

MEMORANDUM



JOINT
BUDGET
COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE February 21, 2024
SUBJECT Potential Legislation Packet 5

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

PERA Study, Evidence-based Decision Making, and Severance Tax Memo (Burmeister).....1

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Mitch Burmeister, JBC Staff (303-866-3147)
DATE February 21, 2024
SUBJECT Potential Legislation: PERA Study Benefit Plan, Evidence-based Decision Making, Severance Tax Sweeps

PERA BENEFITS STUDY REFRESH

The following is taken from staff's November 20, 2023 Total Compensation briefing document. Staff is recommending a refresh of the study done in 2014 comparing PERA's defined benefit plan to alternative plan designs.

REFRESH OF THE COMPREHENSIVE STUDY COMPARING PERA'S DEFINED BENEFIT PLAN TO ALTERNATIVE PLAN DESIGNS

In the 2014 legislative session, the General Assembly passed S.B. 14-214 (PERA Studies Conducted By Actuarial Firm) which required the State Auditor to contract with a nationally recognized and enrolled actuarial firm with relevant experience in public sector pension plans to perform a comprehensive study comparing the cost and effectiveness of the hybrid defined benefit plan design to alternate plan designs in the public and private sector. The legislation required that the study include the following components:

- A comparison of the benefits, costs, and portability of benefits provided by the association in its current plan design with the benefits, costs, and portability of benefits provided by alternative plan designs;
- A comparison of the current plan design to other statewide plans, private sector retirement plans, and any other appropriate plans as determined by the association and the office of the State Auditor;
- An analysis of the cost to employees and employers that would be incurred by transitioning from the current plan design administered by the association to alternative plan designs;
- The impact that a change from the current plan design to alternative plan designs would have on expected retirement benefits for current and future retirees of the association;
- The incremental impacts that a change from the current plan design to alternative plan designs would have on the association's ability to fully amortize the unfunded actuarial liability of each division of the association; and
- The impact that a change from the current plan design to alternative plan designs would have on employers and taxpayers relative to the plan design currently specified in law.

From that legislation came the most comprehensive study that exists on PERA's hybrid defined benefit plan design. Staff believes that after 10 years and various pieces of legislation affecting the payback of the unfunded actuarial liability, it is time to do another study of PERA's plan designs to ensure that the quality of plans is still as high as it was at that time.

FEBRUARY 20, 2024

In the original bill, there was an appropriation of \$375,000 to the State Auditor's Office to hire the firm that conducted the study. Staff believes that a similar or slightly larger appropriation would be necessary if the Committee were to sponsor such a bill.

Staff recommends that the JBC sponsor a bill that would require the State Auditor's Office to contract with a nationally recognized actuarial firm with experience in public sector pension plans to conduct a comprehensive study on PERA's defined benefit plan design.

EVIDENCE-BASED DECISION MAKING ADJUSTMENTS

The following is taken from staff's December 7, 2023 memo on potential changes to the statute that describes the evidence-based decision making process for the JBC and OSPB. Staff is recommending the following changes to statute.

PROPOSED STATUTORY CHANGES

It is in this context that staff is proposing changes to statute to clarify roles, adjust existing definitions, and add new definitions. Staff believes that these changes will make it easier for;

- JBC Staff to analyze requests with evidence level designations;
- JBC members to understand evidence level designations that are provided by OSPB and the state agencies;
- JBC members to place disagreement on evidence level designations in the correct context, and;
- JBC members and staff to hold OSPB and state agencies accountable for providing updates and evaluations of programs that were requested and approved with evidence level designations.

The following table outlines the proposed changes to statute and the reason behind why staff believes those changes are necessary.

Bill Section	Change Summary	Rationale
Section 2-3-210 (1)(a)	Adds definition of “evidence-based decision-making”	This term is currently used in statute, but not defined.
	Introduces the term “best available research evidence”	This term is foundational to assessing the quality of research evidence.
	Strengthens justification for why use of the best available research evidence and ongoing evidence-building is important for funding decisions.	Builds on existing rationale for why this statute is important and identifies the need for both use of existing evidence and evidence-building.
Section 2-3-210 (2) and (3)	Distinguishes “definitions” used in article 3 from “evidence designations”, placing definitions and evidence designations in separate articles of the bill	Evidence designations are applied to programs and practices, while definitions apply broadly to implementation of the statute.
	Adds the following definitions: <ul style="list-style-type: none"> • “best available research evidence” • “not applicable” • “outcomes” • “program or practice” 	Promotes clarity and ensures consistent application of the legislation across branches of government. Aligns statute with standard research and evaluation definitions, including the Colorado evidence-based decision-making glossary .

	Removes the following designations: <ul style="list-style-type: none"> • “opinion-based program or practice” • “theory-informed program or practice” • “not applicable” 	Opinion-based and theory-informed are not yet informed by research evidence and, therefore, are not applicable as evidence designations. Not applicable has been removed as an evidence designation and added to the definitions list instead.
	Adjusts the following designations: <ul style="list-style-type: none"> • “evidence-informed” program or practice • “proven” program or practice 	These adjustments and additions align statute with national scientific Clearinghouse designations of effectiveness. This helps ensure alignment between state and federal legislation requiring use of evidence-based programs and practices. Addition of “harmful” shows the direction of the research evidence. Addition of “insufficient evidence” distinguishes a lack of research evidence from “not applicable”
	Adds the following designations: <ul style="list-style-type: none"> • “promising” program or practice • “harmful” program or practice • “insufficient evidence” 	
Section 2-3-210 (4)	Replaces “evidence-based evaluations of a program or practice” with “best available research evidence regarding a program or practice’s effectiveness”	Best available research evidence is the standard approach and term used by the research community.
	Adjusts (3)(b) in existing statute to narrow and clarify what OSPB should provide in budget requests or budget amendment requests regarding evidence: <ul style="list-style-type: none"> • “any research” is replaced with “summary of best available research evidence” • (3)(b)(I) and (II) are combined because this separation is no longer needed with addition of “harmful” designation • (3)(b)(III) to clarify how the best available research evidence is connected to the request 	These adjustments and additions align terminology throughout the bill, while also creating opportunity for transparent attention to evidence-building/future evaluation.

