



**COLORADO**  
Office of State Planning  
& Budgeting

FY 2020-2021 Comeback Requests  
for Executive Branch Agencies

May 11, 2020

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The Honorable Representative Daneya Esgar  
Chair, Joint Budget Committee  
Colorado General Assembly  
200 E. 14th Avenue, Third Floor  
Legislative Services Building  
Denver, CO 80203

Dear Chair Esgar:

On behalf of Governor Jared Polis, the Office of State Planning and Budgeting (OSPB) submits this package of comeback requests for FY 2020-21.

In response to COVID-19 and the revenue declines caused by the virus's economic disruption, the Joint Budget Committee (JBC) has taken extraordinary action to respond to this crisis in figure-setting last week. The Governor commends the JBC for the hard and difficult decisions, both those taken to date and those that lie ahead.

The Committee considered about \$1.5 billion in specific reductions, plus held discussions concerning additional reductions that may be necessary. The forecast scheduled for May 12th will inform the work ahead.

Of the \$1.5 billion in specific reductions considered, the Committee voted to adopt about \$700 million. OSPB concurs with 94 percent of these decisions. This comebacks packet requests the JBC reconsider \$39.9 million or 6 percent, and identifies a net \$33.5 million in related savings options as offsets to this spending (plus more savings options identified below).

Of the remaining \$800 million in specific reductions considered by the JBC for which the Committee deferred action, OSPB has concerns with \$284 million and offers an additional \$219 million in savings options as offsets. OSPB recognizes that further reductions may be necessary due to the forecast.

In summary, there is wide agreement between the Committee and OSPB about the number and magnitude of reductions necessary. Committee Members and Staff have taken a careful and professional approach to identifying budget reductions in all of the Departments.

OSPB respectfully requests JBC's consideration of this comeback packet, and commits to supporting the Committee with identifying additional reductions as necessary to meet the budget constraints determined by the forecast.

Respectfully,

A handwritten signature in blue ink, appearing to read "Lauren Larson".

Lauren Larson  
Director

CC:

Senator Dominick Moreno, JBC Vice Chair

Representative Julie McCluskie, JBC Committee Member

Senator Bob Rankin, JBC Committee Member

Representative Kim Ransom, JBC Committee Member

Senator Rachel Zenzinger, JBC Committee Member

Ms. Carolyn Kampman, Joint Budget Committee Staff Director

Attachments: Comebacks by Department in alphabetical order

## Department of Agriculture

OSPB concurs with a significant number of the Committee's actions for the Department of Agriculture (CDA). This includes \$0.22M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$0.8M in reductions, including \$0.8M GF.

### Comeback Requests:

#### **Reduction to Agricultural Services Division**

**Committee Action:** The Committee did not take action on the JBC Staff Recommendation to work with the Department to identify General Fund savings of up to \$0.5M within the Agricultural Services division.

**OSPB Comeback:** OSPB offers an alternative to this proposed reduction. OSPB recommends a one-time refinancing of the \$0.4M GF appropriated to the Commissioner's Office personal services to cash funds. This is all of the GF appropriated to that line.

#### **Reduction to Marketing for Colorado Agriculture**

**Committee Action:** The Committee did not take action on the JBC Staff Recommendation to reduce funding for marketing of Colorado agriculture by \$0.3M GF.

**OSPB Comeback:** OSPB recommends a more modest reduction to this marketing funding of \$0.05M. This reduction would allow the Department to help producers and food suppliers develop markets for their products and recover from the current crisis.

## Department of Corrections

There are no OSPB comebacks for the Department of Corrections. JBC Staff recommended \$49.2 M in reductions to the FY 2020-21 appropriation. OSPB concurs with all of those recommendations.

## Department of Education

OSPB concurs with a significant number of the Committee's actions for the Department of Education (CDE). This includes \$106M in Total Fund reductions and \$6M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$1.8M in reductions and has identified an additional \$26.9M in potential reductions for consideration.

Comeback Requests:

### **Adjustments Related to 2019 Legislation**

**Committee Action:** The Committee approved reductions to six programs created or modified by 2019 legislation for a combined reduction of \$5.4M GF.

**OSPB Comeback:** OSPB does not recommend the elimination of the Ninth Grade Success Program for \$0.8M GF. The goal of this program is to support the most vulnerable students from dropping out of high school. With the shift to remote learning as a result of COVID-19, these supports are even more critical. OSPB suggests the Committee find comparable reductions through the alternative offsets, below.

### **BA-05 Concurrent Enrollment Grant Program Increase**

**Committee Action:** The Committee removed the previously-approved one-time increase of \$1M GF for the Concurrent Enrollment Grant Program.

**OSPB Comeback:** OSPB requests the maintenance of the Committee-approved one-time \$1M increase for the concurrent enrollment grant program. This one-time funding increase will help districts meet the legislative deadline established in S.B. 19-176.

OSPB recommends the following alternative or additional balancing options:

The Committee approved a \$25M reduction to the BEST program cash grants appropriation for FY 2020-21 and approved an accompanying transfer of the funds to the State Public School Fund. OSPB recommends the Committee further reduce the BEST program cash grants appropriation by an additional \$35M. This would bring the total transfer of funds to the State Public School Fund to \$60M to offset the General Fund needed for School Finance. The recommendation would provide \$100M for cash grants in FY 2020-21.

OSPB recommends the Committee transfer unused Kindergarten Facility Capital Construction Funds to the State Education Fund for \$0.8M one-time. This fund was established to help schools with facility construction or renovation to support the implementation of full-day kindergarten in the 2019-20 school year. The fund has a remaining unspent balance of \$0.8M. Per statute, remaining funds will be reverted back to the BEST public school capital construction fund on July 1, 2020. These funds

could instead be swept into the State Education Fund to offset General Fund needed for School Finance.

OSPB suggests the Committee consider a \$0.5M GF reduction to the base appropriation for the Career Development Success Program.

OSPB suggests the Committee consider a further reduction to H.B. 19-1236 Workforce Diploma Pilot Program by \$0.3M GF.

OSPB recommends the Committee reduce the Financial Transparency appropriation by \$0.1M to align with actual contract costs of the system for FY 2020-21. These cash fund savings could be transferred to the State Education fund to offset the General Fund for School Finance.

## Governor's Office

OSPB concurs with a significant number of the Committee's actions for the Governor's Office. This includes \$0.8M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$21M in reductions and has identified an additional \$2.1M GF in potential reductions for consideration.

### Comeback Requests:

#### **Governor's Office - Office of Information Technology (OIT)**

##### **R-01 Colorado Digital Services**

**Committee Action:** The Committee denied the OIT request for \$1.2M GF and 7.0 FTE  
**OSPB Comeback:** OSPB recommends the Committee approve \$1.2M in Common Policy reappropriated funds and 7.0 FTE in FY 2020-21 and ongoing for Colorado Digital Services (CDS). Although the Committee voted not to fund CDS in FY 2020-21 with GF dollars, the members encouraged OIT to find another way to fund this highly effective program. OIT has heard the Committee, and proposes to pay for CDS through reappropriated Common Policy by charging agencies benefitting from the work of CDS. The 7 CDS staff members have all been hired and are actively engaged on projects, and they are considered full-time term-limited state employees (not contractors).

