STATE FISCAL YEARS;
18 (II) THE AMOUNT OF THE GENERAL FUND RESERVE REQUIRED IN
19 SECTION 24-75-201.1 (1)(d) FOR THE FISCAL YEAR IS LESS THAN OR
20 EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FOR
21 EXPENDITURE FROM THE GENERAL FUND FOR THE STATE FISCAL YEAR;
22 AND
23 (III) THE TOTAL APPROPRIATIONS AND TRANSFERS FROM THE
24 GENERAL FUND, INCLUDING THE MONEY FROM THE ACCOUNT, FOR THE
25 FISCAL YEAR WILL BE LESS THAN OR EQUAL TO AN AMOUNT EQUAL TO
26 ONE HUNDRED THREE AND ONE-HALF PERCENT OF THE TOTAL
27 APPROPRIATIONS AND TRANSFERS FROM THE GENERAL FUND FOR THE

1 PRECEDING STATE FISCAL YEAR.

2 (b) THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY
3 FROM THE FUND FOR ANY PURPOSE UNLESS THE CONDITIONS SPECIFIED IN
4 SUBSECTION (4)(a) OF THIS SECTION ARE MET.

5 (c) THE MONEY IN THE ACCOUNT MAY CONSTITUTE ALL OR SOME
6 PORTION OF THE STATE EMERGENCY RESERVE ESTABLISHED PURSUANT TO
7 SECTION 24-77-104 IN ACCORDANCE WITH SECTION 20 (5) OF ARTICLE X
8 OF THE STATE CONSTITUTION AND MAY BE EXPENDED IN ACCORDANCE
9 THEREWITH.

10 (d) THE MONEY IN THE ACCOUNT IS SEPARATE FROM AND SHALL
11 NOT CONSTITUTE ANY PART OF THE RESERVE REQUIRED UNDER SECTION
12 24-75-201.1 (1)(d).

13 **SECTION 2. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
4.19.21

DRAFT

LLS NO. 21-0979.01 Ed DeCecco x4216 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Cash Fund Solvency"

A BILL FOR AN ACT

101 **CONCERNING CASH FUND SOLVENCY, AND, IN CONNECTION**
102 **THEREWITH, CREATING THE CASH FUND SOLVENCY FUND TO**
103 **ALLOW THE STATE CONTROLLER TO MAKE LOANS TO CERTAIN**
104 **CASH FUNDS WITH ANTICIPATED CASH DEFICITS AND**
105 **TRANSFERRING MONEY TO THE MARIJUANA CASH FUND.**

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/.)

Joint Budget Committee. Section 1 of the bill creates the cash fund solvency fund. The purpose of the fund is to allow the state

controller to make loans from the fund to another cash fund for which it is anticipated that there will be a cash deficit. The loans may be for multiple fiscal years and the state controller shall not charge interest. The state controller is required to annually report to the joint budget committee and the office of state planning and budgeting about any outstanding loans.

Section 2 requires the state treasurer to transfer $1,805,317 from the marijuana tax cash fund to the marijuana cash fund and $1,200,000 from the general fund to the marijuana cash fund. The first transfer repays the marijuana cash fund for a prior transfer and the second transfer partially repays the marijuana cash fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-30-210 as
3 follows:

4 **24-30-210. Cash fund solvency fund - creation - loans - report**
5 **- legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND
6 DECLARES THAT:

7 (a) WHEN FEE-FUNDED PROGRAMS USE MULTI-YEAR LICENSING
8 AND SERVICE PERIODS, STATE AGENCIES MAY HAVE REVENUE SHORTFALLS
9 DURING OFF-CYCLE YEARS IN WHICH REVENUE COLLECTIONS ARE
10 DRAMATICALLY LOWER THAN THEY ARE ON ON-CYCLE YEARS;

11 (b) THE COVID-19 PANDEMIC HAS REDUCED FEE REVENUE OR
12 DISRUPTED THE FEE CYCLE FOR MANY STATE PROGRAMS, WHICH
13 EXACERBATES THE NEED FOR A MULTI-YEAR, CASH-MANAGEMENT
14 SOLUTION TO SMOOTH OUT REVENUE FLUCTUATIONS;