	Adds “ (III) Plans to evaluate the program or practice to build evidence regarding its effectiveness.”	
	Aligns the role of JBC staff with their standard responsibilities as described in Section 2-3-204, C.R.S.	This promotes feasibility in responsibilities of JBC staff and aligns roles across state agencies, JBC, and OSPB to promote consistent use of the best available research evidence.
	Removes requirement of independent analysis of all evidence-based evaluations by JBC staff in favor of review and verification of the best available research evidence	
Section 2-3-210 (4)	Incorporates the existing Sections 2-3-210(4) and (5) on JBC and state agency use of evidence designations into revised 4(a), (b), and (c)	Reduces duplication and aligns roles and responsibilities.
Section 2-3-203	Replaces “any available evidence-based information specified in section 2-3-210” with “the designation provided in section 2-3-210 (4)”	Promotes consistent use of evidence designations and aligns language in the bill.
Section 2-3-204	Replaces “evidence-based analysis required by section 2-3-210” with “the evidence designation and rationale as required by section 2-3-210 (4)”	
	Removes requirement of JBC staff to support all legislators in incorporating evidence-based assessments into legislation, upon request	Supporting the full General Assembly in using the best available evidence during policymaking is vital, but it is not a feasible role for JBC staff alone to play.

An Act

SENATE BILL 21-284

BY SENATOR(S) Hansen and Rankin, Buckner, Cooke, Kolker, Lundeen, Moreno, Priola, Simpson, Sonnenberg, Winter, Garcia;
also REPRESENTATIVE(S) Herod and Larson, Burnett, Duran, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jodeh, Kipp, McCluskie, Michaelson Jenet, Ricks, Snyder, Young.

CONCERNING EVIDENCE-BASED EVALUATIONS TO ASSIST THE GENERAL ASSEMBLY IN DETERMINING THE APPROPRIATE LEVEL OF FUNDING FOR A PROGRAM OR PRACTICE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

2-3-210. Evidence-based decision-making - budget requests - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) WHEN APPROPRIATE, THE USE OF DATA AND OUTCOME-RELATED EVIDENCE IN THE ANALYSIS OF PROGRAMS IMPLEMENTED AND DELIVERED BY

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

STATE AGENCIES IS AN EFFECTIVE MEANS THROUGH WHICH FUNDING DECISIONS CONCERNING PROGRAM IMPROVEMENT AND EXPANSION OR REDIRECTION OF FUNDS CAN BE ACHIEVED; AND

(b) THE INTEGRATION OF EVIDENCE-BASED EVALUATION WITH THE BUDGET PROCESS WILL PROVIDE MEMBERS OF THE GENERAL ASSEMBLY ADDITIONAL INFORMATION THAT WILL BE USEFUL IN THE PRIORITIZATION OF REQUESTS FOR FUNDING FOR NEW OR EXISTING PROGRAMS AND SERVICES IN THE STATE.

(2) AS USED IN THIS ARTICLE 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EVIDENCE-INFORMED PROGRAM OR PRACTICE" MEANS A PROGRAM OR PRACTICE THAT REFLECTS A MODERATE, SUPPORTED, OR PROMISING LEVEL OF CONFIDENCE OF EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS AS DETERMINED BY AN EVALUATION WITH A COMPARISON GROUP, MULTIPLE PRE- AND POST-EVALUATIONS, OR AN EQUIVALENT MEASURE.

(b) "NOT APPLICABLE" MEANS THE DEFINITIONS IDENTIFIED IN SUBSECTIONS (2)(a), (2)(c), (2)(d), AND (2)(f) OF THIS SECTION ARE NOT APPLICABLE.

(c) "OPINION-BASED PROGRAM OR PRACTICE" MEANS A PROGRAM OR PRACTICE THAT REFLECTS A LOW LEVEL OF CONFIDENCE OF EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS, AS BASED ON SATISFACTION SURVEYS, PERSONAL EXPERIENCE, OR FOR WHICH THERE IS NO EXISTING EVIDENCE ABOUT THE EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS OF THE PROGRAM OR PRACTICE.

(d) "PROVEN PROGRAM OR PRACTICE" MEANS A PROGRAM OR PRACTICE THAT REFLECTS A HIGH OR WELL-SUPPORTED LEVEL OF CONFIDENCE OF EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS AS DETERMINED BY ONE OR MORE HIGH-QUALITY RANDOMIZED CONTROL TRIALS, MULTIPLE EVALUATIONS WITH STRONG COMPARISON GROUPS, OR AN EQUIVALENT MEASURE.