#### **Governor's Office - Office of Economic Development & International Trade (OEDIT) Gaming Transfers**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate four transfers to OEDIT cash funds from gaming funds.  
**OSPB comeback:** OSPB concurs with the JBC Staff Recommendation to eliminate the transfers of \$23M in limited gaming revenue to four of OEDIT's cash funds. Instead, OSPB proposes a direct GF appropriation of \$12.15M of the \$23M transferred under current law, a 47% reduction, to partially offset the loss of gaming funds to those programs. Those requests are outlined in more detail under the Statewide section of this letter. In addition, OSPB concurs with JBC Staff's Recommendation to reduce current GF appropriations to the Colorado Promotion - Other Program Costs line (\$2M), the Destination Development Program (\$0.5M), resulting in a 37% reduction (\$7.5M) in funds to the Colorado Tourism Office in FY 2020-21. Finally, OSPB concurs with JBC Staff's Recommendation to reduce the appropriation to the Colorado Office of Film, Television, and Media by \$0.5M.

#### **S.B. 11-047 Advanced Industries Transfer**

**Committee Action:** The Committee delayed action on JBC staff's recommendation.  
**OSPB Comeback:** JBC Staff recommended eliminating the transfer to the Advanced Industries program as outlined by S.B. 11-047 (C.R.S. § 39-22-604.3). OSPB does not recommend eliminating this transfer, as these funds support bioscience and clean



technology innovations that are supporting pandemic recovery efforts. Further, the amount of this transfer may be lower than in recent years, as the transfer is dependent on growth in income tax collections in the relevant industries.

OSPB recommends the alternative or additional balancing options from OEDIT's programs totaling \$2.1M GF, including partial reductions to the following line items: Colorado First Customized Job Training (\$1M), Global Business Development (\$0.8M), Office of Outdoor Recreation (\$0.1M), Small Business Development Centers (\$0.1M), and Leading Edge Program Grants (\$0.1M). These OSPB recommendations in combination with JBC Staff's Recommendations result in approximately \$5M in GF reductions and \$11M in gaming funds reductions. This represents a 27% reduction in OEDIT's budget without eliminating any of the Office's programs. Finally, OEDIT has offered to modify several aspects of its Enterprise Zone program, including changing the maximum credits. Preliminary estimates suggest these modifications would result in \$6M-\$8M in additional GF revenue for the State.

## Department of Health Care Policy and Financing

OSPB concurs with a significant number of the Committee's actions for the Department of Health Care Policy and Financing (HCPF). This includes \$21M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$41M in reductions and has identified an additional \$21M in potential reductions for consideration. The Committee delayed action on a number staff recommendations and options. Among these delayed items, OSPB concurs with \$37M GF in cuts, opposes \$67M in cuts, and suggests modifying other delayed items for \$49M GF in cuts.

### Comeback Requests:

#### **R-09 Bundled Payments**

**Committee Action:** The Committee did not fund this request to implement a new payment methodology that will enable the Department to align payments with incentives for high-value and high-quality health care.

**OSPB Comeback:** OSPB requests the Committee fund this request for \$0.06M. This modest investment will set the state on a path to drive value and attain budget savings in future years.

#### **IDD Services Cash Fund**

**Committee Action:** The Committee approved an action to transfer the IDD Services Cash Fund balance of \$6.7M for GF relief.

**OSPB Comeback:** OSPB requests the Committee reconsider transferring the funding from the Individuals with Developmental Disabilities (IDD) Services Cash Fund to the General Fund. The Department would not be able to continue to operate the programs funded with the cash fund if this transfer occurs. The Committee's transfer action would result in shortfalls in FY 2020-21 and FY 2021-22, which would require GF backfill or for the Department to cease work on programs that use this cash fund, including State-Only SLS Waitlist, State-Only SLS Targeted Case Management, Family Support Services Program Waitlist, and others. In addition, OSPB recommends that JBC not adopt the JBC staff option to freeze new enrollment into the comprehensive waiver (IDD waitlist enrollments due to attrition) that would reduce spending by \$3.5M GF.

#### **Local Minimum Wage Adjustment**

**Committee Action:** The Committee approved a \$3.3M GF increase in response to Denver's local minimum wage increase. This amount includes increases for certain waiver service provider rates and for nursing facilities in Denver.

**OSPB Comeback:** OSPB recommends the Committee not adopt these rate increases. The Department has already instituted statewide emergency rate increases in response

to the pandemic. JBC Staff notes that Denver may revisit the local minimum wage increase in light of the current economic conditions.

OSPB recommends the following alternative or additional balancing options:

#### **Capture Cash Fund Savings from Enhanced FMAP - Nursing Facilities Supplemental Payments**

**Committee Action:** The Committee approved an action to capture cash fund supplemental payment savings associated with the enhanced FMAP, including a \$3.6M GF offset from the nursing facilities supplemental payments.

**OSPB Comeback:** OSPB supports the Committee's action on the supplemental payments, except for that associated with supplemental payments from the nursing facility provider fee. Nursing facilities have been disproportionately affected by the pandemic, and they are experiencing staffing shortages and high turnover rates that put resident safety at risk. If this comeback is approved, nursing facilities will retain the \$3.6M in provider fees that would otherwise be repurposed for GF relief. Given the critical importance of appropriate staffing to this vulnerable population, it would be inappropriate to use nursing facility funds as budget relief.

#### **R-10 Targeted Rate Adjustments**

**Committee Action:** The Committee partially approved rate adjustments in the R-10 request, including an increase to behavioral health fee-for-service, an increase in habilitation in Residential Child Care Facilities, rebalancing ambulatory surgical centers, and a decrease in in-home dialysis. It did not adopt several elements requested in R-10, including a requested elimination of the statutory increase in nursing facility rates.

**OSPB Comeback:** OSPB requests the Committee approve of JBC staff's recommendations to decrease anesthesia rates and rebalance durable medical equipment rates. OSPB also requests eliminating the statutory annual adjustment for nursing facilities. These actions would result in a \$11.6M GF reduction. Anesthesia rates should be set to 100 percent of the Medicare benchmark, as recommended by the Medicaid Provider Rate Review Analysis Committee (MPRRAC). OSPB requests that the statutory increase for nursing facilities be eliminated. This statutory change would simply provide parity between nursing facilities and other provider types with respect to the process through which payment rates are proposed and adopted by the Governor and the General Assembly. Furthermore, the Department has already adopted emergency rate increases for nursing facilities in response to the pandemic, and OSPB includes a comeback request that effectively reduces the nursing facility provider fees (in combination with the enhanced FMAP).

### **Additional Targeted Rate Reductions**

**Committee Action:** None. These additional targeted rate adjustments were not included among JBC Staff recommendations and were not considered by the Committee.

**OSPB Comeback:** OSPB requests the Committee approve a set of provider rate reductions for a \$20.7M GF reduction. The primary component of this request is an \$18M GF saving from a 6.44 percent targeted reduction to inpatient and outpatient rates for certain hospital systems. Critical access and some rural hospitals would be exempt from these reductions as a rate cut would have a disproportionately negative impact on these hospitals. This proposal recognizes that hospitals are receiving significant federal funds to combat COVID-19.

### **R-06 Customer Service**

**Committee Action:** The Committee did not fund this request for resources to improve the Department's customer service center, including technology improvements and temporary FTE.

**OSPB Comeback:** OSPB requests partial approval of the request to respond to the expected surge in Medicaid enrollment due to the drastic impacts that the pandemic is having on the economy and unemployment rates. The hiring of four two-year term-limited FTE in the Member Contact Center (MCC) would create immediate relief in call demand. The requested technology improvements would provide longer term relief by allowing members to access information through self-service options such as chat and artificial intelligence, which would prepare the MCC for the reduction of the term-limited FTE.