15 (c) FEE-FUNDED STATE PROGRAMS SHOULD BE ABLE TO WEATHER
16 THE CURRENT AND FUTURE ECONOMIC DOWNTURNS WITHOUT RESORTING
17 TO LARGE, SHORT-TERM FEE INCREASES ON BUSINESSES AND COLORADANS
18 AS THEY ARE RECOVERING FROM THE DOWNTURN; AND

19 (d) PROVIDING FEE-FUNDED PROGRAMS ADEQUATE, MULTI-YEAR

1 FLEXIBILITY TO MANAGE CASH FLOWS WHILE ALSO MAINTAINING THE
2 EXISTING SAFEGUARDS AGAINST OVERCHARGING FEE PAYERS FOR
3 SERVICES IS AN IMPORTANT STATE FUNCTION.
4 (2) THE CASH FUND SOLVENCY FUND, REFERRED TO IN THIS
5 SECTION AS THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY.
6 THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO
7 SUBSECTION (4) OF THIS SECTION AND ANY OTHER MONEY THAT THE
8 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE
9 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED
10 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE CASH FUND
11 SOLVENCY FUND TO THE FUND.
12 (3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
13 CONTRARY, UPON THE REQUEST OF THE OFFICE OF STATE PLANNING AND
14 BUDGETING, THE STATE CONTROLLER MAY LOAN MONEY FROM THE FUND
15 TO ANOTHER CASH FUND IF THE STATE CONTROLLER DETERMINES THAT:
16 (I) THE PRIMARY SOURCE OF REVENUE IN THE CASH FUND IS FROM
17 FEE REVENUE;
18 (II) THE FEE REVENUE IS COLLECTED ON A MULTI-YEAR LICENSING
19 AND SERVICE PERIOD OR THERE HAS BEEN AN UNEXPECTED, SIGNIFICANT
20 DECREASE IN FEE REVENUE COLLECTED; AND
21 (III) THE CASH FUND WILL HAVE A DEFICIT BASED ON CURRENT
22 EXPENDITURES IN THE ABSENCE OF A SIGNIFICANT FEE INCREASE, UNLESS
23 A LOAN IS MADE TO THE CASH FUND.
24 (b) THE STATE CONTROLLER SHALL ESTABLISH THE TERMS OF THE
25 LOAN AUTHORIZED BY THIS SUBSECTION (3). THE LOANS MAY BE FOR
26 MORE THAN ONE FISCAL YEAR AND THE STATE CONTROLLER SHALL NOT
27 CHARGE INTEREST ON THE LOAN.

1 (4) (a) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER
2 THREE MILLION ONE HUNDRED THOUSAND DOLLARS FROM THE GENERAL
3 FUND TO THE FUND.
4 (b) A STATE AGENCY SHALL REPAY THE STATE CONTROLLER BASED
5 ON THE TERMS SET AND THE STATE CONTROLLER SHALL CREDIT TO THE
6 FUND THE REPAYMENTS FOR THE LOAN.
7 (5) NOTWITHSTANDING SECTION 24-1-136 (11), ON OR BEFORE
8 NOVEMBER 1, 2021, AND EACH NOVEMBER 1 THEREAFTER, THE STATE
9 CONTROLLER SHALL ANNUALLY REPORT TO THE JOINT BUDGET COMMITTEE
10 AND THE OFFICE OF STATE PLANNING AND BUDGETING ABOUT ANY LOANS
11 THAT HAVE BEEN MADE UNDER THIS SECTION, THE TERMS OF THE LOAN,
12 AND THE AMOUNT THAT HAS BEEN REPAID.
13 **SECTION 2.** In Colorado Revised Statutes, 44-10-801, **amend**
14 (1)(d) as follows:
15 **44-10-801. Marijuana cash fund - repeal.** (1) (d) (I) ~~On July 1,~~
16 ~~2014, the state treasurer shall transfer to the marijuana tax cash fund~~
17 ~~created in section 39-28.8-501 any money in the fund that is attributable~~
18 ~~to the retail marijuana excise tax transferred pursuant to section~~
19 ~~39-28.8-305 (1)(b), the retail marijuana sales tax transferred pursuant to~~
20 ~~section 39-28.8-203 (1)(b), or the sales tax imposed pursuant to section~~
21 ~~39-26-106, on the retail sale of marijuana products pursuant to this article~~
22 ~~10.~~
23 (II) ~~On the date on which the state controller publishes the~~
24 ~~comprehensive annual financial report of the state for the 2013-14 state~~
25 ~~fiscal year, the state treasurer shall transfer to the marijuana tax cash fund~~
26 ~~created in section 39-28.8-501 any remaining money in the fund that is~~
27 ~~attributable to the retail marijuana excise tax transferred pursuant to~~