(e) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION, COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER

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EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

(f) "THEORY-INFORMED PROGRAM OR PRACTICE" MEANS A PROGRAM OR PRACTICE THAT REFLECTS A MODERATE TO LOW OR PROMISING LEVEL OF CONFIDENCE OF EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS AS DETERMINED BY TRACKING AND EVALUATING PERFORMANCE MEASURES INCLUDING PRE- AND POST-INTERVENTION EVALUATION OF PROGRAM OUTCOMES, EVALUATION OF PROGRAM OUTPUTS, IDENTIFICATION AND IMPLEMENTATION OF A THEORY OF CHANGE, OR EQUIVALENT MEASURES.

(3) (a) IF A STATE AGENCY OR THE OFFICE OF STATE PLANNING AND BUDGETING INCLUDES AN EVIDENCE-BASED EVALUATION OF A PROGRAM OR PRACTICE IN A BUDGET REQUEST OR BUDGET AMENDMENT REQUEST SUBMITTED IN ACCORDANCE WITH SECTION 2-3-208, THEN THE STATE AGENCY OR OFFICE SHALL DESCRIBE THE PROGRAM OR PRACTICE USING THE DEFINITIONS SET FORTH IN THIS SECTION.

(b) IF SUBSECTION (3)(a) OF THIS SECTION APPLIES, THEN THE STATE AGENCY OR THE OFFICE OF STATE PLANNING AND BUDGETING SHALL ALSO PROVIDE THE FOLLOWING INFORMATION:

(I) ANY RESEARCH THAT SUPPORTS THE IMPLEMENTATION, CONTINUATION, OR EXPANSION OF THE PROGRAM OR PRACTICE, INCLUDING ANY RESEARCH DEMONSTRATING IMPROVED OR CONSISTENT OUTCOMES ACHIEVED BY THOSE WHO BENEFIT FROM THE PROGRAM OR PRACTICE;

(II) ANY RESEARCH THAT SUPPORTS A DECREASE IN FUNDING FOR A PROGRAM OR PRACTICE THAT MAY BE SHOWN TO BE INEFFECTIVE OR HARMFUL TO THOSE RECEIVING SERVICES; AND

(III) INFORMATION CONCERNING HOW THE EVIDENCE REFERENCED WAS USED IN THE DEVELOPMENT OF THE BUDGET REQUEST OR BUDGET AMENDMENT REQUEST.

(c) IF A STATE AGENCY PROVIDES AN EVIDENCE-BASED EVALUATION OF A PROGRAM OR PRACTICE IN A BUDGET REQUEST OR BUDGET REQUEST AMENDMENT, JOINT BUDGET COMMITTEE STAFF SHALL INDEPENDENTLY ANALYZE AND DESCRIBE THE PROGRAM OR PRACTICE USING THE DEFINITIONS SET FORTH IN THIS SECTION.

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(4) JOINT BUDGET COMMITTEE STAFF SHALL INCLUDE ANY INFORMATION SPECIFIED IN SUBSECTION (3) OF THIS SECTION AS PART OF ANY RECOMMENDATION IT MAKES REGARDING A BUDGET REQUEST OR BUDGET AMENDMENT REQUEST.

(5) WHENEVER A STATE AGENCY IS REQUIRED TO UNDERTAKE AN EVIDENCE-BASED ANALYSIS OF A PROGRAM OR PRACTICE, THE STATE AGENCY SHALL USE THE DEFINITIONS SET FORTH IN THIS SECTION, UNLESS OTHER DEFINITIONS ARE PROVIDED BY LAW.

SECTION 2. In Colorado Revised Statutes, 2-3-203, **add** (4) as follows:

2-3-203. Powers and duties of the joint budget committee.

(4) THE JOINT BUDGET COMMITTEE SHALL CONSIDER, AS ONE OF MANY FACTORS, ANY AVAILABLE EVIDENCE-BASED INFORMATION SPECIFIED IN SECTION 2-3-210 WHEN DETERMINING THE APPROPRIATE LEVEL OF FUNDING OF A PROGRAM OR PRACTICE.

SECTION 3. In Colorado Revised Statutes, 2-3-204, **add** (3) as follows:

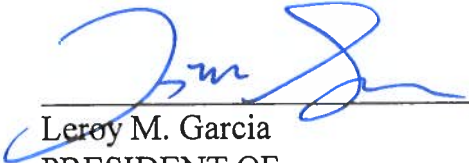
2-3-204. Staff director, assistants, and consultants. (3) THE STAFF DIRECTOR SHALL APPOINT ADDITIONAL STAFF AS NECESSARY TO PROVIDE THE EVIDENCE-BASED ANALYSIS REQUIRED BY SECTION 2-3-310 (3)(c). UPON REQUEST, JOINT BUDGET COMMITTEE STAFF SHALL ALSO ASSIST LEGISLATORS IN INCORPORATING EVIDENCE-BASED ASSESSMENTS INTO LEGISLATION.


SECTION 4. Appropriation. For the 2021-22 state fiscal year, \$41,245 is appropriated to the legislative department for use by the joint budget committee. This appropriation is from the general fund and is based on an assumption that the joint budget committee will require an additional 0.3 FTE. To implement this act, the joint budget committee may use this appropriation to perform analysis of budget requests.


SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V

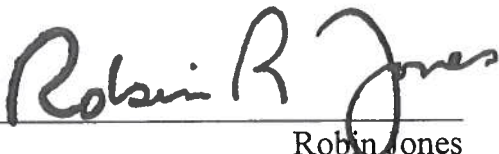
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of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

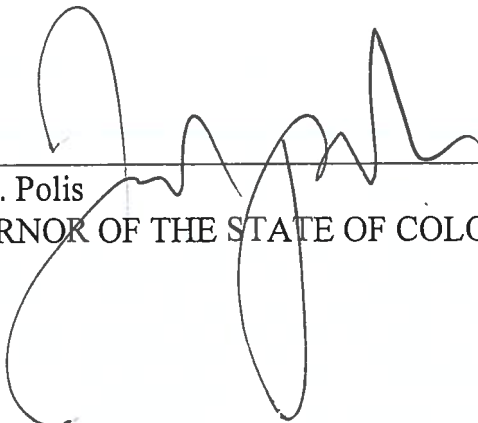

Leroy M. Garcia
PRESIDENT OF
THE SENATE


Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 6, 2021 at 2:30 pm
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

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An Act

SENATE BILL 21-284

BY SENATOR(S) Hansen and Rankin, Buckner, Cooke, Kolker, Lundeen, Moreno, Priola, Simpson, Sonnenberg, Winter, Garcia;
also REPRESENTATIVE(S) Herod and Larson, Burnett, Duran, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jodeh, Kipp, McCluskie, Michaelson Jenet, Ricks, Snyder, Young.

CONCERNING EVIDENCE-BASED EVALUATIONS TO ASSIST THE
GENERAL ASSEMBLY IN DETERMINING THE APPROPRIATE
LEVEL OF FUNDING FOR A PROGRAM OR PRACTICE, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

2-3-210. Evidence-based decision-making - budget requests - legislative declaration - definitions. (1) The General Assembly Hereby Finds And Declares That:

(a) EVIDENCE-BASED DECISION-MAKING (EBDM) IS THE INTERSECTION OF THE BEST AVAILABLE RESEARCH EVIDENCE, DECISION-MAKERS' EXPERTISE, AND CONSTITUENT NEEDS AND IMPLEMENTATION CONTEXT. EBDM RECOGNIZES THAT RESEARCH EVIDENCE ALONE IS NOT THE ONLY CONTRIBUTING FACTOR TO POLICY AND BUDGET DECISIONS;

(b) ~~When Appropriate,~~ The Use Of THE BEST AVAILABLE EVIDENCE ~~Data And Outcome-Related Evidence~~ In The Analysis Of Programs AND PRACTICES, AND/OR INCREMENTAL CHANGES THEREWITH, Implemented And Delivered By State Agencies Is An Effective Means Through Which Funding Decisions Concerning ~~Program~~

Improvement, ~~And~~ Expansion, DISCONTINUATION, Or Redirection Of Funds Can Be Achieved; ~~And~~

(c) The Integration Of THE BEST AVAILABLE EVIDENCE ON THE EFFECTIVENESS OF PROGRAMS AND PRACTICES ~~Evidence-Based Evaluation~~ withIN The Budget Process Will Provide Members Of The General Assembly ~~Additional~~ Information That CAN BE USED ~~will Be Useful~~ In The Prioritization Of Requests For Funding For New Or Existing Programs OR PRACTICES ~~and Services~~ In The State; AND

(d) STATE AGENCIES SHALL PARTICIPATE IN THE EVIDENCE-BASED DECISION-MAKING PROCESS, INCLUDING, BUT NOT LIMITED TO, INVESTING IN EVIDENCE-BUILDING OVER TIME TO WORK TOWARD THE EVIDENCE DESIGNATIONS NAMED IN THIS SECTION, AS APPLICABLE.

(2) As Used In This Article 4 ~~3~~, THE FOLLOWING DEFINITIONS ARE APPLIED: ~~Unless The Context Otherwise Requires~~

(a) “BEST AVAILABLE RESEARCH EVIDENCE” REFERS TO THE WEIGHT OF THE RESEARCH EVIDENCE FROM THE MOST RIGOROUS AND RELEVANT STUDIES AVAILABLE ABOUT A PROGRAM OR PRACTICE, IDENTIFIED USING A SYSTEMIC PROCESS.

(b) “NOT APPLICABLE” MEANS ANYTHING THAT DOES NOT MEET THE DEFINITION OF “PROGRAM OR PRACTICE”.

(c) “OUTCOMES” MEAN MEASURES OF WHAT A PROGRAM OR PRACTICE IS MEANT TO IMPROVE FOR ITS TARGET POPULATION.

(d) “PROGRAM OR PRACTICE” MEANS A PROGRAM, INTERVENTION, OR APPROACH WITH EXPLICITLY DEFINED AND REPLICABLE ELEMENTS THAT IS HYPOTHESIZED TO IMPROVE SPECIFIED OUTCOMES FOR A DEFINED TARGET POPULATION.

(e) “State Agency” Means Any Department, Commission, Council, Board, Bureau, Committee, Institution Of Higher Education, Agency, Or Other Government Unit Of Executive, Legislative, Or Judicial Branch Of State Government.

(3) AS USED IN ARTICLE 4, THE FOLLOWING EVIDENCE DESIGNATIONS ARE ASSIGNED TO A PROGRAM OR PRACTICE:

(a) "Evidence-Informed" ~~Program Or Practice~~ Means THAT THE BEST AVAILABLE RESEARCH EVIDENCE SUPPORTS A PROGRAM OR PRACTICE’S EFFECTIVENESS AND INCLUDES AT LEAST ONE QUALITY PRE-POST EVALUATION. ~~A Program Or Practice That Reflects A Moderate, Supported, Or Promising Level Of Confidence Of Effectiveness, Ineffectiveness, Or Harmfulness As Determined By An Evaluation With A Comparison Group, Multiple Pre- and Post-Evaluations, Or An Equivalent Measure.~~

(b) "HARMFUL" MEANS THAT THE BEST AVAILABLE RESEARCH EVIDENCE DEMONSTRATES HARM AND INCLUDES AT LEAST ONE QUALITY PRE-POST EVALUATION.