### **R-08 Accountability and Compliance Improvement Resources**

**Committee Action:** The Committee did not fund this request for 12.0 FTE and contract funding to implement critical operational and program oversight measures.

**OSPB Comeback:** OSPB requests approval of 7.0 FTE. This funding will enable the Department to meet critical needs for addressing audit and compliance risks. Without these resources, the state will be at risk of federal clawbacks that could require the state to use GF to make large repayments of federal Medicaid matching funds.

### **Annualize Prior Budget Actions**

**Committee Action:** The Committee approved annualizations of prior budget actions. However, the Committee did not approve of several annualizations, including funds for (1) FY 2019-20 Medicaid enterprise operations for the MMIS, (2) FY 2019-20 NP OeHi operating funds, and (3) S.B. 19-005 Import prescription drugs from Canada.

**OSPB Comeback:** OSPB requests a modification to the Long Bill General Fund headnote on three appropriations within the Department's Long Bill and partial approval of the OeHi's FY 2019-20 R-01: Colorado Health IT Roadmap Operating Request. This includes an incremental \$0.4M GF increase, but it will enable the Department to draw down an

additional \$7.8M in federal funds using a 90-10 match. These funds will strengthen the state's response to the pandemic through health IT initiatives.

#### **Commission on Family Medicine**

**Committee Action:** The Committee approved a \$0.5M GF reduction in funding to the Commission on Family Medicine for use in graduate medical education residency programs for new physicians.

**OSPB Comeback:** OSPB requests the Committee approve a larger reduction of \$1.9M GF, as recommended by JBC Staff. The reduction would impact teaching and potential development of the provider network but would not directly impact access to care or health, life and safety. The Department would continue to work with the Commission on Family Medicine in support of their priorities, which may include rural training tracks or other priorities within the state.

#### **R-11 SUD Benefit Delay**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to delay the SUD benefit for one year for a reduction of \$17.5M GF.

**OSPB Comeback:** OSPB requests the Committee delay the SUD benefit for six months rather than one year (delay the start from July 1, 2020 to January 1, 2021). The SUD benefit is an important aspect of the state's efforts to address the behavioral health challenges caused by opioids and other addictive substances. Providers indicate that a six-month delay is necessary given the current focus on responding to the COVID-19 pandemic and the complications of implementing an in-patient program during this crisis. Members would continue to have access to the robust outpatient substance use disorder treatment benefit in the meantime. Please see "Mental health and substance abuse" paragraph under the Department of Human Services for an update on other funds including new federal funds available.

#### **Pediatric Hospital Supplemental Payments**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate pediatric hospital supplemental payments for a \$6.7M GF reduction.

**OSPB Comeback:** OSPB requests the Committee adopt the JBC Staff Recommendation. With hospitals receiving significant federal funding, including Children's Hospital Colorado receiving \$22M from the initial allocation of the federal CARES Act, the Department believes there are other ways of providing reimbursements to hospitals. The Department, in consultation with the Colorado Healthcare Affordability and Sustainability Enterprise Board (CHASE Board), will take measures to target Upper-Payment Limit (UPL) supplemental payments and Disproportionate Share Hospital (DSH) payments to mitigate potential adverse fiscal impacts on hospitals, including Children's Hospital Colorado.

### **HAS Fee GF Offset**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation for a \$40M GF offset via a transfer from the Healthcare Affordability and Sustainability (HAS) Fee.

**OSPB Comeback:** OSPB requests the Committee transfer \$35M of the HAS Fee. The Department does not recommend taking the full \$40M that JBC Staff recommended. The Department would use the difference, \$5M, to provide additional support via supplemental payments to vulnerable hospitals, including critical access hospitals. This additional support will help alleviate the financial burden these providers are facing during the pandemic and prevent these essential providers from closing.

### **R-16 Case Management Line Item Consolidation**

**Committee Action:** In March 2020, the Committee denied the R-16 request to fund case management resources and to consolidate line item consolidation. At that time, Senator Moreno requested HCPF submit a comeback for line item consolidation in HCBS appropriation lines, which is budget neutral.

**OSPB Comeback:** OSPB requests approval of collapsing funding for CCBs and SEPs into one appropriation. This change creates no fiscal impact and does not affect the operation of these programs. The Department's request to collapse funding for CCBs and SEPs would increase transparency of expenditure on these services and allow the Department to effectively implement conflict free case management legislation (H.B. 17-1343).

### **SBIRT Grants**

**Committee Action:** The Committee reduced the funding for the Screening, Brief Intervention, and Referral to Treatment (SBIRT) Program training grants by \$0.8M GF.

**OSPB Comeback:** OSPB requests the Committee reduce funding by \$1.5M GF, which is consistent with the JBC Staff Recommendation. These funds are used for training rather than for direct services.

### **Medicaid Adult Dental Benefit**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate the Medicaid adult dental benefit for an \$18.4M GF reduction.

**OSPB Comeback:** OSPB requests the Committee adopt a partial reduction to the dental benefit, rather than outright elimination. OSPB recommends reducing the annual limit for the adult dental benefit from \$1,500 to \$1,000, which will result in a \$1.5M GF reduction. Preserving dental benefits is important to overall health. The Department increased the dental limit in FY 2019-20 because of a JBC action. Since this increase has been implemented for only a short time, reducing it back to \$1,000 would have a minimal impact on members utilizing the dental benefit compared to the impact of reducing long-standing benefits.

### **Primary Care Fund**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to reduce funding in the Primary Care Fund by \$24.6M GF.

**OSPB Comeback:** OSPB recommends the Committee approve a reduction to the Primary Care Fund, but by only \$12.3M GF. Because this is a grant program with no federal match, the Department agrees with JBC Staff that this is a lower priority than preserving core Medicaid and CHP+ eligibility and benefits that leverage federal funds. Most of the Primary Care Fund goes to FQHCs and Rural Health Centers (RHCs) which are receiving federal stimulus support.

### **PACE - Freeze Enrollment**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to freeze new PACE enrollments.

**OSPB Comeback:** OSPB requests the Committee adopt a 2.37% rate reduction for PACE providers. This rate reduction would provide an equivalent amount of savings to the JBC Staff Recommendation while still allowing PACE enrollment. A rate reduction was proposed by PACE organizations as an alternative to an enrollment freeze. JBC Staff also noted that the PACE organizations are likely seeing utilization reductions of enrolled members due to the stay-at-home and safer-at-home orders, but they continue to be paid at the negotiated capitated rate, which did not assume any reduction in utilization due to the public health emergency.

### **APCD State-Only Support**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to reduce state-only support for the All-Payer Claims Database (APCD) by \$2.8M GF.

**OSPB Comeback:** OSPB requests the Committee not reduce this funding. The Committee approved a \$0.5M reduction for APCD grants, and this additional reduction of state-only support would risk the financial sustainability of the APCD. The APCD is the essential source of data to support state and regional efforts to identify cost drivers and devise strategies to make healthcare more affordable for businesses, individuals, and the state.

### **S.B. 19-195 Child and Youth Behavioral Health Systems**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate the Child and Youth Behavioral Health System created in S.B. 19-195, for a \$0.7M GF reduction.

**OSPB Comeback:** For FY 2020-21, the costs associated with S.B. 19-195 are administrative: HCPF, CDHS, and CDPHE are working to implement the program, which has a significant potential to improve the lives of children who are at risk of out-of-home placement. With the significant funding challenges facing the State, OSPB is aware that funding may not be sufficient to support the full implementation of the program in FY 2021-22. Because of the significant potential to improve the lives of some of the State's most vulnerable children, OSPB requests that the Committee

continue to defer action on this request. During FY 2020-21, the State staff who are responsible for implementing this program will work to determine if there are less costly ways to implement the programs outlined in this bill. If alternatives cannot be found, or if funding does not support implementation, repealing this legislation or temporarily halting implementation for FY 2021-22 may be needed

#### **Reinsurance (DOI)**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate the second year of the Reinsurance Program for a \$59.7M GF reduction.