1 ~~section 39-28.8-305 (1)(b), the retail marijuana sales tax transferred~~
2 ~~pursuant to section 39-28.8-203 (1)(b), or the sales tax imposed pursuant~~
3 ~~to section 39-26-106, on the retail sale of marijuana products under this~~
4 ~~article 10.~~
5 (III) (A) On July 1, 2019, the state treasurer shall transfer nine
6 hundred fourteen thousand four hundred sixteen dollars from the
7 marijuana cash fund to the marijuana tax cash fund created in section
8 39-28.8-501. On July 1, 2020, the state treasurer shall transfer eight
9 hundred ninety thousand nine hundred one dollars from the marijuana
10 cash fund to the marijuana tax cash fund.
11 (B) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE
12 MILLION EIGHT HUNDRED FIVE THOUSAND THREE HUNDRED SEVENTEEN
13 DOLLARS FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION
14 39-28.8-501 TO THE MARIJUANA CASH FUND.
15 (C) THIS SUBSECTION (1)(d)(III) IS REPEALED, EFFECTIVE JULY 1,
16 2022.
17 (IV) (A) Notwithstanding any other provision of law, on June 30,
18 2020, the state treasurer shall transfer one million six hundred thousand
19 dollars from the marijuana cash fund to the general fund.
20 (B) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE
21 MILLION TWO HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO
22 THE MARIJUANA CASH FUND.
23 (C) THIS SUBSECTION (1)(d)(IV) IS REPEALED, EFFECTIVE JULY 1,
24 2022.
25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Robin J. Smart, JBC Staff (303-866-4955)
DATE	April 21, 2021
SUBJECT	Update on child welfare bill drafts

During figure setting for the Division of Child Welfare, the Joint Budget Committee moved to draft five child welfare bills. The combined total of General Fund factored into FY 2021-22 balancing for these bills is $8,040,898. Following is an update on the status of the drafts, including requests for permission to make modifications based on the stakeholder processes that have occurred to date. Please note, the stakeholder process for each of these bills is continuing and the following summaries are subject to change. Bill drafts will be presented to the Committee on May 10, 2021.

CHILD WELFARE PREVENTION AND INTERVENTION SERVICES CASH FUND

Summary of bill draft:

- Creates the Title IV-E Prevention Services Cash Fund into which earned Title IV-E reimbursements for eligible prevention services are deposited;
- Requires the deposited funds to be made available through a process determined by the State Board of Human Services for the continuation, expansion, or initiation of programs that are identified in the federal evidence-based clearing house;
- Requires a minimum percentage (15 percent) of the funding to be used to expand evidence-based programs to areas of the state that do not currently have them;
- Allows for a portion of the funding to be used for programs that are not identified in the clearing house, if those programs are under evaluation in order to be added to the clearing house, but eliminates funding for the programs if they are determined to not meet the required level of evidence after the evaluation; and
- Creates a new line item in the Office of Early Childhood division of the Long Bill.
- No appropriation is necessary.