(c) “INSUFFICIENT EVIDENCE” MEANS THE BEST AVAILABLE RESEARCH EVIDENCE IS NOT YET ROBUST ENOUGH TO ACHIEVE AN EVIDENCE DESIGNATION OF “EVIDENCE-INFORMED,” “PROMISING,” “PROVEN,” OR “HARMFUL,” AS DEFINED IN SUBSECTION 3.

~~(b) Not Applicable" Means The Definitions Identified In Subsections (2)(A), (2)(C), (2)(D), And (2)(F) Of This Section Are Not Applicable.~~

(d) "PROMISING" MEANS THAT THE BEST AVAILABLE RESEARCH EVIDENCE SUPPORTS A PROGRAM OR PRACTICE’S EFFECTIVENESS AND INCLUDES AT LEAST ONE HIGH-QUALITY EVALUATION WITH A STRONG COMPARISON GROUP. ~~Opinion-Based Program Or Practice" Means A Program Or Practice That Reflects A Low~~

~~Level Of Confidence Of Effectiveness, Ineffectiveness, Or Harmfulness, As Based On Satisfaction Surveys, Personal Experience, Or For Which There Is No Existing Evidence About The Effectiveness, Ineffectiveness, Or Harmfulness Of The Program Or Practice.~~

(e) ~~"Proven Program Or Practice"~~ Means THAT THE BEST AVAILABLE RESEARCH EVIDENCE SUPPORTS A PROGRAM OR PRACTICE'S EFFECTIVENESS AND INCLUDES AT LEAST ~~A Program Or Practice That Reflects A High Or Well-Supported Level Of Confidence Of Effectiveness, Ineffectiveness, Or Harmfulness As Determined By One Or More~~ ONE High-Quality Randomized Control Trials, OR AT LEAST TWO QUALITY EVALUATIONS WITH STRONG COMPARISON GROUPS. ~~, Or An Equivalent Measure.~~

~~(f) "Theory-Informed Program Or Practice" Means A Program Or Practice That Reflects A Moderate To Low Or Promising Level Of Confidence Of Effectiveness, Ineffectiveness, Or Harmfulness As Determined By Tracking And Evaluating Performance Measures Including Pre- And Post-Intervention Evaluation Of Program Outcomes, Evaluation Of Program Outputs, Identification And Implementation Of A Theory Of Change, Or Equivalent Measures.~~

~~4(3)(a) If A State Agency Or The Office Of State Planning And Budgeting Includes INFORMATION ON THE BEST AVAILABLE RESEARCH EVIDENCE REGARDING An Evidence-Based Evaluation Of A Program Or Practice'S EFFECTIVENESS In A Budget Request Or Budget Amendment Request Submitted In Accordance With Section 2-3-208, Then The State Agency Or Office Shall Describe The Program Or Practice Using The DESIGNATIONS Definitions Set Forth In SUB-SECTION (3a) TO (3e). This Section.~~

(b) If Subsection 4(3)(a) Of This Section Applies, Then The State Agency Or The Office Of State Planning And Budgeting Shall ~~Also~~ Provide The Following Information TO SUPPORT JUSTIFICATION OF THE SELECTED EVIDENCE DESIGNATION.

(I) A SUMMARY OF THE BEST AVAILABLE RESEARCH

EVIDENCE ABOUT THE PROGRAM OR PRACTICE; ~~Any Research That Supports The Implementation, Continuation, Or Expansion Of The Program Or Practice, Including Any Research Demonstrating Improved Or Consistent Outcomes Achieved By Those Who Benefit From The Program Or Practice;~~

~~(H) — Any Research That Supports A Decrease In Funding For A Program Or Practice That May Be Shown To Be Ineffective Or Harmful To Those Receiving Services; And~~

(II) HOW THE BEST AVAILABLE RESEARCH EVIDENCE IS CONNECTED TO ~~Information Concerning How The Evidence Referenced Was Used To Justify~~ The Budget Request Or Budget Amendment Request.

(III) PLANS TO EVALUATE THE PROGRAM OR PRACTICE TO BUILD EVIDENCE REGARDING ITS EFFECTIVENESS

(c) If SUBSECTION (4A) OF THIS SECTION APPLIES, AS PART OF THEIR RESPONSIBILITIES AS DESCRIBED IN COLORADO REVISED STATUTES, 2-3-204, ~~THE A State Agency Provide An Evidence-Based Evaluation Of A Program Or Practice In A Budget Request Or Budget Request Amendment,~~ Joint Budget Committee Staff Shall REVIEW THE SUMMARY OF THE BEST AVAILABLE RESEARCH EVIDENCE PROVIDED IN SUBSECTION (4b) AND OTHER RELEVANT EVIDENCE, AS NEEDED, AND INCLUDE THE EVIDENCE DESIGNATION AS PART OF ANY RECOMMENDATION IT MAKES REGARDING A BUDGET REQUEST OR BUDGET AMENDMENT REQUEST. ~~Independently Analyze And Describe The Program Or Practice Using The Definitions Set Forth In This Section.~~

~~(4) — Joint Budget Committee Staff Shall Include Any Information Specified in Subsection (3) Of This Section As Part Of Any Recommendation It Makes Regarding A Budget Request Or Budget Amendment Request.~~

~~(5) — Whenever A State Agency Is Required To Undertake An Evidence-Based Analysis Of A Program Or Practice, The State Agency Shall Use The Definitions Set Forth In This Section, Unless Other Definitions Are Provided By Law.~~

SECTION 2. In Colorado Revised Statutes, 2-3-203, **add** (4) as follows:

2-3-203. Powers and duties of the joint budget committee.