**OSPB Comeback:** OSPB recommends the Committee not eliminate the second year of the Reinsurance Program. In 2020, the Reinsurance Program reduced insurance premiums on the individual market across the state by an average of 20 percent, and as much as 30 percent in some rural areas. The lower insurance premiums mean thousands of Colorado families can keep between \$4,200 and \$10,300 in their pockets, and for many that is the difference between being able to afford insurance. As the pandemic continues through 2020 and possibly 2021, and as the economy falters and people lose employer-sponsored insurance benefits, it is critical that Coloradans have access to health insurance and health care. Continuing the Reinsurance Program is critical at a time when people are losing their jobs and can't afford to pay the high cost of private insurance. We would be pleased to work with the sponsors should they wish to consider alternative sources to address the program's funding.



## Department of Higher Education

OSPB concurs with a significant number of the Committee's actions for the Department of Higher Education (CDHE). This includes \$8.4M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider or decline action on \$24.5M in reductions and \$6.1M in Cash Fund sweeps and has identified an additional \$2.7M in potential reductions for consideration.

### Comeback Requests:

#### **Need-based financial aid for undergraduate students attending public institutions of higher education**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to reduce base funding for need-based financial aid by \$17.5 million (10%).

**OSPB Comeback:** OSPB does not recommend this proposal as it would reduce access to postsecondary education and limit affordability for students and families. OSPB concurs with JBC Staff's Recommendation to protect undergraduate student need-based aid as much as possible.

#### **Colorado Opportunity Scholarship Initiative**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate up to \$7M of base funding (100%).

**OSPB Comeback:** OSPB does not recommend this proposal as CDHE would suspend scholarship awards for one year and reduce support for evidence-based student success programs to preserve fund balance. Even with these reductions in services, encumbrances would exceed fund balance by the beginning of FY 2023-24. Reductions to COSI would have the greatest negative impact on Colorado's community colleges.

#### **College Kickstarter**

**Committee Action:** The Committee approved a JBC Staff Recommendation to repeal the College Kickstarter Program (H.B. 19-1280) and transfer the balance of the Stable Value Plus Kickstarter Master Account (\$12.2M) to the General Fund.

**OSPB Comeback:** OSPB does not recommend this proposal as many Coloradans are already expecting this benefit to support their child's college education. The Kickstarter program deposits \$100 into a new 529 college savings account for any child born or adopted in Colorado after January 1, 2020, if the parent applies for the program. The program opened in January 2020, and the first awards were made on February 18, 2020. There are several ways to modify this program and we look forward to working with the bill sponsors to identify program modifications while still utilizing up to half of the balance to support GF balancing.

OSPB recommends the following alternative or additional balancing options:

OSPB recommends the Committee amend C.R.S. § 23-21-808 to eliminate the required transfer from the Marijuana Tax Cash Fund for the Medication-Assisted Treatment Pilot Program, and transfer \$2.5M from the Marijuana Tax Cash Fund to the GF.

OSPB suggests the Committee consider eliminating the GF appropriation that was approved for the Rural Teacher Recruitment and Retention program for \$0.2M GF savings in FY 2020-21 and ongoing. This program does not have any funding committed or spent in the current fiscal year as it is challenging to find individuals who meet the statutory criteria.

## Department of Human Services

OSPB concurs with a significant number of the Committee's actions for the Department of Human Services (CDHS). This includes \$34M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$27M in reductions and has identified an additional \$1.2M in potential reductions for consideration. In addition, OSPB recommends \$15M in cash fund sweeps.

### Comeback Requests:

#### **Elimination of the Family Resource Support Services**

**Committee Action:** The Committee delayed action on reducing or eliminating base funding for Family Resource Centers by \$1.3M GF.

**OSPB Comeback:** OSPB does not recommend any reduction or elimination of funding for Family Resource Centers (FRC) as they provide a crucial safety net for families throughout the State. As a response to COVID-19, the centers have helped families with food, rent, shelter, and a range of other services, including serving as primary distribution sites for the FEMA emergency order of diapers and formula throughout the state. This program will be even more critical during an economic recession as FRCs support families with economic self-sufficiency, prevention of child maltreatment, and connection to public benefits.

#### **S-04 Early Intervention Caseload**

**Committee Action:** The Committee delayed action on removing the FY 2019-20 supplemental increase for Early Intervention (EI) caseload growth for \$1.5M GF.

**OSPB Comeback:** OSPB does not recommend undoing the approved FY 2019-20 supplemental increase for EI caseload (\$1.5M). Funding authorized in the supplemental has already been encumbered with community providers to pay for services associated with current year caseload growth. The Department would need to suspend EI direct services in May 2020 for the remainder of the year, cutting services to approximately 9,000 children and families in this 2 month period.

#### **R-01 Comprehensive Approach to Improving Child Care Quality**

**Committee Action:** The Committee reversed their approval of the Department's R-01 request for \$5.4M total funds, including \$2.7M GF and \$2.7M federal funds.

**OSPB Comeback:** OSPB accepts the Committee's decision to undo the GF increase of \$2.7M for Comprehensive Approach to Improving Child Care Quality but respectfully requests the Committee maintain the federal fund increase of \$2.7M to support this work in FY 2020-21. The continuation of this federally funded increase is even more important for the State's response to COVID-19 and the support of child care providers during the reopening of the State's economy.

### **S-02/R-05A DYS Drug Detection Devices, Canines, and Staffing**

**Committee Action:** The Committee delayed action on reversing their approval of the Department's request for \$1.4M GF and 11.7 FTE.

**OSPB Comeback:** OSPB respectfully requests the Committee approve FY 2019-20 and FY 2020-21 funding for drug detection canine searches at all youth services centers and forgo funding for drug detection devices and staffing. This change results in \$1M in savings and brings the requested increase to \$0.2M GF. The use of drug detection canines to identify contraband is a part of a coordinated strategy to improve the safety and security of youth services centers.

### **DYS Reduction of Colorado Youth Detention Continuum (CYDC)**

**Committee Action:** The Committee delayed action on approving a reduction of \$5M GF to the Colorado Youth Detention Continuum (CYDC).

**OSPB Comeback:** OSPB respectfully requests that this line item remain at its current base funding level of \$13.3M General Fund. The \$5M reduction will increase the detention population and DYS' budget, reduce diversion programs, and limit CYDC's ability to implement statutory mandates.

### **R-19 Replace Legacy Phone Systems**

**Committee Action:** The Committee delayed action on their approval of the Department's R-19 request for \$0.9M GF.

**OSPB Comeback:** OSPB recommends the Committee at least approve of \$0.6 GF to replace the phone system at the Mental Health Institutes. The existing phone system adversely affects the health and safety of patients and staff. Further, the phone technology is no longer supported by the vendor and unreliable during times of emergency.

### **R-10/S-05 Child Support Pass Through**

**Committee Action:** The Committee reduced base funding for the child-support pass through by \$51K GF (R-10) but delayed action on modifying the \$439K GF from the S5 supplemental.