Request for permission to consider another option:

The Department of Human Services has expressed concern that the current structure of the bill creates a duplicative cash fund and process that is currently administered and performed by the Colorado Children's Trust Fund. If this is the case and the Trust Fund and Board are structured in a way to ensure appropriate oversight of these funds, it is possible to change the language in the bill to require that the Title IV-E reimbursements for prevention services be deposited into the Trust Fund as opposed to creating a new cash fund. **JBC staff** has discussed this option with counties but **requests permission to continue the discussions and modify the bill if it is determined that utilizing the Trust Fund is a better option.**

STATE-ONLY PROGRAM FOR MEDICAID ELIGIBLE CHILDREN AND NEW PROVIDER RATE ACTUARIAL

Summary of bill draft:

- Requires the Department of Human Services to fully implement the rate increases pursuant to H.B. 17-1292 and S.B. 18-254;

- Requires an update to the actuarial performed pursuant to H.B. 17-1292 to include the Division of Youth Services and the new out of home placement provider options required by the federal Family First Prevention Services Act of 2018;
- Requires the Department to update the rate setting methodology required pursuant to H.B. 17-1292 to reflect the updated actuarial;
- Requires the Department to contract with an outside entity to perform a new actuarial analysis of out of home placement provider rates every three years beginning in FY 2022-23.
- Requires the submission of an annual report to the Joint Budget Committee concerning the provisions of the bill.
- Appropriates $250,000 General Fund for the actuarial.

Suggested modifications:
The Committee requested that the bill draft include the creation of a state-only program to cover the cost of Medicaid eligible services provided to children who will lose their benefits when placed in a residential setting that is determined to be an Institute for Mental Disease. The Department of Health Care Policy and Financing believes the creation of this program is premature and believes that the issue can be addressed next session, if necessary. **JBC staff** agrees and **recommends that this program be removed from the bill draft.** The placeholder for this bill included approximately $6.0 million General Fund for the program. **JBC staff recommends using this funding to provide supplemental payments to facility schools in order to improve sustainability while a new educational model is developed.**

The remaining contents of this bill draft align with the child welfare related language in the following bill. In addition, the bills are amending the same sections in statute. **JBC staff requests permission to combine the language in this bill with the child welfare related language in the following bill.**

CHILD WELFARE SYSTEM CHANGES
Summary of bill draft:
- Amends language in Title 19 concerning placements in the Division of Youth Services in order to comply with the Family First Prevention Services Act of 2018;
- Creates a mechanism to determine the appropriate placement option for children and youth, based on the best interests and needs of the child or youth, along the continuum of care;
- Ensures that placement options comply with federal law in order to maximize Medicaid and Title IV-E revenues;
- Requires the use of a portion of the federal Family First Transition and Support Act of 2019 funding to be used to support the transition of current providers to a placement option that meets the needs of the child or youth;
- Modifies the county match rate for placements that should be based on, but are not made based on the determined needs of the child or youth to 50%, beginning July 1, 2024; and
- Requires the development of a work group to develop a sustainable model for facility schools that is not embedded in the child welfare system.

Suggested modifications:
- **Separate the language concerning facility schools into a separate bill;**

- **Add language authorizing the Department of Education to make supplemental payments to qualified facility schools in FY 2021-22, only; and**
- **Appropriate $6.2 million General Fund to the Department of Education for:**
    - **Facilitation of work group and report production - $200,000**
    - **Supplemental payments to facility schools – not to exceed $6.0 million**

CHILD WELFARE FUNDING MODEL

Summary of bill draft:

- Requires the use of the child welfare funding model for determining Child Welfare Block, Core Services, and additional Staffing allocations to counties beginning in FY 2023-24;
- Requires the funding model to inform annual budget requests;
- Requires ongoing evaluations of the model to ensure that it remains up to date and reflects changes in federal and state law and annually updated county data;
- Requires an updated workload study and the inclusion of that data in the model;
- Requires annual modifications to the model by the contracted entity; and
- Requires a triennial evaluation of the implementation of the model.
- Appropriates $250,000 for the workload study.

Suggested modifications:

JBC staff's original recommendation did not include an updated county workload study. **Staff recommends an appropriation of $250,000 General Fund for the study.**

RESIDENTIAL PLACMENTS FOR CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

Summary of bill draft:

- Requires county departments of human social services to enroll eligible children in the Children's Residential Habilitation Program and provide documentation to the Department of Human Services of enrollment or denial of eligibility when applying for placement of children who are in the custody of a county.
- Amends language concerning the opportunity for application to be made by families with children who are not in the custody of a county or the state department.
- Appropriates $1,162,912 General Fund to increase the number of beds available in the program.

Suggested modifications:

None