(4) The Joint Budget Committee Shall Consider, As One Of Many Factors, THE EVIDENCE DESIGNATION PROVIDED IN SECTION 1(4) ~~Any Available Evidence-Based Information Specified in Section 2-3-201~~ When Determining The Appropriate Level Of Funding FOR ~~of~~ A Program Or Practice.

SECTION 3. In Colorado Revised Statutes, 2-3-204, **add** (3) as follows:

2-3-204. Staff director, assistants, and consultants. (3) The Staff

Director Shall Appoint Additional Staff As Necessary To Provide The EVIDENCE DESIGNATION AND RATIONALE AS ~~Evidence-Based Analysis~~ Required By Section 2-3-210 (4). ~~Upon Request, Joint Budget Committee Staff Shall Also Assist Legislators In Incorporating Evidence-Based Assessments Into Legislation.~~

~~**SECTION 4. Appropriation.** For the 2021-22 state fiscal year, \$41,245 is appropriated to the legislative department for use by the joint budget committee. This appropriation is from the general fund and is based on an assumption that the joint budget committee will require an additional 0.3 FTE. To implement this act, the joint budget committee may use this appropriation to perform analysis of budget requests.~~

SECTION 4 -5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the data of the official declaration of the vote by the governor.

2-3-210. Evidence-based decision-making - budget requests - legislative

declaration - definitions. (1) The general assembly hereby finds and declares that:

- (a) Evidence-based decision-making (EBDM) is the intersection of the best available research evidence, decision-makers' expertise, and constituent needs and implementation context. EBDM recognizes that research evidence alone is not the only contributing factor to policy and budget decisions;
- (b) The use of the best available evidence in the analysis of programs and practices, and/or incremental changes therewith, implemented and delivered by state agencies is an effective means through which funding decisions concerning improvement, expansion, discontinuation, or redirection of funds can be achieved;
- (c) The integration of the best available evidence on the effectiveness of programs and practices within the budget process will provide members of the General Assembly information that can be used in the prioritization of requests for funding for new or existing programs or practices in the state; and
- (d) State agencies shall participate in the evidence-based decision-making process, including, but not limited to, investing in evidence-building over time to work toward the evidence designations named in this section, as applicable.

(2) As used in this article 4, the following definitions are applied:

- (a) "Best available research evidence" refers to the weight of the research evidence from the most rigorous and relevant studies available about a program or practice, identified using a systemic process.
- (b) "Not Applicable" means anything that does not meet the definition of "program or practice"
- (c) "Outcomes" mean measures of what a program or practice is meant to improve for its target population.
- (d) "Program or practice" means a program, intervention, or approach with explicitly defined and replicable elements that is hypothesized to improve specified outcomes for a defined target population.
- (e) "State agency" means any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government.

(3) As used in article 4, the following evidence designations are assigned to a program or practice:

- (a) "Evidence-Informed" means that the best available research evidence supports a program or practice's effectiveness and includes at least one quality pre-post evaluation.
- (b) "Harmful" means that the best available research demonstrates harm and includes at least one quality pre-post evaluation.
- (c) "Insufficient evidence" means the best available research evidence is not yet robust enough to achieve an evidence designation of "evidence-informed," "promising," "proven," or "harmful," as defined in this subsection 3.

- (d) “Promising” means that the best available research evidence supports a program or practice’s effectiveness and includes at least one quality evaluation with a strong comparison group.
- (e) “Proven” means that the best available research evidence supports a program or practice’s effectiveness and includes at least one quality randomized controlled trial, or at least two quality evaluations with strong comparison groups.

(4) (a) If a state agency or the Office of State Planning and Budgeting includes information on the best available research evidence regarding a program or practice’s effectiveness in a budget request or budget amendment request submitted in accordance with section 2-3-208, then the state agency or office shall describe the program or practice using the designations set forth in sub-section (3)(a) to (3)(e).

(b) If subsection (4)(a) of this section applies, then the state agency or the Office of State Planning and Budgeting shall provide the following information to support justification of the selected evidence designation.

- (i) A summary of the best available research evidence about the program or practice;
- (ii) How the best available research evidence is connected to the budget request or budget amendment request;
- (iii) Plans to evaluate the program or practice to build evidence regarding its effectiveness.

(c) If subsection (4)(a) of this section applies, as part of their responsibilities as described in Colorado Revised Statutes, 2-3-204, the Joint Budget Committee staff shall review the summary of the best available research evidence provided in subsection (4)(b) and other relevant evidence, as needed, and include the evidence designation as part of any recommendation it makes regarding a budget request or budget amendment request.

Section 2. In Colorado Revised Statutes, 2-3-203, add (4) as follows:

2-3-203. Powers and duties of the joint budget committee. (4) The Joint Budget Committee shall consider, as one of many factors, the evidence designation provided in section 2-3-210 (4) when determining the appropriate level of funding for a program or practice.