**OSPB Comeback:** OSPB respectfully requests that the Committee modify the proposed reduction of \$439K to \$321K. For children and families receiving TANF assistance, child support payments are received directly by children and families rather than retained by the counties and the federal government. A \$321K GF appropriation level will allow the program to remain solvent and provide support to some the most vulnerable families in Colorado.

### **ES-01/R-06 Implementation of the Family First Prevention Services Act**

**Committee Action:** The Committee reduced the GF appropriation by \$0.6M and 5.6 FTE in FY 2019-20 as well as \$1.5M and 12.4 FTE in FY 2020-21.

**OSPB Comeback:** OSPB respectfully requests that the GF appropriation be restored by the full amount of the Committee reduction. The workload required to align Colorado

with Federal requirements for Family First cannot be absorbed by the existing staff. Eliminating the Family First positions will impede implementation progress, placing either undue burden on county collaborators or resulting in additional delay of full implementation. Implementation staff hired with supplemental funds in the current fiscal year would have to be let go. Further delays in implementation prohibit CDHS from effectively leveraging future federal funding.

### **Funding for Eligibility Staffing**

**Committee Action:** The Committee did not take action on this matter. This comeback was submitted by the Department as it, at this time, is preferred to submitting a 1331.

**OSPB Comeback:** OSPB respectfully requests that the Committee approve \$3.7M in total funds (\$1.5 GF, \$348K CF, \$1.9M FF) to create 56 FTE. The new staff will connect hundreds of thousands of Coloradans to critical benefits (SNAP, TANF, Medicaid, Financial Services, etc.). Evidence from the Great Recession indicates there will be a large increase in applications for benefits during the economic downturn. Similarly, application volume (for SNAP, TANF, and Adult Financial programs) has increased 37.8% between the first week of March 2020 and April 7, 2020. Upon hire, these FTE will all sign waivers of retention rights, confirming the positions will end on June 30, 2022 when the funding expires and that normal personnel rules do not apply.

### **Mental health and Substance Abuse**

OSPB wishes to update the Committee on federal funding sources related to mental health and substance abuse.

- The Federal Government awarded the Department of Human Services a \$2M one-time emergency grant for COVID related activities from Substance Abuse and Mental Health Services Administration (SAMHSA). The Department is coordinating with CDPHE to use these funds to make sure there are psychiatric services to COVID positive patients who are stepping down from medical surge beds. The goal of this program is ensuring individuals do not occupy a medical bed when no longer medically necessary. In addition, \$200k is going to mental health services for frontline healthcare workers.
- The Department is still actively implementing substance abuse and opioid programming supported by Federal funds totaling \$21M. The Department plans to submit a renewal request for these current grants this week for at least \$20M in additional Federal funding. The Department expects to receive at least an additional \$20M.
- The State of Colorado is expecting approximately \$8M in funding for Crisis Counseling Assistance from FEMA. This funding will be directed to the highest needs area, as identified by the Behavioral Health Task Force.

OSPB recommends the following alternative or additional balancing options:

OSPB recommends the Committee refinance the \$0.3M GF base appropriation for Resource and Referrals with federal Child Care Development Funds (CCDF).

OSPB recommends the Committee reduce the base appropriations for the Safecare Program by \$0.4M GF to reflect actual programmatic spending.

OSPB recommends the Committee forgo the JBC Staff Initiated Tobacco Master Settlement Increase and transfer the \$0.5M to the General Fund.

Additionally, OSPB recommends JBC sweep \$15M from the Veteran Community Living Center cash fund.

## Department of Labor and Employment

OSPB concurs with a significant number of the Committee's actions for the Department of Labor and Employment (CDLE). This includes \$5.6M in Total Fund reductions and \$3.9M in General Fund (GF) reductions to the FY 2019-20 appropriation, and \$10M in cash fund sweeps to the GF. OSPB requests the Committee reconsider approximately \$2.5M in GF reductions.

Comeback Requests:

### **WORK Act**

**Committee Action:** The Committee voted to sponsor legislation to repeal the WORK Act (H.B. 15-1276), but delayed action on a JBC Staff Recommendation to transfer to the GF previously granted funds that are currently unexpended.

**OSPB Comeback:** OSPB notes that FY 2019-20 funding has already been awarded and urges the Committee to decline action on transferring to the GF funds that have been awarded but are currently unexpended by grantees, in order to avoid the disruption of programming. This delay would still allow for \$3.3M in GF savings.

## Department of Local Affairs

OSPB concurs with a significant number of the Committee's actions for the Department of Local Affairs (DOLA). This includes \$5.4M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$6.1M in reductions, including \$2.1M GF.

### Comeback Requests:

#### **Delay H.B. 20-1019 Prison Study**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to delay the study of prison capacity needs required by H.B. 20-1019.

**OSPB Comeback:** OSPB respectfully requests the Committee not delay the prison capacity study. OSPB anticipates this study could provide a correctional system model that could ultimately reduce correctional costs in Colorado. Postponing this study will defer these savings. Further, the Department has already engaged a temporary employee for this purpose and is ready to post a Request for Proposal to meet the requirements outlined in C.R.S. § 24-32-104(3).

#### **Fund Partial Offset of Lost Gaming Transfer to Gaming Impacts Program**

**Committee Action:** The Committee delayed action on a JBC Staff Recommendation to eliminate the transfer of approximately \$5.8M in gaming funds to the Local Government Impact Fund, but has requested a bill draft to consider the elimination of this and other gaming transfers.

**OSPB Comeback:** OSPB concurs with the JBC Staff Recommendation to eliminate the transfers of \$5.8M in limited gaming revenue to the Local Government Impact Fund. In addition, OSPB proposes a direct GF appropriation of \$1.9M of the \$5.8M transferred under current law, a 68% reduction, to partially offset the loss of gaming funds to this program. This funding will reimburse critical health and public safety costs incurred by districts in the first nine months of FY 2019-20, prior to casino closures. Local governments dependent on gaming activity are struggling financially, and these grant funds are often used to finance services to protect the health and safety of visitors and residents, such as police, sheriff, and fire protection districts.



## Department of Military and Veterans Affairs

OSPB concurs with a significant number of the Committee's actions for the Department of Military and Veterans Affairs (DMVA). This includes \$0.8M in Total Fund reductions, \$0.76M in General Fund (GF) reductions to the FY 2019-20 appropriation, and \$4.0M in cash fund sweeps to the GF. OSPB requests the Committee reconsider \$0.1M in GF reductions and has identified an additional \$0.1M in potential reductions for consideration. The Committee also delayed action on sweeping funds totaling \$10.1M; OSPB requests the Committee consider a sweep of \$1.6M instead.

### Comeback Requests:

#### **National Guard Maintenance Technicians Reduction**

**Committee Action:** The Committee removed 9.0 FTE and \$0.1M GF for Colorado National Guard (CONG) Maintenance Staff.

**OSPB Comeback:** OSPB recommends an alternative reduction in order to avoid vacating \$0.5M in federal matching funds and to ensure that the CONG is fully supported during this national emergency. Instead, OSPB recommends that the National Guard Cooperative Agreement line for operating expenses be reduced by an additional \$0.1M. This is in addition to the \$0.05M reduction already approved by the Committee, making the full reduction to this line \$0.15M.

#### **Real Estate Proceeds Fund Sweep**

**Committee Action:** The Committee delayed action on sweeping the fund balance of \$10.1M from the Real Estate Proceeds Fund.

**OSPB Comeback:** OSPB does not recommend this sweep in its entirety. \$2.2M of this fund has already secured a 75% federal match and is nearing project start, another \$2.9M is needed for property purchases that are currently being negotiated, and \$2.4M is intended to build the Warrior/Family Resiliency Center which will offer services to combat mental health problems affecting Colorado soldiers and their families. Instead, OSPB recommends cancelling planned refurbishments to the Joint Force Headquarters and sweeping the \$1.6M intended for that project from the Real Estate Proceeds Fund.

## Department of Natural Resources

There are no OSPB comebacks for the Department of Natural Resources (DNR) operating accounts. OSPB concurs with the Committee's actions including \$8.3M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB notes that the Statewide section of this document includes discussion of the Committee's actions on Colorado Parks and Wildlife (CPW) capital projects and JBC Staff's recommendations regarding DNR cash fund sweeps.

## Department of Personnel and Administration

OSPB concurs with a significant number of the Committee's actions for the Department of Personnel and Administration. OSPB requests the Committee reconsider \$3M in reductions and \$12.4M in new funding and consider an additional \$1.7M in potential reductions.

Comeback Requests:

### **Disparity Study**

**Committee Action:** JBC Staff recommended the Committee run legislation to delay conducting the study required by S.B. 19-135 to review statewide procurement activities and its impact on historically underutilized businesses, until at least FY 2021-22 to increase the available General Fund (GF) for FY 2019-20 and FY 2020-21 by \$0.7M each year.

**OSPB Comeback:** With a completion deadline of December 1, 2020, the Department of Personnel & Administration is well underway with contracting and working on the study as of May 2020. The work that has been completed thus far may be able to be used at a future point if the rest of the funding was removed and restored at a later point; however, the longer the study is delayed, the less relevant the material already completed may become. DPA already has been invoiced for at least \$0.5M in costs, with additional costs currently accruing.

OSPB recommends the following additional balancing options:

### **Sweep from Archives Cash fund**

OSPB recommends a one-time fund sweep from the Archives Cash Fund. Revenue is generated by charging fees to members of the public that would like to utilize research services of the staff of the Colorado State Archives. Charging fees to access public records has always presented a philosophical challenge for the Colorado State Archives, and the fund balance in question has allowed them to keep their fees low while still supporting important the needs of both customers and the State. OSPB estimates that \$0.1M can be swept from the fund in FY 2020-21.

### **Forgo Transfer to Capitol Complex Master Planning Fund**

OSPB recommends foregoing the \$1.3M transfer to the capitol complex master planning fund. The COPs issued by CSU relative to the National Western Stockshow are anticipated to transfer \$1.3M on June 30, 2021. This funding was planned to be used to implement financing to renovate the Centennial Building (along with other funds requested through a capital construction request in FY 2020-21).

### **Temporary Reduction in Survey Line Item for Total Compensation and Employee Engagement Surveys**

OSPB recommends a temporary reduction to the total compensation and employee engagement survey line items. During this unusual time, with record unemployment, it is very difficult to find comparable market data to peg state employee compensation against. As such, there is limited value in conducting a compensation survey at this time. Postponing to a later date, when the market has stabilized, will render a survey more valuable and beneficial to the State's employed human capital.

## Department of Public Health and Environment

OSPB concurs with a significant number of the Committee's actions for the Department of Public Health and Environment (CDPHE). This includes \$33.3M in total fund reductions including \$21.6M in General Fund savings. OSPB requests the Committee reconsider or decline action on \$6.0M in total funds reductions including \$5.2M GF reductions and has identified an additional \$7.4M in potential reductions for consideration.

### Comeback Requests:

#### **BA-03 Mobile Air Monitoring Van and R-01 Stationary Sources Program Resources**

**Committee Action:** The Committee reduced the BA-03 request by \$0.5M CF and 1.0 FTE, and the R-01 request by \$0.3M CF, eliminating support for the requested mobile monitoring van and infrared cameras.

**OSPB Comeback:** OSPB requests these reductions be restored as the requested resources are essential to protecting public health, air quality, and the environment. The requested mobile monitoring van and infrared cameras are necessary to monitor air quality and potential public health effects in addition to the capacity that can be addressed by the van and cameras funded by the Firestone Settlement.

#### **Suicide Prevention**

**Committee Action:** The Committee reduced the Suicide Prevention line by \$0.1M GF.

**OSPB Comeback:** OSPB requests this reduction be restored because the economic downturn is anticipated to increase risk factors for suicide. Colorado needs to maintain its capacity to respond to individuals experiencing life-threatening personal crises. In place of this reduction, OSPB recommends a CF reduction of \$0.2M from the Vital Records Fund.

#### **Family Planning Purchase of Service**

**Committee Action:** The Committee delayed action on the Staff Recommendation to reduce this line by \$1M GF.

**OSPB Comeback:** OSPB concurs in part with the JBC Staff Recommendation and accepts a \$0.7M reduction (15%) to this item, but requests that the remaining \$0.25M (5%) be maintained. The division anticipates that family planning clinics will likely see increased demand for services as the current crisis begins to subside and estimates that the smaller reduction would maintain services for an additional 2,750 people. In place of this reduction, OSPB recommends the Committee sweep the entire balance of the Waste Tire Market Development Fund to the General Fund, resulting in a transfer to the General Fund of \$0.8M.

### **School Based Health Centers**

**Committee Action:** The Committee delayed action on the Staff Recommendation to reduce this item by \$1M GF.

**OSPB Comeback:** OSPB concurs in part with the JBC Staff Recommendation and accepts a \$0.75M reduction (15%) to this item, but requests that the remaining \$0.25M (5%) be maintained. The demands on these clinics are expected to rise as the number of Colorado youth that have access to health care services will likely decline. The division estimates that the smaller reduction would maintain services for an additional 1,656 patients. Instead of the proposed reduction, OSPB recommends the Committee transfer \$0.4M from the Process and End Users Fund to the General fund.

### **R-02 Immunization Outreach Funding**

**Committee Action:** The Committee delayed action on the Staff Recommendation to eliminate funding for this request.

**OSPB Comeback:** OSPB concurs in part with the JBC Staff Recommendation and accepts a \$1M reduction, but requests continuing \$1.5M of this request to fund Local Public Health Agency interventions and development of immunization infrastructure. The COVID-19 pandemic illustrates the imperative to build local capacity to prevent and control the spread of infectious disease. Although it is expected that federal funds will be utilized to distribute a COVID vaccine when it becomes available, the public health threat posed by measles, mumps, and rubella (MMR), for which Colorado has the lowest kindergarten immunization rate in the country, has increased as a result of many families canceling or delaying their well child checks. The requested funding will complement federal funds from the CARES Act and H.R. 266. Instead of the proposed reduction, OSPB recommends a CF reduction of \$5.6M from the Small Communities Water and Wastewater Fund.

### **BA-02 PFAS and Emerging Contaminants Toxicology**

**Committee Action:** The Committee delayed action on the Staff Recommendation to eliminate \$0.5M funding for this request.

**OSPB Comeback:** OSPB requests funding for this request be maintained. PFAS is a present day public health risk and the Department does not have a program and dedicated resources for addressing PFAS and emerging contaminants. Legislation, including H.B. 20-1119 and an unintroduced PFAS enterprise bill will further advance our state's effort to address PFAS contamination, but it is critical that the testing funded by this proposal continue uninterrupted. Instead, OSPB recommends sweeping \$0.5M from the Public and Private Utilities Sector Fund.

### **Hazardous Substance Response Fund Sweep**

**Committee Action:** The Committee delayed action on the Staff Recommendation to sweep \$1.0M from the Hazardous Substance Response Fund.