Section 3. In Colorado Revised Statutes, 2-3-204, add (3) as follows:

2-3-204. Staff director, assistants, and consultants. (3) The staff director shall appoint additional staff as necessary to provide the designation and rationale as required by section 2-3-210 (4).

Section 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly, except that, if a referendum petition is filed pursuant to section 1(3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

SEVERANCE TAX SWEEPS

The following is taken from staff's December 1, 2023 briefing document for the Department of Natural Resources. In the November 1 budget request, the Governor requested that the Committee sponsor legislation to sweep roughly \$70.0 million Severance Tax cash funds from the Perpetual Base Fund and from the Energy Assistance Impact fund in the Department of Local Affairs. This money would be transferred to the Capital Construction Fund, the Infrastructure Investment and Jobs Act Cash Fund, and the Dredge and Fill Permit Program in the Department of Public Health and Environment. The structure of the transfers is described below.

PROPOSED SEVERANCE TAX BUDGET BALANCING MEASURES

OVERVIEW

Included as part of the Governor's FY 2024-25 budget request are two items categorized as budget balancing measures. One item is a transfer of \$50.0 million from cash funds that receive severance tax revenues to the Capital Construction Fund, and the other item is a 'repurposing' of \$19.3 million from severance tax revenue that is forecasted to spill over into the Perpetual Base Fund (PBF). The spillover mechanism is described in Section 39-29-109 (2)(a), C.R.S. This 'repurposing' is also a transfer. Both of these transfers would require legislation, and the Office of State Planning and Budgeting (OSPB) has indicated to staff that the expectation is for these to be JBC-sponsored bills.

The Governor's letter describes the revenues from severance taxes over the past few years as a cause of 'General Fund pressure' that can be 'relieved' by sweeping approximately \$70.0 million in revenue from severance taxes to pay for programs and priorities that would otherwise be paid for using General Fund. Before describing where these funds would come from and where they are proposed to go, it is important to note that the \$70.0 million figure that is included in the Governor's letter is partially dependent on the March 2024 revenue forecast, as a portion of the funds to be swept is yet-to-be collected severance tax revenue based on the Office of State Planning and Budgeting (OSPB) revenue forecast. Should the Committee choose to sponsor these bills, they will have the option to use the forecast provided by Legislative Council Staff (LCS), which would likely include different severance tax revenue projections.

STRUCTURE OF SWEEPS

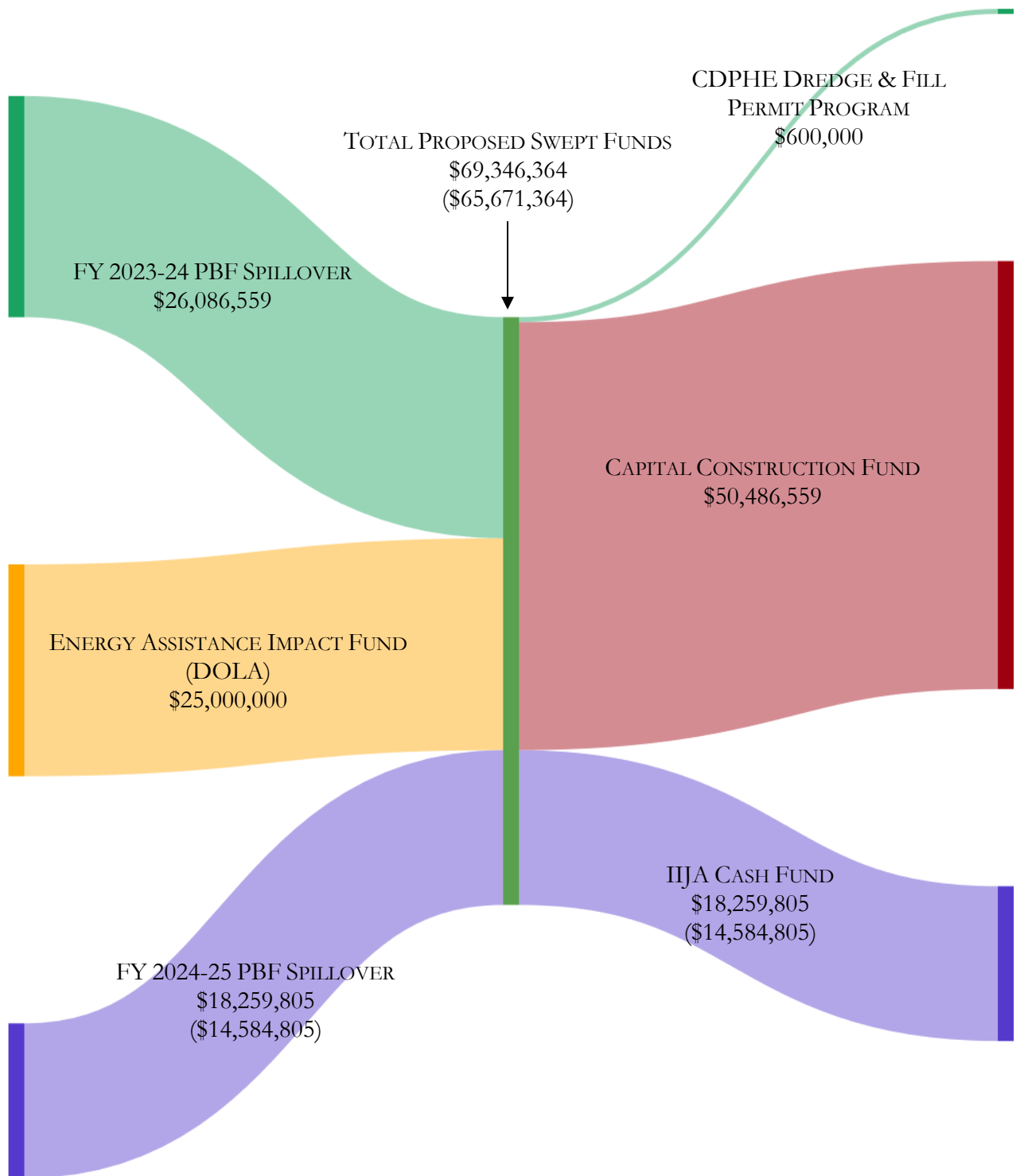
The two transfers break out into two sources and two destinations. The first source of funds is from severance tax revenue that would otherwise spill into the Perpetual Base Fund. In the current fiscal year, FY 2023-24, there is a spillover of \$26,086,559. In FY 2024-25, according to the OSPB September revenue forecast, there is an anticipated spillover of \$18,259,805. Together, this is approximately \$44.3 million transferred away from the Perpetual Base Fund. If the Committee chooses to instead use the Legislative Council Staff revenue forecast, the \$18,259,805 becomes \$14,584,805. This change is due to a lower estimate of spillover into the Perpetual Base Fund in FY 2024-25. This would then decrease the total amount transferred away from the Perpetual Base Fund from \$44.3 million to \$40.7 million.