**OSPB Comeback:** OSPB does not recommend this proposal because without these funds the State cannot meet its matching requirement for Federal Funds pursuant to

CERCLA. Instead, OSPB recommends sweeping \$5.6M from the Small Communities Water and Wastewater Fund.

## Department of Public Safety

OSPB concurs with a significant number of the Committee's actions for the Department of Public Safety. This includes \$14.9M in General Fund (GF) reductions to the FY 2020-21 appropriation. OSPB requests the Committee reconsider \$9.1M in GF reductions.

### Comeback Requests:

#### **Appropriation to the 2013 Flood Recovery Account**

**Committee Action:** The Committee eliminated the \$9.1M GF appropriation in FY 2020-21 to the 2013 Flood Recovery Account. This also included a corresponding \$9.1M decrease in cash fund spending authority.

**OSPB Comeback:** OSPB does not recommend eliminating the \$9.1M GF Appropriation to the 2013 Flood Recovery Account as it presents legal risks that could require the State to repay federal funds already received and endanger new FEMA public assistance for the COVID-19 disaster. Through the FEMA Public Assistance Administrative Plan for the disaster, the State is responsible for 12.5% of costs for recovery projects. The Administrative Plan mandates that funding from FEMA is conditional upon the State's compliance with the terms and conditions of the plan. If the State does not maintain compliance with this plan by providing the State's share of funding for these projects, FEMA may terminate the grant award for the disaster. This may result in the State and local jurisdictions being required to return funds received from FEMA for projects related to the disaster. FEMA also has the ability to suspend FEMA public assistance grants for other disasters until the State returns to compliance. Without the State's share of project costs, it is likely that local governments will not be able to complete their recovery from the 2013 floods.



## **Department of Regulatory Agencies**

The OSPB comeback for the Department of Regulatory Agencies (Division of Insurance) is included in the list of comebacks for the Department of Healthcare Policy and Financing.

## Department of Revenue

OSPB concurs with a significant number of the Committee's actions for the Department of Revenue (DOR). This includes \$2.4M in General Fund (GF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee reconsider \$0.4M in GF reductions and a \$3M one-time cash fund sweep, but has identified an additional \$3.4M in ongoing reductions for consideration.

### Comeback Requests:

#### **R-12 Lottery Line Consolidation**

**Committee Action:** In February, the Committee approved the consolidation of the Research and Travel lines into the Operating appropriation, but the consolidation of the Marketing and Communications line into Operating appropriation was denied.

**OSPB Comeback:** OSPB requests this item be approved as requested, since the economic downturn and subsequent drop in lottery sales makes this request for greater Lottery operational flexibility even more necessary. This request was altered due to members' concerns that this change would deny the Committee the ability to approve new game development within this new operating line. This is not the case. The requested combined Operating Expenses appropriation does not provide funding for any sort of vending equipment, new games, or game expansion, which are currently paid for out of the Vendor Fees and Retailer Compensations lines, which remain unchanged by this request.

#### **Division of Motor Vehicles Reductions**

**Committee Action:** The Committee approved a reduction to the DMV's GF appropriation by \$0.8M and delayed action on a 10% reduction in DMV operations.

**OSPB Comeback:** OSPB recommends an alternative proposal which merges the DRIVES Fund and the License Services Cash Fund, reduces the GF appropriation to the Driver's Services lines by \$2M, and increases the new merged cash fund appropriation by the same amount. The DMV would operate at a structural deficit, spending down the combined balance of the new fund, while identifying additional reductions for future fiscal years and staying within their statutory authority to increase driver's license fees by no more than 5% each fiscal year beginning with FY 2019-20, until the new fund is solvent.

#### **Marijuana Cash Fund Sweep**

**Committee Action:** The Committee approved a \$3M sweep of funds from the license-fee supported Marijuana Cash Fund (MCF).

**OSPB Comeback:** OSPB does not recommend sweeping the Marijuana Cash Fund because it will necessitate an immediate licensing fee increase in the fall of FY 2021, burdening businesses in the height of the recession. OSPB instead recommends

permanently refinancing the CDPHE Marijuana Certification Lab off of the Marijuana Tax Cash Fund (MTCF) and onto the Marijuana Cash Fund (MCF). Legislation will be required to alter the destination of the fees collected by the Lab to the MCF. This shift will gain the MTCF an ongoing \$1.4M, which can then be swept into the GF each year of this crisis. This refinance option will allow the division to reevaluate staffing needs and delay appropriate fee increases until FY 2022, while benefiting the GF each year for the entire duration of this expected recession.

## Department of Transportation

OSPB concurs with a significant number of the Committee's actions for the Department of Transportation (CDOT). This includes \$122.5M in Cash Fund (CF) reductions to the FY 2019-20 appropriation. OSPB requests the Committee to consider an additional \$72M in potential reductions.

OSPB recommends the following additional balancing options:

### **Refinance COP Obligations**

OSPB recommends the Committee reconsider amending C.R.S. § 24-75-219 (5)(c) to suspend for two years the \$50M annual GF transfer to CDOT.

OSPB further recommends the Committee consider offsetting the GF obligation for the lease-purchase agreements executed in FY 2018-19 and FY 2019-20 to be paid for from the State Highway Fund for two-years, totaling \$13M per year, after accounting for the repurposing of the COP payments for controlled maintenance and capital construction projects.

### **Repurposing COP Payments**

OSPB recommends the Committee consider amending C.R.S. § 24-82-1303 to allow for a portion of the proceeds in the amount of \$49M from the lease-purchase agreements, with \$4M of the total lease payments each year required to be paid in FY 2019-20 be available for controlled maintenance and capital construction projects, with the details outlined under the Statewide section below.

### **Multimodal Options Fund (MMOF) Balance**

OSPB recommends the Committee consider sweeping a total of \$10M of the statewide portion of the MMOF fund balance to the General Fund. While the local portion of the multimodal options fund (MMOF) is nearly fully committed, CDOT has not yet taken requested approval for projects using the statewide portion. Sweeping the state portion would be preferable to sweeping the local portion. OSPB requests reallocating \$1M of this balance in order to offset cuts to transportation services for vulnerable populations which includes seniors, in light of equity having been an important aspect of the original intent of the multimodal options fund.

## Statewide

OSPB concurs with a significant number of the Committee's actions and pending decisions on statewide policies including State employee compensation, capital, and cash fund sweeps. OSPB requests the Committee reconsider \$46M in reductions and has identified an additional \$55M in potential reductions for consideration.

### Comeback Requests:

#### **State Emergency Reserve Cash Fund Sweeps**

**Committee Action:** The Committee delayed action on sweeping portions of the Major Medical Insurance (MMI) Fund (\$11M), the Severance Tax Perpetual Base Fund (\$25M), and the CWCB Construction Fund (\$10M).

**OSPB Comeback:** OSPB does not recommend sweeping portions of these cash funds given the designation of those funds as part of the state emergency reserve, which will likely be needed for COVID response. A situation in which these funds are swept to balance the GF and utilized for emergency resources would have significant negative impacts on benefits paid out of the MMI Fund and programs supported by the CWCB funds.

#### **Parks and Wildlife Cash Funded Capital Construction Requests**

**Committee Action:** The Committee reversed its previous action to approve \$20.9M cash fund spending authority for two Colorado Parks and Wildlife (CPW) cash funded capital requests, Infrastructure and Real Property Maintenance and Property Acquisition and Improvements.