Of that \$44.3 million, roughly \$25.0 million would be transferred to the Capital Construction Fund, \$18.3 million would be transferred to the Infrastructure Investment and Jobs Act (IIJA) Cash Fund, and \$600,000 would fund a legislative item in the Department of Public Health and Environment

(CDPHE) to establish a dredge and fill permit program created as a result of the EPA vs. Sackett U.S. Supreme Court decision related to the Clean Water Act.

The other source of the funds to be swept is the Department of Local Affairs (DOLA), which receives 50.0 percent of all severance tax revenues. The proposal sweeps approximately \$25.0 million from the Energy Assistance Impact Fund in DOLA into the Capital Construction Fund.

The following graphic is a visual representation of the proposed sweeps based on the OSPB September revenue forecast, with alternate LCS numbers in parentheses for comparison.



FUND IMPACTS

In general, the cash funds that would not receive severance tax revenue as a result of these sweeps are in no danger of becoming insolvent as a result. All of the funds have substantial balances currently, so the decision to run legislation that would enact the proposed transfers is more a question of opportunity cost. Ultimately, if the Committee decides to sponsor the legislation, it will be a question of where the money can ‘do the most work’ – in either the Perpetual Base Fund or in the Capital Construction Fund, the Energy Assistance Impact Fund, and the IJIA Fund.

The following table outlines the fund balances as of July 1, 2023, revenue projections for the current fiscal year, FY 2023-24, and what the money in each fund is used for.

CONTRIBUTORY AND RECIPIENT FUNDS OF PROPOSED SEVERANCE TAX TRANSFERS

FUND	JULY 1 FUND BALANCE	FY 2023-24 REVENUE PROJECTION	PURPOSE OF FUND
Perpetual Base Fund	\$563,349,673	\$65,601,965	Provides loans for state water projects
Severance Tax Operational Fund (OSPB Forecast)	101,045,805	42,300,000	To partially or completely fund the following 'core' programs: Energy and Carbon Management Commission, Colorado Geological Survey, Avalanche Information Center, the Division of Reclamation, Mining, and Safety, the Colorado Water Conservation Board, and Colorado Parks and Wildlife Subject to available revenue, to fund the following 'discretionary' programs: Species Conservation Trust Fund, Aquatic Nuisance Species Fund, Soil Conservation Grant Fund, COSWAP
Severance Tax Operational Fund (LCS Forecast)	101,045,805	46,300,000	
Energy Assistance Impact Fund*	356,559,230	152,364,227	Distribute grants and loans to local governments for construction and operation of public facilities and services
Infrastructure Investment and Jobs Act Cash Fund	59,694,515	0	To provide departments with available money to be used as nonfederal matching funds for infrastructure projects

* This is not a statutory fund. It is the programmatic name for the combined resources and grant administration of the Local Government Severance Tax Fund and the Local Government Mineral Impact Fund in DOLA.

Notably left out of this table is the Capital Construction Fund. The reason is because this fund does not carry a balance in the same way that other cash funds do. The money in this fund is transferred from the General Fund annually to pay for the cost of the project list included in the Long Bill. Functionally, the fund balance is always \$0 because there is never any unencumbered money in the fund. Because of the way this fund functions, the assertion in the Governor’s letter that the Severance Tax sweeps are simply replacing General Fund dollars is not entirely accurate. Absent the transfer to the Capital Construction Fund, there would conceptually be \$50.0 million less to spend on capital projects. This transfer basically just allows \$50.0 million more worth of capital projects to be approved for funding.

If the JBC decides to sponsor legislation for these transfers, there will not be any ‘extra’ money in the other recipient funds, the transfers will just shift the source of the money from General Fund to Severance Tax cash funds. However, the Perpetual Base Fund will receive lower funding than it would have without the transfers. As a result, there may be impacts in the future on the ability of the PBF to

distribute grants for water projects, but because of the large balance in the PBF, that impact will not be felt in the immediate future.