**OSPB Comeback:** OSPB respectfully requests the reinstatement of CPW's cash funded capital requests. These cannot be swept to the GF without risking the loss of an additional \$27.4M or more in federal funds as a consequence of the diversion of wildlife funds from wildlife purposes. Absent a sweep of these funds, which OSPB recommends against, the elimination of this appropriation does not help with GF balancing, but does reduce the division's ability to make health, life, and safety improvements in state wildlife areas and meet the goals and objectives of S.B. 18-143, the Future Generations Act.

#### **Further Cash Funded Capital Construction Requests**

**Committee Action:** The Committee reversed its previous action to approve \$21.8M cash fund spending authority for capital construction projects.

**OSPB Comeback:** OSPB respectfully requests the reinstatement of \$2.4M of these cash funded capital requests, including:

- HC - Regional Property Preservation Projects-ongoing
- DHS - Facility Upgrades, Fitzsimons VCLC, Ph 1 of 1
- DHS - Facility Upgrades, Rifle VCLC, Ph 1 of 1

- DHS - Facility Upgrades, Homelake VCLC, Ph 1 of 1

### **Cash Funded Capital Disposal Requests**

**Committee Action:** The Committee reversed its previous action to approve three cash fund land sales for \$0.2M. Those sales include:

- CDE - CSDB Disposition of Teller County Parcel
- CDE - CSDB Disposition of El Paso County Parcel
- CDE - CSDB Disposition of Bell Flower Drive Parcel

**OSPB Comeback:** OSPB respectfully requests the reinstatement of these capital asset sales. These proceeds will stay with the Colorado School for the Deaf and the Blind.

### **Transfers of Limited Gaming Funds**

**Committee Action:** The Committee delayed action on JBC Staff Recommendations to eliminate the transfer of \$31M in gaming funds to various cash funds, but has requested a bill draft to consider the elimination of this and other gaming transfers.

**OSPB Comeback:** OSPB concurs with the JBC Staff Recommendations to eliminate transfers of approximately \$31M in limited gaming revenue to six cash funds at three agencies (GOV-OEDIT; DOLA; CDHE). In addition, OSPB proposes a direct GF appropriation in FY 2020-21 to partially offset the loss of gaming funds to some of those programs of the following amounts:

- Colorado Tourism Office (OEDIT): \$10M
- Advanced Industries Program (OEDIT): \$0.5M
- Creative Industries Program (OEDIT): \$1.3M
- Film Office (OEDIT): \$0.4M
- Local Government Gaming Impact Grants (DOLA): \$1.9M

OSPB concurs with the JBC Staff Recommendation to eliminate the transfer of \$2.1M gaming revenue to the Colorado Higher Education Competitive Research Authority, as well as to include a statutory provision that allows this fund and the others currently receiving gaming funds to receive GF appropriations in future years.

### **Temporarily Suspending the Limited Gaming Revenue Growth Cap**

**Committee Action:** The Committee approved a JBC Staff Recommendation to draft a bill that would temporarily suspend the 3% cap on growth in limited gaming revenue until such time as distributions to limited gaming recipients return to their FY 2018-19 levels. JBC Staff indicated that the bill draft would include two separate options for the Committee to consider: first, an option which would fix the relative proportions of limited and extended gaming revenue at their FY 2018-19 levels; second, an option which would fix the relative proportions of gaming revenue distributed to limited and extended gaming recipients at the proportions in which they share in any decline in total gaming revenue in FY 2019-20.

**OSPB Comeback:** OSPB concurs with the JBC Staff Recommendation to temporarily suspend the 3% cap on growth in limited gaming revenue until it returns to its FY 2018-19 level. OSPB further recommends that the Committee approve the second

option in the bill draft, which would distribute a portion of future gaming revenues to limited and extended gaming recipients, respectively, according to the relative proportion in which they share in any decline in gaming revenue in FY 2019-20. This option was developed collaboratively by the Governor's Office, History Colorado, and the Colorado Community College System, and effectively balances the interests of these stakeholders in ensuring a timely recovery from the precipitous decline in gaming revenue expected in FY 2019-20.

### **Controlled Maintenance**

**Committee Action:** The Committee reversed its previous action to approve \$30M for Level One Controlled Maintenance and instead approved a \$2M emergency controlled maintenance account based on a JBC Staff Recommendation.

**OSPB Comeback:** OSPB respectfully requests a higher level of funding to appropriately care for State capital assets. OSPB, in discussion with the State Architect's office, believes this amount of funding approved in May 2020 by the Committee is dangerously low to maintain the upkeep and viability of the State's capital assets. These programs are life safety related and are required by other statutes and regulations to maintain building codes. Controlled maintenance projects related to lifesafety, such as repairing a fire protection system at Gilliam Youth Services Center and Lookout Mountain Youth Services Center, replacing a fire alarm system at the King Center in Aurora, and installing fire sprinkler lines at Red Rocks Community College, are projects that cannot be skipped without impairing the basic safety of those utilizing these state assets.

The Capital Development Committee writes "spending less on controlled maintenance and recapitalization in a given year does not save the State money". According to industry resources, "Every \$1 deferred in maintenance costs \$4 of capital renewal needs in the future." Therefore delaying \$28M in maintenance could result in \$112M in capital renewal requests in subsequent years. Also, not providing sufficient controlled maintenance on an ongoing basis typically means reducing the lifecycle of an asset by as much as one-third.

To alleviate the budget pressure, while also providing a base level of maintenance funding, OSPB recommends using a portion of the premium-over-par for S.B. 17-267 COP issuance to fund maintenance costs. The premium is expected to be between \$45M and \$90M, providing \$45M for the Controlled Maintenance Level 1 and portions of Level 2. Currently, S.B. 17-267 requires the second tranche of COP premium-over-par payments to be used for CDOT. In order to allow the funds the flexibility to be used towards controlled maintenance, the legislature would need to immediately pass legislation to permit such use of funds and allow time for the pre-filing documents to be updated.

## **Marijuana Tax Cash Fund**

### **Marijuana Special Sales Tax Formula Change**

OSPB recommends that the Committee introduce bill to alter CRS 39-28.8-203 to change the distribution formula of the special sales tax on recreational marijuana to the following:

- i. 10% to locals (no change)
- ii. 30% to the General Fund (+15%)
- iii. 50% to the Marijuana Tax Cash Fund (-15%)
- iv. 10% to the State Public School Fund (no change)

This change will result in approximately \$29M in additional revenue for GF appropriations, effectively transferring \$29M from the funds available for appropriation from the MTCF in FY 2021-22 into FY 2020-21 GF spending by bypassing the “spending in arrears” clause of the MTCF. This change may necessitate further reductions to MTCF spending in FY 2021-22.

### **Elimination of the MTCF Reserve**

OSPB Recommends that the Committee introduce a bill to strike the portions of C.R.S. § 39-28.8-501(5) that requires a sum equal to 6.5% of the funds available for appropriation from the MTCF to remain in the fund as an emergency reserve. An emergency reserve for the MTCF is redundant since the fund is already protected from economic downturn-induced revenue declines by the requirement (C.R.S. § 39-28.8-501(2)) that all revenue be held in the fund until the fiscal year following the year in which the funds are collected (spent in arrears) before being appropriated. Therefore, a statutory change to remove the reserve provision would not create any additional risk to the fund. The statutory reserve amount for FY 2020-21 is estimated to be \$11M. With the removal of the statutory reserve, these funds could be available for transfer to the GF.

### **Transfer Unallocated FY 2020-21 Balance of the MTCF to the General Fund**

OSPB recommends that the Committee sweep into the GF all funds available for appropriation in FY2020-21 that are otherwise unallocated to the various programs. Depending on actions by the Committee, and the revised forecast, this amount could be between \$15M and \$40M.